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COMMISSION STAFF WORKING DOCUMENT

Industrial Relations in Europe 2012

Industrial Relations in Europe 2012

Executive Summary

The economic and financial crisis that has been affecting Europe for several years may very well cause a profound and long-lasting upheaval in Industrial Relations institutions and practices. While *Industrial Relations in Europe 2010* noted that social dialogue had been a factor for resilience in overcoming the early effects of the crisis, this 2012 edition concludes that the impact of the sovereign debt challenge and the budgetary consolidation policies being pursued in a wide range of countries are producing more fundamental changes to industrial relations in Europe.

Industrial Relations in Europe 2010 noted that in the early part of the recession, when the main impact of a shrinking economy was felt by the private sector, governments and social partners often worked together to mitigate negative impacts on employment. Despite significant differences between countries and sectors already in evidence in 2010, such solutions were most often based on extensive use of internal flexibility and focussed on short-time working schemes as well as support for the banking system and for specific industries – such as the car industry – through special fiscal arrangements. Social dialogue, both bipartite and tripartite, was seen as a useful, flexible and efficient mechanism which contributed positively to promoting resilience and generating social consensus in the face of the crisis.

Since then, the crisis has deepened and spread to further sectors of the economy, including the public sector, as the financial crisis turned into a sovereign debt crisis, making fiscal consolidation a key objective of macroeconomic adjustment policies. This has resulted in an unfavourable setting for social dialogue, which became more conflictual in many countries and sectors, a trend which has been particularly visible in the public sector. One main characteristic of the public sector is that the employment relationship is regulated by laws that are different from those governing the private sector. A key characteristic of industrial relations in the public sector is the status of employees with employment tenure and life-long careers, and the status of the state as a single employer. This implies different rights and duties for public sector employees, including some limitations on collective bargaining and the right to strike. This different legal regulation and the special role of the public sector go some way towards explaining the differences between the two sectors in terms of the main dimensions of industrial relations, such as collective bargaining and the organisation and role of the social partners. In this report, the public sector is considered as covering central and local government, with the health and education sectors.

In response to the public debt crisis, the approach of national governments for the public sector has been to dramatically accelerate and intensify existing long-term structural reforms, and the methods chosen to implement decisions have often excluded the use of social dialogue. Two situations can be identified: the first covers a limited number of countries in

which the long-term trend towards public sector restructuring, with a view to seeking efficiency gains, continues with a more balanced approach and limitation of conflict, and preserves the scope for collectively agreed solutions between trade unions and public sector employers. The second covers countries in which fiscal consolidation programmes are being implemented, and not just in those countries receiving financial assistance from the European Union and the International Monetary Fund. For countries hit by the debt crisis, fiscal consolidation, financial stability and structural reforms are conditions to restore confidence, re-establish fiscal solvency and foster economic growth over the medium term. In these countries the measures are necessarily more severe than those taken by private companies during the 2008-2010 recession.

Sound public finances facilitate the ability of governments to carry out policies that are distinguishing elements of the European Social Model such as the promotion of social cohesion and substantial financing for key public services such as health and education. Thus, many measures were designed to correct fiscal imbalances and to restore confidence of financial markets in the capacity of national governments to undertake responsible and sustainable fiscal policies. In some countries, these measures included reforms of collective bargaining systems where they were seen as part of the problems to be addressed. Even if the Commission has always stressed the importance of social dialogue, of the autonomy of social partners and of the respect for national circumstances and practices, reforms were not always accompanied by a fully effective social dialogue.

These reforms have pointed to the lack of flexibility of the classic tools of collective bargaining mechanisms and other systems for conflict prevention, such as indexation and extension clauses. In such circumstances, there is little negotiating space for social dialogue to operate, and the more positive overall assessment of Industrial Relations in Europe 2010 cannot be repeated for the subsequent period.

The impact of the crisis on industrial relations in the public sector is severe, particularly for the trade unions. For some time now, the public sector has provided a core group of trade union members; trade union density in many Member States has been considerably higher in the public than in the private sector, and the combination of austerity policies leading to a shrinking public sector and demographic trends is likely to further reduce trade union density in services overall in the coming years. As a result of the reforms in the public sector and the current conflictual environment, industrial relations in the public sector have almost certainly changed fundamentally

While recent trends in industrial relations across Europe are worrying, the evidence is clear that well-structured social dialogue can produce positive outcomes and some of those are documented in this report. As was already the case in 2010, the countries where social dialogue is well-established and industrial relations institutions strong are still generally those where the economic and social situation is more resilient and under less pressure. This also reflects the historically path-dependent nature of industrial relations.

