



EUROPEAN SOCIAL DIALOGUE: ACHIEVEMENTS AND CHALLENGES AHEAD
JOINT CONFERENCE, BUDAPEST, 3 & 4 MAY 2011

CONFERENCE NOTES

ORGANISATION AND PROGRAMME

The European level conference rounding off the joint project on “European Social Dialogue: Achievements and Challenges ahead” took place at the Corinthia Grand Hotel in Budapest on the 3rd and 4th May 2011. It was attended by more than 70 participants, representing the European social partners and their member organisations in the European Union.

A detailed programme, the list of participants, as well as the presentations are attached to these notes and are available on the EU social partners resource centres websites¹

CONFERENCE NOTES

DAY 1

WELCOME ADDRESS – INTRODUCTION BY THE EUROPEAN SOCIAL PARTNERS

Steven D’Haeseleer on behalf of employer’s organisations (BUSINESSEUROPE, UEAPME, CEEP) and **Joël Decaillon** on behalf of the ETUC welcomed the participants and presented the background of the project in the context of the EU social partners’ work programme 2009 – 2010.

Steven D’Haeseleer introduced his welcome address by pointing out the internal and external challenges for European social dialogue that had been changing dramatically at all levels in recent times: among others the economic and financial crisis, growing competition, ageing populations, or EU enlargement. While one of the crucial questions was how to create growth and jobs in this context, those challenges also impacted on the topics and instruments of social dialogue. New topics like climate change emerged, and new instruments like the Joint Labour Market Analysis. He concluded his statement with three remarks: European social dialogue is a relatively recent phenomenon. It is of high complexity considering the twenty-seven different industrial relations systems. Finally, it is not a substitute for national social dialogue. Already per definition it is much more constrained in terms of issues.

Joël Decaillon took up the issue of the relation between national social dialogue and European social dialogue. According to him, many topics less touched at national level worked better at EU level. Apart from stressing that European social dialogue should not be a substitute for national social dialogue, he underlined that European social dialogue should be anticipatory and innovatory. With view on the main results of the project as presented in the draft report of April 2011, he referred also to the final report on “European social dialogue: State of Play and Prospects” realised by ETUC and OSE of January 2011 and to differences in the conclusions of both reports. Mr Decaillon highlighted some critical aspects and challenges, in particular the problem of effective instruments, sectoral social dialogue, territoriality and the complexities arising thereof as well as European

¹ <http://www.resourcecentre.etuc.org/> & <http://www.erc-online.eu/Content/Default.asp>



competitiveness. Mr. Decaillon also stressed that there is more need for control than just confidence. Furthermore, visibility and transparency are crucial elements from his point of view. He concluded his welcome address with the statement that European social dialogue is needed and has to be improved.

EUROPEAN CROSS-INDUSTRY SOCIAL DIALOGUE 1996-2011: AN OVERVIEW

Subsequent to the welcome address, **Cinzia Sechi**, ETUC, and **Guillaume Cravero**, BUSINESSEUROPE, gave a joint introductory presentation on the history and results of European cross-industry social dialogue, focussing in particular on the achievements of the last fifteen years.

The presentation, which is attached in the annex to these conference notes, started with an introduction to the three types of activities of social dialogue involving social partners, the main stages of development of European social dialogue, a presentation of the different actors, relevant treaty provisions (Art. 154, Art. 155 TFEU) and an overview of the different EU employment and social policy instruments before getting to the results of 15 years of European cross-industry social dialogue. Those results were illustrated by concrete examples and contents of each of the different instruments of European cross-industry social dialogue: the framework agreement on parental leave (1995, revised 2009), the autonomous framework agreement on inclusive labour markets (2010), the framework of actions on gender equality (2005), the joint analysis on the key challenges of Europe's labour markets (2007), and the joint statement on the Europe 2020 strategy (2010). Overall, more than 50 joint documents have been produced by the European social partners. Under the three work programmes (2003-2005, 2006-2008, and 2009-2010), four integrated programmes covering seminars and capacity-building as well as four studies on restructuring, flexicurity, climate change, and finally social dialogue were carried out. To conclude, the two speakers supposed that in the light of those achievements of the last years, European cross-industry social dialogue might now have reached a phase of reflection. They furthermore recalled the importance of the existence of strong and independent social partner organisations that are respected at the national and at the EU level and the (challenging) context of the EU27 while highlighting the difference between social dialogue and tripartite concertation.

The outcomes of the latter study on European social dialogue, capturing the achievements and challenges of European social dialogue at the national level and in the view of national member organisations, were then presented.

EUROPEAN SOCIAL DIALOGUE: ACHIEVEMENTS AND CHALLENGES AHEAD: PRESENTATION OF THE RESULTS OF THE STOCK-TAKING SURVEY AMONGST NATIONAL SOCIAL PARTNERS IN THE EU MEMBER STATES AND CANDIDATE COUNTRIES

Eckhard Voss, co-ordinator of the expert team, and **Birte Homann**, both from Wilke, Maack & Partner, Germany, summarized the draft final report of the project on "European social dialogue: Achievements and Challenges Ahead" in order to facilitate comments and proposals for improvements and corrections of the report and to provide a basis for the following panels and discussions with the conference participants.

The presentation is attached in the annex to these conference notes.

HIGHLIGHTS OF THE DISCUSSION

Participants from various countries (The Netherlands, UK, Hungary, Sweden, Malta, Slovenia) representing all European social Partner organisations commented on the presentation of the draft study. They also already put forward their own view on the major achievements and challenges of European social dialogue, providing an input for further discussions. Overall, the feedback on the draft report was very positive. Probably, it should be more focused on certain issues.

