



Privatisation and liberalisation have become widespread throughout western Europe since the early 1980s, and especially during the 1990s. The trend, encouraged by EU Directives and Economic and Monetary Union, has affected not only public ownership and state-owned companies in competitive sectors, but also public services, public utilities and welfare provision. Industrial relations in the public sector have always been different, to some extent, from those in the private sector, with distinctive features including: an industrial relations climate which is often largely collaborative; special protection and guarantees for workers, often arising from the particular status of "public employee"; and specific trade unions, employers' organisations and industrial relations systems. Against this background, the comparative supplement in this issue of *EIRObserver* examines the changes that are taking place in industrial relations in the organisations and sectors concerned by privatisation and liberalisation, with a particular focus on the example of the telecommunications sector.

The comparative supplement looks at the effects of privatisation on areas such as: employment levels; employment status; wages, labour costs and productivity; trade union membership; industrial relations systems; and industrial conflict. We conclude that there have been important changes - such as a narrowing of the distance between private and public sector industrial relations, and the spread of private sector management styles into the public sector - but also a high degree of continuity and "bargained" change in privatised organisations.

EIRObserver presents a small edited selection of articles based on some of the reports supplied for the *EIROOnline* database, in this case mainly for September and October 1999. *EIROOnline* - the core of EIRO's operations - is publicly accessible on the World-Wide Web, providing a comprehensive set of reports on key industrial relations developments in the countries of the EU (plus Norway), and at European level. On p.15, we provide a brief guide for readers on how to access and use *EIROOnline*, which can be found at:

<http://www.eiro.eurofound.ie/>

EIRO, which started operations in February 1997, is based on a network of leading research institutes in each of the countries covered and at EU level (listed on p. 16), coordinated by the European Foundation for the Improvement of Living and Working Conditions. Its aim is to collect, analyse and disseminate high-quality and up-to-date information on key developments in industrial relations in Europe, primarily to serve the needs of a core audience of national and European-level organisations of the social partners, governmental organisations and EU institutions.

Mark Carley, Editor

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Transnational coordination of bargaining policy - latest developments

Late 1999 has seen a number of developments in the attempts of European trade unions to coordinate collective bargaining policy across national borders.

As European integration continues apace, with 1999 seeing the third stage of EU Economic and Monetary Union (EMU), many trade unions have intensified their efforts to coordinate collective bargaining across borders. As examined in the supplement to *EIRObserver* 4/98, this has taken place both at intersectoral level and through the unions' European industry federations. Here we round up some recent developments.

Doorn declaration a success?

On 10-11 September 1999, in the German city of Haltern, more than 60 leading representatives of unions from Belgium, Germany, Luxembourg and the Netherlands held their third joint annual meeting. They evaluated the 1999 bargaining rounds in the countries involved and discussed future trade union bargaining strategies.

A year previously, the unions involved had adopted a joint declaration which states a strong need for close cross-border coordination of collective bargaining within EMU (*EIRObserver* 6/98 p.2). The "Doorn declaration" (named after the Dutch town of Doorn) was the first time that unions from different countries had determined a set of joint bargaining guidelines. In order to prevent possible downward competition on wages and working conditions, the unions agreed that national bargaining should seek outcomes at least equivalent to the sum total of the increase in prices and the increase in national labour productivity. The unions established a joint working group to organise a permanent exchange of information on relevant data and to draw up comparative analyses on certain bargaining issues in the countries concerned. In addition, there is an annual meeting of top-level union representatives in order to evaluate recent bargaining results in the light of the joint guidelines.

Following the annual meeting in September 1999, the unions declared that their transnational cooperation on bargaining policy had already shown positive effects. In 1999, agreed wage increases have ranged between 2.6% and 3.1% on national average, which means that all countries involved have fulfilled the Doorn declaration's formula. Therefore, the unions believed that they had been able to prevent downward competition and to increase the purchasing power of employees.

Another important topic at the Haltern meeting was a discussion on innovative collective agreements which safeguard or create employment. Furthermore, all unions agreed that a successful coordination of bargaining policy makes an important contribution to the "European employment pact" agreed at the June 1999 European Council meeting in Cologne, which, according to the unions, should lead to a smooth coordination of monetary, fiscal, tax and wage policy at European level.

Against this background, Heinz Putzhammer, a member of the executive board of the German Federation of Trade Unions (DGB), has sharply criticised the European Central Bank, which recently demanded that the collective bargaining parties in Europe continue with a policy of wage moderation. According to Mr Putzhammer, pay developments in recent years have shown that wage restraint does not automatically lead to the creation of new employment.

Textiles, clothing and leather

On 2-3 September 1999, the European Trade Union Federation - Textiles Clothing and Leather (ETUF-TCL) adopted guidelines on collective bargaining coordination, in the form of an internal sectoral protocol. The guidelines constitute the latest step towards the promotion of social dialogue and the coordination of collective bargaining policy in the sectors covered by ETUF-TCL. European-level social dialogue in these sectors has so far resulted in developments such as a code of conduct on minimum human rights at work (*EIRObserver* 5/97 p.10) and a charter on child labour.

The main objective of the new ETUF-TCL protocol is stated as defending workers' purchasing power against inflation and encouraging the growth of purchasing power through "a fair distribution of productivity gains between capital and work", although national federations will retain full autonomy in the implementation of these objectives. The protocol states that this aim forms part of a wider objective of granting all workers in this industry fair wages, employment development and the improvement of living and working conditions. The final objective is to define a "real network of joint minimum rights which would benefit all workers in this industry".