This report argues that social dialogue mechanisms and instruments, which have served Europe well over many decades, are still relevant means of addressing the crisis and

contributing to creating favourable conditions for growth and employment. Beyond all the diversity of national industrial relations systems, social dialogue is a key component of the European social model and its vital role is recognised by the European Treaties, including the Charter of Fundamental Rights. Industrial relations – whether in the public or the private sector – are key to managing conflict and finding agreed solutions in difficult circumstances; yet to be effective industrial relations need to develop in a climate of mutual trust and understanding, conducive to economic efficiency and motivation, productivity and development of workers.. For its part, the Commission has emphasised the need for modernising wage-setting systems while respecting the role of social partners and collective bargaining in the process. The Commission is engaged to promote and support social dialogue throughout the EU, while fully respecting the autonomy of the social partners and the diversity of national systems of industrial relations.

Industrial Relations in Europe 2012 takes a broad view of the state of industrial relations in the EU at the present time. It is in part based on expert contributions and summarises views expressed by stakeholders, which may differ from the Commission's position. Chapter 1 presents an overview of the principal quantitative trends in industrial relations indicators across the EU. Chapter 2 of the report looks in detail at industrial relations in the 'new Member States' of Central and Eastern Europe. Chapter 3 presents a typology of the structure of industrial relations in the public sector on the basis of specific characteristics and a cluster analysis. Chapter 4 presents an analysis of the adjustment process in the public sector during the crisis in terms of its intensity and the forms of social dialogue that are most affected. There is also an update on the way in which the social partners are addressing the issue of green jobs, (Chapter 5) and an examination of the role that the social partners play in discussions on reforms of the benefit and pension systems in Member States (chapter 6). The publication is completed by a round-up of developments and responses in European-level social dialogue (chapter 7) and a description of the principal developments in European labour law (chapter 8).

Chapter 1 - Overview of European, national and public sector industrial relations

This chapter presents an overview of industrial relations in the EU, noting the main trends and key differences. It sets the scene for the rest of this report by providing an overview of industrial relations in the public sector and comparing it with the private sector across the EU. Industrial relations in the 27 EU Member States are usually portrayed as comprising large differences between countries. By contrast, public sector industrial relations are characterised by a higher degree of homogeneity across countries, albeit with a range of differences between countries, due to factors such as national traditions and the precise nature of the role of the state.

Industrial relations in the EU have generally followed the secular trends identified in earlier Industrial Relations in Europe reports. Collective bargaining has tended to become more decentralised, with the index falling from 2.15 to 1.98 since the 2010 report. Collective bargaining coverage varies widely across the EU, from around 20% to 100%, depending to a

certain extent on the typology of the industrial relations model in each country (see IRE 2008, Table 2.2). The average for the EU-27 is 66%, but only 44% in the CEECs. The secular decline in trade union membership, which has been underway since the 1980s, has continued as has trade union fragmentation, despite several high-profile mergers as a strategy to restrict the decline. Trade union density has stabilised somewhat at 24%, and remains much lower in the private sector than in the public sector in most Member States. On the other hand, the situation of employers' organisations has remained largely stable, particularly in those countries where membership of such organisations is quasi-compulsory, despite some loosening of such arrangements.

As a general feature, collective bargaining coverage and the degree of centralisation of collective bargaining in the public sector is higher in almost all EU Member States compared with the private sector. Higher collective bargaining coverage can be explained by factors such as greater recognition of the state as an employer for collective bargaining per se and of trade unions as partners in particular. The higher degree of centralisation of collective bargaining rests on the prevailing interest of central state authorities in maintaining their influence and control in the wage formation process. Further, union density in the public sector is generally higher than in the private sector, which can be explained by the collective definition of their employment status and a greater recognition of the role of trade unions by public sector employers.

In recent years, industrial relations developments have been increasingly characterised by certain secular trends: the decline in membership of social partner organisations, decentralisation of collective bargaining, and less coordination and concentration. Industrial relations in the public sector have been pushed into profound structural reforms aimed at greater cost efficiency, mostly under the pressure of fiscal consolidation objectives, but also as a result of the introduction of new technologies. Such reforms have led to cuts in public services, as well as outsourcing of public services to privately-run organisations, or privatisation of parts of the public sector, and have contributed to the transformation of industrial relations in the public sector. Most notably, there have also been trends in recent decades towards differentiation between groups of workers and decentralisation. However, these trends have moved at different speeds and magnitudes in different EU Member States and in the private and public sectors. The crisis of the past few years has served to accelerate some of the reforms already underway in the public sector, although the speed at which it has hit has had a severe impact on employment and significant implications for the future of public sector industrial relations.