For a participant representing Dutch SMEs sectoral social dialogue and the relation between sectoral and cross-industry social dialogue should be covered in more detail in the report. Sectoral social dialogue could have a significant impact on cross-industry social dialogue.

Several social partner representatives were taking up the question of respect and credit given to the European and national social partners in different member states. A British participant and member of the UK section of CEEP reported for example that in the UK minimum reference was given to the work of European social partners. According to a Hungarian trade union representative, social dialogue in Hungary is deteriorating. In Hungary, one rather had to ask whether the national social partners were given credit for in their own country. For example, the Hungarian Prime Minister had openly questioned the representativeness and legitimacy of national trade union organisations. Under such adverse conditions, European social dialogue, although not being a substitute for national social dialogue, could have a positive impact at national level. Similar observations have been made by a representative of craft and small business employers in Slovenia. If the importance and the objectives of social dialogue are not understood at national level, even fewer people understand the relevance of European social dialogue. This could be an impediment to the effective implementation of agreements and other joint tools. Then again, some people expect concrete results of social dialogue that justify its existence.

In general, it was proposed by several participants to dedicate more room and energy to studies on the link and repercussions between the European and the national level. This could be even the core topic of a follow-up project.

While not having severe problems with respect or acceptance at the national level because of a well-functioning social dialogue and bodies aiming at the improvement of social dialogue like the Malta Council for Economic and social Development, a representative of SME employers from Malta pointed to the special situation and conditions of SMEs that were often neglected.

Apparently, in the draft report, Sweden was the only country where national legislation regarding all autonomous framework agreements and regarding the frameworks of actions had been already in place. This was highlighted by a representative of a Swedish employers' organisation who argued that at first it had to be distinguished whether the aim of European social dialogue was to change the situation at the workplace or to change the legal situation. In Sweden it has not changed the legal situation but the situation at the workplace. For example, the autonomous framework agreement on telework led to the enforcement of an already existing legal situation by synthesizing several regulations spread over different pieces of legislation in one document which could be used as a checklist by companies. Another issue was the question of ownership and the difference between legally binding and politically binding agreements. In his view, most employers in Sweden tend to stick to agreements. Finally, when evaluating the achievements of European social dialogue, this always had to be done against the background of 27 countries. If there were examples of success or changes in most (not necessarily all) countries, this would be already a success.

A representative of UEAPME concluded from his experiences and the contributions made so far – in particular referring to Joël Decaillon, that both, anticipation and implementation were two key issues for the future of European social dialogue, including the improvement of the situation of social dialogue at the national level.

In general, the statements in the plenary debate confirmed the large national differences that exist between the 27 EU member states and the different systems and cultures of labour relations and social dialogue.

PANEL 1: EU SOCIAL PARTNER'S FRAMEWORK AGREEMENTS: EVALUATION AND IMPACT

Panellists:

- *Thierry Dedieu, CFTD (France)*
- *Stefania Rossi, Confindustria (Italy)*
- *Edyta Doboszynska, ZRP (Poland)*
- *Barbara Surdykowska, Solidarnosc (Poland)*

The panel discussion was chaired by **Antonio Dornelas** who addressed the following questions to the panellists and invited them to comment on them from their specific point of view and experience:

1. *From the point of view of your national background, what have been the most important framework agreements implemented so far both in terms of impacts and effects as well as with view on the influence of social partners in the context of implementation?*
2. *How do you evaluate in particular the autonomous framework agreements: What has been the main added-value? Did they reinforce national policy agendas? What have been the main difficulties and weaknesses in terms of implementing them?*

HIGHLIGHTS OF THE STATEMENTS AND THE FOLLOWING DISCUSSION:

For **Thierry Dedieu** of the French trade union confederation CFTD (*Confédération française démocratique du travail*), the main added-value of (autonomous) framework agreements is that they reinforce social dialogue on certain topics at the national level. He was convinced that in France, they would not have started inter-professional negotiations without European social dialogue. Referring to a concrete autonomous framework agreement – the one on telework – he explained that the implementation is still difficult to assess. Social partners at the national level start thinking about the topic. In particular in comparison to the three framework agreements implemented by Council Directive, autonomous framework agreements were more important since they introduced new topics. For example, the agreements on work-related stress and violence and harassment gave an impetus to the debate in this field. Out of the 24 companies with more than 1,000 employees represented by CFTD, many have agreements on stress at work. According to him, one of the main difficulties is the declination of European agreements. In order to take stock, Mr. Dedieu thinks that one cannot say that one type of framework agreements is better than the other. At the same time, it would not be useful to replace social partner initiative agreements with Commission initiative agreements. Still, it is rather counterproductive to oppose both agreements. Overall, he thinks that inter-professional social dialogue is necessary as well as the convergence of European labour markets even if it does not have the same impact in all countries.

