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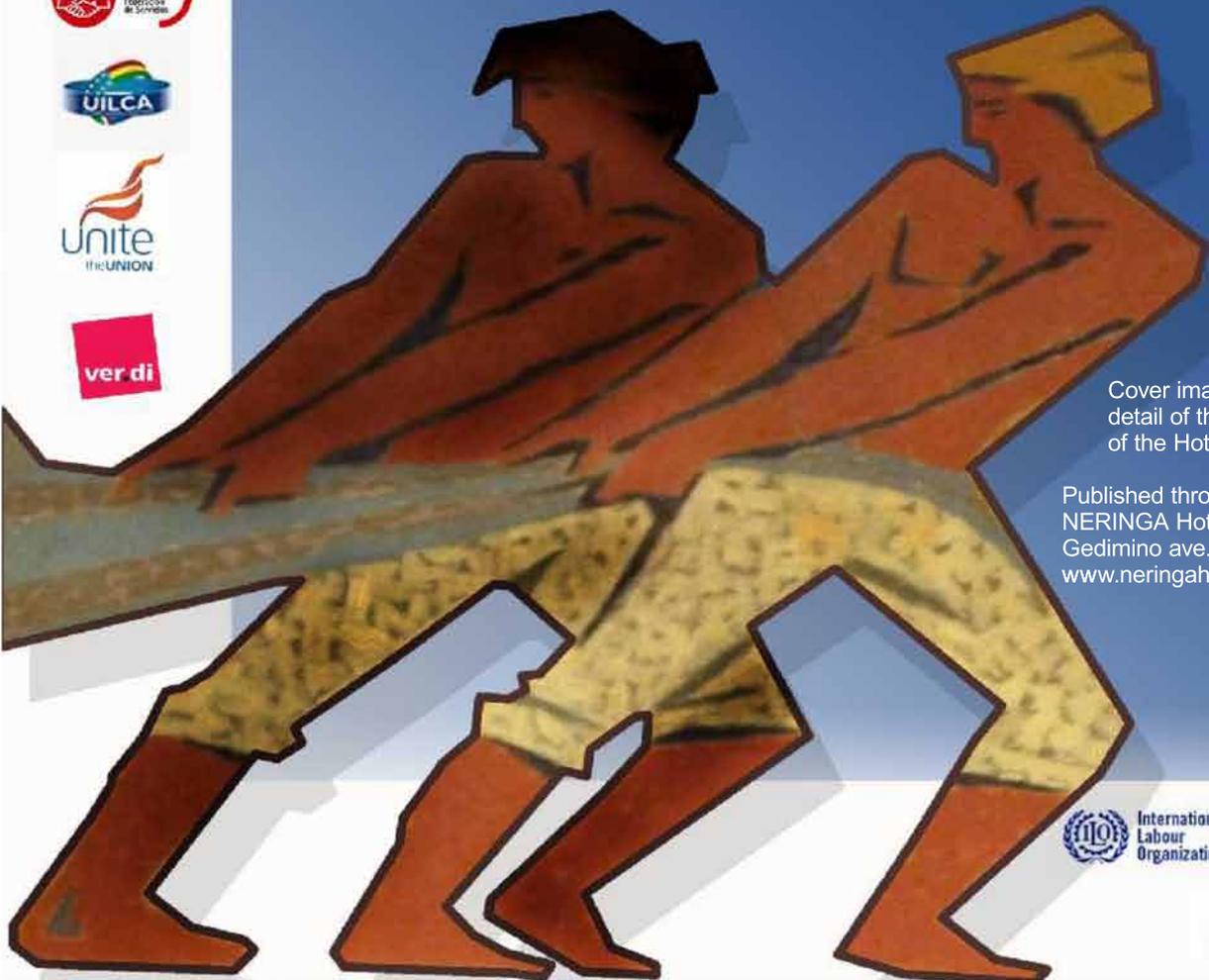
Employment, Social Affairs and Inclusion



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**European Work Council and European Social Dialogue :
GOING ALONG TOGETHER TO OVERCOME THE CRISIS**



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TANDEM

**“EUROPEAN WORK COUNCIL AND SECTORAL SOCIAL DIALOGUE:
GOING ALONG TOGETHER TO OVERCOME THE CRISIS”.**

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INDUSTRIAL RELATION AND SOCIAL DIALOGUE

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TANDEM DIALOGUE

Directorate General for Employment,
Social Affairs Equal Opportunities

PREFACE

OBJECTIVE AND METHODOLOGY OF THE PROJECT

The most recent manifestations of the financial crisis impose new and far reaching challenges on the companies, the workers and the trade union organizations. In this regard, we expect policies of the European Union and the national governments, which outline new areas and more efficient instruments to attribute a greater and more incisive role to the dialogue among the social partners. This applies for the activity of the European Works Councils and for the centres of social dialogue at all levels. In the current situation, we can affirm that, where the consultation and involvement of the workers has been applied efficiently, this resulted in a positive influence on the companies' policies and on the protection of the workers. The systems of employee representation have contributed, if soundly constituted and organized, to equip the companies with sustainable long-term strategies. Today it is necessary to strengthen all the social dialogue instruments at a transnational level (from the European Works Councils to the sectoral social dialogue) to prevent the crisis from translating into an overall worsening of the labour conditions of female and male workers, with a repercussion on the socio-economic texture in Europe. The EWC have the right and the power of information and consultation which the trade unions do not have in terms of quality, timeliness, competence and knowledge of the source of information and therefore can, even though they have no contractual powers, obtain the knowledge, which is so indispensable to face the repercussions of corporate choices. In those countries where the confrontation between the company and the trade union is poor or inexistent, the EWC represent the only centre of dialogue and information.

In the course of the sixteen years from the adoption of the Directive 94/45/EC, whose text has been recast in the Directive 2009/38/EC, the EWC have imposed themselves as an important social instrument in the European Union, the only corporate and supranational trade union body. The EWC represent the fundamental element for the setting up of a European system of industrial relations which, integrating with the national systems of representation, constitutes a representative body of the workers in no longer only national but also European companies. The role and importance of the EWC is fundamental in

today's Union of 27 countries, in an economic context characterized by reorganizations, mergers and relocations.

For these characteristics, the Directive No 94/45 has contributed significantly, as the Commission points out in some of his documents, to start the building process of "new transnational industrial relations ", based on close cooperation among employees' representatives, and trade unions, from different countries, as well as the "constructive confrontation" between them and the managements of the transnational undertakings, which is useful to business competitiveness and the consolidation of the "European social model". However, the potential of the EWCs is not yet fully exploited and a deficit still remains in information and consultation rights, particularly in cases of transnational restructuring, to which the EWCs are entitled, and in the enhancement of training for qualified parties to participate in the SNBs and EWCs.

Sixteen years after the adoption of the Directive 94/45/EC, about 940 European Works Councils are operating in the companies and groups of companies with community dimension, affecting more than 15 million workers in the 27 member states, with the participation, as observers, of representatives of the applicant countries. The Directive 2009/38/EC on the EWC represents a "pivot" directive among the community policies in the field of the collective labour relations, owing to the remarkable contribution it makes to the development of the social dialogue at a transnational level, while the finance sector is undergoing a particularly advanced and peculiar process of internationalisation. The EWC initiatives in that sector led, in some cases, to mitigate the negative effects, especially in those countries which recently joined the EU; the good practices outlined by the EWC in the credit sector had positive impacts on other sectors, too.

The innovations introduced by the Directive 2009/38/EC, the determination of the European Federations, the will of the national trade unions to be protagonists, the constant call for responsibility and solidarity by the European institutions, determine a common will to strengthen the whole system of industrial relations in Europe.

The crisis we are experiencing, and the changes that come with it and that it prefigures, as well as the need to deal with all its consequences through the direct participation of workers, and more shared solutions, makes the role of EWCs and their strengthening even more important, also under the new Directive.

The strengthening of the *social dialogue* in Europe, especially *the sectoral dialogue*, may be favoured by the attainment of a better interaction between the different levels of the industrial relations in the European Union. Data on the rate of coverage of the collective agreements in the member states, especially after the EU enlargement to 27 States, reveal the difficulty of an effective application in the numerous member states. In some of its communications, the Commission invites the social partners and the member states to contribute to strengthen the negotiation and management skills of the trade union organizations of some member States.

Due to the cultural and linguistic heterogeneity, and the different bases of negotiation, the meaning of the texts of the European social partners may be difficult to understand for those who are not directly involved in their production, also due to a different terminology, which may cause difficulties in accomplishing the provisions. Therefore, it is necessary to improve the clearness of the texts and include detailed control instructions in the newly generated ones.

To optimise the synergy between the European and the national level, the social partners must advertise their texts better at all levels, organizing information, training and promotion activities. Just as important, to guarantee the reception of the newly generated texts, is the organization of regular meetings among the EWC members and their select committees, the actors of the sectoral and national social dialogue, through conferences and other events organized by the social partners themselves. To optimise the synergy it is necessary to ensure that the results of the European social dialogue are legible and accessible to all of the dialogue's participants and to the follow-up of the texts.

The Project includes two Seminars (or "Workshops") and a Final Conference.

The Seminars was focused on the following themes:

a) Analysis of the new EWC directive. Analysis of any agreement identified as "good practice". Discussion on the "lessons" of the EWC directive and practices to strengthen the sectoral dialogue (Sevilla);

b) Situation and practice of the sectoral dialogue at the EU level and in the partner countries of the project (Vilnius);

c) Consolidation of the mutual influences between the sectoral social dialogue and EWC activity (Turin)

The activities of this project have as their priority to help improve the interaction among EWC delegates, deepening the connection between information and consultation activities and knowledge of the general framework and specific issues covered by the same procedures, since an active participation in the procedures requires more than a superficial knowledge of the issues that are the subject of the proceedings or, at least, an ability to manage these by using all the tools for this purpose provided by the Directive (in particular through enhanced links with members of the European Federations active in sector dialogue). The acquisition of a European culture of negotiation at all levels of Social Dialogue is a long and complex process, the definition of which certainly contributes to building a common base of knowledge and negotiation practices for the delegates.

As it is apparent from various studies on the functioning of EWCs, communication within the EWC is facilitated not only by a common language, but also by the ability to make a common perception and awareness of issues specific of each country and each industrial reality . In this way, it is possible to build a common position and no longer a sum of individual opinions, to contribute to a fluid dialogue between the EWCs and the company (or group) management and to enhance relationships based on a constructive spirit. Nor is it conceivable to delegate to experts the task of facilitating inter-group relations, since the experts are called upon to perform other activities. The reflection on the strategic importance of a European culture of social dialogue for EWC delegates proved vital, since it makes a more effective use of the information acquired and consultation more useful for all parties involved (including the undertaking), specifically in relation to that "constructive spirit" on which the relationship between the EWC and the enterprise management must be based.

As it is evident from the experiences obtained in those countries that have recognized for a longer time these consultation and information rights to employees' representatives, the creation of this culture of the

delegates is generally divided into two basic levels that we can indicate, for the sake of brevity, as a basic general level and a more advanced level focused on more specific issues and themes.

The “general” knowledge concerns mainly knowledge of the basic rights of the delegates, not only for protection purposes but also for them to better carry out, in collaboration with the trade unions of reference, the rights to information and consultation granted to them by their national laws.

The advanced knowledge generally focuses on specific problems of individual firms or individual sectors and is provided so that delegates can acquire negotiating skills and management skills in particular within the processes of change and corporate crises.

The project saw the participation of:

both union and company leaders from the founding countries of the EEC and countries with the oldest membership in the EU, which have on average a good degree of application of the Directive 94/45 and whose national systems have advanced enough in employee involvement;

both union and business leaders from new Member States, which are still in the early application of Directive 94/45 and Directive 2002/14; candidate countries to join the EU, which, although not obliged to comply with the provisions of Directive 94/45, are influenced by it and want to join the European social model, in which the participation of workers is essential and who have not, if not indirectly, (i.e. on the basis of specific EWC agreements) any experience of employee involvement.

The impact of the project is to last over time because its results and the skills acquired will be transferred to the institutional activities of national and European organizations.

CHAPTER ONE**SOCIAL DIALOGUE AND ITS ACTORS AT THE VARIOUS LEVELS OF THE EUROPEAN UNION****1.1 SOCIAL DIALOGUE AND SECTORAL COMMITTEES***1.1 Preliminary remarks*

Social dialogue is generally recognized as one of the pillars of the European social model and as an instrument of social and economic cohesion, and this is confirmed by Article 152 of the Treaty on the Functioning of the European Union (TFEU), which commits the European Union to promote the role of social partners and to support the European social dialogue, and also recognizes collective autonomy in Europe¹. Intersectoral social dialogue and sector dialogue are an increasingly important element of *European governance*. The "advisory dimension" of European social dialogue had already been recognized by the ECSC Treaty (1951) and by the EEC Treaty (1957)², , the negotiation dimension has started in 1985 as part of the meetings between high level representatives of European social partners [UNICE (now Business Europe), CEEP and the ETUC], in connection with the creation of the internal market, accompanied by a greater liberalization, freer privatization process and an increasing cross-border mobility of workers. The negotiation dimension has received an additional impetus and its specific regulation in 1991, shortly before the Maastricht Summit (1991), with the Agreement of the European social partners on social policy, then largely absorbed by the Agreement on Social Policy, signed by eleven out of twelve Member States, and annexed to the Maastricht Treaty through a specific protocol, later incorporated in the Treaty of Amsterdam (1997), following the withdrawal of the *opting-out* clause in social matters by the British government (see now Articles 154 and 155 of the TFEU).

¹ Art 152, TFEU: "The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy. The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue. "

² These were the steel, mining, agriculture and marine fisheries sectors.

Since 1993, and, in particular, in 1998 with a Communication on the promotion of social dialogue at EU level and the Decision establishing sectoral social dialogue committees at European level (from now on "Sectoral committees ")³, the Commission has clarified some issues raised by the clauses of the Treaty concerning social dialogue. These Sectoral committees are intended as permanent fora for the exchange of information, discussion, consultation, negotiation and joint actions of social partners at European level, in a climate of greater mutual trust⁴.

The establishment of a sectoral committee follows the joint request of the European organizations that operate in a given field and meet the requirements set out in the above mentioned Decision of 1998, namely: a) have national organizations affiliated to them in various countries b) be representative at national level and able to negotiate and conclude agreements at European level, c) have adequate facilities and to ensure effective participation in negotiations . Their representation at European level is based on a combination of these three criteria and is subject to verification by the Commission. The EU social partners can experience the sectoral social dialogue on a provisional basis before establishing a formal committee. This procedure facilitates the integration of the principles of social dialogue both at European and at national level and helps to establish relationships of trust, to develop a strategy for collaboration and to encourage appropriate structures, common to the representative organizations of social partners. In addition, an experimentation phase allows the social partners to gain a greater practice of European policies and a better understanding of the powers and objectives of the Commission.

The decisions, declarations and agreements produced by the 40 sectoral committees set up so far, involve nearly 150 million workers, i.e. three quarters of the EU workforce. The more than 500 texts adopted so far have a different nature and effectiveness and include agreements whose legal effect within the EU depends on either a directive (strengthened or tied-up agreements, such as those relating to working

³ Commission Communication adapting and promoting social dialogue at Community level [COM (1998) 322 final of 20.5.1998], and attached Decision No98/500/EC on the establishment of Sectoral Dialogue Committees promoting the dialogue among social partners at European level (OJ L 225, 12.8.1998).

⁴ Founded in 1990 as joint committees or informal working groups, these committees have received formal recognition in 1999 (construction, banking, commerce, insurance, postal services, telecommunications, electricity, entertainment). Since 2000, this model is extended to other sectors, such as shipbuilding, metal and chemical industries, hospitals, catering, audiovisual, the engineering and technology sectors.

conditions, working hours, health and safety at work, concluded in the hospital sector and in maritime transport, civil aviation and railways) or the typical instruments of collective autonomy at national level (free or voluntary agreements). The subjects on which sectoral committees focus their activities are in particular the improvement of working conditions and industrial relations in their respective industries, with implications for the management of change, restructuring, safety and health at work, "anticipation² of business decisions in terms of qualifications and training of workers, the transition to work, integration into the labour market, youth employment, equal opportunities and sustainable development, all matters that are already part of the Lisbon Strategy 2000-2010 and continue to be part of the "Europe 2020" strategy. In this way, the organizations participating in sectoral committees are more involved in EU decision-making.

1.2. Activities and products of sectoral social dialogue.

1.2.1. The differences among the various economic sectors in terms of quantity and quality and structural and organizational differences of the collective actors involved affect the functioning of sectoral committees, which, however, have many common elements. The Commission in its Communication of 1998, defined the European sectoral social dialogue committees as "an instrument of consultation, negotiation and joint action"; in its Communication of 2004, which provided a typological classification of the products of social dialogue⁵, the Commission indicated that the value and effectiveness of a text depends not only on its binding nature, but also by its operative *follow-up* and its actual implementation, be it the implementation by law or through the tools of collective autonomy.

The "products" of the social dialogue are: a) *arrangements* made under Art. 155 TFEU, which, effective or non effective *erga omnes* in the Community through European directives, in any case require a *follow-up* and an appropriate monitoring; b) texts of "orientation" (frameworks of action, guidelines, codes of conduct, policy guidelines), which, although not binding, require a *follow-up* and ongoing monitoring of their implementation; c) *joint opinions and contributions* intended to influence European policies and to facilitate knowledge sharing.

⁵ Commission Communication "Partnership for change in an enlarged Europe - Enhancing the contribution of European social dialogue", COM (2004) 557 final version of 12.8.2004.

1.2.2. Most of the texts adopted by European sectoral committees are in the nature of "contributions" that confer a technical dimension and a European-oriented approach to specific issues (such as, for example, common *Web* sites, posting of workers in the construction industry; common professional *curricula* in agriculture, guides and periodic reports on "responsible restructuring" in the sugar industry, etc.). Sector dialogue at European level produces, as already mentioned, collective agreements that are implemented by directives within the EU and within individual countries, through voluntary procedures, both at sectoral and intersectoral level. However, the overall functioning of the committees can not be measured simply in terms of quantity, that is based on the number of texts produced. Measures taken at national or business level are not always documented, and most of the results are rather qualitative, since they are aimed at raising awareness in public and social partners at national level, at supporting social dialogue at national / regional or enterprise level, or at influencing the decision-making processes of undertaking. Joint texts, exhibitions and presentations of best practices or involvement in joint projects (seminars, conferences, studies, *workshops*) provide an opportunity for social partners to learn from each other and create a climate of mutual trust. Joint opinions and contributions to the consultation process have also proved effective tools to influence European policies or to defend the interests of a sector, as it happened in the construction sector, during the debates on the directives on posting of workers ⁶ and services on the internal market ⁷.

1.2.3. In the context of the most recent EU enlargement processes (2004 and 2007) all social sector organizations in Europe have extended their partnership to organizations in the new Member States, receiving the Commission's support in this activity, because of the objective difficulties related to a European sectoral social dialogue involving 27 Member States, and the fact that the European sectoral organizations are national organizations that operate in different countries using different languages, in different socio-economic backgrounds and different national systems of industrial relations⁸. Moreover, in most new Member States, national sectoral collective bargaining was very weak, if not absent. The

⁶ Dir No 96/71 concerning the posting of workers in the provision of services.

⁷ Dir No 2006/123 on services in the internal market.

⁸ Following the recent EU enlargements, the European social partners have also included new collective subjects, who, however, do not always prove to possess an adequate negotiating capacity.

support of the Commission to the initiatives of social partners at European and national level was, therefore, crucial to improve the organizational capacity and management of the social partners and promote the diffusion of the European social dialogue in the new Member States⁹. The active involvement of all national social partners is essential to ensure the legitimacy of the process of European social dialogue and provides concrete results and *follow-up* at national level in all Member States.