ETUF-TCL member organisations are required to include the terms of this protocol in national wage negotiations before 2000-1. This is intended to pave

the way for the negotiation of a European agreement on pay in ETUF-TCL's sectors before 2002-3. ETUF-TCL will assess the implementation of the protocol on an annual basis, and its executive committee will decide when to seek to initiate negotiations with employers at European level on the subject of a sectoral agreement on pay.

Graphical industry

It was reported in October 1999 that the annual general meeting of the European Graphical Federation (EGF) had adopted a declaration on coordinating bargaining at EU level. Given the major impact that EMU will have on the context of bargaining, the coordination of wage policies and the creation of a European industrial relations system are seen as "crucially important". A coordinated policy must prevent negative competition in terms of wage levels and social policy. EGF stresses the need to gather information on national collective agreements in order to draw up an annual assessment with the aim of agreeing joint objectives - though due regard must be given in the process of converging demands to the negotiations undertaken by each national union. EGF will organise a campaign and promote a strategy on the coordination of bargaining policy in Europe.

Scaffolding

On 28-31 October 1999, the European Federation of Building and Woodworkers (EFBWW) held its third European conference for the scaffolding sector in Weiterstadt, Germany, attended by delegates from 13 countries. The conference adopted a joint resolution laying down the future framework for trade union activities in the European scaffolding sector. In the field of bargaining, the unions see a great need for better coordination of union demands and strategies in order to prevent a deterioration of social standards, claiming that there is a real threat of social and tariff dumping since the labour market for scaffolding workers has become more and more "Europeanised". The unions thus agreed to improve exchange of information by using advanced electronic media and to develop joint initiatives to ensure the correct application of collective agreements. In addition, the unions emphasise the role of European Works Councils in multinational scaffolding companies, which should become cooperation networks for employee representatives. In order to create better working standards, EFBWW has asked the European scaffolding employers' association to start a European social dialogue.

DE9909215N, EU9910205N, DE9911224N (Related records: DE9810278F, EU9906180N, EU9709150N, DE9812283F)

5 November 1999

Drivers demand shorter working hours

A Europe-wide demonstration of lorry and bus drivers took place in October 1999 to focus attention on the continuing hiatus over the regulation of working time in road transport.

A demonstration of lorry and bus drivers was organised by the European Transport Workers' Federation (ETF) on 5 October 1999, designed to highlight the continuing lack of action on the regulation of working time in the road transport sector for mobile workers and self-employed drivers.

The ETF day of action involved demonstrations, information campaigns and roadblocks in EU Member States and formed part of the "international road transport action day" organised by the International Transport Workers' Federation (ITF). The day of action fell on the day before an EU Transport Council meeting, and ETF therefore hoped that the demonstration would bring to the attention of the ministers the outstanding issue of working time regulation for drivers.

"Fatigue kills"

The international day of action was organised under the slogan "fatigue kills" in order to highlight the problems related to long working hours for drivers in terms of their own health and safety and of road safety in general. According to ETF:

- 20% of accidents involving trucks and coaches result from fatigue;
- 44% of drivers in Germany regularly work between 60 and 80 hours per week; and
- 13% of drivers have almost caused an accident as a result of tiredness.

The issue of working time regulation in road transport has been a central concern of ITF for over 20 years and preceded the 1993 EU working time Directive (93/104/EC). ITF began calling for international minimum standards in the 1970s, and in 1979 the International Labour Organisation (ILO) adopted Convention No.153 on hours of work and rest periods (road transport). This establishes minimum health and safety standards for drivers and a maximum 48-hour week. However, so far only seven countries have ratified the Convention, with Spain the only EU Member State to do so.

The "fatigue kills" campaign is therefore an attempt to renew interest in the issue on an international scale, while at the

European level, the campaign is specifically aimed at promoting the extension of the provisions of the 1993 working time Directive to road transport drivers. A previous day of action had been held in September 1998.

An excluded sector

Road transport was one of the sectors excluded from the scope of the 1993 working time Directive. The European Commission was concerned to end this exclusion and issued a White Paper in July 1997 stating that agreements between the social partners represented the best way forward for extending the provisions of the Directive to the excluded sectors. A second consultation paper was issued by the Commission in March 1998 stating that, in the absence of any such agreements, the Commission would issue legislative proposals to cover the excluded sectors.

By this time, social partner talks in a number of sectors were well underway. The Commission therefore set a deadline of 30 September 1998 for the conclusion of agreements. Although agreement was reached between the social partners in the maritime sector (*EIRObserver* 2/98 p.2), their counterparts in road transport failed to agree. The main bone of contention between the social partners was the definition of working time, with the unions contending that the definition of total working time should include time spent on loading and unloading, cleaning and maintenance. However, the International Road Transport Union, representing employers, stated that it was unwilling to amend the prevailing definition of total working time in Regulation 3820/85 (covering operational safety in this area), which includes driving time only. This impasse triggered the issuing of a legislative proposal from the Commission, which formed part a package of working time measures issued on 18 November 1998. At the meeting of the Council of Labour and Social Affairs Ministers on 25 May 1999, the Council was able to reach political agreement on common positions on all these proposals except the draft Directive for mobile workers in road transport and self-employed drivers.

The Commission's draft Directive on road transport takes into account the discussions between the social partners and is designed to provide statutory protection for mobile workers. It defines working time as including not only driving time but also time spent on activities such as loading, cleaning and maintenance. It aims to improve the health and safety conditions of drivers by:

- providing a maximum weekly working time of 48 hours, which can be extended to 60 hours provided that average weekly hours do not exceed 48 over a four-month period;
- granting a minimum 30-minute break following working time of between six and nine hours and a minimum break of 45 minutes if working time exceeds nine hours;
- restricting night work to eight hours in a 24-hour period; and
- guaranteeing an 11-hour daily rest period.