After having expressed her appreciation for the draft report, **Stefania Rossi** of the Confederation of Italian industries *Confindustria* started with the statement that European social dialogue should be at the same time a top-down process (in terms of guidance for Member States) as well as a bottom-up process reflecting the needs at the national and company level. In her opinion, differences linked to national specificities are important and can enrich European social dialogue. In Italy, social dialogue is strong and well-established, with strong actors, a functioning system of collective bargaining and a very detailed social legislation. This can also be a challenge for European social dialogue since Europe could be perceived as too distant and not concrete enough. The interaction between the European and the national level is therefore often difficult. Raising the subject of framework agreements, Mrs. Rossi confirmed that for example the agreements on harassment and violence and on inclusive labour markets have been implemented. All implemented agreements have and had an impact and produce effects on the Italian labour market. They either bring new issues to the attention of the national social partners or introduce a new perspective on labour market issues that had been implemented but had to be reformed. Among the positive impacts

could therefore be named that the framework agreements give the opportunity to modernise, help to raise awareness, initiate reforms and provide a framework. As for the autonomous framework agreement on telework, it was implemented by the national social partners by a national agreement. The framework agreement on fixed-term work on the other hand was a great opportunity to reform legislation. Sometimes the implementation is not coherent with the European perspective and European indications. Politicians might use the opportunity to push through some other secondary topics. As for the agreement on parental leave, the government chose only to consult with social partners, not to implement it. The social partners lost the opportunity to be direct actors in the implementation process. Mrs. Rossi identified three major problems or weaknesses of autonomous framework agreements: First of all, as for the autonomous framework agreements, social partners at the national level have to feel the ownership. They need capacity-building and marketing initiatives and a closer link between the EU and the national level. As for the topic harassment and violence, she has not such a strong feeling that regulation is needed. Finally, everybody should be aware that European cross-industry social dialogue is a work in progress.

Edyta Doboszynska from the *Polish Craft Association ZRP* stressed that in Poland, they were trying to implement all framework agreements apart from the inclusive labour markets agreement which is still in progress. It is very difficult to say which agreement is the most influential as it is very difficult to compare the different types of agreements. Time and the way, how agreements are implemented, have to be considered. In her view, framework agreements implemented by law are more important and more influential. At the same time, in the case of Poland, the 3 framework agreements implemented by Council Directive have not had much impact because they were negotiated before Poland joined the EU. Therefore, they were perceived as being part of the *acquis communautaire* and not as being the result of social dialogue and Poland was obliged to adjust. As concerns the revision of the framework agreement on parental leave, the majority of the issues had already been implemented and there was not much debate on the implementation. The role of social partners is rather restricted to their role in tripartite concertation and they do not play an active part in the implementation process. Regarding the autonomous framework agreements, they were more visible and involved hot discussions and influenced the work of the social partners. For example, the agreement on telework was very difficult. For Polish social partners it was the first agreement to be negotiated. Organisations were weak and trust among the social partners had to be built first. Still, it arrived at the right time and touched a topic of joint interest and involved the government. Concerning the agreements on work-related stress and violence and harassment at work it was different. Due to the constant restructuring in Poland, companies are under constant stress – in particular SMEs. From the point of view of an SME employer, most members didn't want another shift in legislation and preferred to negotiate declarations. The opinion that the legislative framework in Poland is sufficient is prevailing. Focus is laid rather on awareness-raising and joint projects although Mrs. Doboszynska has to admit that *Solidarnosc* has been the most active social Partner in organising joint projects. For her, the main value-added of the EU social dialogue outcomes is that it is a good opportunity to learn what – in particular bilateral (not trilateral) - social dialogue means, how to build trust. The most important for her organisation is that SMEs are included in the debate. They don't think that special agreements for SMEs have to be found since 90% of European companies are SMEs. Small companies are just very often not active social partners.

This view on the achievements of European social dialogue in Poland was opposed by **Barbara Surdykowska** from the Polish trade union federation *NSZZ Solidarność*. She started her statement by taking the example of two of the autonomous framework agreements – the one on work-related stress and the one on harassment and violence – for a comparison. In Poland, there exists a declaration on the first one from October 2008, and a declaration on the latter one from April 2011. Therefore, 3 years later, one can say something about the influence of the framework agreement on work-related stress. The declaration included the objective to include the topic in collective negotiations. After three years, this has not happened and there are no projects. It was tried to place

the topic especially in the banking and commerce sector, but it is very difficult to place new topics for the trade unions. The commerce sector was hit in particular by the crisis and in the banking sector, the topic is often treated under the umbrella of CSR – which is an employers' issue. According to her, there is no agreement in place at company level on stress at work. Measured against the objective of improving the working conditions and the situation on the labour market, one cannot really say that there are improvements at the workplace level. Using the example of the agreement on violence and harassment at work, she stressed that trade unions and social partners in general in Poland are very weak organisations. There exists no tradition of implementing agreements at the national level. The only level is a joint declaration that shows the government their objectives. Soft tools are not really working in Poland! Regarding the agreement on inclusive labour markets, it is very soft and Mrs. Surdykowska fears that implementation will be very difficult. *Solidarność* will start a project on this. Among the main difficulties for social dialogue in Poland is, to find a common understanding between the social partners. The main added-value might be for the bipartite social dialogue in order to mobilise social partners. On the one hand, European social dialogue might rather not grow with agreements implemented by Council directive. On the other hand, concrete and binding agreements could be important for Poland – for example in the area of training and skills.

Highlights of the following discussion:

Several contributions from participants representing “new member states” addressed the issue of implementation and weaknesses of social dialogue at the national level. While a Slovenian member of UEAPME reported similar problems in implementing the framework agreement on work-related stress as Mrs. Doboszynska from Poland, a trade union representative from Latvia could not share those problems and referred to a different situation in the Baltic countries. A participant from Slovenia brought forward the issue of the framework agreement on work-related stress where trade unions in Slovenia wanted the issue to enter a system of risk assessment and employers did not agree. According to the Latvian colleague, the main problem for trade unions was a low understanding of trade unionism and very low coverage rates of around 12%. She thinks that you cannot say that European social dialogue has not worked: it has raised awareness. Finally, a trade union representative from Poland articulated some questions to Stefania Rossi in order to clarify the added-value of the implementation of framework agreements and in order to ask why the agreement on violence and harassment had not been so important in Italy. An Italian trade union representative partly answered this question by stressing that this was a relatively new issue in Italy with not many problems reported in the past. This lack of experience might have had a negative impact on implementation. Still, her organisation sees the need to tackle the issue since also there are no prevention mechanisms at all. Trade union staff had to be trained for this kind of problems at the company level. A representative of the Italian small enterprises organisation concluded that it was very important to continue joint actions and to increase the mutual understanding between social partners.