1.2.4. The European social partners are increasingly involved in EU decision-making. In accordance with art. 154 TFEU, the European social partners are consulted by the Commission on the aims and content of every initiative in the social field. In recent years, the frequency of these formal consultations has increased. In addition, the European social partners are consulted by the Commission services for sectoral policies (e.g. trade, internal market, education, transport or industrial policies). To this end, the Commission adopted a specific methodology and a procedure to assess the impact of these initiatives. The guidelines for the evaluation include a specific reference to sectoral committees at European level, which can make their contribution in the definition of European policies¹⁰. To effectively play this role, the parties must be able to react quickly to such consultations.

1.2.5. The European social partners actively participate in the establishment of industry-wide networking, sectoral observatories and other bodies and institutions providing information and training at national level in order to support a shared development of best practices at European level in terms of evolution of employment and training needs and skills. To meet the growing participation in these

⁹ The European Social Fund (ESF) has played an important role in this activity. In addition, through the budget lines of the Commission for social dialogue and industrial relations, specific projects have been funded at the sectoral level. Roundtables and site visits by more than a dozen committees (see the Commission's "Industrial Relations in Europe 2008 Report", Chapter 8) have been organized. With the support of the Commission, European social partners in the textile and clothing industry and leather tanning have carried out two projects, between 2006 and 2008, aimed at encouraging the full participation of the sectoral social partners in the new Member States and candidate countries in the sectoral social dialogue at European level and to strengthen their administrative capacity. These actions have resulted in the signing of national action plans and their implementation.

¹⁰ For the purposes of a transparent and effective consultation, the Commission publishes the list of expected impact assessments together with its annual work program.

advisory bodies, the European social partners must be able to ensure the coordination of consultations at various levels and to produce results. However, their capacity depends largely on that of their affiliated national organizations, which may have limited strength and resources, or organizational structures still evolving, particularly in new Member States and in areas affected by stronger structural changes. To this end, in view of the expanding role that the Treaty gives to the European social partners in the field of EU decision-making, the latter seek to develop their organizational skills with a better use of the financial resources destined to the European social dialogue ¹¹.

The European social dialogue at various levels is, in fact, an increasingly important tool for improving EU regulations on employment and contribute to the modernization of the labour market. Since the Treaty of Amsterdam (under art. 139, EC Treaty, now Art. 155, TFEU), the European social partners may enter into agreements that, if they so desire, are implemented by the Council Directives, which have general application in Europe and bind employers to comply with them, once implemented in the country's legislation or national collective contracts. As already mentioned, the parties may also enter into voluntary agreements, enforced in the receiving countries by the procedures and tools typical of

¹¹ See Article. 5, par. 3, Reg No 1081/2006 of 31 July 2007: " Under the Convergence objective, an appropriate amount of ESF resources shall be allocated to capacity-building, which shall include training, networking measures, strengthening the social dialogue and activities jointly undertaken by the social partners, in particular as regards adaptability of workers and enterprises referred to in Article 3(1)(a) ".

The Commission provides funds to finance the establishment and operation of the sectoral social dialogue at European level. These funds are available for the organization of meetings, for the reimbursement of expenses for experts and interpreters. The Commission organizes over 180 meetings a year (an average of 1-2 plenary meetings and 3-4 meetings of the of working groups per Committee per year). The Commission promotes an economic, efficient and effective use of funds. The European sectoral social partners are required to prepare in good time their work programs, agendas, working papers and contributions necessary to ensure the proper organization of meetings and make best use of the services provided by the Commission (for example, in terms of sharing information and expertise, interpretation of rooms available to the parties). The Commission also supports projects through two budget lines that allow the financing of measures relating to social dialogue, information and training at European level and national level. Budget line 04.03.03.01 on industrial relations and social dialogue, Budget line 04.03.03.02 on training and information for workers' organizations. The sectoral social partners are involved in more than 100 projects. 30-50 projects each year involve a sectoral social partner organizations and their affiliates.

collective autonomy, but binding only the organizations affiliated with the signatory European Parties ¹². The Commission, in the above cited Communication of 1998, urged the social partners to carry out joint activities and negotiations at industry level, and especially at the sectoral level. For this reason, the Commission included among the necessary conditions to participate in a social dialogue committee the ability to enter into agreements at European level. "Negotiation" has proved useful for the European social partners in facilitating an adjustment of the general EU working time regulations in specific sectors such as railways, civil aviation and maritime transport. Negotiations within the framework of sectoral social dialogue are generally undertaken in view of the Commission's consultations on its legislative initiatives (such as agreements on protection of workers from cuts or wounds caused by pointed tools in the hospital sector, or those against crystalline silica dust in the industry or, again, the arrangements for the implementation of the ILO Maritime Labour Convention). However, recent trends of sectoral social dialogue show that the negotiations take on a greater independence from the formal consultation of the Commission and that the number of agreements increases further, given that the sectoral social partners have not yet exploited all the potential at their disposal for sectoral negotiation. For example, sectors dominated by large transnational companies (steel, telecommunications, chemical industry, civil aviation) tend to pay less attention to the European sectoral level since the social partners prefer to negotiate directly at the enterprise level (even in the framework of the procedures of European Works Councils).

The vitality of the European social dialogue is important in view of the fact that, where justified in terms of subsidiarity, the legislative solutions agreed among the social partners at European level are able to better respond to the growing complexity of the labour market. Issues such as the reorganization of working hours and working conditions are characterized in some cases by a prevailing sectoral dimension. The ability of social partners to reach satisfactory agreements and the experience gained in the field of contracts may allow them to play a very effective role in solving specific issues at the sectoral level, where these present issues common to all or most of the Member States. Since consistency with European law and the quality of drafting of the agreements are especially important, not only for

¹² This does not prevent the application or incorporation by law of the "voluntary" agreement, in whole or in part, at the national level: see the working document of the Commission dated July 2, 2008 "*Report on the implementation of the European social partners' Framework Agreement on Telework*", SEC(2008)217.

agreements to be implemented through EU directives, the Commission may offer the necessary assistance to social partners in the negotiations.

1.2.6. Some committees have adopted texts and proposals on gender equality in the labour market, such as, for example, plans of action for equality, or guides to good practices on the workplace. However, the delegations participating in the Committees still see the women as under-represented, and this is even more relevant in areas where their presence has markedly increased. The situation varies from sector to sector and depends mainly on the designation process within the national member organizations. In this regard, in line with the European policy of equal opportunity and non-discrimination¹³, the European social partners exert pressures on affiliated national organizations to achieve a better balance between men and women in terms of participation and representation on committees and to develop new awareness-raising activities, firmly putting gender equality into their work programs.

1.3. Synergies among sectoral committees.

The Commission supports and promotes the organization of joint initiatives among sectoral committees, and between the sectoral and inter-industry dialogue. These synergies have produced good results often expressed in the voluntary agreements¹⁴ arisen from them. The first "good" example of a synergistic relationship between the sectoral and the inter-industry social dialogue concerns telework (2002), an issue initially treated in the telecommunications sector and then taken up in other areas and taken in an inter-trade agreement. Similarly, after the voluntary agreement on *stress at work* (signed on 8 October 2004 by ETUC, UNICE [now BusinessEurope] and CEEP), the joint sectoral texts of buildings, electricity and central government have made direct reference to it. In 2006, the voluntary inter-industry agreement on combating violence at work has been integrated in the sectors of commerce, local and regional hospitals and private security services with specific elements from a sectoral point of view.

¹³ Art 10 TFEU: " In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. "

¹⁴ As regards the cooperation between sectors, a significant improvement was achieved in 2006, when 14 industrial sectors have reached a multi-sectoral voluntary agreement on health protection of workers relative to the handling and use of crystalline silica and products containing it.

These good examples of cooperation between sectors provide the foundation to the prospect of a stable system of exchange of experiences among committees and between them and the Commission, especially on issues of more general importance, such as socially responsible public work contracts. Several committees have each worked on their own and in isolation in this matter, but a fruitful exchange of experiences has led to the publication of manuals for organizations and public authorities, contractors in some sectors¹⁵. The experience gained by the committees in this matter is helpful to the Commission as regards the social aspects of public work contracts¹⁶. Such cooperation requires a regular exchange of information on the activities of the sectoral social dialogue at European level, as well as studies and reports which identify issues of common interest. One of the tools used by the Commission to facilitate the mutual exchange and enrichment among the committees is the "Liaison Forum", organized by the Commission 4-5 times a year, inviting the secretaries general, presidents and other leaders of the European organizations and sectoral and inter-industry committees to participate in this Forum, to allow an exchange of information and experiences and strengthen the synergies between committees and between industry and inter-industry social dialogue. The strengthening of these synergies contributes positively to the promotion of employment and EU social policy objectives, in line with the provisions of Art. 9 TFEU¹⁷.

1.4. Effectiveness of results and verification of their implementation.

The ability of sectoral dialogue to contribute to improving working conditions in the EU depends in particular on the implementation of the products of social dialogue and their practical application on the workplace. The Commission, in the above cited Communication of 2004, has invited the European social partners to consider carefully the need to perform a *follow-up* analysis and the transmission of reports, which are necessary to verify the impact of the products of social dialogue. However, the quality of

¹⁵ Security Services (1999), cleaning activities (2002), textiles and clothing (2005) and catering (2006).

¹⁶ See the "Commission Staff Working Document on a guide to taking account of social considerations in public procurement (*Buying Social!*)."

¹⁷ "In defining and implementing its policies and actions, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion and a high level of education, training and protection of human health. "

results depends on the organizational structure of the European social partners and their ability to influence national affiliated organizations. Conversely, many European social organizations, lacking sufficient centralization, have a limited ability to influence national affiliated organizations. In addition, an effective *follow-up* of the European social dialogue at national level is closely related to the effective involvement of national industry organizations and the interaction between the EU social dialogue mechanisms and the various national systems of industrial relations. This is in turn connected to the representativeness of social partners. These are relevant issues, especially when you consider that most of the products of the European social dialogue are not binding but are intended to raise awareness, disseminate good practices and help to gain consensus, establishing a climate of trust among social partners, businesses and workers. Now, since the results at national level can be evaluated based on qualitative indicators, but not on systematic quantitative data, it is important that the committees can be as "inclusive" as possible and able to involve, if possible, new subjects, in order to reduce or eliminate any resistance - by the national organizations not involved in the activities of the committees at European level - to implement, at national and industry level, measures in the production of which, as mentioned, they do not have directly contributed.

As regards the conditions and procedures for national implementation of the voluntary agreements concluded at European level, the signatories and the affiliated national organizations are required to implement them on their own initiative with the tools they find most suitable for this purpose. The *follow-up* obligation is stronger when the social partners agree to start negotiations on an issue that, under the Treaty, requires the suspension of a legislative proposal of the Commission. In case of agreement, the stipulating European Parties should fully and effectively implement the agreement. A good result depends, obviously, on the fact that the Parties themselves invest adequate resources in the process of verification and monitoring of the implementation of the texts on which they have reached an agreement. The Commission, for its part, provides its support through technical support and coordination activities, including translations of original texts and the development of guidelines for the implementation, awareness raising, lifelong training, monitoring and drafting of reports of the European social partners and the Commission, taking into account the specificity of each sector.

1.5. The social dialogue in the banking sector

1.5.1. Challenges and perspectives. The development of banking in Europe has been affected by the liberalisation of the sector, the third phase of the monetary union and the launch of the European single currency in 1999, as well as the introduction of telecommunications and information technology. Given these developments, further consolidation and mergers are likely. Achieving an integrated market for banks and financial companies is a core component of the European policy in the area of financial services. The Financial Services Action Plan (1999) lays out EU regulation policies and is based on the principles of mutual recognition that allows financial services operators legally established in one Member State, to establish and provide their services in other Member States without further authorisation. A *White Paper* published in 2005 underscored the fact that the completion of the single market for financial services is a part of the EU's future growth and jobs and for making the EU more competitive globally.

Currently the sector faces major challenges deriving from the financial crises such as de facto nationalisation of industry and image deterioration. The EU is taking action to limit the impact of the global financial crisis and contribute to a more adequate regulation of financial markets, based on the recommendations of the so-called *Lamfalussy report on a New Financial Architecture* to strengthen financial services supervision, including increased protection for bank depositors, making credit ratings more reliable, improving risk management in financial firms, reinforcing the supervision of banks and insurance companies, and promoting responsible lending practices. These actions are likely to have a significant impact on the banking sector, including on employment developments. Apart from these pressing developments, the banking sector has to deal with the question of skills shortages and demographic change.

1.5.1.a. European social dialogue: key issues, recent outcomes and current work Programme. European social dialogue has given scope for action in this sector since 1999. The dialogue has covered a range of issues including Corporate social responsibility (CSR), integrating organisations from new Member States, and training and lifelong learning.

1.5.1.b. Corporate social responsibility. In May 2005, the social partners adopted a joint statement on CSR. The statement reiterated the commitments on lifelong learning and highlighted good practice to facilitate a work–life balance, such as flexible retirement, sabbatical leave, part-time work, parental leave facilities and the use of telework. Organisations were also encouraged to improve internal communications with staff and promote policies of diversity and equality. The importance of core labour standards in relation to areas such as job security, discipline and grievance handling were emphasised and members were encouraged to consult with representative organisations and agree upon procedures.

1.5.1.c. Integrating organisations from the new Member States and the candidate countries. The social partners debated questions relating to enlargement during a series of round-table discussions which took place from 2000 to 2003 in Hungary, the Czech Republic, Poland, Malta, Slovakia, Slovenia and Cyprus. In 2005, a follow-up project brought together the social partners from Slovakia, the Czech Republic and Hungary with their counterparts from other Member States for twinning meetings. In 2008, an additional project focusing on the capacity-building activities for the social partners from Hungary, Czech Republic and Slovakia was implemented. Two workshops focusing on EU social dialogue and the interaction between the national and EU level were organised.

1.5.1.d. Training and lifelong learning Vocational training and lifelong learning has been a key element of the social dialogue, as the social partners consider that the sector relies on a well-trained workforce. This is vital both for the competitiveness of companies and for the employability of workers. The joint declaration of 2003 concentrates on the following key themes: defining different skills, validating competencies, providing information and support on principles, rights and responsibilities, and the mobilisation of resources for retraining. The social partners encouraged their members to conclude agreements at the appropriate level with regard to education and training in the workplace and to allow these to take place during paid working time. They also recognise the need to promote equal opportunities for employees in relation to lifelong learning, particularly for atypical workers.

1.6. Conclusions

The vitality of the European social dialogue is demonstrated by the variety of texts produced, regardless of their binding nature. The evaluation could be negative if limited to the number of binding texts, but acquires another value if considered in terms of the gradual efficiency and separation of the products of social dialogue.

This premise is important to understand the so-called "voluntary basis". The type of texts depends on the dynamics of exchange within the Sector Committees and among the organizations that are part of them. For example, an organization might consider that the issue of equal opportunities requires stronger legislative measures, while another issue could be addressed through *guidelines*, which are best suited to national production situations or individual enterprises. This encourages the conclusion of *Framework texts* and codes of conduct, rather than agreements in the technical or legal meaning of the word. Now, while the results may be seen as disappointing when compared to national regulations, based on established traditions of "strong control" they are nevertheless a good starting point to grasp the prolific and diverse activities of voluntary bargaining at European level. There is no doubt that the products of the European social dialogue do not have the same legal effect of a national agreement, particularly with regard to the matters covered by them (e.g., they do not address wage issues). Nevertheless, the themes covered by these negotiations can touch the crucial aspects of work, such as, for example, health and safety or training. The multiple applications of new and regulatory schemes (*open method of coordination* (OMC), information exchange and *benchmarking*) are substantiated in the use of non-traditional texts, such as voluntary agreements and recommendations that make use of *follow-up reports*.

The first step in this direction, at inter-industry level, was put in place in the *Framework of actions for the lifelong development of competencies and qualifications* of February 28, 2002, which identified some priorities in the field of education on which the social partners have started work at the national level, reporting progress annually¹⁸. But similar tools, and in particular codes of conduct, have been used especially in the sectoral dimension, to promote initiatives aimed at an effective controls on their

¹⁸ See the Framework of actions for the lifelong development of competencies and qualifications (First follow-up report 2003) of 14 March 2003, Framework of actions for the lifelong development of competencies and qualifications (Second follow-up report 2004) of March 5, 2004; Framework of actions for the lifelong development of competencies and qualifications (Third follow-up report 2005) of March 1, 2005, Framework of actions for the lifelong development of competencies and qualifications (Evaluation report 2006) of 27 April 2006.

subsequent application. In the field of sugar production, for example, the *corporate social responsibility in the European sugar industry. Code of conduct, annex I - examples of good practice* on February 7, 2003 has been adopted, a document relating to the aforementioned procedural monitoring devices that combine specific interventions and exploration activities with further development prospects. The *Framework agreements*, inspired at the *WTO*, are closely connected with the system of *follow-up*, so much so that, by establishing broad principles and pressing for negotiations and / or national or regional legal systems of each member country, they are *binding in honour only*, while being constantly followed by verification activities for their implementation. The *follow-up* procedures used by various actors to test the various implementations, especially with regard to their nature and their effectiveness, are in turn diversified: these are statistical surveys, annual reports, plenary lectures, presentations of good practices and creation of web sites. Their independent nature places them in close connection with the promotion of an alert and updated voluntarism. For this reason, it is difficult to assess the real impact of these texts and calibrate the ability of voluntary collective bargaining to achieve their goals. But the wide range of topics covered by these texts of new generation demonstrates the trend towards flexible devices, and only apparently weak, to obtain a discrete effect of generalization and penetration in the national labour systems, an outcome, however, that is not always considered as a real Agreement.

Over the past five years, the European social partners have confirmed that they could fulfil their commitments and innovate the Industrial Relations with procedural tools. The joint analysis of key issues and challenges of the European labour market, conducted by social partners at inter-industry level, has contributed to the creation of a social consensus on common principles in terms of *flexicurity* at the European Council in December 2007. In parallel, the social partners have continued to perform independent activities, with particular reference to the voluntary Framework Agreement on violence and *mobbing* on the workplace¹⁹ and on March 25, 2010, in the Work Programme on social dialogue for 2006-2010, and on the basis of their *Joint Labour Market Analysis*, they signed a voluntary framework agreement on "inclusive labour markets". Another example of multi-sector collaboration (cleaning, catering, private security, textiles), is the *joint declaration of UNI-Europa, EFFAT, ETUF-TCL and*

¹⁹ See the Agreement on harassment and violence at work, signed on April 26, 2007 by BUSINESSSEUROPE, UEAPME, CEEP and the ETUC, at the conclusion of the proceedings of the Social Dialogue launched by the Commission in December 2004, as part of its Health and safety at work Program, defined in the Community strategy on health and safety at work (2002-2006).

COESS, FERCO, EFCI and EURATEX "Towards Responsible Awarding of Contracts", April 18 2008, through which an awareness-raising action is brought on the award of socially responsible contracts.

During those same years, in the various sectors, numerous voluntary actions have been recorded on cross-sector issues that are traditionally covered by national collective agreements, which are not assessable in the short term, but on the long term, not only because they are present in the key issues of work relationship (think of the variety of implications of matters such as corporate social responsibility), but also because they allow to combine decisions concerning the protection of individual workers' rights through public measures in order to modernize the labour market. Occupational mobility, for instance, has become one of the main themes of the European negotiations and is at the same time one of the key pillars of the Union itself, when viewed in the light of freedom of movement of workers. If, at this stage, less than 2.5% of the EU citizens live and work in a Member State other than their own, through the *qualification passports* it is possible to compare the skills acquired. The social partners in sectors with a particularly mobile workforce or that need improvement of their level of specialization as a whole, have prepared and developed "qualification and specialization passports" (hospital) and worked on the European Qualifications Framework, trade platforms (agriculture) or certificate and programs of vocational training (trade and hairdressers).