This proposal is progressing very slowly in Council. At the Transport Council on 18 June 1999, it was decided that further consideration was necessary, a development which led to frustration amongst trade unions in the industry.

At the Transport Council on 6 October in Luxembourg, a delegation of drivers and their union representatives were received to put their arguments over long working hours and health and safety conditions. Finnish transport minister Olli-Pekka Heinonen, currently President of the Transport Council, acknowledged the need to introduce working time regulation, but revealed that there was disagreement among ministers over whether or not self-employed drivers should be included in any new regulation. This prompted concern from the union delegation, which insisted that new regulations must cover all mobile workers in order to ensure minimum standards across the sector.

Commentary

ETF is hoping that progress on the issue of working time regulation for mobile workers and self-employed drivers can be made soon and in October transport ministers showed some sign of optimism that an agreement can be reached over the coming months. However, it is unclear whether the outstanding issues, notably the inclusion of self-employed drivers, can be resolved before the next meeting of the Transport Council.

Even if a decision were made soon, the draft Directive would take some months before the proposal successfully made its way through the EU decision-making machinery, now that it is subject to the more complex co-decision procedure.

All parties involved must feel some regret that the sectoral social partners failed to negotiate an agreement on this issue in 1998, thereby obviating the need for this more complicated legislative process. (Neil Bentley, IRS).

EU9910203F (Related records: EU9909193N, EU9809127F, EU9707138N, EU9804102N, EU9802182F, EU9809127F, EU9901144F, EU9906178F)

22 October 1999

Social dialogue takes shape in hairdressing sector

A European-level sectoral social dialogue in hairdressing got underway in September 1998. Since its inception, the social partners have carried out joint actions on vocational training and have initiated joint studies to gain a better understanding of the profile of the sector across the EU. Overall, the hairdressing dialogue had a very active first year.

A recent study by the Dutch consultants EIM (based on data provided by the social partner organisations) found that there are currently over 1 million people working in the European hairdressing sector, in over 155,000 salons. The nature of companies in the sector varies significantly, ranging from large high-street chains to small - often family-run - undertakings operated from private homes. The study found that European citizens visit hairdressers approximately eight or nine times per year, with some significant differences between countries, not only in the number of visits, but also in the average amount spent per visit. The share of part-time employment in this sector is relatively high and a number of countries have high levels of staff turnover. Trade unions are particularly concerned about low wages in the sector, while employers are more likely to raise the issue of high labour costs as a result of wage and tax burdens.

The social partners and the dialogue

Employees in the hairdressing (and beauty care) sector are represented at European level by the European Regional Organisation of the International Federation of Commercial, Clerical, Professional and Technical Employees (Euro-FIET). The Confédération Européenne des Organisations Patronales de la Coiffure, formed in 1998 by the European member organisations of the International Confederation of Hairdressing (Confédération Internationale de la Coiffure, CIC), looks after the interests of employers' organisations in the hairdressing sector.

The social dialogue in hairdressing is one of the youngest of Europe's sectoral dialogues, having been established in September 1998. Areas of common concern identified at the outset were:

- competition facing the sector from undeclared labour;
- training;
- health and safety; and

- the impact of value-added tax (VAT) on employment

When the dialogue was first established it was rapidly realised that little information was available about the current position of the hairdressing sector in the EU. A study was therefore commissioned from EIM to gather basic background information on: the number of undertakings and employees in the sector; the nature of businesses; the impact of tax and social regulations on businesses; working conditions and collective bargaining. Based on this report, further issues for the social dialogue were to be identified.

As mentioned above, the draft report produced by EIM estimates that there are over 155,000 hairdressers' salons in the EU, a number of which are part of larger chains of salons. Three countries are identified as having a particularly high density of hairdressing establishments: Belgium, Finland and Italy. The nature of salons is also found to vary, with Austria, Germany, Denmark and Switzerland having a high share of unisex salons, while France, Italy and Luxembourg still have a high share of separate women's salons. The majority of salons operate from dedicated premises, though a number still operate from private residences. In recent years, there has also been an increase in so-called "mobile hairdressers" working solely in clients' homes. The study (which was due to be finalised in November 1999) reports an average turnover per salon of EUR 60,000-EUR 70,000 per year. While the report indicates few differences in the frequency of visits to hairdressers between men and women, this frequency varies significantly from country to country, as does the amount of money spent per visit.

The EIM study indicates that in the majority of countries, employees in the sector are covered by collective agreements. In terms of the regulations of working conditions, there are significant differences from country to country, with the highest level of regulation indicated in Sweden, France and Italy.

While this study is being finalised, the social partners have initiated a new project on new trends in the hairdressing sector and their impact on training and employment. This study is to assess product-related trends and the extent to which these are reflected in training.

Vocational training is also at the heart of a number of projects in the sector funded under the EU's LEONARDO

programme. The first project aimed to establish basic training standards in the sector, while the second is concerned with their validation. In addition, it is also intended to initiate an exchange programme of trainees in the sector, which was discussed at the most recent plenary meeting of the social partners in the sector on 17 September 1999.

The social partners have expressed satisfaction at the inclusion of the hairdressing sector in the list of services which will be eligible for the application of reduced VAT rates under a new EU Directive. The Directive allows Member States the option of applying a reduced rate of VAT on certain labour-intensive services for an experimental period of three years, with the aim of exploiting the potential for job creation in businesses offering local services (which is seen as substantial) and to assist in reintegrating some businesses which have drifted into the "informal" economy.