In a concluding round, all panellists subsequently had the chance to react to the input and the questions from the audience.

Barbara Surdykowska highlighted that despite the difficulties described before the European social dialogue had led to some relevant results. It was a very important reference point for the Polish social partners. In particular Art. 153 TFEU was better than the national legislation on consultation. At national level, there do not exist any work programmes for social dialogue, therefore the negotiations on European social dialogue are very useful. Recently nevertheless, related to negotiations on the anti-crisis pact, trust between social partners went down. She agreed with Edyta Doboszynska on the fact that the framework agreements implemented by Council directive were just part of the *acquis communautaire*. On parental leave, the protection in Poland is already higher than required by the agreement. Still, the “soft way” does not seem to be sufficient in Poland and

invited the employers to be more proactive in evaluating what has been achieved in the implementation of the autonomous EU agreement.

Stefania Rossi clarified that full implementation was not confined to legal regulations. For example, the autonomous framework agreement on telework had been implemented via an inter-professional agreement of the social partners in Italy immediately after it had been signed in Brussels. It was enforced at the company level and it included concrete solutions. According to Mrs. Rossi, this agreement is working and it is binding for all members of the organisations that signed it and social partners did not need the government. Regarding the framework agreement on stress on the contrary, social partners were not able to find a solution and the government decided to intervene. To conclude, social partners at the national level might need more support for implementation and subsequently, social Partner organisations have to give concrete solutions to companies and workers in order to be successful.

For *Thierry Dedieu*, the main difference between the different types of framework agreements is who is taking the initiative. Afterwards, and related to their implementation, it is not really important and it is difficult to value. Although they might differ in the implementation process, their importance is the same. Mr. Dedieu furthermore highlighted that in France, social partners' agreements are very often extended to all. One important issue for the future would be to bring the work of the European social partners to the attention of people at national and European level. There remains much work to be done on this. Mr Dedieu finally stressed the importance to further invest in the implementation of the autonomous agreements, especially in SMEs.

PANEL 2: EU SOCIAL PARTNER'S FRAMEWORKS OF ACTIONS AND OTHER JOINT INITIATIVES: EVALUATION AND IMPACT

Panellists:

- *Emmanuel Julien, Medef (France)*
- *Adrienn Bálint, MGYOSZ (Hungary)*
- *Cinzia del Rio, UIL (Italy)*
- *Jean-Francois Macours, FGTB/ABVV (Belgium)*

The second panel discussion on frameworks of actions and other joint initiatives was chaired and introduced by *Eckhard Voss*. The panellists had to prepare their statements around the following questions:

1. *To what extent have the framework of actions influenced the work in your country and the role of social dialogue? What have been the most important added-values?*
2. *What are major strengths as well as weaknesses of the EU social partners frameworks of actions as well as the other initiatives mentioned above?*
3. *Which issues should be tackled (more) by these types of initiatives?*

HIGHLIGHTS OF THE STATEMENTS AND THE FOLLOWING DISCUSSION:

This second panel started with the statement of **Emmanuel Julien** of the French employers' organisation MEDEF (*Mouvement des Entreprises de France*). Mr. Julien commented on the draft report and stated that in contrast to assessments made earlier he does not think that the report tried to hide problems and obstacles. In order to discuss the impact, strengths and weaknesses of frameworks of actions their meaning has to be understood first. For him, frameworks of actions cover issues that were too wide or too complex to reach another form of agreement. They often support or run in parallel of initiatives at the national level and could be defined as a kind of hybrid tool between joint declarations and agreements. In France, they were rather treated like joint

declarations, without any formal follow-up. Topics like skills or gender were already well regulated in France. Therefore, the impact of framework of actions in France so far has been limited. Still, for the EU level, they are important. It is difficult to measure the impact at the different levels. The strengths can be similar than those of agreements: they could help to boost innovation, to start negotiations at a common ground, work as a peacemaking factor, etc. Frameworks of actions stimulate more than they define. At EU level, things are possible that are not possible at national level. A weakness is in his view that common texts are often not well-known.

Cinzia del Rio from the Italian trade union UIL (*Unione Italiana del Lavoro*) stressed that generally and as already mentioned before, the Italian industrial relations systems is quite developed and structured with consolidated experiences at the local and the national level. To reach this state has taken many years. The impact of European social dialogue depends very much on the ability of social partners to transfer it to the national level. Referring to the two frameworks of actions and other joint initiatives one could say that they acted as a stimulus – despite the problems encountered with the framework agreement on harassment and violence as mentioned before. Also on the issue of training, difficulties were encountered because social partners could not reach an integrated approach. This was mainly due to the importance of the regional level in Italy for this topic and stagnant negotiations between the national and the regional level. With the crisis, the priorities for the regions shifted. As for the Europe 2020 Strategy, it is a different approach. For training and skills a more concrete framework might be needed but at the same time Italian social partners might not be ready to receive a binding European instrument at the moment. According to Mrs. Del Rio, at the moment, European financial resources are not very well used in the field of training which partly might be due to administrative incapacities at the regional level. The Joint Analysis on Labour Markets was, in her view, very much focussed on the issue of flexibility and security. The labour markets are subject to enormous changes. Concerning the ECJ rulings, opinions changed. The EU level discussion signified at the same time a step forward. The main objectives of those instruments should be to serve as a stimulus, to add value and to function as positive instruments. For the future, the question remains if the tools and instruments (and topics) should be more general, more ambitious or more binding.