Also the management of issues such as health and safety and gender equality continues to attract a strong interest of the sectoral social partners at European level. In particular, health on the workplace and safety practices in the companies can benefit from recommendations and practical guides aimed at the specific situations in each sector. In the context of gender equality, the social partners of some sectors have developed some innovative tools including guidelines for gender action plans, which serve to support the initiatives of local and regional governments and to encourage a shared and sustainable approach to discussion for the social partners. In other contexts, the social partners have adopted policy guidelines accompanied by an ambitious work plan (as in the railways sector) or even real practical *toolkits* for the management of human resources (electricity and telecommunications)

A growing number of multinational companies have embarked on the negotiation, at transnational level, of *joint texts* and real agreements, within the information and consultation procedures with EWCs.

One issue common to the matters pertaining to both the sectoral dialogue and the responsibility of companies is the *Corporate Social Responsibility* (CSR), the key issue for the legal and economic development of industrial relations in the EU, also for its complex structure, since it is intertwined with the *core labour standards* of workers and the autonomy of the business strategies of the company, which the European collective bargaining hardly manages to embrace. One of the profiles that affect this crucial point concerns the verification of the extension of the European model of workers' protection, especially in the dramatic crisis that grips some European countries in the second half of 2011. In this regard, interesting experiences can be found as concerns content of individual rights recognized by employers. Some CSR clauses provide for the extension, at least in part, to employees of subsidiaries located in countries outside the European Union, of the rights acquired by employees of companies having their registered office in the EU or through legislative or negotiated measures, ensuring a level of protection that, in some contexts, is greater than that afforded by the local governing labour law.

An important role in ensuring the effectiveness of the commitments undertaken, both in order to define more homogeneous contents with respect to workers' protection and the working environment, is carried out by European trade unions from especially by the EWCs who, through the *Substantive Agreements* - and by means of declarations of principle on how to deal with changes or detailed decisions on the programs of industrial restructuring and staff management - are primarily concerned with issues (such as the effects of restructuring), or specific aspects of corporate policy, including preventative measures relating to health and safety of workers on the workplace and protection of personal data.

6.2. The evaluation of the sectoral social dialogue at European level, since 1998, highlights the value of the contribution it has given to the European social model. It also shows that there is a direct relationship between the effectiveness of social dialogue at national and at European level and that the European sectoral social dialogue often gives impetus to national social organizations, especially in countries where collective bargaining is poorly developed. Sectoral Committees provide national social partners with a framework for coordination, joint action and negotiation. A more systematic involvement of sectoral committees in the process of impact assessment at national level would strengthen the same institutional consultation and negotiation at European level. As for trading, sectoral committees provide a flexible tool to address the complex issues of the labour market and find suitable solutions for the

diversity and complexity of the different sectors. The evolution of social sectoral dialogue requires a higher frequency of studies on sector representation and on issues such as consultation, coherence and synergies between sectors. The Liaison Forum is the suitable site for discussion and exchange of best practices, hopefully opening up to a qualified representation of the EWCs. The current economic crisis has confirmed the importance of the European social dialogue at sectoral and inter-sectoral level as well as the social partners' initiatives relating to the reality of companies from various sectors. The crucial importance of social sectoral and inter-industry dialogue, as well as of social dialogue in transnational companies, carried out between the EWCs and central managements, justifies the Commission's support in the context of the "Europe 2020" strategy and the synergistic policies in the economic, social and environmental sectors, in view of conditions conducive to recovery from the present crisis.

1.2. DIRECTIVE No. 2009/38.

As anticipated, the examination of Dir No 2009/38 has been the subject of the first phase of our project. In the pages that follow we provide a few, essential, useful comments on the Directive so that the project participants can acquire knowledge of the elements of national situations analysed in-depth in the Seville seminar.

Directive 2009/38, amending previous legislation contained in the EWC Dir 94/45, entered into force on June 5, 2009. Within two years from this date (ie by June 5, 2011), it is the duty of the Member States to transpose the Directive into their legal systems. The new provisions will therefore be effective in national law from June 6, 2011, with the exception of some provisions that apply immediately. Until that date, the national regulations based on Directive 94/45 will be valid. The social partners, however, based on the principle of subsidiarity, can anticipate these terms through their own agreements, as they may define joint opinions to be submitted to national authorities to implement the directive. The social partners in all EU Member States are called to know the Directive, paying attention to its most critical points. It should, in fact, be prevented that the reception turns into a purely formal or a simple translation of the text in the national language. The new text has many references to national rules and practices, and therefore it is

likely to produce inconsistent guidelines for national legislators. The experience related to the Directive 94/45 teaches the importance of ensuring that the activities of the EWCs are not hampered by potential inconsistencies of individual national laws. Despite the coordination of the European Commission, the first transposition has seen lights and shadows, which have raised questions of interpretation in the subsequent years, resulting in appeals to the courts. The new directive introduces some novelties, which call for a coordinated transposition in the Member States to achieve greater consistency with national laws.

The directive seeks also to bring order to actually controversial aspects of the life of the EWCs, on which the social partners have often found it difficult to find convergence of viewpoints or solutions are various and heterogeneous. The initiatives included the following.

A) New rules on the establishment of an EWC:

I) A requirement for each local management to convey the necessary information to the interested parties to start negotiations (structure, number of employees) (Art. 4).

II) New formula for a more balanced composition of the SNB and EWC ensuring a minimum representation (Art. 5);

III) Before and after the meeting with the central management, the SNB can meet without the presence of the employer (Art.5);

IV) The recognition of the role of trade unions recognized at EU level (Article 5) that must be informed of the composition of the SNB and the beginning of the negotiations, and are explicitly recognized as experts within the SNB.

B) A new definition of information and a more detailed definition of consultation (Art. 2)

C) A new definition of transnationality (art.1.4):

D) The relationship between European and national level (Art. 1

I) The respect for the responsibilities of the different levels of representation of workers' interest (art. 12.1)

II) Mode of articulation among the different levels to be set in the contract (Art. 12.2.

III) If these rules are not defined by agreement, Member States shall ensure that the processes of information and consultation are due in the EWC as well as at national level when decisions can lead to substantial changes in work organization or business transfers or employment contracts (Art. 12.3; recital 38);

E) New rules in the functioning of EWCs (Art. 10). Right to training of members of the SNB and the EWC.

F) Clauses and procedures of adaptation of the constitutive agreement in case of changes in the structure of the company (Art. 13)

G) Impact of the new Directive 2009/38/EC on existing agreements (Art.14)

The new discipline and the most problematic issues that it raises at the level of implementation in each national jurisdiction and its practical application have been treated in depth in the Seville seminar (see

also Chapter II) during which the participants tried to identify the points of contact and interaction between the activities of the EWCs and those of the sectoral dialogue Committees.

1.3. THE REGULATORY OVERVIEW AND ITS EVOLUTIONARY DYNAMICS.

In the current financial crisis, many of the EWCs operating in the credit and insurance sector have called special meetings to assess the consequences of the crisis, and its manifestations, on the company. In some cases there have also been three or four meetings, including a "plenary" meeting and a "Select Committee" meeting. This is a smart way to prepare to handle any negative effects on workers and commit businesses to providing clear information on the problems and the health of the company. Action by the EWCs in the financial and credit sector have led, in some cases, to mitigate the negative effects, particularly in the most recent EU accession countries.

The rate of unionization, which in recent EU accession countries is less than that of countries with a longer membership, can be increased by strengthening cooperation between national unions and EWC delegates. The European Federations can contribute to this growth and to the strengthening of the union activities at national level, with a continuous stimulus and coordination. The debate that took place in the national unions and the ETUC, following the recast of Directive 94/45, has produced a new awareness of the potential that these tools of active involvement can play, even to give new vigour to the European interconfederal dialogue and to sectoral dialogue, especially in order to address the crisis in transnational companies.

The persistent imbalance of information rights among the various national legislations and the limited ability of national unions in some countries to influence the decisions of firms in the country where the central management is located, so far has weakened the ability of transnational representation, partly because of the different strength and effectiveness of the various national laws transposing EU directives. The innovations introduced in the new Directive, the determination of the federations, the willingness of national trade unions (in particular those of those countries where the branch offices and subsidiaries are located), the desire to be leaders, the constant appeal of the International Confederations and of the

ETUC to responsibility and solidarity, joined to the information tools of the Web network, and the pressures that EWCs have started to practice with good success, well, this complex of factors determine a new season for the EWCs. It is necessary to achieve real consultations, in order to effectively influence business decisions, obtain the achievement of uniform standards, inspired by the ILO Declaration "For a Decent Work."

Despite its limited powers, the EWC, if adequately supported by the national trade unions and the European Federations of the sector, contributes to the creation and the consolidation of a culture of social dialogue in the area of activity of company. There are still few European groups which have developed the active involvement of the workers, through the institution of the EWC, and limited but significant cases of full efficiency, as indicated by the relevant Directives, with the signature of advanced agreements which could be a reference and good practice to be imitated for the entire system of international industrial relations of the sector.

For example:

The two Italian EWCs of Uni-Credit and Generali belong to this still limited category. In both cases the role of the European Federation is very strong. In the case of the EWC of Assicurazioni Generali, the representative of UNI Finanza is a member by right, whereas in the EWC of UniCredit there are two UNI experts who participate in all meetings of the EWC and of the Select Committee. This informal recognition of the role of UNI brings about good industrial relations at European level. Moreover, UniCredito and its EWC have signed two joint statements with regard to the "Sharing of best social practices" and the definition of common standards to all workers of the group regardless of their country of origin: one is about training and professional development and the other about equal opportunities and non discrimination. This result is particularly important and significant, both in terms of general trade union policy and for the consequences that they will produce in the individual countries, also due to the fact that these statements originate from the work of two special joint committees in which members of the EWC and business executives from various countries have been working together for several months. Among the most recent commitments relating to the issue of the dissemination of best social practices to define common standards for all employees, the Select Committee of the EWC and the head of UniFinance for Europe have collaborated to achieve a Global International Agreement (GFA) with

UniCredito, concerning the rights of employees and trade unions, applicable to all countries where the Group operates.

Trade unions at various levels, in particular the European Federations, are called to play an important role in the support and training of employees' representatives in the EWCs. Under the new Directive, the Special Negotiating Bodies (or, if provided, the EWCs), which are involved in a renegotiation process of the establishing agreement, may be assisted by trade union representatives. The Directive stipulates that also representatives of the European Federations or of the national union can be members of the SNB even if they are not employees of that company. Article 5 of the new Directive explicitly recognizes the role of the European federations in supporting the negotiations with an advisory role, the monitoring of the deployment phases of the EWC and the promoting good practices. The SNB may request to be assisted by experts of its choice, including representatives of labour organizations recognized by the EU. These experts and representatives of trade unions may participate in the negotiation meetings and be co-signatories of the agreements. We are therefore facing the recognition of the participation of union leaders in the transnational representation of workers delegated to negotiate the incorporation agreement of an EWC. This recognition is important, even if formally characterized by a lack of full legitimacy, but by a derived legitimacy, so to speak, in the sense that trade union representatives participate in negotiations in their advisory capacity and not as representatives in their own right. National laws may, however, resolve this problem, essentially linked to the relationship between workers' representatives in a company and trade unions. However, in some systems, the fullness of the mandate of the union representative who is not an employee of the company may be called into question (such as, for example, in the case of the deliberations within the SNB). The peculiarity of this forecast is offset in part by the obligation of the company to inform the relevant European union federations and employers federations, thus preventing circumvention practices or collective agreements which fail to respect collective autonomy. This standard rule is certainly important in a Europe with 27 Member States, because it helps the European Federations to carry out effective and timely actions, and not only in terms of monitoring. It remains to determine the nature of the obligation to inform the European Union Federation or the employers association. One could say that it is an essential part of the procedure in the sense that a negotiation between the SNB and the enterprise, initiated in the absence of such information to European federations, could affect the outcome thereof. The national implementing laws shall clarify

this issue. To ensure that legislation will not be applied in a haphazard/random fashion, an active coordination of national and European trade unions is needed.

CHAPTER TWO

THE SEVILLE SEMINAR

(Seville, 3 to 4 March 2011)

2.1. INTRODUCTION

The "stalemate" situation in which we live, the changes that come with it, the need to deal with all the consequences with the direct participation of workers, and with more shared solutions, makes role of EWCs, their strengthening, and the promotion of social dialogue practices, even under the new European Directive, even more important.

In this regard, it is desirable that the policies of the European Union and national governments sketch out new areas and more effective instruments to give a greater and more effective role to the dialogue among the social partners. This applies to the activities of European Works Councils and centres for social dialogue at all levels.

In the current situation, we can say that when the consultation and the involvement of employees has been applied effectively, it resulted in a positive influence on the policies of companies and the protection of workers. The systems of employee representation, if firmly established and organized, have helped give companies long-term sustainable strategies. Today, it is necessary to strengthen all the instruments of social dialogue at transnational level to prevent the crisis results in an overall worsening of working conditions, with an impact on the socio-economic structure in Europe.

In this perspective, the EWC, at transnational level, should have the right and the power of information and consultation that the national unions do not have in terms of quality, timeliness, competence and knowledge of the source of information and could therefore be involved in addressing the effects of corporate decisions. In countries where the dialogue between the company and the union is poor or nonexistent, the EWC is the only centre for dialogue and information.

Needless to say, EWCs have emerged as an important social tool in the European Union, the only supranational body for corporate representation.

The EWC is the key to the creation of a European system of industrial relations that integrate with the national systems of representation and constitute an employee organisation in Community-scale undertakings.

The role and importance of the EWC is crucial for today's European Union of 27 Member States, in an economic environment characterized by reorganizations, mergers and relocations. Despite the potential of the EWCs is not yet fully exploited and the fact that a deficit still remains in information and consultation rights, particularly in cases of transnational restructuring, to which information and consultation EWCs are entitled, the enhancement of training for qualified parties to participate in the SNB and EWC is needed. In fact, to date, there are about 940 functioning EWCs in companies and groups of companies with a Community dimension.

As mentioned above, the Directive 2009/38/EC on the EWC is a fundamental link among Community policies in the field of collective labour relations, because of the significant contribution that it provides to the development of social dialogue at transnational level, while the field of finance is undergoing a particularly advanced and unique process of internationalization. The EWC initiatives in this area have led, in some cases, to mitigate the negative effects of industrial restructuring, especially in those countries that have recently joined the EU.

The good practices outlined by the EWC in the banking sector have also had positive impacts on other sectors.

In this context it is important, as the Commission stressed in numerous official documents, to reduce the different degree of knowledge and skills, particularly in the management of information and consultation procedures, among the EWC delegates from different countries, a gap, this, that appears more sensitive after the accession in the EU of twelve new countries. The different level of knowledge and management skills is undoubtedly related to differences in the industrial relations systems of the different countries, as well as to an increased attention to the issue of training of delegates by some national labour unions.

Our project, as mentioned, intended to contribute to the identification of ways and means with which to strengthen the link between the activity of the EWC and the Sectoral Social Dialogue.

It is necessary, in fact, to strengthen the European social dialogue, in particular sector dialogue, which can be facilitated by the achievement of a better interaction among the various levels of industrial relations of the European Union.

To maximize the synergy between the European and national level, the social partners have to make their activities better known in their industry at all levels, organizing informative, educational and promotional activities. More importantly, in an enlarged Europe and to ensure the effective implementation of the new generation of agreements, is the organization of regular meetings between European social partners and their national partners, as it happens in committees for social dialogue, or in conferences and other events organized by the social partners themselves.

As already mentioned in the previous pages, the sectoral social dialogue can play an important role as long as there is a will to do so by organizations representing the social partners. The sectoral social dialogue bodies have an advisory function on processes at EU level having social implications and they have the task of promoting social dialogue at sectoral level.

A liaison and coordination among the bodies of sectoral social dialogue would enable the acquisition of a European culture of negotiation at all levels with the construction of a common base of knowledge and negotiating practices of the delegates.

The first objective of the project is therefore to help improve the interaction among the EWC delegates, deepening the connection between information and consultation activities and the knowledge of the general framework and specific issues covered by the procedures. An element of proved vital importance is the reflection on the strategic importance of an European culture of social dialogue of EWC delegates that makes more effective the use of the information acquired and the stage of consultation more useful for all parties involved (including businesses), specifically in relation of the "constructive spirit" on which the relationship between EWC and enterprise management must be based.

The impact of the project is to last over time because its results and the skills acquired will be transferred to the institutional activities of national and European organizations. This means that training and technical assistance should be provided, as well as effective coordination at European level.

The economic crisis, as already mentioned, touched on Italian companies and groups or companies and subsidiaries of foreign groups in Italy, forcing a number of EWC to deal with often sudden and unpredictable market situations, with negative impacts on employment levels and the very survival of the production facilities and services of some or all countries.

All this in a perspective of rebalancing the relationship between business freedom and workers' rights. As experience shows, the participatory approach is an effective tool to find solutions consistent with the shared goals of protection and involvement of employees, improving their conditions and protecting corporate competitiveness.

2.2. THE EUROPEAN WORKS COUNCILS: THE MOST SIGNIFICANT ASPECTS

The Community legislator has always had in mind the "reality" of the Community undertaking and the role of workers within it. A dynamic undertaking, in the sense that it must move (easily) in the common market in order to realize the principle / opportunity of free circulation and aggregation in a united Europe. The idea of a European enterprise, therefore, is based on the fundamental freedoms (free movement of goods, services, capital, persons) under the EC Treaty, and finds in the involvement rights of workers, which are fundamental social rights, the instrument to correct the negative social impact of corporate events on workers.

The EWC Directive of 1994 attempts to correct the asymmetry that was created with the free movement of companies within the then European Community. As known, in fact, there were cases of multinationals that changed their corporate headquarters within the Community by reason of the fact that they had negotiated with employees' representatives a more favourable agreement on strike.

The Directive 94/45 is a critical observatory of the labour factor on the capital factor. But there is more: it creates a link among employees of the same company at the European level.

The directive of the 2009, unfortunately, begins with a change in art. 1, which, perhaps, downsizes the opening present in the Directive of 1994. We refer to the limitation to cross-border matters.

And, in fact, recitals 15 and (16) state that

(15) Workers and their representatives must be guaranteed information and consultation at the relevant level of management and representation, according to the subject under discussion. To achieve this, the competence and scope of action of a European Works Council must be distinct from that of national representative bodies and must be limited to transnational matters.

(16) *The transnational character of a matter should be determined by taking account of both the scope of its potential effects, and the level of management and representation that it involves. For this purpose, matters which concern the entire undertaking or group or at least two Member States are considered to be transnational. These include matters which, regardless of the number of Member States involved, are of importance for the European workforce in terms of the scope of their potential effects or which involve transfers of activities between Member States.*

These recitals seem to be more precise than the definitions contained in the body of the directive.

In fact, art. 1 paragraph 3, provides that:

<< Information and consultation of employees must occur at the relevant level of management and representation, according to the subject under discussion. To achieve that, the competence of the European Works Council and the scope of the information and consultation procedure for employees governed by this Directive shall be limited to transnational issues.

Matters shall be considered to be transnational where they concern the Community-scale undertaking or Community-scale group of undertakings as a whole, or at least two undertakings or establishments of the undertaking or group situated in two different Member States. >>.

In conclusion, in our opinion, the limitation of the issues to transnational matters (as defined in the Directive) is a reduction of the contractual autonomy of the parties.