As well as hairdressing, the list of services covered includes the provision of small repair services, renovation and repair of private dwellings, domestic cleaning and care services. It will be up to individual countries to decide whether to take up the option to reduce VAT on these services.

Hairdressing employers in particular have emphasised the findings of a study carried out in the Netherlands, which indicate that an additional 1,500-2,000 full-time equivalent jobs could be created in the sector as a result of a reduction of VAT, while at the same time reducing the scope of the clandestine economy in the sector.

Commentary

The sectoral social dialogue in the hairdressing sector, albeit still in its infancy, has already made some significant strides in terms of joint action in areas of common concern. Joint studies have helped, and are continuing to help, to establish the baseline position of a sector undergoing some significant change. It is hoped by the social partners that their active participation in the process will ensure that this change is accompanied by supporting policies and training to boost employment opportunities and the career potential of the sector. (Tina Weber, ECOTEC Research and Consulting)

EU9909188F (Related record: EU9909194N)

24 September 1999

ÖGB holds 14th federal congress

In October 1999, the Austrian Trade Union Federation (öGB) held its 14th federal congress, under the slogan of "security in the process of change". Debates centred on the challenge of developing alternatives to the deregulation of working conditions. ÖGB's core policy demands are a 35-hour working week and the harmonisation of the legal status of blue- and white-collar workers.

Once every four years, the Austrian Trade Union Federation (Österreichischer Gewerkschaftsbund, ÖGB) holds its federal congress, at which new policy directions are formally agreed and the steering committee is elected. The 14th federal congress was held on 12-15 October 1999, attended by 600 delegates, under the slogan of "security in the process of change" (Sicherheit im Wandel)

Debate on principles

The ÖGB congress was largely devoted to developing alternative policy ideas to counter demands for the deregulation of work which have been raised in the light of economic internationalisation. The ambivalent nature of job creation through deregulation was stressed by the invited speakers, the former USA secretary of labour, Robert B Reich, and the general secretary of the International Confederation of Free Trade Unions (ICFTU), Bill Jordan. While the former advocated a combination of US-type deregulated business law with increased flexibility of labour and European-type social security provisions, the latter demanded world-wide minimum conditions as a precondition for maintaining European standards of labour protection. In this regard, ÖGB president Fritz Verzetnitsch demanded in his main speech the creation of European social norms and collective bargaining institutions in order to prevent "social dumping". This was also emphasised as a necessary precondition for a further enlargement of the European Union. Further, Mr Verzetnitsch regarded transnational coordination of collective bargaining as the road to maintaining European labour standards. At national level, it was also stated that an increasingly important task of ÖGB in the future is to develop regulation for those working in new forms of dependent employment. Since these categories of workers do not fit into the classical definitions of employees, and cannot easily be orga-

nised by ÖGB, they lack representative organisations capable of defending their interests.

Policy demands

At the policy level, six issues have been set as primary aims on ÖGB's agenda for the coming years:

- the harmonisation of the employment rights of blue- and white-collar workers, though the Aktion Fairness campaign;
- the reduction of working time to 35 hours per week via collective agreements. In order to facilitate a compromise between employer demands for working time flexibility and employee needs for protection against the abuse of flexibility, ÖGB proposes to reduce both standard working time and overtime work. The ensuing reduction in income has to be compensated by increases in basic wages and salaries;
- an amendment of the labour law covering new forms of work. Since it believes that an increasing share of employment is no longer established as a standard employment contract, in order to escape labour regulations, ÖGB demands a redefinition of the concept of employment and an extension of security provisions to new, "atypical" forms of work;
- a severance payment by the employer in the event of employees terminating their own employment. In order to increase inter-firm worker mobility, ÖGB demands an extension of severance payment regulations to employees who resign their job themselves. Currently, such payments are due only in the event of dismissal by the employer, and if the employee has been employed at the same firm for more than three years;
- a reform of vocational training. In order to distribute the costs of vocational training equally among firms, regardless of whether they are engaged in training, ÖGB calls for a new fund to be sponsored by the employers. In addition, life-long learning opportunities must be improved; and
- a minimum monthly wage of EUR 1,000.

Internal organisation

Fritz Verzetnitsch was re-elected as president for a third period in office, as were the vice-presidents Johann Driemer, Fritz Neugebauer, Rudolf Nürnberger, Hans Sallmutter, and Günter Weninger. Renate Csörgits took over the vice-presidency formerly held by Irmgard

Schmidleithner.

At 31 December 1998, ÖGB membership stood at 1,480,000, with women making up a greater proportion of members than before and - after a period of decline - membership among young people increasing. In view of stagnating overall membership numbers and dues, ÖGB intends to improve the quality and efficiency of membership services in order to attract members, for example by improving insurance benefits. Most notable with regard to organisational issues is the ongoing debate about the structural reform of ÖGB, which envisages closer cooperation and mergers of affiliates with overlapping or neighbouring constituencies.

Commentary

The 14th ÖGB congress took place during a period in which organisations representing employees are increasingly on the defensive. Employers, government representatives and public opinion have put pressure on the unions to accept a deregulation of working conditions intended to improve the attractiveness of Austria for business. Increasing heterogeneity of employment conditions and of member interests, and the declining propensity of employees to unionise make it both more difficult and more urgent for the unions to develop successful political strategies. The extension of member services by the regional Chambers of Labour (Kammern für Arbeiter und Angestellte, AK) has curtailed the ÖGB's ability to recruit members through the provision of services. Similar problems have emerged in relation to works councils.