Adrienn Bálint of the *Confederation of Hungarian Employers and Industrialists* MGYOSZ highlighted that in her opinion, social partners were able to use European social dialogue outcomes best if they treated topics of high actuality/topicality in Hungary as well. An example for such a topic would be vocational training and lifelong learning. In Hungary, there exists a tripartite body to assess the needs for vocational training at the regional level. In terms of specific workplace agreements, there are limits. In terms of concrete results, there could be some in a couple of years. On gender equality, there exists an equal treatment body in Hungary. Concerning harassment and violence, Hungary is still lagging behind. Taking up the discussion on differences between “old” and “new” member states, related to the importance of joint declarations, she feared a two-speed-Europe. Living and working conditions differ significantly and in a country like Hungary, keeping a job and guaranteeing employment are the most urging issues. There is no “one size fits all” which makes it difficult to treat some issues. Recently, most EU topics have been put to a tripartite body. Now that the state is slowly redrawing from this, social partners have to fill this gap. Compared to Poland, the situation in Hungary is very different. SMEs are very little organised and represented. For Hungary, the most important issue for the future is that they do not know what will happen to European social dialogue in Hungary. It should be a task to strengthen the role of social partners at the national level. In Ms. Bálint’s view, Europe could give much greater support. The existence of European social dialogue might be more important than tangible results.

In contrast to this, **Jean-Francois Macours**, representing the Belgium trade union confederation FGTB/ABVV started with a short presentation of the well-established social dialogue structures in Belgium. As well at the cross-industry level as at the sector level, bodies exist that among others negotiate collective agreements. At the cross industry-level it is the “*Conseil National de Travail*”

(excluding public services), at the sector level there exist parity commissions and sector committees. At the inter-professional level, agreements are negotiated every two years, including work programmes and instruments. As for the outcomes of European social dialogue, they are treated at the *Conseil National de Travail* and in case of social partners agreeing on an issue, the government applies it. Mr. Macours also pointed to a mistake in the draft report related to the impact of frameworks of actions and joint initiatives in Belgium: they had no significant impact. Frameworks of actions don't have the role of a motor of new initiatives. Other joint initiatives also have little impact. The Joint Labour Market Analysis did not have any impact in Belgium.. Still, it was important at the European level. Coming to the strengths and weaknesses of these instruments it can be said that in Belgium, in case of a joint social partner opinion on an initiative of European social dialogue, the government applies it. If there is no joint opinion, the government intervenes. Among the strengths is that topics are raised and visibility of certain topics is increased. Among the weaknesses is that European social dialogue often is lacking concrete objectives and concrete results. The Belgium trade unions have some demands: first of all a reinforcement of European social dialogue in terms of the creation of a body at European level equivalent to the *Conseil National de Travail* in Belgium. Secondly, European social dialogue should be more effective and more visible. Thirdly, related to topics, the European Commission could do more. This could be seen at the sector level dialogue. Cross-industry social dialogue needs its own strong agenda.

Highlights of the following discussion:

An Italian participant stressed that it was a big mistake to discuss too much on soft and binding agreements. Rather, social partners should remember the European principles of subsidiarity and proportionality. A first step would be to improve the situation for social partners at the national level.

Referring to the draft report, a representative of a public employers' organisation in the UK cited two sentences that in his opinion encapsulated the whole discussion: *"For those who assess the performance of social dialogue in the light of ultimate goals such as creation of unified social standards at European level, the results of social dialogue are not impressive. For those who evaluate the outcomes of social dialogue in the context and against participation, joint understanding and having the potential to influence social Europe the outcomes are quite remarkable"*. (Draft report, p. 44)

Another colleague from the UK also representing a public employers' organisation appreciated the report and highlighted the fact that a number of EU states have not been able to implement soft agreements. Still, European social dialogue provokes discussions at national level. It should be emphasized that European social dialogue has to deal with 27 different structures. An implementation by dictate from Brussels will not work; rather it should be worked on an exchange of best practices.

Finally, a member of BUSINESSEUROPE reminded the audience that the win-win situation of social dialogue should emerge from the strengthening of working conditions on the one hand and competitiveness on the other hand. Referring to Ms. Bálint's demand for topics in European social dialogue that are high on the agenda at the national level, European social dialogue could also help to introduce new issues and innovative discussions to the national level. Here, the question regarding the right balance emerges.

In response to the plenary contributions, the panellists concluded the session by the following statements:

Jean-Francois Macours argued that the construction of a solid basis of social dialogue cannot rely only on the EU: it has to happen in parallel at the national level and at the EU level.

Adrienn Bálint gave an example for a topic high on the agenda in Hungary that could be tackled at the EU level as well: to encourage mobility. In Hungary, social partners tend to publish only wish

lists. As for the national structures of social dialogue, they don't know which body will be responsible in the future. Recent achievements of social dialogue therefore could be discarded. European social dialogue gives them a certain level of protection.

Cinzia del Rio confirmed her support of Mr. Marcours' statement. A harmonization does not always mean "identical" but common criteria or joint principles and the fixing of common objectives. The main topics for the future could be restructuring, migration and skills and training – shared by all 27 countries. Finally she endorsed her support for binding instruments.

Emmanuel Julien stated that European social dialogue was sometimes in advance, sometimes later than national social dialogue. Overall, EU level dialogue does not confront the same constraints than national social dialogue. Methods, techniques and instruments are important.