The original text in the Directive 94/45 regulated transnational issues in the provisions of reference (Article. 6 read as follows: “in particular to transnational questions which significantly affect workers’ interests”).

In other words, in the 1994 version, the transnational issue could be considered *minimum minimorum* (Dorssemont 2009) in the sense that it was active only in case of application of the standard rules and the list it provided was to be considered just a list of examples.

In the Directive 2009/38 the reference to the transnational issues is in the body of the Directive (see Article 1 para. 3 → The competences of EWC (...) shall be limited to transnational issues).

The provision contained in recital 16 relative to the issues that, regardless of the number of states involved, are important for the European workforce in terms of the extent of their potential effects or involve the transfer of activities between Member States, has not been reproduced in the body of the directive.

The interpretation of the Court of Justice could help to better understand the contradiction between the broad definition contained in the recitals and the more limited version of Article. 1.

The recast Directive introduces a requirement for the role of experts and the unions in the constitution of the EWC. The 1994 directive made no direct reference to the role of the union. In our opinion this wanted to create a form of "secular" representation not directly linked to trade union structures. It is a vision probably borrowed from the German industrial relations system in which the company committee is not the expression of the union despite its connections with it.

Article 5, paragraph 4 of the Directive 2009/38 states: << *For the purpose of the negotiations, the special negotiating body may request assistance from experts of its choice which can include representatives of competent recognized Community-level trade union organisations.* >>.

It is also recognized that such experts and representatives of trade unions may participate in the negotiation meetings in their advisory capacity at the request of the above mentioned delegation.

The recital 27 says that << *Recognition must be given to the role that recognized trade union organisations can play in negotiating and renegotiating the constituent agreements of European Works Councils, providing support to employees' representatives who express a need for such support.* >>.

The recast directive recognizes, therefore, the need to involve the union in negotiations. Obviously, the participation of trade unions and experts is not a *iure proprio* representation but it is functional to the involvement of employees' representatives of the company. To this recognition of the role of the union must be linked the provisions of art. 10 Section 4 according to which members of the special negotiating body and the European Works Council are entitled to training without loss of salary (see recital 33). Training and, in general, all the work of assistance to members of the EWC and the SNB must be coordinated by the union due to the experience that the union can provide in the negotiation phase of the agreement, which in our opinion is the most delicate stage in the establishment of an EWC.

Article. 8 states that << *Member States shall provide that members of special negotiating bodies or of European Works Councils and any experts who assist them are not authorised to reveal any information which has expressly been provided to them in confidence.* >>.

As known, the same provision shall apply to employees' representatives in an information and consultation. This obligation exists even at the end of the mandate of the subjects specified in the first and second paragraphs, regardless of where they are.

There is also the well known issues of confidentiality for which the Directive of 2009 did not appear to have solutions.

Each Member State can, in fact, rule that, in specific cases and under conditions and limitations laid down by national legislation, the central management situated in its territory is not obliged to disclose information that, according to objective criteria, are such as to create significant difficulties for the operation of the involved businesses or be prejudicial to them. The Member State concerned may make such dispensation to a prior administrative or judicial authorization.

The Directive states that each Member State may lay down particular provisions for the central management of enterprises and plants located within its territory which pursue directly and essentially the aim of ideological guidance with respect to information and expression of opinions, on condition that at the time of adoption of this Directive such particular provisions already exist in national legislation.

Another factor on which to base a compelling link between social dialogue and the EWC Directive is, as it is known, the mechanism of transposition. In fact, by 5 June 2011, Member States must transpose the directive. This implementation can occur through an agreement among social partners or directly through a provision having the force of law.

In relation to the responsibilities for the establishment of an EWC, the Directive requires the management of each undertaking belonging to a Community-scale group of undertakings, as well as the central management or purported central management under the second subparagraph of paragraph 2 of the undertaking or the group of undertakings to transmit to the interested parties the information necessary for the start of the negotiations referred to in Article 5, in particular those concerning the structure of the company or the group and its workforce. This requirement applies in particular to information concerning the number of employees referred to in Article 2, paragraph 1, letters a) and c) (see European Court of Justice: Case C-349/01 ADS Anker, Case C-440/00 Kühne & Nagel AG & Co., Case C-62/99 Betriebsrat der Bofrost).

Pursuant to recital 18, moreover, the mechanisms for informing and consulting employees in undertakings or groups of companies operating in two or more Member States should include all establishment or, where appropriate, all group companies in the Member States, regardless of whether the central administration or, if it is a group of companies, the central management of the parent company is inside or outside the territory of the Member States.

The fact that the body of the Directive includes the case law of the European Court of Justice shows how successful the work of interpretation of the Luxembourg Court is.

2.3. THE FINANCIAL CRISIS, THE ECONOMIC CRISIS AND SOCIAL CRISIS by Mauro Bossola

The recent financial crisis, turning into a real economic crisis, has had and still has a significant impact on the social front.

According to the ILO report of 2009, there are 35 million jobs lost worldwide since the outbreak of the crisis in 2007 and almost 100 million of so-called "working poor", those who have an income from their work, but are not able to survive decently with it.

According to OECD studies (Source: Growing Unequal Report 2008) and World Bank (World Development Report 2008) the share of wealth allocated to labour is constantly falling in comparison to that used for the return on capital.

The opinion repeatedly expressed by our Organization, as by the other unions of this sector, at confederation and European level, is that economic crisis, and the social crisis that is the dramatic result of the economic one, are not accidental but rather are the outcome of the disasters produced by the choices dictated by the advocates of market fundamentalism and by industrial policies based on short and very short term.

In our opinion, therefore, responsibilities are clearly identified and identifiable, ascribable to people and interests that have subordinated the interests of workers and consumers to those of banking and financial multinationals, through an approach oriented to shareholders' compensation to be pursued even the expense of other stakeholders.

Like a sort of Dante's "law of retaliation", the irony wanted that it is just the Anglo-Saxon countries, champions of the unregulated market, who were the first called to recapitalize - with public money and then through some kind of nationalization - the financial institutions where the crisis had originated.

Without exaggeration, we can say that the caricature of the capitalist system, without rules and social responsibilities, invented by the theorists of neo-liberalism and market self-regulation has failed in its objectives, even impoverishing workers-consumers, forced to compensate low wages with debt, to continue to finance consumption.

In addition, the labour factor, as the largest taxpayer of the State, is now called into question by any operation on public budgets, invoked to cover the holes caused by the nationalization of banks.

2.3.1 The Crisis in Europe

The financial crisis began in 2007 with the subprime mortgage bubble in the U.S. in 2007 and reached its peak in September of 2008, with the collapse of the U.S. investment bank Lehman Brothers.

While China and India continued to grow and increase their influence in the world, Europe and Russia have been dragged into the vortex of the storm unleashed overseas and only by radical recapitalization carried out by governments and central banks, was it possible to mitigate the negative effects.

Adverse effects, however, that were reported and continue also in Europe, given the trend of the GDP and unemployment in our continent.

GDP AND UNEMPLOYMENT

	Gross Domestic Product		Unemployment Rate	
	2009	2010	2009	2010
European Union	-4.0%	1.0	9.1	10.3
USA	-2.5.	2.8	9.2	10.1
Japan	-5.6	2.1.	5.5	6.1

Source European Commission

Add to this the risk of insolvency that weighs on some European countries in the Eurozone, like Greece, which have high budget deficits and can be easy prey of international financial speculation.

This can further transform the characteristics of the crisis, transforming it from a financial, economic and social crisis into a crisis of debt of sovereign countries with more serious implications for the people involved in austerity programs, which invariably foresee the cutting of wages, the rise of retirement age and labour market deregulation.

As it is easily understood, these are measures that, once again, merely download the highest burden of the crisis on the shoulders of those who live by their wages.

2.3.2. THE EUROPEAN BANKING SYSTEM

After the initial shock, the European banking system has responded and, thanks also to the stabilization and capitalization operations implemented in some countries such as Britain, the capital of the banks has increased – in total – by one percentage point and has reached 7.5% in 2009, the highest average level achieved to date (*Source: European Commission 2010*).

STATE INTERVENTION IN THE EUROPEAN BANKS

BANK	COUNTRY	EURO (bn)	RETURNS
Royal Bank of Scotland	GB	50.1	
Lloyds Bank	GB	25.2	
Commerzbank	Germany	18.2	
ING Group	Holland	10.0 (1450psi)	yes
BayernLB	Germany	10.0 (1450psi)	
Dexia	Belgium	6.4)	
KBC	Belgium	5.5	
BNP Paribas	France	5.1.	yes
LandBkBad-Wurttemberg	Germany	5.0	
UBS	Switzerland/1}	3.9	yes

Source: Bloomberg, Deutsche Bank Research

However, according to IMF estimates, in April 2010 (latest budgeted data available) bad loans and loans written off from European banks' balance sheets, amounted to 511 billion euros, or 2.9% of total loans granted.

That's why, as wrote the Research Department of Deutsche Bank in its 2009 report, *"the financial crisis will result in the most remarkable and extensive change in the political and economic context of the banking industry in recent decades."*

In fact, the growth prospects of the sector in the short to medium term remains rather low, but both the pressure from public opinion and those of the supranational authorities are deemed to increase.

For this fundamental reason, after promoting the liberalization and integration of the mainland financial market, the European institutions are now trying to regulate it.

A regime characterized by the so-called "liberalism" on an international scale inevitably makes it easier for the consequences of errors or omissions to spread on a large scale.

Furthermore, the costs of these financial "mishaps" do not fall on a non-existent European arena, but on the economies - and hence on the population - of the individual states.

And here comes the contradiction between the liberal choices made at European level in the field of market services and the need to defend those who have to divert part of their national taxes to cover the holes of an imported creative finance.

This is the case for many countries, from Ireland to Spain, from Portugal to Great Britain, to France and Germany, where injections of public capital into private banks have taken on huge proportions and, in some cases, even paradoxical proportions.

The creation of a European law that, starting from the emergency dictated by the crisis, becomes an anchor for years to come is already a reality with the establishment of three new European agencies for the control of systemic risks, which will join the activity of the European Central Bank, the Financial Stability Board and innovations arising from the introduction of Basel III standards.

The new legislation and the new standards of capital require a new attitude on the part of the European financial system even though, given the present uncertainty, a clear trend is not yet visible.

But it is possible to see a revival of the traditional focus on core business and a lower propensity to risk taking, which may create a greater commitment towards the country of origin and a retreat from investment banking to trading activities.

But a new regulation is also required by the shift of attention from short-term profitability to sustainability of goals in the medium to long term. This latter concerns the pay of top managers and the remuneration policy in general, not only in banks that have benefited of public aid but also in private ones.

The new Community guidelines specifically include policies and compensation practices in organizational structures and corporate governance of banks and the control activities by supervisory agencies.

The relevant directive (2010/76/EU of December 14, 2010) contains principles and specific criteria that the banks must follow in order to ensure proper preparation and implementation of remuneration systems and ensure that the remuneration system takes into account the risks, current and prospective, within a framework of transparency towards the market.

The objective is to achieve - in the interests of all *stakeholders* - some remuneration schemes, in line with long-term strategies and objectives, linked to business results, but consistent with the levels of capital and liquidity necessary to meet the activities undertaken and in any case, such as to avoid distorted incentives that could lead to regulatory violations and excessive risk-taking for the bank and the system as a whole.

The rules laid down by Basel III will be transferred into European law through the enactment of a specific directive on minimum capital requirements, which will presumably be prepared in the second half of this year.

The legislative package should include a system of ratios on bank debt and a strong possibility of limiting the use of the financial leverage, which has greatly caused the current situation.

The revision of the MiFID directive on the sale of financial products, the regulation (for the first time!) of hedge funds and private equity funds will complete the regulatory effort at European level.

It is interesting to note here that all these measures, taken or in the process of being implemented by the Directorate General of the Internal Market of the European Commission, have been the subject of information and consultation with UNI Finance, during the special and regular semi-annual meetings that take part in the decision-making process that marks the decision-making within the EU.

If we consider that much of the legislation of individual countries of our continent comes from the European legislative level, this is an element of social dialogue that is far from negligible and that is fully part of the methodology that we are going to discuss in this seminar .

2.3.3.THE BANK JOB IN THE TIME OF CRISIS

In life, global banks are making a profit at the international level. In death, they cause transnational problems.

(Financial Times - July 15, 2010)

It is not surprisingly, given that the epicentre of the crisis lies in the financial sector, that jobs have suffered in this sector: between August 2007 and February 2009, the worldwide layoffs totalled 325,000 units (*Source: ILO 2009*). This is a number calculated by default, the table shows only the most significant data.

Nearly 130,000 jobs lost between October 2008 and February 2009: 40% of the total.

JOBS LOST IN THE WORLD BANK

BANK	DISMISSALS
CITIGROUP	75,000
BANK OF AMERICA	45,500
JPMORGAN	16,900
LEHMAN BROTHERS	12,570
UBS	11,000
BARCLAYS	9,050
COMMERZBANK	9,000
UNICREDIT	9,000
MORGAN STANLEY	8,680
CREDIT SUISSE	7,320
GOLDMAN SACHS	4,800
ROYAL BANK OF SCOTLAND	3,950

Source: Reuters.com Reports

If future scenarios can be more or less optimistic, all converge on the fact that the reduction of personnel in the banking sector will not be quickly or completely recovered in the years to come.

Last Saturday, the Governor of the Bank of Italy Mario Draghi, one of the candidates to the leadership of the ECB, said that "the current difficulties are not temporary but structural, and must be addressed with

new strategies", urging the banking groups to make amendment in their action plans aiming at reducing costs, streamlining of sales networks and extending the use of technology.

This time, however, the depth of the crisis and the level of technological progress - particularly in the field of ITC - seems to call into question the very business model of the European financial sector, with such implications in terms of organizational models as potentially upsetting the bank job as it has been understood so far.

The growing virtual and not physical access to the bank network, marked throughout Europe until a few years ago by an almost continuous growth, is a symbol of this process of contraction in traditional investment in favour of information technology investments with a relatively low-cost, and a relatively low-intensity work.

What until recently was only an additional service to the traditional deposit or current account - and I quote the telephone banking or banking services via the Internet just to name a few examples – it is becoming a different distribution model that will rely on increasingly IT expert generations in terms of broadband networks and on a more extensive and favourable *pricing* than the traditional model.

This is a recipe that can not but predict more serious consequences in terms of keeping employment in the financial sector.

So then the question must be asked whether the instrument of bargaining – and, more generally, of social dialogue between companies and workers - is suitable to cope with this prospect of change and with which strategies this can happen.

2.3.4 CRISIS AND SOCIAL DIALOGUE

When dealing with this matter, it should not be forgotten that the scenario in which we move is that of a social Europe at different speeds and with coexisting large diversity of legislation - but also of culture of trade union and industrial relations – among the various EU Member Countries.

All of us who operate at the supranational level know this very well, from experience, even if it is not always easy to keep it in mind in the practice of our daily interactions.

DEGREE OF COVERAGE OF THE FORMS OF EMPLOYEE REPRESENTATION

COUNTRY	% REPRESENTED EMPLOYEES
IRELAND	69
POLAND	65

ITALY	65
GERMANY	59
AUSTRIA	59
BULGARIA	50
HUNGARY	49
LITHUANIA	49
CYPRUS	47
UNITED KINGDOM	45
CZECH REPUBLIC	43
ESTONIA	39

Source: Eurofound - 2011

This consideration also comes from the sixteen-year experience from the adoption of Directive 94/45 on consultation and information in the transactional businesses, with 940 EWCs established in Europe affecting a total population of about 15 million of working men and women (*Source: National Council on Economics and Labour - Italy 2010*).

The difficulties were deemed to further increase after the EU enlargement and, as regards the banking sector, even beyond the EU borders, to the candidate countries and even to those outside the EU, such as Russia and Ukraine.

This process, together with the increase in European legislation, has put the union and employers' associations face to face with challenges unimaginable until a few years ago and calling into question the ability of social partners at sectoral level to cope with the challenge of strengthening the so-called European social model.

We can reasonably say, although as we have seen the challenge is daily and renewed every day, that the advancement and dissemination of European Works Councils have contributed to a better understanding of the model also in countries traditionally less likely to have a social dialogue and have strengthened understanding and cooperation in transnational companies.

Very often, as called for in the resolutions of UNI, it was the connection created with the establishment of the Special Negotiating Bodies that created an environment conducive to discussion and the composition of the inevitable differences. For non-EU countries this has often been translated in a greater ability to organize and represent workers in those countries.

It is not my task to draw conclusion, and it is outside the scope of a report such as this, that is and must be just an introduction to our work, but certainly this so important process has highlighted several deficiencies of Directive 94/45, only partially remedied by the so-called "recast "made by Directive 09/38.

It should be mentioned that many European financial institutions have branches in other continents. The commitment of national and European trade unions (and UNI in particular, that has made of this its priority), is to collaborate with these entities to achieve the so-called Global Framework Agreements, i.e. transcontinental agreements needed to ensure minimum rights for workers and their representatives that should be applicable regardless of where they operate.

This aspect emphasizes the role of extreme importance that the union, both nationally and internationally, is called to carry on in connection with EWC activities.

It is not just to be supportive in the process of negotiating agreements, but to offer continued and long lasting support in terms of spreading awareness of the importance of transnational social dialogue and to offer training support for the colleagues involved, a training that can not be reduced to the language skills, however necessary they may be.

From this point of view, one of the most significant innovations of the new Directive, namely the recognition of the role of the trade unions recognized at European level - also in the process of negotiating agreements - is both an implicit recognition of the important activities carried out and the commitment required for the future.

It is also significant that, beyond the debate about what exactly the information is and how effective and timely it has occurred, consultation has taken place with attention to a growing number of issues, which are integrating a *specific social acquis* of EWCs.

The issues addressed at the level of multinational corporations are often a non incidental link with those issues that have characterized the social dialogue at European level in the banking sector.

I refer to the agreements on the Life Long Learning and CSR - Corporate Social Responsibility - topics that certainly do not make a poor impression when compared to the debate that has developed as a result of the financial crisis.

These agreements, signed at the industry level in Europe by UNI and Banking Association, have given rise to important developments in contracts and have been accepted at the level of national sectoral bargaining.

But they have also been a source of inspiration for similar achievements in some EWCs, such as the one of Unicredit Group.

They can therefore be reasonably pointed out as a factor of synergy between the activities of European sectoral social dialogue and the ones carried out at the level of multinational and covered by the EWC Directive.

This synergy is an example of virtuous activity to achieve a European dimension for effective social dialogue, which is what we want to analyze here.

2.3.5 CONCLUSIONS

We believe, in conclusion, that the social dialogue between unions and companies represents, in all European and non European Countries, a crucial focal point for proper balance of interests naturally in conflict with each other.

In times of crisis, this statement assumes a character of not only strategic importance, but also practical, useful importance, so that the inevitable decisions that management must take in a very short time could take into account the views of employees and involve them appropriately, avoiding the emergence of pre-established positions which might cause the failure of even the best plans.

This conclusion was reached already by the International Labour Office in 2001 when, addressing the issue of mergers and takeovers in the financial sector, it stressed that social dialogue can play a crucial role in minimizing the social impact of such processes.

Even in relation to the above in terms of consultation and information on European legislation, we can only confirm that an appropriate social dialogue at institutional level plays a crucial role, ensuring that the measures taken - in this case for the financial sector - are appropriate and well designed, supported also by the opinion of professionals in the field and thereby increasing the chances of success.

I wish this success also to this seminar and the entire initiative of the TANDEM Project, a success that, supported by the participation of qualified operators of the social partners, I am sure will not be lacking.