Chapter 2 - Industrial relations developments in the new member states in Central and Eastern Europe

EU enlargement in 2004 and 2007 increased the diversity of industrial relations systems across the EU. In particular, the new Member States in Central and Eastern Europe (the Central and Eastern European Countries, CEECs) increased the variation in structural and institutional characteristics of industrial relations in the EU. In comparison with the EU-15, the CEECs are characterised by weaker trade unions and a faster erosion of trade union density, a lack of established employers' associations, no tradition of bipartite multi-employer

collective bargaining, persistently lower bargaining coverage (partly due to an under-developed system of collective agreement extension), and finally strong formal tripartism that partly substitutes for under-developed sector-level collective bargaining systems.

However, the role of tripartism and social pacts, and employee information and consultation at the workplace also vary among the CEECs, reflecting the different interests of governments in introducing stable bargaining structures as well as the extent of membership of all social partner organisations. While it is customary to refer to CEECs as having similar industrial relations systems, this chapter highlights the diversity of regimes and models. Some CEECs (Estonia, Bulgaria, Latvia, Lithuania and Romania) are best characterised by weakly-established or -enforced tripartite institutions, fragmented bargaining (with the exception of Romania), and varying union density between the Baltic (Estonia, Latvia, Lithuania) and the Balkan (Bulgaria, Romania) countries. The Visegrad countries (Czech Republic, Hungary, Poland and Slovakia) all have strongly entrenched tripartism, institutions for collective bargaining and employee representation. The Czech Republic and Slovakia tend to have more of a tradition of social dialogue and a higher level of bargaining coordination than Poland and Hungary. Nevertheless, while Hungary and Poland are examples of countries with decentralised and fragmented bargaining coverage, Hungary is also characterised by its national-level concertation structure. Slovenia, which is the only corporatist CEEC, has gone furthest in institutionalising coordinated bargaining, employee representation, social pacts and bargaining coverage.

While there is wide diversity between countries, industrial relations institutions (and actors) in CEECs remain weak and fragmented, and some developments in this respect are worrying, in particular as some reforms underway undermine the consensus which is needed for an effective involvement of social partners in the adaptations to change: in a number of these countries responses to the crisis are generating increasingly conflictual industrial relations. There is a need to revitalise national industrial relation systems and to support their actions in order to promote and restore consensus to ensure the long term sustainability of the economic and social reforms underway.

The chapter explores the potential of the social partners in the CEECs to stabilise and innovate with regard to their industrial relations structures by responding to labour market developments after EU enlargement and the economic crisis. One of the main challenges of the post-enlargement period has been migration from the CEECs to the EU-15, which has led trade unions in some CEECs and sectors to negotiate improved working conditions in order to curb the migration flow. Further, after joining the EU, transnational companies provided incentives for Europeanising industrial relations across the CEECs, to the extent that they have set up European Works Councils (EWCs) and these are active. While evidence on the transposition of social standards to the CEECs through transnational companies and EWCs is still scattered, there are some positive examples of such companies increasing the capacities of employer organisations across the CEECs.

The economic crisis has also provoked social partner responses at the national, sectoral and company level in these countries both in the public and private sectors. While a few of them

have seen some negotiated responses to the crisis through social pacts and consolidation of collective bargaining, in other countries and cases industrial relations became more conflictual and trade unions have opted for industrial action in order to press their claims after having been excluded from direct negotiations. These trends mirror those in the EU-15 countries in the first phase of the crisis in 2008-2010, and indicate that there has been something of a delay in the responses in the CEECs by about one to one-and-a-half years. The chapter discusses how such action can help to reconfigure the role of social partnership and industrial relations institutions in the CEECs. On the one hand, the chapter documents the *potential* for organised action in countries where trade unions are structurally weak and their membership base is declining. On the other hand, it should be acknowledged that not all such action has brought substantive improvements for employees, victories for trade unions, and consolidation of bargaining institutions and social dialogue. A critical element is the capacity of social partners: both employer's organisations and trade unions need to improve both their administrative and organisational capacity. The extent to which the social partners have engaged in post-enlargement and post-crisis action, as well as the substantive outcomes of such action, is often contested or limited in time. The CEEC social partners need to further strengthen their structural position and develop additional capacity in order to produce sustainable results in consolidating social dialogue and national industrial relations systems towards a predominantly bipartite collective bargaining model.