The first day was rounded off with a joint dinner.

Day 2

The second day started with the third panel of this conference on the future of European cross-industry social dialogue.

PANEL 3: FUTURE CHALLENGES OF EUROPEAN SOCIAL DIALOGUE

Panellists:

- *Armin Augat, VKA (Germany)*
- *Gyula Pallagi, MSZOSZ (Hungary)*
- *Patrick Itschert, ETUF-TCL*
- *Roberto Suarez, CEOE (Spain)*

Eckhard Voss introduced the panellists and the main questions of this panel:

1. *What, in your view, are the main future challenges European social dialogue is facing at the moment?*
2. *Against these challenges, what are the best outcomes European social dialogue should try to accomplish?*
3. *How could the overall performance of European social dialogue be improved (e.g. by strengthening the links between cross-industry and sectoral social dialogue) in your view in order to achieve these outcomes as well as to maintain and increase its influence both on European as well as national policy agenda?*

HIGHLIGHTS OF THE STATEMENTS AND THE FOLLOWING DISCUSSION:

Armin Augat of the German local public employer association VKA decided to start his statement with an excursion to the Charter of Fundamental Rights of the European Union, citing Art 28 on the "Right of collective bargaining and action", Art 30 on the "Protection in the event of unjustified dismissal", and Art 31 on "Fair and just working conditions". Since those articles do not include any concrete details related to their implementation, it is a challenge for the European social partners. They should actively participate in shaping working conditions and not leave this to any other bodies or organisations. One sentence in the draft report caught Mr. Augat's special attention: "*The first challenge might be the European Commission [itself]*" (p. 35 draft report). The appreciation and acceptance of social dialogue in many Member States but as well at the European level are an important issue. Among the positive results of European social dialogue is in his opinion for example the project from 2009 on the question "What are the social partners needs?" A weakness is the

unclear distinction between sector and cross-industry social dialogue, also referring to unclear expectations. A first step would be towards clear structures including concrete distinctions and definitions. European social dialogue outcomes have to arouse an interest for implementation at the national level. Mr. Augat recognises the trade union's requests for social security. According to him, this cannot be imposed. It can only exist in a competitive and productive European Union. Along this debate, flexicurity should not be seen as a contrast to social security. Employment can only be secured and improved by better-trained and qualified employees. Social partners have to face the challenge of formulating documents that are relevant in practice and that are accepted at the national level. To conclude, Mr. Augat requested that more emphasis should be put on cross-industry social dialogue.

Gyula Pallagi of the Hungarian trade union *MSZOSZ* draw on the demands of his fellow-countryman Ms. Bálint in yesterday's second panel. The main challenge for European social dialogue is to tackle current issues. European social dialogue cannot be a substitute for national social dialogue and vice versa. Both should supplement each other. If social dialogue at national level is weak, it is weakening the whole system. In Hungary, there is no tradition of social dialogue which makes it vulnerable. When joining the EU, social partners started to organise themselves. This was rather a top-down process and they were helped by the government. At the sector level, there exist social dialogue committees in Hungary. For example, social partners achieved a collective agreement in the construction sector which is applicable to the whole country. One proposal to improve European social dialogue is to look at who is active. If the activities in a certain country or in a certain sector are limited, one has to ask oneself: Why? Is it due to language problems? Or is it due to organisational problems? The objective of European social dialogue should not be to make sure that the most developed and advanced countries have a social dialogue. For Mr. Pallagi, the two concepts of competitiveness and of the European social model are very difficult concepts. In Hungary, everything is sacrificed to competitiveness at the moment. He also stressed the lacking visibility of European social dialogue. "People on the street" often do not have any information on social dialogue. For example, the framework agreement on work-related stress did not have any impact for workers since it involves only guidelines that are not specific enough – which is seen as a deficiency. Mr. Pallagi also supports requests for more binding agreements at the EU level. Those agreements have to be known first in order to have an impact. In Hungary, it took many years to sign the existing agreement in the construction sector and it took even longer for employers to be aware of it. There is a need to communicate more. Overall, social partners in Hungary are not strong except some notable cases. The system of social dialogue is not part of the every-day-life. People ask themselves if social dialogue is really needed. Therefore, the process and the partnership have to be strengthened. Strong social partners and a good model of social dialogue could lead to the level of competitiveness that we want to achieve in Europe.

Since the relation between European cross-industry and sector social dialogue has been one of the main topics of the debate at this conference, **Patrick Itschert** from the *European Trade Union Federation – Textiles, Clothing and Leather ETUC-TCL* started his statement by focussing on his experiences with European social dialogue in the textile and clothing sector. The ETUF-TCL was among the first federations to launch sector-based social dialogue committees at European level and in around 20 years they have apparently succeeded to force the European Commission to consult them on those topics that affect them. Coming back to the outcomes of the ETUC-OSE study on "European social dialogue: State of Play and Prospects", one could conclude that opinions today are more ambivalent and more frustrated at the same time. Personally, Mr. Itschert thinks that social dialogue is at a crossroads at the moment and has to face a stress test. Consultation processes are watering down and it seems that the European Commission has to be reminded of the importance of social dialogue systematically. According to Mr. Itschert, the European Commission has to take the role of the motor. Social partners on the other hand, in order to be respected, have to be representative. Furthermore, the weaknesses of social dialogue in certain countries have to be attacked. It has to be questioned why it does not work and what are the problems at the country

level. The European social partners need a concrete, strong and innovative agenda and they have to be visible! Cross-industry social dialogue can help sector social dialogue although Mr. Itschert stated in this context that he is not sure whether they should reinforce and feed each other. Concerning the specificities of SMEs he mentioned the need to find the right social dialogue modalities to better respect them. Among the positive examples from the TCL sector, he mentioned the agreement of 1991 which was just recently revised. Furthermore, the sector was one of the first to invest in capacity-building – an important issue for the future. Mr. Itschert also highlighted the outcomes of European sectoral social dialogue in the TCL sector in regard to the anticipation of change and managing restructuring in a social responsible way. Also with view on the important issue of dissemination of outcomes and results he suggested that the cross-industry social dialogue could learn from sectoral experience.