2.4. THE WORKSHOP: INSIGHTS ARISING FROM THE SEMINAR

The insights on the sidelines of the conference on "European work council and sectoral social dialogue: proceed together to overcome the crisis" are many. We shall limit, as agreed with other project managers in meetings, to the reconstruction of the regulatory framework from which, in particular, had to emerge the application profiles on which to base and develop the debate among the social partners.

The brief notes that follow, therefore, do not attempt to reconstruct all the issues addressed during the discussion, but want to suggest a systematic line of conjunction between the requirements of the Directive and the comments that participants at the conference in Seville made on the implementation of these requirements and their experience in the matter.

2.4.1 Transnational issues regarding the company (Article 1 paragraphs 3 and 4 and recitals 15 and 16, Directive 2009/38).

The first consideration that has emerged from the debate concerns the introduction, in the new Directive 2009/38, of the concept of "transnational issue" falling within the competence of the EWC. As you know, under Art. 1, paragraph 3 of the Directive, information and consultation of the EWC are limited to transnational issues, these latter meaning at least those concerning the Community-scale undertaking or Community-scale group of undertakings as a whole or at least two undertakings or establishments of the undertaking or group situated in two different states.

From the comments of participants a certain regret has risen for losing the wider and more specific notion of transnational issue contained in the recitals that refer to issues that, regardless of the number of states involved, are important for the European workforce in terms of scope of their potential effects or which involve the transfer of assets between member states. It seems that the definition present in the recitals is more accurate than the definitions contained in the body of the directive and the intervention of the European Union Court of Justice has been advocated for an interpretation able to find a consistency between the preamble and the regulatory part.

2.4.2 Arrangements for informing and consulting employees

Much attention has been given to how information and consultation of the EWC should take place. Here the scene described by the participants is more diverse and sees, with some simplification, two opposing tendencies of employers.

On the one hand, there is EWC of Unicredit receiving information and offering consultation in order to make possible the formulation, in a useful time, of an opinion to submit to the company without compromising the ability of adaptation of the latter. The effective involvement of employees' representatives makes it possible to anticipate and manage change in the company.

Less positive seems to be the experience of the members of the EWC of Deutsche Bank. According to their representative, eleven years after the establishment of the European Works Council, the effective involvement of employees' representatives has not produce the effective participation in corporate decisions that might be expected from a German parent company, used to co-decided processes.

A very marked displeasure was conveyed by the representative of the EWC of Banco Santander. According to this representative, in fact, the employer is clearly contrary to any of the works council participatory activities.

It would appear that the employer of Banco Santander has also chosen to set up the committee following the precepts of the English law on the EWCs, although the company is a Spanish company, to benefit from more lax rules.

2.4.3 Information and consultation features.

Employees' representatives manifested the need to receive information in time to prepare, as required by rule, an opinion on the issue to be submitted to the company.

Recital 14 of Directive 2009/38 states that the establishment of a consultative dialogue, necessary for the information and consultation procedure to produce positive effects, should not undermine the resilience of that undertaking. In other words, the information and consultation procedure should not delay the decision-making process of the enterprise. In this regard the interpretation of the 14th recital (the result of the debate), is very interesting. It states that the undertaking is the first recipient of this information in the sense that, through a timely information, it allows employees' representatives to consider the matter in a

meaningful way. Contrary to what appears, then, it is the company that must scrupulously comply with the obligation to inform and consult in order not to suffer any delays caused by the exact observance of the procedure. In other words, this is the application of art. 9 of the Directive according to which business and employees' representatives work in full compliance with their mutual rights and obligations.

2.4.4 Level of enforcement of the Directive.

Another fact on which attention has been paid during the Seville seminar is the difference between established EWCs and Community-scale undertakings and / or Community-scale groups of undertakings to which the Directive applies.

From the available data, about 1470 multinationals have no EWC, which means 65% of all enterprises that should have one. These data refer to 2006, but also a newer version does not exceed the threshold of 50% of companies falling within the scope of the EWC directive.

In the vast majority of cases, the initiative for the establishment of an EWC comes from the workers, autonomously or upon written request of at least 100 workers, or of their representatives in at least two undertakings or establishments in at least two states.

2.4.5 Confidential information (Article 8 Directive 2009/38).

The debate has highlighted a particular symbolic element on the correct application of the clause of confidentiality by the employer. The text of the directive provides that the members of the special negotiating body and of the European Works Councils and any experts who assist them, are not authorized to reveal to third parties any information given to them in confidence. The European Works Council of Unicredit, established in 2007, received by management some information qualified as confidential only on one occasion. It was the launch of the business plan and the EWC received the information before the contents of the plan were disclosed to the financial markets. This information, as mentioned, on the one hand demonstrates the correct application of the legislation by the parties, on the other hand it shows that the occurrence of confidential information is not high. The confidentiality provision under the rationale of the Directive meant that the Unicredit asked for the confidentiality of the information only once in nearly four years of operation of the EWC. Hence the question about the correctness of the application of the law by those employers (of which many examples have been made)

that, in contrast, provide information that is often regarded as confidential and, therefore, cannot be disclosed by the EWC .

2.4.6 The role of experts (Article 5, paragraph 4 of Directive 2009/38).

As known, the recast directive introduces a provision on the role of experts and the union in the constitution of the EWC. The 1994 directive made no expressed reference to the role of the union.

Article 5, paragraph 4 of Directive 2009/38 provides: << *For the purpose of the negotiations, the special negotiating body may request assistance from experts of its choice which can include representatives of competent recognized Community-level trade union organisations. Such experts and such trade union representatives may be present at negotiation meetings in an advisory capacity at the request of the special negotiating body.*>>.

Also recital 27 says that << *Recognition must be given to the role that recognized trade union organisations can play in negotiating and renegotiating the constituent agreements of European Works Councils, providing support to employees' representatives who express a need for such support*>>.

The experiences of the participants who contributed to this debate have shown how relevant is the provision of the new Directive for the effective development and growth of EWCs and social dialogue. Reports and interventions, in fact, have highlighted the need for the employees' representatives to make use of experts who can assist them during the negotiations for the establishment of the EWC and in successive stages in the event of significant changes for the enterprise and in the case of amendments in the regulatory framework.

2.4.7 Training (Article 10, last paragraph, Directive 2009/38).

The issue of training is closely linked to the recognition of the role of trade unions referred to above.

The provisions of art. 10, paragraph 4, in fact, require that members of the special negotiating body and of the European Works Council are entitled to training without loss of pay (see recital 33).

The discussion shows that the training and, in general, all the work of assistance to members of the EWC and the SNB must be supported by the union because of the experience that the union can provide in the negotiation phase of the agreement, which, in the opinion of the participants, represents the most delicate phase in the establishment of an EWC. Once again, the most significant experience is that of the UNICREDIT EWC that can claim, among its components, delegates engaged in union organizations.

2.5. CHRONICLES Reported by Andreas Biernath

The importance of the EWC in the financial sector is growing and accelerating among the recent manifestations of the financial crisis which imposes new and far reaching challenges on the companies, workers and trade unions in order to survive in an ever more competitive environment which breached down national barriers long ago and has now to be competitive on an even more demanding global level.

Therefore, the aim of the EWC in this context is to allow both partners of the social dialogue (workers and financial sector companies) to find solutions in a responsible and shared way.

Yet the EWC potential is not fully exploited, and there is still a lack of information and consultation rights to which EWC are entitled in particular as concerns those of transnational restructuring and the enhancement of training of qualified people to participate in the relevant decision taking groups.

The Target project was also organized with the awareness that the social partners, in order to maximize the synergy between the European and the national level, have to share better their experiences, works and texts at all levels through information, training and promotional activities and do have to make the results of their works public and accessible.

A considerable amount of time, especially on the second day of the Target project in Seville, was dedicated to the exchange of experiences, views and ideas among the participants.

Here under follows the programme of the Workshop:

After the participants registration recorded by A. Biernath, the plenary session is opened on March 3rd at 15.30 by the Project manager Franco Savi who informs us that after this first important workshop, it will be held the second in Vilnius the 9-10th June and a final session in Turin the 11th November 2011.

In the words of the Project manager “we are here to understand with which tools the workers can face the companies. In the last century we have seen great achievements in the labour market conditions. Recently the EU has introduced new regulations and we are here to compare the different levels of workers rights”.

Franco Savi thanks the authorities for the hospitality and notices the excellence of University premises. Savi passes then the floor to the Vice Dean of the International Relations of the University of Seville Dr. Lourdes Munduate Jaca who addresses a welcome on behalf of the Chancellor of the University of Seville, saying that the faculty of Labour Sciences is the ideal setting for this meeting. She continues saying that it’s a great honour to welcome us on the premises of the University of Seville which won an important international award for excellence and in her words “it’s great to proceed together to overcome the crisis”.

It follows a welcome address by the Dean of the School of Labour Sciences, Prof. Milagro Martin Lopez, who says that the new Directive 2009/38 wants to ensure that workers are properly involved, as only the right involvement of the workers makes them co-participants in the decisions taken by their company. She adds that the framework of the meeting is in line with the address of the University, thanking us for having chosen their premises for this meeting.

The floor is handed over to Dr. Mauro Bossola, Deputy General Secretary of FABI and Responsible for International Relations.

Bossola first of all thanks all participants and regrets about the fact that ABI (Italian Banking Sector Employers Association) representatives aren't in Seville to attend the meeting; they ensure ABI participation to the next workshop.

In his report : “The European Context of Credit and Finance Industry. The economic and financial crisis and its effects on Social Dialogue and Collective Bargaining” the FABI Deputy General Secretary points out that the crisis has had and does still have an important impact on the social front. He stresses then, that according to an ILO report from 2009: 35 million working places have been lost in the world since the outbreak of the crisis in 2007 and that there are 100 million “working poor”, people who have a labour income but who are not able to live decently.

In his examination, Mauro Bossola points out that, on the opinion of FABI but also of other Italian and European Unions, the economic crisis and the subsequent dramatic social crisis are not accidental but are the disastrous results of choices taken by the free market fundamentalists and by industrial politics focused on short, if not even shortest, terms.

Thereby, the responsibilities are traceable in interests of persons and lobbies who have put interests of workers and consumers behind the ones of large international banking and financial institutions who are interested only in yields for the shareholders if not their own.

He points out that it's telling that the Anglo-Saxon countries, where the crisis originated, are the ones where banks and financial institutions have had to be rescued with public money in a kind of nationalisation. “without exaggerations we can say that the caricature of the capitalistic system, characterized by no rules and social responsibility, invented by theorists of the new liberalisms and their belief in self-regolamentations of the market, has failed clamorously impoverishing the workers/consumers, forcing them to take debts in order to to finance their consumes and formerly achived lifestyle ”.

The workers, who are also the major tax contributors, are the most directly affected, through direct and indirect taxes, in restoring public finances after the “nationalisation” of huge losses of financial institutions ”.

Coming from Greece, where Dr. Bossola has had a meeting with Greek Unions, he informs us that the atmosphere there, like also in the Balkans, was very gloomy. He stresses, furthermore, that the financial crisis, which has heavily involved Europe, has brought some states of the Euro-area, like Greece, on the brink of insolvency exposing them directly to the international financial speculation. As a result this would transform, the characteristics of the crisis, shifting them from the financial, economic and social level to state budgets with additional and heavy implications concerning the populations involved in the inevitable income slashes, increases in the retirement age and further labour market deregulations. “And here we see once more, that the major burden of it all is put upon the shoulders of who is living solely of his salary”.

Countries like Ireland, Spain, Portugal, Great Britain and even France and Germany did have to inject huge amounts of public money into the banking sector.

The legislator did have to move quickly and actually did take action swiftly founding three different European Agencies with the task to control the systematic risks of banks and these agencies will support the activities of the ECB and the Financial Stability Board. Other innovations concern the new balance sheet rules introduced by Basel III.

A new regulation has been asked in shifting the attention from the short term to a more sustainable longer period, particularly concerning bonuses and, in general, performance related income for top managers.

The new rules related to Basel III will be adopted into European legislation through a Directive about new minimum capital requirements which should be presumably ready in the second half of year 2011 and should include a system of new ratios relating to the debts of the banks and stronger limitations regarding the use of financial leverage which was one of the main causes of the crisis. The revision of the MIFID Directive regarding the selling of financial products and, for the first time, the regulation of hedge funds and funds of private equity will complete the efforts on European level.

Bossola adds that a positive aspect is that these changes are adapted after a consultation of the unions albeit we have to be aware that the changes will also directly affect the “white collar” workers. Continuing his exposition, Bossola cites the Financial Times: “when everything goes well the banks

make profits on an international scale. When they crash, they are the cause of transnational problems.” Thereby it’s not surprising for him that, given that the epicentre is in the financial sector, that the same is the one with the greatest loss of labour forces; according to ILO, between August 2007 and February 2009, 325.000 people lost their job. Mr. Bossola mentions the most significant losses which affect, not surprisingly, mostly American and British banks, but not only. He notices also that Mr. Mario Draghi, the governor of the Bank of Italy, invited to restructure the banks as the current difficulties are due to structural problems and “we have to bear it clear in our minds that this will mean further losses of working places in our sector”. The banks are fostering the use of home and internet banking and that will have necessarily repercussions on the working places and, indeed, “in 2010, for the first time, the number of banking branches in Italy is descending, something which in other countries happened already, some years ago.”

In conclusion of his exposition Mauro Bossola says: “we assume that the social dialogue between companies and unions is the best way to balance in a satisfactory way the naturally opposed interests.”

The FABI front man concludes his exposition wishing success for the present meeting and for the TANDEM initiative, “success which shouldn’t lack, given the high calibre participation of social partners.”

Gianni Arrigo says that the constitution of EWC has given companies the possibility to have valid interlocutors able to explain company decisions to the workers. On the other hand to the unions it gives the possibility to have new members particularly in countries where the union representation is still relatively low. The new directive also underlines the role of the unions in the process of restructuring.

Gianni Arrigo addresses “the new Directive N. 2009/38/EC and the most significant aspects for a more effective relationship between European Work Council and Sector Social Dialogue”.

Arrigo states that the new Directive was written in prospect of an enlargement of the EU. “The Directive 94/45/EC and the Directive 2009/38/EC are the results of two different epochs and epochal changes: enlargement of the EU in 1989 and the financial crisis of the last years. Anyway the second change is the more significant one.”

“Furthermore the commission is saying that there should be a connection between European and national level”. In the Professor’s words “the most precious area of activity for the unions are the EWC’s. Social partners play a very important role when it comes to implementing the new Directive of 2009”; although the effect of the crisis has been the same everywhere, the implications have been very different from country to country.

Doing a practical example, Prof. Arrigo cites a big industrial company: “if FIAT closes a plant in a country, that has very direct and immediate impact on the other plants, thereby the unions in different countries do have to communicate directly between them.

Although the Directive does not refer to negotiate or bargaining activity it includes however information and consultation rights which should be used. Companies can not refuse to present information’s to the SNB which can also exercise influence on the interpretation of “transnationality”. EWC’s have to foster and promote social dialogue in different sector.

At around 17.00, Prof. Arrigo hands the floor over to Dr. Verrecchia who broadens the approach in this project in connection with the new Directive.

According to Verrecchia, the legislator has had a very clear idea at the time of implementation of the old Directive in 1994: the EWC’s did have to be very agile.

He continues his exposition stating that each time a company moves to different countries this can produce distorsions for the workers.

Verrecchia explains that the 2009 Directive contains aspects of social dialogue. The first Directive didn’t treat, in the body of the text, the transnationality issue, which was instead stressed in the re-casted Directive of 2009 which also broadens the scope of action.

Furthermore the speaker elucidates the participants on the fact that the legislator often leaves intentionally space to interpretations leaving it to the national partners to find co-divided terms of agreement. These open spaces for interpretation have to be closed sometimes by the European Court of Justice.

Verrecchia continues counting the critical aspects extracted by experts in the Directive 94/45: “The old Directive didn’t give a precise role to the unions. EWC was a lay council in 1994 and where there is no

adequate structure that can cope with the mass of information's provided by the companies, there is no sense in it. The legislator did however recognise this weak point and the 2009 Directive has evolved in the part concerning the involvement of the social partners".

Another weak point which wasn't defined sufficiently is, according to Dr. Verrecchia, the problem with the confidentiality clause and the possible opposition of secrecy which often excludes the workers representatives from vital information's being delivered. He suggests us at this point to not hesitate to undertake a very important step whenever it is necessary: to go to the judge with the problem asking advice and judgment about the fact if certain important questions can really be kept secret as, in his words, "the Directive is not a "stone" but on contrary it will often be modified by judgements of the European Court of Justice".

Furthermore he reminds us that the Directive has to produce a result and the result is the involvement of workers. "The companies do have the freedom to take decisions and unions shouldn't reduce unnecessarily the speed of implementation of company decisions. But it's vital that they get all the information needed and that the information is given timely".

A debate was generated, among participants, on the confidentiality and secrecy issue and in relation to that Verrecchia cites Art. 8 which defines confidentiality: members of the EWC and employee representatives are not authorised to reveal any information which has expressly been provided to them in confidence.

The plenary session is opened at 9.00 by Prof. G. Arrigo who, after a brief introduction, gives the floor to Prof. Antonio Ojeda Avilés of the University of Seville, who lectures "The role of National and European Social Partners in the transposition process of Dir. N. 2009/38".

Ojeda starts stating that with the new Directive "the commission is encouraging the European social partners in promoting best practice in the way that European Works Councils operate, to making them more effective, especially as agents for change particularly in the process of restructuring."

Referring then to yesterday's exposition of Dr. Verrecchia he reminds that the EWC's play basically the role of observers. They do have to inform workers of the changes taking place observing however the rules of confidentiality.

Talking about the transposition he stresses that each country has to install national laws. Some aspects of the Directive are opaque and not very clear. The formation process of the Directive 2009/38 was very complicated and also the transposition in national law is slow: in Spain the transposition is still being discussed in parliament and the Professor supposes that the date of June 5th 2011 will not be respected as there is still too much to do.

One of the difficulties in the transposition, regards the concept of “transnational companies” and the definition of “dominant company” (e.g. Bofrost).

Referring to a problem emerged yesterday, the concept of confidentiality and secrecy, he informs us that members of the EWC do not have to inform “third parties”, but exactly here lays the problem: which are third parties? Thereby the EWC members are in a conflict situation as they are also obliged to inform workers and if they do not inform them, because they do not have to, an important and vital part of their role is taken away. The definition of that concept, provided in Art. 8, is rather ambiguous as there has to be seen the concept of “severe harm”.

Ojeda finds very striking the German concept of Mitbestimmung which consists in the presence of workers representatives in the board of the Company; this is something similar to the new Directive 2009.

He goes on, saying that we can be very happy about the large number of EWCs constituted, there are almost 1000 but analysing detailed data, emerges that there are still 65% of multinational companies without EWC. Presenting, in this regard, a sheet which reflects the current situation, he cites some examples: the situation in Spain is still deplorable as of 41 companies which are eligible to constitute EWC only 6 have so far constituted them. A positive example is Italy with 25 EWC constituted out of 66 having the prerequisites. Denmark, with 9 ML inhabitants has many more EWCs constituted in respect to Spain which is a much bigger country (24 created out of 60). Germany is necessarily a good example in the sense of application of the Directive but the percentage of EWCs constituted is less than 30% together with countries like Austria, Spain, Greece and countries of most recent admission (0 EWC's in Poland and Czech R. and only 1 in Hungary out of 12 possible). Countries with more than 40% are the Scandinavian countries, UK and Belgium.

There are two different kinds of EWC in Europe: the French and the German model. The French model does have representatives of workers and representatives of the company; the German model does not have the latter although they do meet regularly also with the employer's representatives. Some countries apply the German and some the French model – the professor prefers the French model.