Chapter 3 - Public sector industrial relations in transition

Industrial relations in the public sector are more uniform than in the private sector but differ between countries in terms of size and structure of public sector employment, employment status of public employees, trade union and employers' organisations, wage setting systems, degree of centralisation/decentralisation of collective bargaining, industrial conflict and settlement of disputes. Even the notion of the public sector itself is evolving due to structural changes in the organisation and delivery of services of general interest.

A central feature is whether the employment contract is determined by public law statute or employment law. This distinction is linked to the two traditional approaches to public sector employment relations, the 'sovereign employer' and the 'model employer'. In the first case, civil servants enjoy special prerogatives, such as employment security, but have to comply with specific service obligations and may face some limitations on the right to bargain collectively, and also the right to strike. This is typical of countries with a Rechtsstaat tradition, and to a varying extent in some other countries, including those in Central and Eastern Europe. The second approach is typical of the common law framework of the UK, where no fundamental division between public and private sector employment legislation exists: collective bargaining is here the main method of determining conditions of employment, within a traditionally more 'benign' employer attitude towards trade unions than in the private sector.

The structure of industrial relations in the public sector has very specific features, but there are many aspects which are comparable to the private sector. Public sector collective bargaining and wage setting systems have undergone two connected trends: decentralisation,

within or outside of a centrally co-ordinated framework; and partial substitution of automatic, seniority-based pay and career systems with performance-based systems, leading to differences in the careers and terms and conditions of public employees.

Public sector employment relations still display a great diversity across the EU27, rooted in country-specific legal and institutional traditions despite some trends towards convergence, both between countries and between the public and private sector within each country.

Five clusters of countries can be identified. First the Nordic countries, which are characterised by: a high proportion of public sector employment; a significant female presence; harmonisation between career civil servants and employees under ordinary contracts; very high trade union density; wide-ranging collective negotiations practices with forms of performance-related pay, within a decentralised, two-tier bargaining system with strong coordination mechanisms; and few restrictions to the right to strike, but special machinery for collective dispute resolution.

The second group comprises Germany, France, Austria, Belgium and The Netherlands, characterised by a Rechtsstaat tradition and a strong component of career civil servants, with severe restrictions of bargaining rights, and in some cases of the right to strike. In all countries the wage determination system is relatively centralised, the public sector employment share is high in some but low in others, the female employment share is high in all cases, and there are varying rates of part-time and temporary work.

The third cluster comprises the southern European countries, with features such as the special employment status of a large share of public employees and no or limited scope for collective bargaining, although Italy has in recent years moved towards the Nordic cluster. Trade union density is high or medium-high and the public sector employment share is comparatively medium-low. The female and part-time employment shares are generally low, while the incidence of temporary workers varies.

The final cluster is that of the Central and Eastern European countries (CEECs). The majority have a comparatively small public sector employment share, with a relatively high female presence. There is limited part-time and temporary working. Trade unions are generally weak, especially in central administration. The practice of collective bargaining is very limited; where bargaining exists, it often takes place only at the individual employer level. Bargaining coverage is consequently very low. Social dialogue institutions exist in some countries, but their role has been significantly reduced in recent years. There are also restrictions on the right to strike, especially in central administration. Overall, this group is characterised by weakness of industrial relations institutions and practices, with Slovenia as the main exception.

The UK is a case apart, due to several peculiarities: it has no special status for public employees, civil servants included. It has widely diffused bargaining practices, within a single level bargaining structure, flanked however by the pay review bodies system, and no special limitations on the right of association and the right to strike, with the exception of a few groups. Negotiations are decentralised in the civil service, although measures to reduce

fragmentation and pay dispersion have been adopted since the late 1990s. Trade union density is medium-high in comparative terms and almost four times higher than in the private sector.

Within this diversity, the crisis has exercised some common pressures: a return to unilateralism on the part of governments and public employers to the detriment of forms of social dialogue, at times instrumental to the introduction or strengthening of private-sector-style human resources management practices; a weakening of special prerogatives of public employees, where they existed; top-down determination of wages and a reduced role of trade unions, in terms of density rates and of capacity to influence government and public employers' policies.

Chapter 4 - The consequences of the crisis for public sector industrial relations

The economic and financial crisis has put industrial relations in the public sector under strain. A stronger scrutiny on the effectiveness and efficiency of public expenditure has emerged; the role of key stakeholders such as public sector trade unions has been challenged and formally autonomous employers, with devolved authority, have been subject to tight financial and managerial control from the centre of government. It is indisputable that while initially the response to the first phase of the crisis involved mainly the private sector, governments have targeted the public sector as a key sector for adjustment, also to achieve a more equitable distribution of the burden of the adjustment and to promote sectoral reallocation in favour of tradable sectors.