Finally, **Roberto Suarez** from the *Spanish Confederation of Employers' Organisations* CEOE presented his – rather personal – perspective on the issues addressed in this panel. He split his statement into two main parts, first giving his view on the major challenges for European social dialogue, and then introducing some ideas on probable solutions how to tackle these challenges. For him, the first challenge is the economic and financial crisis. This is at the same time an urgent and important topic. The credibility of social partners depends on how efficient they are in tackling the crisis. In his country, Spain, there are around 5 million unemployed people at the moment. The debate on social Europe can lead to mistrust among social partners. Furthermore, the very critical situation of the labour market can be at the same time an opportunity but also an obstacle for social dialogue. The diversity of the labour market and the differences between certain countries of the European Union are much bigger than some years ago. In general, he thinks that an agreement is not always pertinent or necessary and that being not able to reach an agreement not always is a failure. The second challenge could be the autonomous framework agreements. Mr. Suarez is always defending their value and he does not like that they are often seen as soft tools. In Spain, these agreements have led to some important jurisprudence and they have served as guidance and basis for national regulations and internal practices in companies. They can be richer than legally binding agreements. Still, social partners might not have been able to exploit the full potential of these agreements – this could be a challenge for the future. Legally binding agreements confront the social partners with a third challenge. On the basis of articles 154 and 155 TFEU, these instruments should be used in a mature way. The fourth challenge for Mr. Suarez is the governance of social dialogue. Up to now, social partners have not been able to discuss truly how to improve the way of working.

In order to improve the performance of social dialogue in the future and to face those challenges, he proposed the following: First of all, he appreciates the Joint Analysis of Labour Markets. However, attitudes are changing. Fears and prejudices should be combated. Secondly, social partners should not focus on the number of agreements but on the quality. This could be enhanced by giving more attention to “marketing” – vis-à-vis several institutions and not only vis-à-vis the European Commission. It should come along with better explanations and better guidance and a sincere reflection on how to improve the impact of European social dialogue. A third issue is the coherence of the own agenda with the Commission’s agenda. There should be mutual respect. Finally, European social dialogue could be improved by a real commitment based on a deeply-rooted belief in European social dialogue. Social partners have to be ambitious!

Highlights of the following discussion:

Following this final panel discussion, several participants from the audience highlighted again the most urgent requests/topics from their point of view. A representative of SME employers from Malta recalled the importance of SMEs and that SMEs in most cases are not covered by collective agreements. A representative of the Dutch SME employers stressed the difference between cross-industry and sectoral social dialogue. In her opinion, sector social dialogue is much more concrete for the people in the street. For a Polish trade unionist, the statement of Mr. Suarez appeared to be very provocative for employees. According to her, speaking from a point of view of workers, social

dialogue should be recognised by law as a tool to create unified social standards. Social dialogue has to be strengthened, with strong and representative workers' and employers' organisations. Tackling the question of binding or soft instruments, the most important is that they have to be respected. The need for a stronger standing of social dialogue at the cross-industry level was also highlighted by a Portuguese trade union representative. She asked Mr. Augat to clarify his opinion on the differences between sectoral and cross-industry social dialogue. A representative of Finnish employers highlighted the value of European social dialogue in itself and its relevance towards the European Commission no matter what different social Partners think about impact or binding or autonomous framework agreements since much depends on the national culture of social dialogue. Finally, a Latvian trade union representative recalled that according to the European Treaty, the European Commission was the main legislator and that European social dialogue was a tool in case of failure of the European Commission, raising the question, if there was a common position on this among social partners.

The panellists reacted to those inputs in their final statements.

Armin Augat clarified that he didn't have the intention to value sectoral or cross-industry social dialogue. During the last years, sectoral social dialogue has been promoted quite a lot by the European Commission. Therefore, he had the impression that cross-industry social dialogue was put to the rear and lost in importance. At the same time, one of the strengths of cross-industry social dialogue is that it can address topics of a general interest that appeal to the largest audience possible. Referring to Mr. Suarez' statement and social dialogue in the crisis, Mr. Augat presented his slightly differing opinion. According to him, social dialogue cannot ignore the crisis but the most important is that it proves successful constantly and beyond the crisis. Once, we are into a crisis, it is normally too late for reasonable negotiations.

Gyula Pallagi reacted to the comment from the Dutch representative that he was talking about sectoral as well as cross-industry social dialogue since he has experiences at the sector level. Sector social dialogue sometimes is better supported and better known, but this is not always true and not for all issues. Reacting to the comment from Malta, he understands that SMEs are important and that they need to survive. Still, he also thinks that collective agreements should be applicable for SMEs as well although it would be different if there was a possibility for a local agreement. He agreed to the contribution from the Finnish colleague.

Patrick Itschert referred to the discussion on the role of the European Commission. In the textile sector, important documents followed upon a Commission initiative. From a sector view, he thinks that it could be useful to revisit cross-industry agreements. Despite the crisis, constructive social dialogue can exist. He supports the view that social partners have to be ambitious and have to take risks.