A fundamental reorganisation of ÖGB's current 14 affiliates into three "pillars" (production, private services, and public services), as initially discussed in the "ÖGB 2000" organisational committee which was set up at the 13th federal congress in 1995, seems to be off the agenda at present. Instead, the affiliated unions are attempting to improve policy coordination by joining forces over specific issues.

The primary aims defined for the coming years basically repeat those which had been set at the 13th federal congress. This reflects the difficulty of realising union goals in an economic and political context unfavourable to labour. All the demands, in particular the reduction of working time and the harmonisation of labour law for white- and blue-collar employees, face strong employer resistance. (Bernhard Kittel, University of Vienna)

AT9911205F (Related records: AT9906153N, AT9812115F, AT9811109F, AT9907158N, AT9806192F)

19 November 1999

Strike at Carnoy highlights issue of protected employees

A recent bitter strike at the Belgian metal pipe manufacturer Carnoy highlighted the issue of employment protection for shop stewards and the right to strike.

In early August 1999, a shop steward for the Belgian General Federation of Labour (FGTB/ABVV) was made redundant by Carnoy, a manufacturer of metal pipes based near Ghent, for "pressing reasons". Workers promptly launched strike action, with official recognition by the three trade unions represented at the company. The administrative staff did not participate in the strike.

According to management, the shop steward in question was dismissed because he "had taken too many holidays". According to the unions, this constitutes a weak basis for using the procedure of "dismissal for pressing reasons", particularly relating to a shop steward, who is a statutorily protected employee. By law, shop stewards can be dismissed only for reasons unrelated to the performance of their mandate. Failure to comply with the specific legal procedure established for the purpose renders the dismissal null and void. Because the company omitted the procedure, the unions demanded the reinstatement of the sacked shop steward, but this was refused. The conflict consequently escalated into a dispute of principle.

Both sides were intransigent, not only because of the facts of matter but also because of the background: embittered industrial relations in a company recently taken over by the Dutch-owned KOOP, whose management, unions allege, wants to erode Carnoy's strong trade union tradition. Furthermore, the unions assume that a far-reaching company reorganisation is on the cards, since a number of employees have suddenly been made redundant, giving the unions further reason to try to retain their power.

Two "legal blunders"

When the dismissal of the shop steward for "pressing reasons" took place, Carnoy management reportedly made a legal error regarding the length of notice and terms of appeal. The employee in question was a member of the health and safety committee, as well as an acting delegate to the works council and a shop steward. Shop stewards enjoy statutorily protected employment, to ensure that they cannot be dismissed for their trade union activities. When an employer wishes nevertheless to dismiss

a statutorily protected employee for "pressing reasons", it must notify the organisation that nominated the employee by recorded delivery within a given period. Furthermore, the employer should refer the case to the chair of the industrial tribunal within the same period of time. The pressing reasons should not be in any way connected to the employee's performance of activities related to the union mandate. These rules are laid down under penalty of the dismissal being declared null and void. However, in this case the employer apparently ignored the procedures and also refused to reinstate the employee.

Tough conflict

The Carnoy dispute was a tough one. The unions sealed off the company building, preventing access by administrative staff trying to work. The employer hired a helicopter to bring in those willing to work, provoking such an angry reaction from the pickets that the helicopter agency concerned refused to cooperate after two flights. The atmosphere deteriorated even further when a bailiff was sent in, accompanied by police, to serve a unilateral summons from the justices' chief executive of the magistrates' court (instead of the industrial tribunal) for damages of BEF 200,000 (EUR 4,960) per employee who obstructed traffic to and from the company building. The workers immediately appealed, because their case had not been heard in this unilateral summons procedure. The judge then annulled the summons and rejected the employer's demands after deciding that the "absolute need" (of access) claimed by the company did not correspond with reality. For the unions, this victory was important, particularly because it meant that a civil court upheld the right to use pickets in this case.

Error nearly threatens referendum

The conflict did not die down after the joint committee for the metalworking sector issued advice on dismissals for pressing reasons, because the company still refused to take the employee concerned back into employment. A negotiator appointed by the Minister for Employment drafted a compromise, which was rather weak in the unions' view. It stipulated that the sacked shop steward should not be reinstated, and that the employees should agree to negotiate on the company's reorganisation, including pay decreases and job losses. At this point, it was not clear whether there would be any outright

redundancies. In order to restore social peace, the existing collective agreement should be extended until the end of 1999, according to the compromise. No reprisals should be taken against workers who participated in the strike.

The employees were to vote on the proposal via a postal ballot. However, a mistake in procedure was made - the proposal and ballot papers were not sent out by registered mail, and a number of employees did not receive them, hence requiring the procedure to be repeated.

On Friday 17 September, the results of the referendum were announced. Under trade union rules, a majority of two-thirds against the proposal was required to continue the strike. Some 58% voted in favour of the agreement; a majority which was large enough to prevent the strike from continuing, but did not constitute resounding support for the proposal. The tensions at Carnoy are set to continue. In fact, on Monday 20 September, many workers refused to return to work.

Commentary

This conflict has arguably created another dangerous precedent through non-compliance with compulsory regulations regarding the dismissal of trade union delegates. The difficulty lies in the inability to force employers to reinstate employees, even when the industrial tribunal has ruled against the employer. The status of protected employment enjoyed by trade union delegates consequently seems of little practical merit.