With fiscal consolidation in mind, governments have attempted to reduce expenditure by extensive recourse to wage freezes, wage cuts, reductions in employment and changes to pension arrangements. In addition working time has been reformed and work organisation patterns reviewed to enhance cost effectiveness. By their very nature, these measures have not always been enacted with the full consensus of trade unions. More generally, the process of adjustment has been very different from the strategies pursued by the private sector as described in *Industrial Relations in Europe 2010*. Even if some of the measures can be justified by the need of fiscal adjustment in some instances the climate of industrial relations has deteriorated.

Although all Member States have been impacted by the crisis, the process and severity of adjustment has differed between countries. There is no straightforward North European versus Mediterranean country divide as is often assumed. A first cluster of countries, exemplified by Greece, Ireland and Portugal, have the largest programmes of adjustment because they face a complex challenge of pursuing fiscal consolidation and enhancing the effectiveness of public services. Since there is a limited tradition of structural reform of the public sector in these countries, the impact of fiscal consolidation has been comparatively greater and social dialogue in the public sector more difficult. In a different political and economic context, austerity programmes in the Baltic states, but also in Hungary and Romania, exemplify this pattern of adjustment. In these cases, with the exception of Ireland, governments have not brought about agreed changes in public sector industrial relations by a process of social

dialogue. Instead, unilateral changes in pay and working conditions, usually on more than one occasion, have been imposed on the public sector workforce.

A second cluster of countries have not been immune from fiscal consolidation pressures but the timing and form of adjustment programmes has been more directly under the control of their own national governments. It has usually involved the adaptation or continuation of structural reforms that have sought to boost the efficiency and effectiveness of the public sector. Due to the severity of the economic and financial crisis, austerity measures still impact markedly on the public sector workforce, but there is less discontinuity with previous organisational and managerial reforms. These countries have made some use of economy measures but they are in more dilute forms – pay freezes rather than pay cuts and restrictions on hiring rather than immediate reductions in staffing. An important difference with the first group of countries is not the size of the public sector, but the legacy of modernisation. This cluster is exemplified by Germany and the Nordic countries but also France, The Netherlands and with some caveats the UK. These countries have not faced immediate fiscal crisis and market turbulence, but have continued longer-term reforms of public sector industrial relations. Social dialogue has often been strained but there have been more concerted efforts to consult and negotiate with the public sector workforce.

The response to austerity indicates major shifts in longer term trends. The range of austerity measures deployed consolidates moves towards top-down unilateralism in public sector industrial relations. This has consequences for both the employers and workers in this sector. On the employers' side the room for manoeuvre of public managers is being substantially reduced because public managers have fewer resources to invest but are under pressure to meet fiscal targets. This is encouraging strategies that reduce labour costs with fewer staff who are employed under less advantageous terms and conditions, raising questions about the extent to which the public sector remains a model employer. In addition, regulation of the employment relationship through collective bargaining is highly constrained because of the reduction in available resources, wage freezes and the suspension of normal bargaining mechanisms. A new centralised unilateralism is emerging, which resembles the traditional unilateral regulation of public sector industrial relations by central political authorities, with a new emphasis on effectiveness and efficiency, rather than impartiality and equity.

For the trade unions, the public sector has not abandoned attempts to be a model employer but this principle has a far lower priority than in the past. Public sector trade unions have been put under pressure and with regard to most of the reforms underway their role has been weakened. The risk is that with lack of mutual understanding, reforms will only promote savings, leaving open the question of the quality of services and the capacity to deliver them.

Chapter 5 - Greening the social dialogue

A major commitment of the Europe 2020 strategy is to achieve the transition towards climate and environmental sustainability, especially in terms of energy sourcing. The aim is to achieve this goal by implementing a “policy-driven” pathway, to achieve lower greenhouse

gas emissions, source more energy from renewables and reduce energy consumption. Generating new jobs and transforming existing jobs into “green” and “greener” ones will require new skills and a change in attitudes. A key issue is the role that social partners could play in this respect, on their own initiative or at the invitation of the public authorities. Social partners’ involvement in this agenda has been gradually increasing, but the European picture is far from homogenous, with a broad spectrum of practice in terms of levels of engagement and mobilisation. Little is known about the potential impact of the process of greening on job quality, but a positive impact should not be taken for granted. Social actors believe that greening will first and foremost have the greatest impact on the skills and training dimension of job quality, while career and employment security, working and non-working time, health and safety and the social infrastructure will be less affected.