In reacting to the Polish colleague that was provoked by his statement, *Roberto Suarez* clarified that in his view social dialogue is much more important during the crisis. Concerning the role of the European Commission, he thinks that there should be a closer connection between the Commission and other institutions and the social dialogue agenda. As concerns the debate on binding or soft instruments, he was giving another example from Spain. In Spain, the framework agreement on fixed-term contracts was less effective than the autonomous agreements.

CONCLUDING ROUND TABLE

The final session was introduced by *Eckhard Voss* who also summarized major aspects arising from the debates during the two days. The representatives of the European social partners (ETUC, UEAPME, CEEP and BUSINESSEUROPE) summarized the following conclusions arising from their point of view from the two days of debate on the impact of European social dialogue:

Maxime Cerutti from **BUSINESSEUROPE** started by stressing that the adaptability of social dialogue should be regarded as a major strength. According to him, the term “binding” dominates too much in the draft report. Social dialogue is not only about improving working conditions. It is about organising the labour markets in a way which allows at the same time to increase the competitiveness of companies and to improve workers’ working conditions. Some trade union representatives have referred to a “frustration”. They would welcome a stronger role of the European Commission. Employers value the outcomes of the European social dialogue and believe that it is the responsibility of the two sides of industry to improve it. Moreover, the Commission cannot be regarded as being insufficiently active with several initiatives ongoing or in preparation on working time restructuring And posting of workers. Nevertheless, he shares very much the observation that an increasing number of DGs involved in social issues in the new Commission could lead to a dilution of social partners’ role in EU policy-making on employment and social affairs, which needs to be avoided. Another challenge is to find the right balance between a top-down and a bottom-up approach. For example, the agreement on telework was very innovative and positively received; implementing the agreement on work-related stress was a more challenging task due to the nature of the issue and the fact that stress is hard to address collectively as it is linked to individual characteristics. Looking forward, there is a broad recognition that action is needed to improve the implementation of autonomous agreements. The discussions showed that social partners agree on the importance of the European social dialogue and on the need to give more visibility to its outcomes. There should be an added-value of European social dialogue from a national perspective. To that end, ownership has to be reinforced. **BUSINESSEUROPE** is looking forward to the discussion on the subsequent social dialogue work programme during the 2nd half of 2011. Among the major challenges from his point of view will be the issue of ensuring the competitiveness of Europe in the global competition (in particular from the BRIC countries, i.e. Brazil, Russia, India, China) as well as the discussion on flexicurity.

For **Liliane Volozinskis** from **UEAPME** this conference came at the right moment. She underlined the importance and added-value of European social dialogue. Social partners’ autonomy has to be guaranteed and representativeness of social partners has to be respected. Also, the diversity of national systems has to be respected. Capacity-building should be more profound and more targeted. Referring to the relation between sectoral and cross-industry social dialogue, Mrs. Volozinskis thinks that they can be sources of inspiration (reciprocal). For European social dialogue and national social dialogue, social partners have to find the balance between top-down and bottom up. Agreements implemented by a directive and autonomous agreements are different in nature. The first ones are defining rights, whereas autonomous agreements are more conceived as guidelines. . Anyhow, social partners will have to work on issues and instruments. At the same time, the specificities of SMEs and the “Think Small First” principle have to be respected: in the philosophy of the texts and not just by mentioning SMEs every time. Partnership and an efficient marketing will be important in the future. Among the major challenges remain employment, competitiveness and migration. Social dialogue should be innovative and visionary. In terms of capacities and representativeness, Mrs. Volozinskis proposed to ask the Commission for new means.

Being the last of three employer representatives, **Michael Brodie** representing **CEEP** tried to touch upon different aspects. First of all, he highlighted the specificities of the public sector, pointing out that around 30% of all EU employees are working in public services. Sectoral dialogue in the public sector is particularly supported in the health and education sectors. Overall, the achievements of European social dialogue should not be underestimated. Topics are often very complex and negotiations difficult. Still, **CEEP** strongly believes in cross-industry social dialogue. The partnership of Public Employers (PPE) in the UK basically only exists because of social dialogue. For Mr. Brodie the role for European social dialogue in the future should be to facilitate (e.g. stress is traditionally seen as a management issue in the UK), to share experiences and to use best practices or

experiences. Through the crisis, public employers in the UK have to face the challenge of massive financial cuts and around half a million job cuts in the public sector. Mr. Brodie also gave very vivid examples of global challenges ahead – mainly stemming from the emerging countries China and India. The objectives of social dialogue for the future should be to have efficient public services, a competitive private sector and a workforce that is well-off.

Joël Decaillon representing the ETUC finally summarized major challenges of European social dialogue from the position of European trade unions. In his opinion, to act too cautious and smooth is dangerous. He also stated that European social dialogue will not be able to substitute social dialogue at the national level. If there is a European Labour Market, one has to think about topics in that market and identify them. What is the role of social partners? There remain the questions on the coherence of agreements and the problems of instruments. In terms of respecting rules, the European Commission can be helpful. He also presented an example of a good case of exchange between cross-industry and sector social dialogue – the topic of climate change. European social dialogue has to be reinforced. Visibility is not enough – but this depends on contents. As soon as there a real topic to spread, the visibility will be automatic.

APPENDICES

- 1) Attendance list
- 2) Conference programme
- 3) Presentation on European Cross-industry social dialogue 1996 –2011: an overview by Cinzia Sechi, ETUC, and Guillaume Cravero, BUSINESSEUROPE
- 4) Presentation of the results of the stock-taking survey amongst national social partners in the EU member states and candidate countries by Eckhard Voss and Birte Homann, Wilke, Maack and Partner