The intervention by civil courts in collective industrial conflicts (when industrial tribunals are powerless) has also traditionally been resented by trade unions. The procedure of a unilateral summons is particularly unpopular: in emergencies, the employer can ask the justices' chief executive of the magistrates' court for urgent measures as long as it can demonstrate that its interests are being harmed. In view of the urgency involved, the defendant's case is not heard, and measures are implemented regardless of any appeal by the unions. The employers often demand payment of damages, crippling strike action as a result.

On account of the civil judge withdrawing the two summonses after the unions launched their appeal, the right to use pickets was upheld on this occasion. (Ph De Baets, Steunpunt WAV)

BE9909280F

24 September 1999

LO and DA agree stronger coordinating role in bargaining rounds

In September 1999, Denmark's LO trade union confederation and DA employers' confederation concluded a framework agreement on bargaining procedure, the so-called "climate agreement". The aim is to help avoid a repetition of the major industrial dispute in spring 1998 when agreements are renegotiated in 2000. The agreement gives DA and LO a stronger coordinating role, but still leaves their member organisations to negotiate the collective agreements.

On 14 September 1999, Denmark's largest employers' organisation and trade union confederation - the Danish Employers' Confederation (Dansk Arbejdsgiverforening, DA) and the Danish Confederation of Trade Unions (Landsorganisationen i Danmark, LO) respectively - concluded an "agreement on the framework for the arrangement of decentralised collective bargaining rounds". The agreement will control forthcoming bargaining rounds in the area of the private sector covered by DA and LO. The next negotiations on the renewal of collective agreements start at the end of 1999, and must be completed, at the latest, by 1 March 2000 when the current agreements expire. The intention of LO and DA's new so-called "climate agreement" (klima-af-tale) is to create a framework which can, to the greatest possible extent, help prevent a repetition of the major industrial dispute which broke out in spring 1998, when their member organisations last negotiated agreements (EIRObserver 4/98 p.3).

The new framework agreement contains a number of tangible changes to the "rules of the game", aimed at preventing a repeat of the spring 1998 strikes. DA and LO are given a stronger coordinating role while, more broadly, their political influence is increased through the strengthening of tripartite institutions (see box on p.8).

Coordinating role for confederations

The agreement does not propose a change to the current form of bargaining, whereby it is the confederations' member organisations or bargaining cartels which negotiate and conclude agreements at sector level. It does not constitute a return to the period before 1980 when the confederations bargained over general demands and thus

controlled the entire course of bargaining, on behalf of their member organisations. On the contrary, it is emphasised that LO and DA must only carry out effective coordination of the course of negotiations from beginning to end. It is important that this increased coordination is endorsed beforehand by the confederations' major member organisations, not least the Confederation of Danish Industries (Dansk Industri, DI) within DA and the Union of Danish Metalworkers (Dansk Metal) and the General Workers' Union (Specialarbejderforbundet i Danmark, SiD) within LO. The tendency in the 1990s has been that member organisations have not allowed such coordination, fearing that the confederations might again become stronger. In bargaining rounds during the 1990s, coordination has thus been weak, which on the employers' side has resulted in internal disruption. This disruption has since 1995 meant an end to synchronised negotiations for the entire DA/LO area: instead of negotiations for practically the entire private sector taking place every other year, negotiations have occurred in different sectors every year. According to the parties' own estimates, this has caused a "lever effect" which has pushed the level of employee expectations up and contributed to the deadlock in 1998 when the DA/LO bargaining area was due to be united again.

Now the member organisations have admitted that without coordination at the confederation level, there is no hope of satisfactory progress. However, it is emphasised in the agreement that its aim is to secure "genuine negotiations in all sectors during decentralised collective bargaining rounds", whereby it is member organisations and not LO or DA which play the main part in bargaining. Nevertheless, the widespread belief that the confederations might abandon any role in bargaining rounds has apparently, at least for now, been confounded. This strengthens the anticipation that the decentralisation of the Danish bargaining system will still take the form of "organised" or "centralised" decentralisation.

Changed framework

The "climate agreement" will initially apply only to the 2000 bargaining round and can thus be seen as a pilot project which will be evaluated after the spring 2000 negotiations. There have also been a number of changes in the framework conditions for collective bargaining, aimed at creating space for a more

coordinated and peaceful bargaining round.

Coordination among the confederations will begin before bargaining rounds start, with attempts jointly to create a realistic level of expectations of the outcomes of bargaining. This will occur, in cooperation with the government, in a "tripartite forum" which was established in August 1998 (see box). A tripartite statistics committee attached to the forum has a substantial role in this process.

The parties aim to resolve bargaining rounds before current agreements expire on 1 March, in order to avoid the current situation whereby there is a concentrated and hectic phase of activity during March, when the Official Conciliator service postpones disputes which have been announced by the bargaining parties in cases where new agreements have not been reached before the expiry of the old ones. Consequently, bargaining will start during November and December of the previous year, rather earlier than is currently the case. This earlier start will be supported by ongoing communication between DA and LO.

The "climate agreement" also seeks to change the current situation whereby notice of a dispute is issued almost automatically, first two weeks and then one week before the expiry of the existing agreement on 1 March. Giving notice adds to the "drama" of bargaining and can increase pressure, forcing the bargaining parties to show their hands, but it can also increase the risk of a dispute. In order to avoid this, DA and LO will in future meet immediately after the first notice of a dispute is issued and evaluate possible means of avoiding the issuing of the second notice.