Examples of social dialogue around these issues are predominantly found in sectors in which the social partners are already well represented. Little or no dialogue is found in newly-emerging industries. In the electricity sector, and electricity generation from renewable energy sources, it is determined by the degree to which the energy source is ‘established’. Only in cases where electricity generation from renewable energy sources had already been carried out for a relatively long period of time within a country (for example hydro-electric energy generation) or where established energy providers increasingly source from renewables, is the subsector well-represented by the traditional actors in established companies. In the newly-emerging industries (such as energy generation from biomass, wind and photovoltaic sources), companies are very heterogeneous. Many are very small entities in remote areas and are therefore outside the reach and interest of the social partners. On the employers’ side many business associations have formed with the intention of representing companies in the sector, but these associations have not yet developed into fully fledged social partner organisations with the right to bargain. On the trade union side, there are examples of active recruitment strategies in the newly emerging sectors in only a few countries, such as Germany, Portugal and the UK. In other countries, such as Malta and Cyprus, the renewable energy sector is still in its infancy and no attempts to create representation can be detected.

While Europe’s commitment to the move to a low-carbon economy is clear, recent austerity-led reductions in public subsidies, tax incentives, feed-in tariffs and other public support measures might slow down the process of greening. Data from the European Restructuring Monitor (ERM) show that as any young industry, green sectors are facing significant levels of turbulence. This mostly concerns companies in the solar and wind power generation industry, which have come under some pressure due to overcapacity and increased competition from China, compounded by the fact that some Member States have changed their support schemes for these industries. Yet at the same time, job growth in the green economy has been positive throughout the recession and is forecasted to remain quite strong. Cases of knowledge-intensive job creation within the renewable energy and energy efficiency sectors have been registered.

Reinforcing and promoting social partners’ activities at all levels (European, national, sectoral, regional and company level) is crucial for the successful transition towards a low carbon economy. There are interesting social partner initiatives at different levels, in order to

highlight what can be done. However, there remain major challenges. Providing vocational training and retraining facilities at sectoral level, for example, is a promising approach and the availability of such measures ensures that small and medium-sized enterprises (SMEs) also have access to these facilities. Inclusion of SMEs is crucial, bearing in mind that newly-emerging subsectors are often fragmented. A further challenge will be to mainstream low carbon skills into all kinds of training, curricula and apprenticeships. Finally, organisational ‘eco-innovations’ in participation might usefully be sought at company level. This approach could consist of involving employee or trade union representatives in green management structures with responsibility for environmentally-related training or energy audits or by including in collective agreements energy-efficiency targets and benefits for employees. At the European level, the European Social Fund is an important tool to support the transition of labour force towards greener skills and jobs.

Chapter 6 - Social partner involvement in unemployment benefit and pensions systems in the EU

There are wide differences between national systems of unemployment benefits and pensions, but common to all are issues surrounding the perceived advantages and disadvantages of social partner involvement in policy formulation. Nevertheless, the precise nature of this depends on issues such as the relationship between the social partners and policymakers, and the exact role that they play. The involvement of the social partners in social policy development sits at the interaction between industrial relations and social policy, as many outcomes of social policy, such as social charges, have a direct effect on net pay. This therefore binds the social partners more tightly into discussions on social policy and benefit reform. In the past, there was a trade-off between wage moderation and social rights (i.e. lower wage increases in exchange for improvements in social rights), but today’s international economic competition and limits on state welfare spending no longer permit such an exchange. A balanced view of the role of employers and unions is necessary in order to understand the ongoing challenges facing employers and unions, shifts in responsibility between state and non-state actors, and the repercussions of this for income inequality and social security.

There are common trends and challenges for social partner involvement in and influence over unemployment benefit systems, such as trying to adapt to the labour market and economic developments of the past 20 years, and the reaction of the social partners to this. Most recently, the economic crisis has posed a huge challenge to unemployment benefit systems.

Social partner involvement in pensions and pension reform is a policy area that, in the light of changing demographics, is deemed to be an extremely high priority for governments. There are clear advantages in encouraging the social partners to become involved in pension reform, linked to ensuring sustainable solutions to this key long-term policy issue. However, there are fears that the social partners may not be able to deliver the radical reforms that are needed in some cases. Certainly, the past few years have seen major opposition to pension reform plans on the part of trade unions in many EU Member States. In some cases, governments have taken on board social partner counter-proposals, but in others social partner influence has been negligible. Second- and third-tier pension provision is a clear growth area, filling the gap

left by declining state provision, and this represents an opportunity for the social partners to become much more active in the formulation and management of provision, particularly in the case of occupational pensions.