Concerning the number of members, he states, Art. 6 requests proportionality and equilibrium and what strikes him is that there are some companies of 50 or even more members (Axa, Arcelor, Deutsche Post, Nestlé) with the German company of TUI which topples them all: 119 members. On the other hand there are some which have 5 or less.

In relation to the content of the agreement he underlines that the basic content is consultation and information on transnational issues. We talk about “consultation” when the opinion of the workers representatives is requested.

Ojeda concludes his exposition with a sympathetic slide picturing a bull, saying that our task is to fight it.

Franco Savi thanks for the precious contribution to our project and expresses his hope to have the Professor - compatible with his many appointments - with us in Vilnius and Turin.

The project manager says that it will be necessary to reduce the number of 3 working groups, in the next “working groups” session concentrating our forces on the focused issues as the splitting in too many groups has organizational limits and would make it difficult to report the results afterwards. “Instead we would like to make a short record of our session in order to make our work visible to others, especially to union members who do not usually follow international questions”. Thereby he proposes to gather a unique plenary working groups, supported by full interpreting service, to gather the widest contributions.

Angelo di Cristo, Chairman of the EWC Unicredit Group;

Klaus Gruenewald, Responsible for the financial sector of Ver.di Union in Bavaria and member of EWC Unicredit Group; David Le More, of FES UGT International Dpt. and member of EWC in Santander; Lucia Peveri, of UILCA International Dpt. and member of EWC Deutsche Bank in Italy.

Angelo di Cristo introduces the panel stating that the exposition will illustrate the experience got in several years of activity, but with no intention in dictating guidelines.

“The Unicredit Group has 170.000 employees. a conscious choice has been done to involve colleagues in all countries where Unicredit Group is operating, in order to act the best practices of social dialogue”

“The information the EWC received in Unicredit was always complete and timely and initially we did have even the problem that the quantity of information transmitted was so overwhelming that we did have had to cut and tell them which kind of information we are interested in because, on the contrary, we wouldn't have been able to cope with it. In any case Unicredit was always collaborative and willing to give us every possible information”.

Inside of the Unicredit EWC we did constitute a restricted committee of 6 persons which, we decided, do have to come from 4 different countries”.

He continues with the illustration of his experience saying that “only in one occasion we were asked to keep confidentiality, and this was when Unicredit presented us the new business-plan, a short time before it was presented to the press. On this occasion we did also have to sign a commitment not to use the information provided for insider trading”.

“It's important for us to have real workers representatives and not representatives “with 2 helmets” and, for assuring that, we are monitoring the members who do not have to be members of the top management”.

Di Cristo tells that, in the past, he has experienced conflict situations relating to that with the German delegates as, in some cases, they wear up to three helmets: member of the EWC, member of the German supervisory board of the same company and finally union representative always in the same company and that drives him nuts.

The official language in the Unicredit EWC is English although it has seven languages represented.

As an example of successes achieved, he mentions the payment of the 13th salary in Romania, where it was paid individually, and an intervention of the EWC resulted in a collective payment.

“The EWC of Unicredit itself is now 4 years old and, although the company in one, there are many different cultures”.

One memorable example of cultural difference was, for Angelo di Cristo, the following: in an EWC meeting, at which the Germans invited company representatives, the latter seated on a podium; that was not acceptable, on the opinion of the German EWC members, as they wanted to talk to other party on the same level even if it was only an “optical” problem. Thereby they turned to the company representatives only after the podium was physically removed by carpenters. This experience was very stimulating for Angelo di Cristo as he understood that formal matters there, are sometimes indeed more important than they appear to the Italians.

David Le More talks about his experience. Santander, initially, was not so interested in the constitution of an EWC as they saw them primarily as a cost. “But although it was constituted in 2005, we obtained only 15 members out of a population of 187.000 employees and that says a lot. The constitutional process was almost like a bazaar.”

Le More considers the level of expertise of its members high but sees a shadow side in the fact that it's difficult to cooperate with Santander. Until now, the EWC received the necessary informations only after it has been of public domain. “We are not anticipating events and that's something we have to work on. The trade union members experience differs a lot between France, Spain and Portugal.”

Klaus Gruenewald begins by taking up the example brought by Angelo di Cristo saying that “comparing cultures is a difficult exercise: the duration of minutes in Germany is not the same as it is in Italy”.

Deutsche Bank, Unicredit, Santander and Commerzbank (the latter does still not have an EWC) are the four important financial groups Ver.di has to deal with. He states also three experiences in insurance companies - AXA, Generali and Allianz - judging the experience with AXA as very good but not the one with Generali. An important factor of success for Gruenewald is the frequency of the meetings: more meetings held, higher is the possibility to know each other.

Another important factor for him, which links to the first one, is the possibility to trust each other and the relation with Generali is still lacking in this aspect.

The third factor for success of an EWC is the information: it's important to get all the necessary information and to get it timely.

Lucia Peveri who talks about her experience as EWC member of Deutsche Bank. She says that, in her experience, the culturally heterogeneous composition of the EWC's constitutes sometimes a problem as "the company talks, as experienced also by Mr. di Cristo, with one voice, meanwhile we talk with a lot of different voices."

That's why for Lucia Peveri the EWC's should have a European and not a "national" vocation, which requires that the EWCs should be composed with persons who have, in every sense, a European vocation.

Another important point for the Deutsche Bank EWC member is the training aspect; "it's not enough to have only a linguistic training. There should follow also a training related to law, economy and other aspects too."

The EWC of Deutsche Bank was constituted in 1996 following an initiative of unions from three different countries: Germany, Italy and Spain.

Peveri is convinced that the EWCs should have common goals. One could be to foster social dialogue where it is still missing, namely in East Europe.

Another fact brought by Lucia, concerns missing of dialogue with Deutsche Bank in Portugal where the Unions did have to call for an intervention by Unifinance. However, her overall impression is that Deutsche Bank wants to collaborate.

Starts the discussion of the participants moderated by Gianni Arrigo.

He opens the discussion stating that "information and dialogue is not just a fundamental right of workers. The knowledge and involvement of workers helps also companies.

The unions have the knowledge necessary to resolve problems and the workers have the right to know about their future. It's not a question of slowing down or blocking the decision taking process, it's an occasion to contribute to the development of the system through involvement of workers".

In relation to the “training” issue, he argues that training has to have the aim to bring worker representatives in position to manage the situation and to know how to cope with the information obtained.

Arrigo invites to intervene, e.g. on questions regarding the tasks of the EWC, or “if” and “how” the EWC is useful to workers, or which is the new practise or questions related to the new directive.

Angelo di Cristo says that one of the achievements of the EWC was the insertion in the Collective National Contract of the Credit Sector in Italy of the concept of “life long learning” or continues training of the personnel.

Concerning the influence of EWC on social dialogue he underlines the fact that not all countries do have an association representing the employers and that constitutes a problem on the way to social dialogue.

In the eyes of Di Cristo, the EWC is a vehicle for the unions in obtaining new members inscriptions particularly in countries where the adhesion is still low, like Ireland and Great Britain where there are companies without even one union member.

In the experience of Di Cristo, every EWC is different albeit the same directive, and thereby the social dialogue is also important inside the EWC.

Mauro Bossola intervenes; he adds that often the national unions are opposing social dialogue because of a kind of “professional jealousy” and Angelo di Cristo points out that this is not only a problem of southern European countries but, in his experience, it concerns also northern countries. The Unicredit EWC chairman informs us that not all EWC are established by trade unions.

Franco Savi calls on stage Pietro Gentile, FABI ICT Specialist, who presents us the draft of the new website on Tandem Dialogue.

Pietro Gentile stresses that the new website is a so-called open source software platform. That gives to everyone the possibility to contribute and integrate the site.

The new web-addresses will be: www.tandemdialogue.eu, www.tandemdialogue.org and www.tandemdialogue.it and the site will contain all new documents, e.g. a list of European Laws but also

an audio visual on the work of the Tandem Dialogue sessions. Franco Savi emphasises that the aim of the site is also to inform who is not participating directly on the project about the content and the progress of the works.

Mario Ongaro thinks that we have made important steps forward in the direction of recasting of the directive and “of course we have to comply with national laws but the most important aspect is that the EWC have to be filled with people who are adequately prepared and trained. The representation of workers is a skill which has to be learned.”

He stresses furthermore that there should be a direct relation in the representation to the number of people represented.

Concerning the SNB “there is a delicate aspect in the fact that they are set up by company management through local management. The company management has in this a special responsibility to choose well the members of the SNB who should be able to communicate with each other and represent effectively the right share of workers.”

In reflection of the contributes given above Mr. Arrigo states that we would have to ask the commission and the EU Parliament to introduce rules which should support the trade union constitution and activities in the member countries.

He focuses the attention on the importance of training in order to have people who have the skills, expertise and knowledge necessary to deal with and talk to “giants” which are, by definition, the employers.

Mr. Bossola suggests concentrating on some core aspects like best practice and reminds that the EWC work goes beyond the EU.

After a provocative question directed at Dr. Ordasso both, Dr. Foggiato and Dr. Ordasso agree that “there is a direct advantage in having a EWC”.

The following discussion is opened by William Portelli who underlines that the most important thing is to have the right people within the EWC.

David le More stresses the difficult situation of unionists in some countries in Latin America where, particularly in Colombia, unionists risk sometimes their lives. “In this we represent a source of hope and that’s one of the reasons why I came to participate at this meeting.”

Mario Ongaro is perplexed about the number of representatives in some EWC which moreover meet maybe only once a year: “that doesn’t bring us anywhere and does not have sense. It makes more sense to have a restricted committee which can work more efficiently.”

Dr. Verrecchia says that the EWC works with a spirit of collaboration. He makes the example of the FIAT plant in Pomigliano where the production impoverishes directly the polish worker and that’s, according to him, a concrete example what “transnationality” means.

He continues his exposition saying that “for FIAT, having a Polish representative may be sometimes counterproductive and that 65% of the multinationals who have a right to constitute a EWC in Italy don’t do it.”

Follows an intervention by Mr. Berselli and Mr. Inclettoli in which the latter seeks to arouse a controversy asking the other participants whether they are certain about their goals. He explains his question arguing that as long as it is going about information and consultation there might not be a real problem “but by the moment we would have to cope with the first difficulties where would we position ourselves? Are we able and willing to overcome jealousies and national interests? Who and in which country, would have to be sacrificed?”

Mr. Bossola explains that the introduction of a “super imposed” entity produces, as a reflection, the reduction of the tasks of existing entities. He touches also briefly the aspect of social dumping with an example: Motorola came to produce in Europe and more precisely in Great Britain for social reasons and in Germany for reasons of technical expertise. After a certain time a crisis appeared on the horizon and Motorola decided to close, against all expectations, the British plant and this happened because existing labour laws made it for them easier to close a British and not a German plant.

He mentions FIAT as an example of multinational company and a decision to be taken which affects two countries and where he hopes that this would be a situation in which FIAT consults the EWC and acts later on: “this is a procedure which we would prefer but I see that this is something very difficult to realise.”

Prof. Arrigo states that “the EWC shall be instituted in a way that assures the effectiveness of it. The company has to present documents in a timely fashion in order to give the unions the possibility to anticipate change. The potentials of the EWC are very far reaching”.

Mario Ongaro stresses that, in exceptional circumstances, there has to be a possibility to convene the EWC, better if restricted committee, in a very short time in order to assure its effectiveness and possibility to work.

Prof. Arrigo says that the sense of the directive is also to foster dialogue and Mr. Bossola states that, in his experience, the unions normally do not have difficulties to obtain information but should have the possibility to implement the signed agreements.

Dr. Verrecchia mentions the case of Thyssen Krupp when it decided to close a plant in Italy: the decision, taken by the board of directors, was communicated to the supervisory board but there wasn't a real participation on the side of the unions. The consultation should produce an effect and possibly an alternative and shared solution.

Mr. Arrigo picks up the example and in this context mentions the German concept of Mitbestimmung, which means deciding together because “in order to be effective one has to be prepared”.

Both, Elena Foggiato and Patrizia Ordasso inform us that not always it's possible or simple to be timely.

Prof. Arrigo asks which is the function of sectorial dialogue and Mauro Bossola says that “we have to talk about minimum standards as the companies are very different, one from each others”. He reflects, furthermore, that when there are difficulties in obtaining results on transnational level this is due to a lack of political will. “It depends from the unions, when agreements about minimum standards are renegotiated as agreements of “maximum standard” and that doesn't facilitate the unions in stronger and more advanced countries. For this reasons these agreements aren't welcomed by the unions because they aren't the best possible.”

Angelo di Cristo mentions the attempt to install a Global Framework Agreement in Europe but that wasn't possible in some countries, e.g. Great Britain, because there aren't Employers' Associations and thereby the banks necessarily negotiate on a one-to-one level.

Prof. Ojeda points out that we have to be aware being a minority, but nevertheless try to be majority. “We should try to have more EWCs and we have the possibility to have them although in this moment we are far from it. There are countries, like Poland, where there is a lot of potential to constitute more EWCs.

The Deputy General Secretary of FABI, union promoter of TANDEM Project, concludes the Seville meeting stressing that we have had an extremely positive experience which will continue in Vilnius and find it's conclusion in the final in depth meeting in Turin. He hopes that our experts will continue to bring forward contributions.

In his opinion the Project started in the right way and he thanks to the Dean, professors and staff and the University of Seville, for their contribution in hosting the event. Further thanks go to the corporate representatives whose presence was much appreciated and, last but not least, to the reporter Andreas Biernath.

Mr. Bossola concludes appreciating the active involvement of the experts and the excellent job done by everyone.

CHAPTER THREE

THE VILNIUS SEMINAR

(Vilnius, 9 to 10 June 2011)

3.1. SOCIAL DIALOGUE: THE MOST SIGNIFICANT ISSUES

In the appendix to this volume it is possible to find the slides illustrating the report produced by project experts Gianni Arrigo and Giorgio Verrecchia

3.2. SOCIAL DIALOGUE: THE POINT OF VIEW OF EMPLOYERS ASSOCIATION IN THE CREDIT SECTOR.

In the appendix to this volume it is possible to find the slides illustrating the report made by A. Kirchmayr, *Union an Labour Department – Italian Banking Association*

3.3. SOCIAL DIALOGUE: THE POINT OF VIEW OF TRADE UNIONS, by Mario Ongaro.

The contribution of the EWC to national and European social dialogue.

Which contribution, which "teaching" can the European Works Councils provide to the European Social Dialogue and in general to industrial relations at other levels including the national level of bargaining?

The agenda for the revision of Directive 94/45: a "strong" role of the EWCs in "managing and anticipating change."

I shall speak of this starting from a formal element, but indicative of a basic political choice by the European Commission, in the process of revision of Directive 94/45, that developed into the new "recast" Directive on EWCs, the 2009/38 .

I refer to the Commission's decision to include the revision of Directive 94/45 not, as it would be expected, in the Agenda for the "New Dynamics of Industrial Relations", but in that for the "European Employment Strategy, Anticipation and Management of Change 2007-2013 " .

To give an idea of the political importance of what may seem a formal and bureaucratic element, I quote a central passage in the illustration of this Agenda drawn up by the Commission:

"(...) It is important to be able to find the right balance between flexibility for businesses and security for workers to maintain stable the human capital and employment (...) One of the main goals is to avoid corporate restructuring resulting in layoffs and just a reaction to events; on the contrary, it will be necessary to be able to anticipate these events and circumstances so as to give rise to a smooth and positive change that supports employment.

The creation of the conditions for flexibility and security that protect the human capital and employment depends on several factors: the skills of the workforce (including transferable skills), the internal flexibility of companies (including multiple skills and agreements on working hours) and external flexibility (such as the relocation of workers) ... (...) Workers must gain the flexibility to adapt to change and actively take control of their careers, anticipating future needs and updating their skills to anticipate these needs ... "

Now, beyond some rhetorical excess on the flexibility and on workers who must be able to do a lot of things to anticipate changes (if really workers had these powers ...), the extensive quotation that I here made tells us that the European legislature, in revising the Directive, awarded to the EWC some very active roles and ambitious tasks on issues that are in the heart of both the national trade union - such as management of corporate restructuring and the consequent impact on employees, active employment policies - and the European social dialogue - such as lifelong learning, also in view of its national repercussions in professional re-qualification plans for workers affected by restructuring.

It is paradigmatic, in this sense, for example, the joint work between the social partners in relation to LLL (Lifelong Learning) that in our sector has produced an important Common Notice at the level of European Social Dialogue and was then taken and raised by the EWC of the Unicredit Group through its own specific Joint Declaration.

In fact, the European Commission had taken the route of a "strong" and proactive role of EWCs at least since 2004, and in this sense it is not surprising, but it is consistent in its own way with the choice to revise the EWC Directive within the Strategy for Anticipation of change.

And, in fact, Communication 557 on "Partnership for Change in an Enlarged Europe" dates back to 2004.

Here too, a direct quotation is useful:

"The social partners will explore the possible synergies between the European and corporate level of social dialogue, of which one example is the link between sectoral social dialogue and the EWCs (...)

The range of issues faced by the EWCs continues to expand to embrace issues having a European dimension, such as health and safety, equal opportunities, training and mobility, corporate social responsibility, the environment.

Where social partners are addressing similar issues at the sectoral level, there may be opportunities for synergies between that level and the EWCs of the sector concerned. The European social partners can take advantage of the opportunity provided by the Commission on the revision of the EWC Directive to renew the link between the EWCs and social dialogue "

We know how the consultation with social partners on the revision of the Directive ended, but the fact remains that the result expressed in the Directive 2009/38 is not interesting from the point of view of that "synergy" that the Commission since 2004 openly promoted.

Other key talking point: EWC, trade union, the European social dialogue: which coordination?

The core problem, which is, I believe, also a core problem for this TANDEM Project, is right here, in my opinion:

Can and shall the EWCs play a role in the events that go beyond strict information and consultation issues? And how well beyond?

On this question, let's detect, in the Directive 2009/38, "recasting" of the Directive 94/45, the relevant points of connection between the EWC and the national negotiating bodies / European social dialogue and let's start from the birth, or "rebirth" of the EWC, which to say from the stage of the negotiation or renegotiation of its founding agreement, because here there are two important innovations in respect to the old directive:

- the obligation of the company to inform the competent European trade unions (and its counterparts in Employers' Associations) regarding the composition of the SNB (the Special Negotiating Body) and the opening of negotiations (Article 5.2.c 2009/38 - Article 7.2 Joint Notice of Implementation 12.4.2011 Italy)
- the possibility of the SNB to have as experts the representatives of the relevant European Trade Union Federation, who may participate in the negotiations (Art. 5.4 c.3 2009/38 - Article 8.3 Joint Notice of Implementation 2011 Italy).

These innovations are the first essential link between the EWC and the European Union (and also the European business association), and therefore between the EWC and the members of the SNB.

It is true that the active role of these subjects is formally expected only in the SNB, and not in the EWC, but it is absolutely believable that the European trade union expert who has been able to work effectively in negotiations and has built effective alliances in the SNB, when the negotiation is over, becomes an EWC expert, be it newly established or the result of renegotiation of its establishing Agreement.

It is also true that we refer to an expert, a figure that is "technical" more than "political", and "external" to employees' representatives in the EWC, who are employees of the company.

However, here too the ability of the European Union to fully exercise all the "political" potentialities of the role of expert becomes decisive, since it must find the right balance and appropriate synergies, in particular with the Chairman / Secretary of the EWC and the Select Committee .