More time to prevent disputes

If, despite the abovementioned new precautions, bargaining ends with the prospect of a dispute - ie if the negotiations break down, the period of postponement ordered by the Official Conciliator expires, or a mediation proposal is rejected by the bargaining parties' members - DA and LO attempt in the "climate agreement" to improve the possibility of finding a last-minute solution. Currently, an industrial dispute may start three days after bargaining ends, but in future this period of grace will be extended to five days. This should increase the chance of negotiating a solution but without introducing a second round of bargaining. If there were a second round, there would be a chance that, for example, trade union members might perceive a "no" vote to a mediation proposal as relatively "cost-free" and as involving no real threat of a dispute, because negotiations would simply restart.

This new "five-day rule" requires an amendment to the Official Conciliation Act, and the Minister of Labour, Ove Hygum, stated immediately after the new framework agreement was concluded that the government was ready to make such an amendment. This is in accordance with the "Danish model", whereby labour law changes result from consensus between the social partners.

The "climate agreement" also clarifies that a dispute must be suspended if the parties reach a settlement within the five-day period which can be put to the vote. In such cases, a dispute can commence only in the event that the new proposed agreement is rejected by members.

Joint information

In their new agreement, DA and LO state that the presentation of a bargaining result is of great significance to its reception by the signatory organisations' members. It is thus important that the parties to an agreement agree how the deal's central elements are to be presented - thereby, it is hoped, avoiding confused signals about how its contents should be interpreted. This provision is a clear reference to the course of events in spring 1998 when the parties to the industry sector agreement gave very different interpretations of what the total costs were. DI presented the result as very cheap for the employers and, according to some observers, this might perhaps have influenced the deal's negative reception among union members.

Finally, the confederations emphasise that membership ballots over agreements and mediation proposals must be conducted with a high level of control, and only those affected by the agreement or proposal should participate in the ballot. This also refers to the dispute in 1998, when it became apparent that the ballots were not in all cases conducted correctly.

Commentary

By the beginning of October 1999, it appeared that the new LO/DA framework agreement - and especially the idea of bringing forward the start of negotiations - will probably have a concrete effect. The main bargaining parties in retail, Danish Commerce and Service (Dansk Handel & Service) and the trade section of the Union of Commercial and Clerical Employees (Handels- og Kontorfunktionærernes Forbund/Handel, HK/Handel), have already made the first contacts and have agreed to attempt to reach agreement before the end of the year. This puts pressure on the traditionally dominant bargaining parties, DI and the Central Federation of Industrial Employees (CO-Industri) union cartel.

Internally, the framework agreement means that the employers must swiftly clarify their bargaining strategy. Are all sectors to act freely? Or should a front-runner be designated, with other sectors awaiting the outcome of this sector's bargaining, as in 1998? In 1998, it was DI which played this role, but was not able to deliver the goods. It appears to be against the spirit of the "climate

agreement" that DA should decide to repeat its 1998 strategy. If it does, a faster and more efficient bargaining round is required in the industry sector, with DI and CO-Industri concluding a new agreement relatively early (Carsten Jørgensen, FAOS).

DK9910150F (Related records: DK9908148N, DK9805168F, DK9809177F, DK9804163F)

22 October 1999

DA and LO seek to increase influence

Besides increasing the coordination of collective bargaining rounds, the so-called "climate-agreement" also provides the DA and LO with the opportunity to strengthen their political influence. The two confederations, together with the government, will determine the overall socio-economic framework for bargaining rounds. Importantly, these tripartite talks will give DA and LO an opportunity to draw up a broader platform on political issues. Consequently, the new "climate agreement" may prove to have historic significance.

In recent years, the political influence of the social partners has declined, being excluded from decision-making on, for example, reform of labour market policy. When the 1998 private sector collective bargaining round collapsed and ended in a major dispute, DA and LO found themselves with a prominent role again, when they had to "clean up" after their member organisations and attempt to draw up a new settlement. The attempt failed but the process greatly improved contacts between the confederations. This was one of the factors which made it possible for them to attempt to revive their political role in the late summer of 1998.

In August 1998, on the suggestion of the government, a new "tripartite forum" with a statistics committee attached was created, aimed at playing a role in future bargaining rounds and in the political process. The committee's first major assignment was to consider a new reform of labour market policy, and it was a major surprise when the social partners succeeded in agreeing the contents of the reform, which was subsequently

converted unchanged into legislation. This success was, however, followed by the exclusion of the partners from government decision-making on a reform of the early retirement scheme.

With the "climate agreement", DA and LO have given themselves a new opportunity to recreate their political influence. The first big question on which the parties' commitment will be tested is the negotiation of an adult education and supplementary training reform. The organisations fear that the government intends to postpone a more extensive reform, and do no more than impose a larger part of training expenses on employees and enterprises, in connection with the 2000 Budget negotiations. If such a development is to be avoided, it is necessary for the organisations themselves to agree on the contents of the reform, but this means resolving their own disagreements concerning future financing. At the end of September 1999, it proved that the parties could agree on a number of principles for the contents of a future reform. This joint solution involved not just LO and DA but also seven other important trade union and employers' organisations. However, in the first round of talks, the organisations could not agree on principles for financing training and education. Without such an agreement, it must be expected that the government and political parties will conclude that the social partners are not able to come up with a real result. This issue is thus a decisive test for the efforts of LO and DA to re-establish their political influence.

DK9910151F

22 October 1999

National Assembly passes 35-hour week bill

In October 1999, the bill on France's second law on the 35-hour working week was passed on its first reading by the National Assembly.

After much debate between the government and social partners and lengthy discussions within the governing left-wing coalition, the bill on the second law on the 35-hour working week, presented by Martine Aubry, the Minister for Employment and Solidarity, was passed on its first reading in the National Assembly on 19 October 1999. The compromise text is unlikely to be amended on its second reading, and should come into force before the end of 1999. The first law on the 35-hour week, adopted in June 1998 (EIRObserver 4/98 p.4), encouraged the social partners to negotiate on this issue at company and sector level. The second law, summarised below, sets out detailed provisions on the new working time regime.