Key challenges remain, however, not least the ongoing impact of the crisis. Governments have been under pressure to carry out cost-saving reforms in the context of austerity, within the context of a need to respond to demographic developments. Trade unions and sometimes employers' organisations have in many cases been opposed to government plans, and have on occasion managed to influence policy, but the sheer speed of events and the need to push through reforms immediately has meant that the influence of the social partners sometimes has been limited.

All of these developments represent significant challenges for the social partners. Governments are clearly under pressure to find solutions to, on the one hand the very acute challenges posed by the crisis, and on the other hand the longer-term challenges posed by demographic and economic shifts. Seeking consensus with stakeholders such as the social partners is one way of achieving this. Nevertheless, the social partners will need to develop strategies to ensure that they remain at the negotiating table when governments are formulating rapid responses to the crisis. The development of second- and third-pillar pension provision represents a real opportunity for the social partners to become major stakeholders in reform. However, they need to carve out a longer-term strategy in response to this, in order to ensure their position as players in the development of this kind of provision, rather than relying simply on state regulation.

Chapter 7 - European social dialogue developments 2010 – 2012

The social dialogue structures at the European level remain an important forum for discussions and negotiations between the social partners at cross-industry as well as sectoral social level across the EU. During the past two years the representatives of management and labour have agreed on more than 70 joint texts, conducted numerous projects and started to cooperate in new economic sectors. Overall, 2012 saw a significant number of agreements signed by the social partners. Two of these, establishing minimum standards in inland waterways transport, and hairdressing, were requested by the social partners to be implemented through EU legislation under article 155.2 of the TFEU, and the same request is expected from the social partners of the sea fisheries sector once their agreement is finalised. These requests, particularly concerning the agreement in the hairdressing sector, became the subject of some media attention and political debate in 2012. For its part the Commission is assessing both agreements impartially and has not taken a decision on whether or not to propose their legislative implementation. By contrast, a new agreement in the professional football sector will be implemented autonomously by the social partners according to the procedures and practices specific to management and labour and the Member States. Furthermore, the cross-industry social partners have been conducting negotiations on the revision of the Working Time Directive since December 2011; however these negotiations ended at the end of 2012 without an agreement.

The employment and social effects of the financial and economic crisis remained a priority for the cross-industry social partners as well as for many sectoral social dialogue committees. In particular, the effects of the restructuring of the public sector triggered by the severe debt crisis were addressed by several committees representing public sector employers and employees. In late 2012, the social partners in the central government administrations sector adopted a framework of action on quality services, in which they commit themselves to implementing the core values of general interest services in order to enhance the development, visibility and adaptability of public services in a context of crisis. Also in 2012, the social partners of local and regional government adopted a series of recommendations that form a framework for action to contribute to a social and sustainable Europe at the local and regional level that supports the public sector as an employer. The overarching objective is to better prepare employees and local and regional governments in their role as employers for changing workplace scenarios. The social partners from central government administrations and from local and regional governments also adopted joint opinions on the impact of the economic crisis. The representatives of the education, hospitals and healthcare sectors worked on the broader restructuring processes.

The social partners from the energy sector actively responded to the European Commission's climate change mitigation policies. The social dimension of the Energy 2050 Roadmap and a smooth and just transition towards a more "green" and sustainable energy sector were the key issues. The energy sector is expected to undergo a sweeping transformation in the coming years and the sectoral social partners have highlighted the importance of the social dialogue and consultations in these turbulent times.

Apart from challenges resulting from the crisis and the "greening" of the economy, other issues have played a significant role in the work of social dialogue committees. In addition to own initiatives of social partners, the Commission consultations and social partners' involvement in impact assessments act as triggers for the work of the social dialogue committees. Health and safety remained an important policy area for many committees and the past two years have seen several new initiatives in this field, including projects, common statements, joint declarations and exchanges of information in sectors ranging from agriculture through construction to public services. The related theme of working conditions was discussed by the social partners in the private security, civil aviation and road transport sectors. The social partners also continued their work on capacity-building, especially among the New Member States. Capacity-building measures, usually in the form of different projects and training sessions were organised among others in the construction, agriculture, banking and insurance sectors.

Employment policies, vocational education and skills were the subjects addressed both in cross-industry and sectoral social dialogue committees. A joint study on flexicurity, which was conducted by the cross-industry social partners, proved that if implemented in the right way, flexicurity can constitute a win-win solution satisfying both trade unions and employers. Nevertheless, the study indicated many challenges associated with flexicurity and brought worrying results from several Member States.