In this sense I am trying to repeat here a discussion experienced in particular by Uni Europe, as concerns the figure and the role of "EWC Coordinator," where there is no doubt that the European Union should in fact work to "unionize" the EWCs in their composition and their goals, but in full awareness of the limitations imposed on the role of the union even by Directive 2009/38 and of the intrinsic limitations that EWCs themselves can put to this role in particular in the field of the relationship between the EWC and the company management .

In analyzing how the 2009/38 explains this role of the EWCs in anticipating and managing change, we find the clearest explanation in Recital 14, which tells us:

"(...) informing and consulting the European Works Council should make it possible for it to give an opinion to the undertaking in a timely fashion, without calling into question the ability of undertakings to adapt. Only dialogue at the level where directions are prepared and effective involvement of employees' representatives make it possible to anticipate and manage change."

In the body of the Directive, art. 1.2 (Art. Also 1.2 of the Joint Notice of Implementation, Italy) states that:

"(...) The arrangements for informing and consulting employees shall be defined and implemented in such a way as to ensure their effectiveness and to enable the undertaking or group of undertakings to take decisions effectively."

This clarification on a "strong" role of the EWC, however, must be based on a more consistent and effective relationship with the national levels, and therefore with the union bargaining and / or co-determination, according to a thread that, as we have seen, starts from the above mentioned Communication 557/2004.

In fact one of the basic innovative axes of the 2009/38 is precisely the "coordination" between the EWCs and the national employees' representative bodies.

In this sense, the establishing (or renegotiated) Agreement of the EWC must include among other things "(...) the manner in which information and consultation of the EWC will coordinate with the information and consultation of national employees' representative bodies (...)" (Article 6.2.c 2009/38 and Art. Italy 9.2.c Joint Notice of Implementation 2011).

It is of no importance, in my opinion, that the levels of bargaining or codetermination are not formally indicated, since it is implied that, at the national level, where bargaining is done, information and consultation should take place.

It matters, on the contrary, that the EWC agreement should provide for this coordination between national and transnational levels, to the point that, if the agreement does not provide so, the Law of the State must do it:

" Where no such arrangements have been defined by agreement, the Member States shall ensure that the processes of informing and consulting are conducted in the European Works Council as well as in the national employee representation bodies in cases where decisions likely to lead to substantial changes in work organisation or contractual relations are envisaged.

"(Art. 14.3 Joint Notice of Implementation, Italy 2011 that exactly reflects the art. 12.3 of 2009/38)

This whole issue of coordination refers in full to the role of the Union in the EWC.

If we decide that a specific EWC (and not just the one outlined by the European legislature) should actually play a real role in anticipating and managing change, in corporate and groups restructuring, in changes in work organization, then only an active, committed and organized presence of labour union in the EWC makes a role of this scale credible and can guarantee that this role is exercised in a consistent way with national trade union policies.

The actual functioning of the EWC and the final questions

Here we come to the final part of the insights that I have proposed to you, and if in fact we refer to the EWCs in their concreteness, I think it is more urgent than ever to face the problem of their actual functioning, just when we are discussing the advisability of investing the EWCs with strategic roles and investing significant union resources in EWCs.

In extreme synthesis (if needed, I will develop this factor in a future speech) here I want to mention three "bullet points", derived from the analysis of the behaviour of many different EWCs in different sectors that we conducted as EWC experts and coordinators in Uni Europe in 2010:

- The different meanings and different motivations that govern the individual decisions of individual local employees' representatives (union and non union) to engage in a EWC
- The actual application in particular of the rights and potentials provided by the relevant establishing Agreement, and even before, the actual knowledge and the consequent actual and potential use of these rights by EWC members
- The meaning of consultation, the actual time devoted to consultation, the appropriate methods and timing so that consultation could be taken into account in decision-making process.

These bullet points have shown us, at the level of Uni Europe, the problematic nature of the functioning of many EWCs and the really difficult challenge represented by this level of operation, for the EWC to become an instrument of representation up to the tasks that not only the European legislator has given to it, but on which the European Union has also invested considerable human resources and policies.

In short, the questions we ask might be:

- As European Union, shall we invest in EWC to the extent that they are functional for our political objectives?
- Or is our investment primarily a work of training, support and guidance, aimed at their autonomous better functioning?

I believe that a positive response to a question necessarily implies a negative answer to the other.

I also believe, however, that a true discussion on these two questions must no longer be postponed.

Mario Ongaro, Coordinator, International Dept, Fisac / CGIL Uni Finance Coordination Group EWCs & Multinationals

3.4.THE VILNIUS WORKSHOP: INSIGHTS ARISEN FROM THE DEBATE by Andreas Biernath

Franco Savi declares that the main purpose of the 2nd session is to “confront the situation in the member states and compare the materials and topics which have been examined by the European EWC’s”, adding that “one of the major aims, is to confront the works of the union representatives with the ones of the European Commission with the aim of a reciprocal and fruitful exchange of ideas and experiences”.

The project manager stresses the importance of working together and trying – through the exchange of views and experiences – to get the most out of it.

Furthermore he adds that “the EU funds us with the hope to have direct interlocutors without being obligated to pass through national governments” and informs us that “today’s session will start with our legal experts, Gianni Arrigo and Giorgio Verrecchia, who will explain us how the social dialogue works; a lot of us know already how it works, but for others it will be an in-depth exploration. We will hear, after that, a contribution by Andrea Kirchmayr of ABI (Direzione Sindacale e del Lavoro) who will tell us how the social dialogue influences the EWC’s.”

“After that the following contributor will be Mario Ongaro and Angelo di Cristo. The latter will talk about his experience as a direct member of the EWC, in fact as the President of the Unicredit EWC. Pietro Gentile will conclude today’s session by addressing the web side which is, for now, a draft.”

Anticipating the following day Mr. Savi says that “*tomorrow’s activity will consist in sharing national experiences*” and takes the advantage to greet the Baltic exponents, Mrs. Krumina from Unicredit LT and Irmantas Jasevicius from the EWC Unicredit in the Baltic states. “*Irmantas is a member of the Unicredit EWC meanwhile Rita is Head of Human Resources Unit for Baltics. We invite both, Irmantas and Rita, to participate actively in the meeting sharing her points of view with us. Later on tomorrow we will go ahead with the focus group and the conclusions of the focus group.*”

After this articulated introduction the floor is handed over to Prof. Gianni Arrigo.

The professor explains that the social dialogue is ambiguous as some agreements are transposed in direct agreements meanwhile others are only guidelines or useful tools. “This duplicity depends upon the receiver as some are directed only at member states meanwhile others are directed at the European Community. The European Commission (EC) wishes to strengthen these Committees through financing them directly.”

Gianni Arrigo enlightens us that the main intention of the EC is to invigorate the social dialogue.

“Another aspect of the social dialogue is that it is relatively young, about ten years, and it has to be seen in the diversity of the bargaining systems in different countries.”

The floor is passed over to Giorgio Verrecchia who begins saying that “it’s not easy to talk about social dialogue because there are missing links. But let’s try to find a definition of social dialogue: it’s a bargaining power between themselves and between public powers, which is, in our case, the EU and it’s a natural outcome of “collective autonomy”.

Giorgio Verrecchia adds that the “social dialogue is not characterised by the power of the social partners but by the interest of the EU to foster the dialogue. At the European level the roles are inverted: top-down.”

He tells us that there is a vast heterogeneity of the systems of industrial relations and collective bargaining in the older member states and even more so in the new member states, due to a different organisation of trade unionism and collective bargaining systems. The union rights are different from member state to member state and as an example lawyer Verrecchia mentions industrial actions: in most member states strikes are recognized and regulated by national law but in some states they are merely tolerated without any proper juridical regulations.

The professor observes that there is a natural “resistance” of industrial relations against any interference by EU law because of the widespread idea that the collective phenomena should be left to the autonomy of the social partners. Nonetheless the European trade unions have always showed their favour towards Community interventions promoting systems for employee involvement in business (right for information, consultation, and participation).

“Where and when does the social dialogue start?” asks Verrecchia and declares that in 1957 with the “Treaty Establishing the European Economic Community” social dialogue isn’t even mentioned and this changes only at the end of the year 2000 in Nice with the proclamation of the “Charter of Fundamental Rights of the European Union”. Art. 28 of this Charter gives a fundament to the right of collective bargaining and action: “workers and employers, or their respective organisations, have, in accordance with Community law and national laws and practices, the right to negotiate and conclude collective agreements”.

However, continues Verrecchia in his exposition, the very first time the social dialogue is mentioned is in 1987 with the Single European Act (in Art. 5): “One of the objectives of this Act is the stimulation and the fostering of the social dialogue”.

Furthermore Art. 151 of Treaty on the Functioning of the European Union, states, that social dialogue is one of the objectives of the social policy of both the EU and the member states.

Art. 153 of the same treaty subtracts some matters, such as remuneration, the right of association and the right to strike and lockout, but nonetheless it is within this same regulatory framework that social dialogue gets its importance.

Verrecchia explicates that the Maastricht Treaty introduces a new article, the N. 152, which is further strengthened with the Lisbon Treaty and which recognises a new dimension on social dialogue which doesn't have the limits of the Art. 153. In the words of the Professor it's a “constitutional norm which recognizes and fosters greater autonomy of the social partners. The EC can also foster the consultation by the social partners.” He makes clear that when the EC decides to legislate, it summons up the social partners, consults them and asks for their opinion. Parental leave is a classic example.

“What is the most important approach?” asks the lecturer, “the council will never give the green light to agreements between the social partners. Each member state can transpose the agreements in the most convenient way”.

The speaker also informs us that the intention of the EC was to introduce a binding norm and that it establishes sectorial committees for social dialogue. Their role is to act as an advisory body on economic and social developments in the various areas of EU policy, and, indeed, they take up a lobbying role in the EU institutions.

Verrecchia informs us that there is also a norm which recognises European Collective Bargaining at the enterprise level, the so-called Joint Transnational Collective Bargaining, performed at the level of multinational companies where on the company's side the negotiating body is always the group management, whereas on the union's side, the negotiating body can be the EWC's but also sectorial trade union federations.

Arrigo takes up the string of the discourse stressing that the recommendations of the Commission do have a juridical value even if they aren't binding for the member states: "These recommendations have a meaning for the partners".

The floor is handed over to Andrea Kirchmayr, representative of the Italian Banking Association (ABI), who firstly thanks FABI for the organisation of the project and starts his exposition saying that "the social dialogue functions because the social partners do want to make it function. There are 40 sectional Committees covering over 145 ML workers, which is roughly three-quarter of the total working force. The Employer Associations are represented by BCESA which participates in the social dialogue and they are conscious that the social relations get very complex if seen from a European perspective."

The task of the Banking Committee, according to Kirchmayr, is to formulate the politic for the labour market.

The ABI representative stresses the heterogeneity of the employer associations at European level and declares that ABI wishes that "the social dialogue has to be a free choice of the social partners without any limitations concerning topics which can be treated. In our sector the social dialogue has been brought forward using the instrument of joint statements."

He goes on expressing the view of ABI saying that the role of companies is to invest in the relation with the stakeholders (the staff is part of them) without neglecting the environment, staff training, etc. The concept of Life Long Learning (LLL) should always be on a voluntary basis.

Kirchmayr adds that joint statements are an integral part of the Italian National Collective Contract (CCNL).

"ABI is convinced that the social dialogue may influence positively the EWC's." Mr. Kirchmayr closes with the faith that "there has to be a strong conviction and commitment when founding a EWC and that there shouldn't be any kind of automatism in the constitution of a EWC only because the prerequisites and the necessary dimension are given. The conviction is necessary and has to be seen as an opportunity."

Arrigo takes up his role as a moderator saying that “the EU lags behind in the juridical process. In the past it has produced jurisdiction regarding the equal economic treatment of the genders but stopped short of regulating the collective relations and bargaining. It was left to the bargaining power of the partners and that’s why the bargaining activity plays a particular importance”. He adds that “today both sides are asking juridical norms which should strengthen the relations.”

This is, in Arrigo’s conviction, an important aspect and he invites the participants to concentrate on these objectives and to try to strengthen the relations in the dialogue committees because it’s in the interest of both partners.

Unicredit EWC President, Angelo di Cristo shares with us his point of view and experience regarding the Social Dialogue and how it can influence the EWC activities in a positive way, seen from the point of view of worker’s associations.

In his experience there is a strong searching for joint statements like LLL and like the social responsibility of the companies. The situation varies in the different countries, e.g. in some countries, like Great Britain, there isn’t an employers association and in some others there isn’t a valid union representation. “These are situations where joint statements can be adopted by the EWC’s”.

Drawing up on his experience Di Cristo mentions a positive example from Germany, where, based on the LLL concept, there have been positive agreements regarding computer literacy training. He goes on saying that “only in some countries the joint statements are inserted inside the national collective contracts. Between 2000 and 2005 there have been signed two joint statements and from 2006 on we concentrated on verifying the state of social dialogue”.

In the conviction of the Unicredit EWC President it’s important to find best practices which can be applied in all countries where the EWC is present. However he encountered problems while trying to disseminate the best practices. The source of major problems is the political interference which he found on the side of the French Employers Association which didn’t, and still doesn’t want to let in Turkey inside of certain committees. Furthermore there is, in his eyes, a lack of sensibility, as there is a certain common conviction that the national legislation is sufficient. “I have a dream”; citing Martin Luther

King, Angelo di Cristo says that it's important and fundamental that there should be a strong seeking for social dialogue.

He sees, instead, a tendency to forget that the root of today's crisis lays in the financial system and although it's originated in only some countries – mainly the Anglo-Saxon – in the meantime it embraces all countries. As the main important source of trouble, Angelo di Cristo sees the selling activity of banking products.

Gianni Arrigo takes up again the moderation, saying that, till now, there wasn't any real and important exchange of points of view between the partners, and as an example he mentions the relation with banking customers which has been treated in some countries, but not in others. Another example is the tracking down and control of best practices: "If they are unknown, they aren't best practices, indeed they don't exist." Furthermore "it's not possible for the Commission to disseminate them; and anyway, it's up to the social partners to disseminate them". Another important thing is that "once acknowledged, these best practices should become a living point; otherwise it doesn't have sense". Arrigo acknowledges the quantity of work produced between the social partners but "it's not important what you produce, important is the quality of what you produce. You have the possibility to create new job environments which should help to harmonise family time and working time". The Professor invites us to try to analyse it all from the point of view of European Committees.

The next pronouncement is by Mario Ongaro, who takes up the discussion announcing that he likes to tackle some issues related to the Commissions Communication n. 557 of 2004:

"I think that the sense of this communication is quite clear: the European legislator within the "re-cast" of the EWC Directive has given EWCs a definitely active role on core issues such as restructuring processes with their effects on workers, jobs policies, vocational training, i.e. core issues. This very Communication 557 talks about exploring synergies between European Social Dialogue at sectoral level and EWCs on matters such as health and safety, training and workers relocation, corporate social responsibility, equal opportunities."

Mr. Ongaro continues, stating that one of the main questions for the Tandem Project is whether or not EWCs may and have to play a role going beyond the strict information/consultation. On this purpose he says that the recast Directive 2009/38 states three relevant points:

- 1) a clear role for trade-unions in the SNB (Special Negotiating Body) and therefore indirectly in the EWC,;
- 2) an effective information/consultation procedure for an effective decision-making process;
- 3) a strong coordination between information/consultation in the EWC and information/consultation at national representative bodies of workers.

“The question we should put forward is how to use the EWC in order to handle the changing conditions. I think a possible answer is the active presence of the unions and their social partner and the new Directive opens new possibilities for union presence and action”. Speaking from his perspective and experience as a member of the Coordination Group of UNI-Finance he does have, unfortunately, to notice often, that the single members of a EWC do not even wholly know nor understand the Agreement which rules their own EWC. It is not surprising that in such conditions in several EWCs there is no appropriate consultation.

Mr. Ongaro concludes saying that in some countries EWC's are the only institution representing the workforce and stressing a final double question: “As European trade union do we have to invest our own energies and resources in those EWCs which are functional to our political objectives, or do we have to support and provide expertise to any EWC in order to improve their functioning? A positive answer to the first part of the question does not necessarily imply a negative answer to its second part, but we can't any longer delay a genuine discussion on these questions”. At this point, Gianni Arrigo opens and moderates the discussion saying that “the Social Dialogue isn't something which takes power out of national institutions but, on contrary, it's an additional and complementary institution, which finds it's justification in the complexity of our society. The system is based on the collaboration and the dialogue of the social partners. The same Commission hopes to be supported in their activity by the social partners. One problem is how the EWC's feedback, another one concerns the selection of the members of the EWC. There is also a lack of the necessary social sensibility, particularly in countries of recent admission”.

Arrigo invites us now to create, ad hoc, a Social Dialogue.

David le Morre, an effective member of the Santander EWC, sets out saying that there is a missing link in the communication practice of the EWC's: "Mr. Botin is not interested in the participation in any EWC, as he fears that there might be a kind of imposition."

David stresses also the lack of presence of the EC and asks, challenging, what the Commission is actually doing. Taking up a recent front-page news item, he asks, how a "fool" national politician can be allowed to say that the Spanish cucumbers aren't safe to eat, provoking for the Spanish agriculture losses of up to €250 ML.

Mr. Kirchmayr of ABI (Italian Bank employer association) declares that it's up to the capacity of the social partners to reach results and he underlines once more his dislike for the impositions of above.

Mr. William Portelli expresses his view saying that joint statements should be made binding in order to constitute an effective legal framework to support legislation. For him, timely information is vital, not only at local level but also crucial at EWC level, whilst effective implementation and enforcement of the agreements is essential. The MUBE President informs us also that in Malta there isn't a national contract. For Angelo di Cristo the Social Dialogue isn't the solution of problems but an instrument for their resolution.

Arrigo takes up the microphone stressing the importance of LLL which has to include the over 50's workforce. Other big issues in need of focalization, according to him, are the gender parity and the workplace security issues. These aren't issues which, according to the Professor, can be treated by the Commission; they are left to the bargaining power and activity of the national partners.

The floor is given to Mauro Bossola, member of the Executive Committee of UNI-Finance, who informs us, that he will talk in tomorrow's session about the crisis and the Social Dialogue. According to the FABI Deputy General Secretary, the fundamental prerequisite of any settlement or agreement is a political will between the parties to find a point of contact: "There has to be a reciprocal interest. The desirable win-win situation doesn't necessarily mean that both parties have to win, but there can also be a situation where both parties, trying to meet halfway, loose something, being, all the same, square with each other, and seen like this it can be a success all the same".

The FABI front man explains that the Social Actors do have to perceive the utility of their action, and for that they have to be highly motivated, and “then we have the possibility of implementation”. He carries on saying that the agreement on Life Long Learning (LLL) has been transposed inside the Italian National Collective Contract of the banking sector (CCNL) and thereby it has been a success. “However it’s difficult to translate these norms in national agreements, particularly where there isn’t a strong union representation. Thereby I see the institution of Social Dialogue as a very important instrument and the difficulties we may encounter on our way have to strengthen us only. Furthermore we do have to be aware that the crisis risks evolving in an antisocial direction especially if, and when, the social partners, discouraged by the current situation of economic crisis, should decide to rest on one’s oars – a situation which would only worsen things.”

Mr. Bossola concludes inviting the audience to “be conscious of our power and possibility to lock open the doors of Social Dialogue where previously it didn’t exist because there was a lack of sufficient union structures.”

At this point Arrigo takes up the moderation citing the Art. 4 of the Joint Declaration of the EU Bank Social Partners: “Regular training and Lifelong Learning opportunities should be routinely and systematically made available to all employees regardless of their position or type of work contract.