Gender equality remained an important topic for the social partners. There is a need to further strengthen commitments and actions to advance gender equality through social dialogue and tripartism. Projects on the employment of women in the urban public transport sector and on women in rail transport were conducted in order to gather data, highlight good practices and formulate recommendations. In the audio-visual sector, a framework of actions was adopted to address issues such as equal pay or the reconciliation of work and personal life. Equal pay between women and men was also the main focus of a common statement agreed by the social partners in the central government administration sector. It is however necessary to broaden the coverage of sectors, and to encourage the European social partners to keep gender equality high in the agenda as a horizontal priority and implement specific actions not only in the gender pay gap area but also in the other priorities previously included in the Framework of Actions. In particular, steps to reduce gender segregation, to improve work-life balance in sectors mostly male-dominated and also to tackle gender pay gap in sectors mostly female-dominated are needed.

In addition, the social partners from different sectors decided to jointly address some problems of supra-sectoral importance. As a result of these initiatives, common guidelines were signed by the European social partners in the hospitals, regional and local government, education, commerce and private security services sectors in order to tackle third-party violence and harassment at work. Similarly, the social partners from the cleaning, catering and textile industries joined the initiative of the social dialogue committee for private security to adopt a joint opinion on the social obligations of tenderers.

The number of social dialogue committees continued to increase. The 41st sectoral social dialogue committee was established in 2012, in the food and drink industry. With this development, European sectoral social dialogue committees now exist for virtually all industrial sectors. The social partners from the graphics, ports, sports and active leisure sectors are also working on setting up social dialogue committees in the near future.

Chapter 8 - Review of European labour legislation 2010 – 2012

In the framework of the overall Europe 2020 strategy and specifically the “Agenda for new skills and jobs”, EU legislative initiatives launched in 2010-2012 aimed to improve the functioning of the labour market and improve job quality against the background of record high unemployment, deteriorating working conditions during the crisis, but also mixed results on job quality in Europe over the past decade. In this context the Commission focused firstly on a review of EU legislation and the promotion of ‘soft’ instruments as parts of a ‘smarter’ EU legal framework for employment and, secondly, a review of European strategy on health and safety at work. At European level, social partners were very active and successful in concluding several European agreements (see chapter 7 for details). This chapter also looks at the interpretation of the provisions of EU Directives, giving examples of multiple judgements of the European Court of Justice in the field of labour law implementation, as well as health and safety at work.

Major cross-sector developments in EU labour law include the Commission’s legislative proposal on improving the enforcement of the Posting of Workers Directive and the ongoing

revision of the Working Time Directive. As regards the latter, the main cross-sector social partners at the EU level had been conducting negotiations on the review, which finished without an agreement at the end of 2012. The sectoral agreements concluded between sectoral social partners, in the inland waterway transport and the hairdressing sector, are currently being assessed by the Commission services with a view to their possible submission to the Council for adoption (see chapter 7 for details). Directive 2009/13/EC, which implements the social partners' agreement on the Maritime Labour Convention (ILO, 2006), will enter into force on 20 August 2013, i.e. simultaneously with the entry into force of the above Convention. Following the second stage consultation of the social partners on the review of the exclusion of seafaring workers from the personal scope of application of a number of EU labour law Directives, the Commission is currently finalising its impact assessment and considering a proposal regarding follow-up initiatives in this area. The temporary agency work directive and the recast directive on European Works Council were both implemented in Member States.

In line with 'smart' regulation principles, the Commission assessed the operation and effects of several Directives in order to evaluate whether they are fit for purpose, or alternatively whether they need to be clarified or updated. In the labour law domain, a first fitness check is currently being carried out in the area of information and consultation of workers at work. Six different reviews of the implementation of Directives have been carried out over the past two years.

The 2011 Commission staff working document on the mid-term review of the EU strategy in the area of health and safety reported that over 5,500 workers in the EU die every year because of work-related accidents, demonstrating that action in this area remains of high importance. The current 2007-2012 European strategy on health and safety at work is being evaluated, and the findings are to influence setting of the strategic priorities for the period 2013-2020. This is the first time ex-post evaluation covers a whole area of social policy.

Finally, the Commission is pursuing its work on adapting current legislation to emerging or specific risks (e.g. electromagnetic fields, tobacco smoke at the work place, musculo-skeletal disorders) and took part in development of 'soft' policy instruments such as guidelines on exposure to asbestos or best practices in agriculture.