Assumption that certain groups of employees, e.g. women/older workers are not interested in development must be avoided. The social partners recognize the need to promote equal opportunities for employees in relation to Lifelong Learning. Care should be taken to ensure that atypical workers, such as part-time staff or evening shift workers are not excluded from training opportunities by virtue of their working hours. Companies and training providers therefore need to be sensitive to the particular circumstances of part-time staff and the need to arrange the timing and location of training to suit their working patterns. Lifelong Learning will help develop transferable skills, which will increase employees’ employability.”

The following discussion is opened by the FABI Deputy General Secretary who asks, at this point, whether it’s only up to the employer to take the initiative on LLL. Prof. Arrigo answers him saying that it doesn’t have to be, from the moment, that it’s part of the CCNL, but then again it’s difficult, in reality, to let respect everybody the existing norms.

The following statement is by Mauro Inclettoli of FIBA-CISL who puts forward a somehow challenging question: “Considered that the state would like to let us work till the age of 75, on contrary of the companies, for whom 50 would be enough, who shall pay for the time between?”

Inclettoli’s second provocative question regards the actual destination of the money the Commission gives out for LLL.

“At this point I have, given the late hour – it’s past 6.15 p.m. – to try to compress, somehow, my presentation” says Pietro Gentile, whose task in the Tandem project is to construct, open and follow the Tandem web-side and nourish it with audio and video footage produced by him during our Tandem Dialogue sessions. In his, thereby, necessarily short explanation, he informs us that the web-side will be ready between October and November of this year and that it will be based on an “open-source-system”. “It will be our business card and our way to communicate with who isn’t directly involved in our project”.

Dr. Giorgio Verrecchia invites us to go on from the point where we interrupted yesterday’s intense discussion trying to develop a discourse around the following questions:

- Which kinds of participation do have the EWC’s in the agreement-finding-process of the Commission?
- “the effectiveness” which is another important issue for him
- Training: “It seems to me that training was directed at the necessities of the employer excluding certain categories of workers”
- Importance of union representatives, especially the ones of the EWC’s.

William Portelli, in his function as the chairman of the following debate, by way of introduction states that we should focus on the type of Social Dialogue that is conducted in the respective countries whilst analyzing the different perspectives and impacts that are witnessed in these countries.

Mr. Klaus Gruenewald, translated from German into Italian by Andreas Biernath, sets out with a description of the German situation. The Verdi manager explains that there are three levels of bargaining:

- The national level
- The company committees
- The supervisory board.

Gruenewald adds that it's difficult to explain the supervisory board which is working according to joint rules. Furthermore he tells us that lately there is a tendency in Germany towards a weakening or erosion of national contracts and informs us that there are various national contracts, among them contracts for private banks, for the saving banks sector and Santander "and in addition we fear that Deutsche Bank might get out of the German Banking Federation".

The Ver.di representative enlightens us that there is also the German particularity which means that for newly founded companies the old contract isn't valid anymore. For this reason it's very lucrative for the companies to modify themselves. The contracts are often limited to only one company. Out of the 700.000 people employed by the German banking sector, some 40% aren't any more employed by the original bank but by a company which is controlled by the original bank. Gruenewald keeps on explaining us that the German Employees Committees (Betriebsrat) are elected by all workers and not only by union members. These Committees aren't allowed to stipulate agreements which are poorer in the contents in respect to the National Contract.

After the contribution of Klaus Gruenewald, Portelli asks whether it's better to put forward questions immediately or later and the assembly decides for the latter. Thereby the word is given to Ms. Lucia Peveri who describes us the Italian situation saying that in Italy there are two levels of negotiation. The first level is the National Collective Contract for the Banking Sector (CCNL) which regulates arguments like payments and payment levels, working hours and application area of the CCNL. The CCNL, which is valid for 300.000 workers employed in the financial sector, also defines industrial relations systems.

The second level of negotiation is the integrative labour contract. The negotiation regards questions which aren't treated by the CCNL negotiation of the 1st level. Mrs. Peveri of UILCA mentions as examples the company's bonus system, health and security of the working environments, the job

classification of the new professional figures, welfare systems, health insurance assistance, industrial accidents, pensions and part-time regulations. Another important topic is the one of reorganization and restructure of companies. In her discourse Mrs. Peveri stresses that “in Italy we have a Redundancy Fund, founded some 10 years ago, which gives the possibility to get out before reaching the retirement age without being formally laid off and, substantially, without losing money”.

“Some 30.000 workers have benefited, in these years, from this fund. In this moment we are renegotiating the CCNL in Italy and the employers are clashing with us because of this social buffer and another social questions” says Lucia Peveri: “it’s the same problem like the one in Germany mentioned by Klaus – the intention is to weaken us, and when the employers are putting in question the first level of negotiation we do strongly object that development.”

The UILCA representative sees a further possible topic of clashes in regard to the attempt to determine an inferior profile level for the newly hired people. Lucia finds further similarities with the German situation in the problem of internationalization of parts of company activities: ”in Italy we see the outsourcing of a lot of activities, and not only of back-office functions. In Deutsche Bank, where I work, even the elaboration of balance sheets has been outsourced. Generally speaking, I can affirm, that the Social Dialogue in our sector has always been very good, but we are experiencing, in the last 1 ½ years an attempt towards the weakening of our position”.

William Portelli gives now the word to Darius Kiziakiewicz from Poland, who starts his exposition saying that “it’s important to start a discussion, but still more important are the results achieved in the discussions. The financial sector in Poland employs 150.000 people but since 2007 the occupation went back by 5.000 people”. In Darius opinion “there can’t be Social Dialogue where the rules of Social Dialogue aren’t respected. That’s why in most cases we see declared but not implemented values. Obstacles to Social Dialogue are given in cultural differences between east and west. Furthermore in Poland there aren’t well defined rules in regard to mobility of employees.” For the Polish representative problems arise also due to the fact that in absence of an employers association in Poland there aren’t institutionalized interlocutors for Social Dialogue. In Poland there aren’t also Supervisory Boards nowadays and “although we have had one till 1996 it was subsequently cancelled, interestingly, by the

President of the National Bank of Poland”. The economic situation in Poland is, according to Dariusz, only apparently good; in reality it’s not good at all.

David Le More speaks showing a Power Point Presentation. When, describing the Spanish situation, he speaks about the current crisis and the causes of it which lay principally in the only recently past housing sector boom. The following bust of that sector has led to readjustment problems in the saving banks, which have invested in the past heavily in the building sector.

“In the current situation there aren’t any more credit concessions for small and medium businesses and this aggravates the situation from any point of view.” The Spanish bargaining activity in the last years is seen by David as a failure and, in his expectation, the shift to the right in politics will lead towards an invitation for the employers to be harder with the employees and their trade unions: “Nowadays the employers are refusing to sign the Collective Contract because they want local agreements. They are rejecting the contractually consolidated basis, trying to start all over again each time.”

Emilio Corral Aloras completes the description of the Spanish situation given by his colleague. He informs us that the Spanish national bargaining activity is interrupted. The political situation is characterized by instability, the unemployment level is very high and the trade unions thereby are very preoccupied. The employers’ association hopes, absurdly as it may sound, that the currently precarious economic situation deteriorates even more because they are hoping in an intervention by the European Commission which would strengthen their bargaining position: “That’s why I think that the Social Dialogue is in peril”. Emilio adds that the unemployment rate among the young people is at 45%; he closes his gloomy description telling us that the saving banking sector represents 50% of the entire banking sector and that the National Contract of that sector has been terminated.

The next description is given by Sandor Toth who makes us acquaint with the Hungarian situation which is also dark and has a negative future outlook. “We are assisting a negative development as the employers have the power to influence the government decisions and we are preoccupied by this as we know that the government is preparing a new labour law. For us it seems as if the government wants to pull back the watch in time.” Mr. Toth enlightens us know that some 80% of the Hungarian banking sector is controlled by foreign entities. Furthermore “the banks do have an economical problem related to

a banking tax introduced by the government. This tax is very high, is valid till 2013, and it makes it for us very difficult to negotiate any salary increments. It should stay like that at least for other 2 years.”

During the following question time at 10.50 a.m., Angelo di Cristo asks whether this tax is valid only for foreign or also for Hungarian banks and Sandor Toth answers that the tax regards all banks. Mario Ongaro asks Klaus Gruenewald questions regarding the German situation, Verrecchia wants to know whether the results of the European Social Dialogue are somehow included in the negotiation activity for the new Italian CCNL and Mauro Inclettoli notes the somehow curious situation in which the Spanish representatives hope that the government does not interfere meanwhile the Hungarians do wish to have some kind of – positive – government interference or contribution.

Mauro Berselli notes that the disparity between social classes increases ever more not only in society but also in the companies.

After a short coffee break, at 11.05 a.m., the exchange of national experience goes on with Klaus Gruenewald who explains that the German unions are assisting a new development towards a decentralized form of organization which creates obstacles to Social Dialogue because workers are acting like owners of a shop. “In Germany we are assisting on a reduction of our sector and on Social Dialogue which we have to reconstruct with new structures” informs us Klaus Gruenewald.

Emilio Corral says that the law allows externalizations of services but in companies towards which these services are externalized there aren't any minimum standards. Sandor Toth specifies that the Hungarian situation is stable which means that the government is able to sell easily their bonds on the market. The banking tax regards not only foreign but also domestic companies and is fixed in relation to the profits of the previous years.

William Portelli stresses that a proper structure for Social Dialogue should always be in place otherwise there can never be an effective Social Dialogue process. He underlines the importance of effective implementation especially within the context of a tripartite debate and this to the benefit of all stakeholders concerned.

Gianni Arrigo says that we have to aim at not having two levels of negotiation but at having, hopefully, a future situation where the negotiation is brought forward side-by-side. The necessary information and consultations are to be given timely to the employees' representatives, so to enable them to assess the possible impact on employees' interests and act accordingly.

The Professor asks challenging whether we are able to handle the enormous existing quantity of information and agreements. We have to bear also in mind that a lot of these norms haven't been adapted to our changing times and different demands.

In his opinion training of employees has to be organized jointly by the social partners. At the moment there isn't a place where the presidents of the different EWC's can meet and discuss but it is very important that they meet. The assignment of the members of the EWC's is too short in the optic of enabling them to take decisions consciously and with the necessary knowledge. "Currently, as soon as they start to know and understand their work, they are out again." There is a necessity to have rules and certainties. The big organizations have to work together on a mutual basis and they do not have to wait always that the governments determine and legislate on everything. "We necessitate to have an effective collaboration and the companies' can't hide themselves always behind secrecy excuses." He adds that there "has to be the necessary slowness and the necessary time for dialogue."

At this point the project manager informs us about the following Tandem session which will be held at the training facility of the International Labour Organization (I.L.O.) in Turin on the 10th and 11th of November. On the 11th of November there will be a conference of dissemination of the results. After Mr. Savi's illustration of the program for the rest of the day the word goes to Mr. Mauro Bossola, Deputy General Secretary.

The FABI dep. General Secretary M. Bossola brings a salute from Edgardo Iozia, Uni Finance President, who, to his regret, isn't able to participate in our today's session of the Tandem project. Bossola expresses his pleasure about having noticed great interest on the matter of our Tandem project even outside of the conference room: "The aim of the Tandem project was to confront ourselves on the situation in the countries where our representatives come from, and that has evoked great interest".

“The Social Dialogue evolves when there is great interest and involvement between the partners and doubtlessly here this was the case.” The FABI Directive Board Member stresses that what we have done here is our main activity, or, in other words, our “core business.”

“The crisis, in the midst of which we are in, creates great disparity between the situations in the different countries”.

In his further exposition Bossola asks whether the Social Dialogue is an efficient instrument in order to overcome the crisis and he reads only some extracts from a paper he prepared in order not to delay the end of our activity. “The cohesion between the unions on European level is remarkable. The degree of unionization is characterized by a fall in the period which goes from 2000 till 2008 but it’s not so dramatic. The number of precarious contracts and contracts on part-time basis has increased. The unionization rate is good – about a quarter of the employees – although there are big differences in the single countries, with Sweden leading the league with a rate of about 70% and Estonia with only a tenth of that figure. The GDP in the EU has decreased but there are differences inside the single countries, with the Baltic nations which experienced a dramatic decline of up to 15%. Also what’s concerning the unemployment rate there are enormous differences. Our interest in the situation in the single countries is big.”

Bossola puts forward some questions and, at the same time answers them:

- “How did we react in front of this crisis?”

“The research of solutions has been managed more on local levels and did not come out so much from the European Commission.”

- “Which tendency can we foresee for the near future?”

“Not one of prosperity but of crisis in which the single countries, also out of fear, try to close and protect their markets in respect to the outside world. The research body of Deutsche Bank says that “after the crisis the financial sector won’t be the same”, which means that there will be a new positioning of the companies and consequently of the organizations which represent the workers. There is a development towards more variable salaries.”

- “Do we benefit from the Social Dialogue?”

Probably yes. The timing of this project is efficient.”

- “Do we need the Social Dialogue?”

Without doubt yes.

Necessary is the goodwill between the partners. We do have, however, an increase in the conflicts and difficulties to sign national contracts in single countries. The discourse of this forum is a discourse which can be developed further and I hope that the results will be well disseminated from Turin final meeting, our next appointment”.

CLOSING REMARKS

THE CONTRIBUTION OF OUR EUROPEAN PROJECT

Strengthening the European social dialogue, in particular the sectoral dialogue, can be facilitated by the achievement of a better interaction among the various levels of industrial relations in the European Union. Good quality industrial relations at national level are very important. Data on the coverage rate of collective agreements in the Member States, especially after the enlargement of the EU-27, reveal the difficulty of effective implementation in many Member States. In some of its communications, the Commission invites the social partners and Member States to contribute to strengthening the negotiating and management capacity of trade unions in some Member States. In some Member States tripartite mechanisms and structures may also prove useful. To maximize the synergy between the European and national levels, the social partners have to make known their texts at all levels, organizing informative, educational and promotional activities. In an enlarged Europe and to ensure the effective implementation of the new generation of texts, the organization of regular meetings among European social partners and their national partners is even more important, as it occurs in social dialogue committees, or conferences and other events organized by the social partners themselves.

To maximize the synergies, it is necessary to ensure that the results of the European social dialogue are readable and accessible to all participants in the dialogue and in the follow-up of the texts produced. In fact, the meaning of the texts of European social partners sometimes goes beyond the comprehension of those who are not directly involved in their production, due to a non homogeneous terminology. Unclear terminology and a lack of clarification of all aspects of the follow-up negotiations of the texts can create difficulties in their practical implementation. It is therefore necessary to improve the clarity of texts and include in the new generation ones some detailed provisions for their control.

Utility of mutual learning. The social partners in different sectors-national, European and industry- can learn a lot from others' experiences. The results of the European social dialogue are improved when there is a leveraging of the synergies among different sectors and between sectoral and inter-European level. For example, in the field of lifelong learning, some sectors (such as banking and postal services) have referred to inter-sector frameworks. In the field of teleworking, the social partners in the electricity and public administration sectors have adopted joint texts by integrating local and regional trade agreements and have invited their members to apply them in their fields. The Commission encourages the social partners to explore similar methods. In this respect, the social partners should raise a better awareness on the results of their dialogue. The Commission will support them in this regard.

Synergies between the European and corporate level of social dialogue. The social partners should strengthen the synergies between European and corporate social dialogue. An example is the link between sectoral social dialogue and European Works Councils (EWC). In recent years the social dialogue at company level has greatly developed and has allowed the approval of agreements in approximately 830 undertakings or groups of undertakings with a Community dimension. The range of the issues faced by EWC continues to expand and includes, besides crucial issues such as restructuring, other issues of European dimension as health and safety, equal opportunities, training and mobility, corporate social responsibility, the environment. Where the social partners are addressing similar issues at the sectoral level, there may be opportunities for synergies between that level and the EWC sector concerned. The European social partners should take advantage of the recast of the EWC directive to renew the link between EWC and social dialogue.

Another search for synergies between European and company level is the theme of Corporate Social Responsibility (CSR). Over the past 20 years, companies have launched a growing number of social and environmental responsibility initiatives, sometimes under pressure from various interested parties (stakeholders). Some European sectoral social partners have undertaken CSR initiatives, such as the preparation of papers and codes of conduct.

Our European project seeks to contribute to the identification of ways and means with which to strengthen the link between the activity of EWC and the Sectoral Social Dialogue as it has been widely illustrated in the previous pages.

In this context, as the Commission stressed in numerous official documents, it is important to reduce the different degree of knowledge and skills, particularly in the management of information and consultation procedures, among EWC delegates from different countries, a gap that is more evident after the accession of twelve new EU countries. These are elements that can not emerge from research and surveys of a statistical or documentary nature, based on the texts of the agreements or their formal application, and are instead highlighted by the delegates themselves, in EWC workshops and meetings. The different level of knowledge and management skills is undoubtedly related to differences in the industrial relations systems in different countries, and to an increased attention paid by some national labour unions to the issue of initial and advanced training of delegates, as well as the attention not yet developed in EWC agreements to the issue of training in all its aspects.

The lack of attention to the issue of trade union training of EWC delegates is easily shown in both quantitative and qualitative terms. In quantitative terms, as appears from "databases" and studies on EWC, there are few agreements which include the training among the subjects negotiated. In qualitative terms, the marginal attention is given by the poor indication of hours dedicated to training and by the prevalent, if not exclusive, attention to language training, which is certainly an important issue to encourage more fluid relationships between and among the EWC delegates and / or the Select Committee and the management of companies, but it is certainly not the only one that can give efficacy and usefulness to information and consultation procedures and to the role of the EWCs.

Good information and consultation procedures presuppose a common knowledge that can be shared among the delegates. In fact, as demonstrated by numerous case studies and research carried out on the implementation of Dir 94/45, the language issue is just one among many obstacles to the smooth functioning of EWCs. Other obstacles arise from the different experiences of the individual delegates, which are in turn connected to the diversity of national systems of industrial relations, the different "stories" of each company (or group) with a Community dimension, the various fields of membership, the more or less consolidated participatory environment of each company, and the different type of training that the EWC delegates receive in the various countries of the European Union. In some of these, in fact, the EWC delegates, as a direct expression of the trade unions (or workers) in companies, have a more solid educational basis since they are functionally linked to the relationship with the union or more direct relations between employees' representatives and the company.

The degree of knowledge and management ability of information-consultative procedures of the EWC delegates varies naturally in relation to the membership of the delegate to the parent or subsidiary, but also in this case it differs in relation to the participatory culture of each country. There is no doubt that the different degree of participation of the various delegates to the information and consultation procedures should be considered in the preparation of instruments to contribute to a better functioning of the EWC as a whole.

An additional, but not less important element is given by the interaction between the quality of the transnational consultative- information procedures (EWC) and those at the national level, since, as acknowledged by the European Confederation of Trade Unions and the European Economic and Social Committee, bad information-consultation procedures at transnational level have a negative impact on the improvement of procedures at the national level, and vice versa. The adoption of Directive No 2002/14 should be read in this sense, since it introduces a general framework of information and consultation rights. A common culture of social dialogue and a common negotiating capacity of EWC delegates are therefore essential for the proper functioning of information and consultation procedures at both levels, national and transnational, given their mutual influence.

Equally important is the interaction between the quality of the consultative and information procedures within the EWC and the and knowledge and assets acquired and produced in the sector.

This integrated approach to the training of delegates is consistent with the model, also integrated, of relationship between the European legislation on information and consultation, considered that the rights of information and consultation at transnational level (Directives. 94/45 (now 2009/38), 2001/86, 2003/72) are based, so to speak, on a normative basis common to all countries established by Directive 2002/14.

APPENDIX

Slides

Sources of knowledge

The genesis of the short film by Pietro Gentile

The Tandem website by Pietro Gentile