Statutory working week

Statutory working time will be set at 35 hours per week, and will come into effect:

- on 1 January 2000 in companies employing more than 20 people; and
- on 1 January 2002 in companies with 20 employees or fewer.

Overtime

A 12-month interim scheme will be put in place for the calculation and payment of overtime. Between 1 January and 31 December 2000 (2002 for companies employing 20 people or fewer), the first four hours of overtime worked per week (ie the 36th to the 39th hour) will be subject to a special scheme. If an agreement on the 35-hour week has been signed in a company, employees will be paid at a rate 10% higher than normal for these hours. In companies with no agreement, the 10% premium will be paid into an "employment fund". During this transitional period, existing provision for overtime worked in excess of four hours per week (ie beyond the 39th hour) will be maintained - employees continue to receive a 25% premium. After the 12-month period, overtime will attract a 25% premium from the 36th hour in the week and a 50% premium from the 43rd hour.

Actual time worked

The "Mickey Mouse" amendment (so-called because the issue was raised by Eurodisney employees), includes the time

taken to put on and take off clothing (if special clothes are necessary for the job) as part of "actual time worked". Breaks and meal times are considered as actual time worked if the employee "is at the employer's disposal".

Variations in working time

There are currently three possible forms of varying the pattern of time worked around an average. The new legislation simplifies this by laying down a single form of variation, which must be established by a company or sectoral agreement extended by the Minister. The system allows the organisation of working time over all of part of the year, subject to a working week not exceeding an average of 35 hours over the 12-month period, and in any case conditional on an annual maximum of 1,600 hours - the equivalent of an average 35-hour week, allowing for weekly rest periods, five weeks' paid holidays and public holidays. Forms of variation of working time for individual employees can also be implemented.

Reduction in social security contributions

Companies which introduce the 35-hour week will be granted a reduction in the social security contributions they have to pay on low-waged jobs, subject to an agreement with the authorities. This will vary from FRF 21,500 (EUR 3,280) per year for each employee paid the SMIC national minimum wage down to FRF 4,000 (EUR 610) for employees paid 1.8 times the SMIC and over.

Managerial and professional staff

The bill divides managerial and professional staff into three categories:

- senior management, who are exempt from the regulations;
- managerial and professional staff working within teams, to whom the 35-hour week legislation will apply; and
- other managerial and professional staff, who may be covered - subject to a company agreement - by "flat-rate" schemes in which the time they work is calculated over a 12-month period, either in terms of hours or day. If the calculation is done on the basis of days, the maximum number worked per year cannot exceed 217.

SMIC minimum wage

The remuneration for employees paid the SMIC will not be changed after the bill becomes law. To avoid a situation

whereby those on the minimum wage would lose out by being paid 35 times the hourly rate of the SMIC, the second law will provide that companies pay a "salary top-up". This will guarantee that "SMIC recipients" working a 35-hour week will be paid as much as they are for a 39-hour week currently. The state subsidies in the form of reduced social security contributions are aimed particularly at enabling companies to compensate for this extra expense.

Part-time work

No new part-time contract signed from January 2001 onwards will be eligible for the 30% reduction in employers' social security contributions currently in force.

Social plans

The so-called "Michelin amendment" to the bill provides that a social plan accompanying redundancies cannot be drawn up if the employer has not reached an agreement on the 35-hour week or has not "seriously and genuinely entered negotiations" on this issue.

Conditions for signing an agreement

Agreements reducing working time are to be given increased legitimacy:

- in companies with at least 50 employees, in order to qualify for employers' social security reductions, the working time reduction must result from a company agreement signed by trade unions which together obtained a majority in the latest workforce elections, or one approved by the majority of the staff, or (in companies with no union delegates) from an agreement signed by an employee "mandated" by a union and approved by the majority of employees;
- in firms employing fewer than 50 people, the working time reduction can also be the result of the direct application of a sectoral agreement extended by the Minister, or of an inter-company agreement, or of an agreement signed by workforce delegates (if there are no union delegates or mandated employee), approved by the majority of employees and validated by a joint committee; and
- in companies with fewer than 11 employees, the working time reduction can also result (if there is no sectoral agreement or mandated employee) from a document drafted by the employer, setting out the ways in which the reduction will be implemented, which is then approved by a majority of staff.

FR9910197N (Related records: FR9806113F, FR9906190F, FR9909104F, FR9807123F)

22 October 1999

Dispute over extension of collective agreements in building industry

The German Federal Ministry of Labour and Social Affairs had issued a directive which declares new collectively agreed minimum wages for construction workers to be "generally binding" - ie applying also to non-organised and to foreign employees and employers in the industry. The BDA employers' confederation regards this move as unconstitutional, because it circumvents the traditional legal procedure for the extension of collective agreements.

In Germany, collective agreements are directly binding only for the members of the trade union and the members of the employers' association (or the individual company) signing the agreement. By means of an official procedure called an "order imposing extension" (Allgemeinverbindlicherklärung), however, the applicability of an existing collective agreement can be extended to include employees and employers not bound by the agreement. Such a generally applicable agreement then has the same direct and mandatory force for these employees and employers as it has for the employment relationships already bound by the agreement by virtue of membership of a signatory organisation. The rationale behind this incorporation of non-union members and non-organised employers is that otherwise there could be a situation where many employees were not covered by any collective agreement, especially in sectors such as the building industry or retail trade which have a large number of small enterprises whose owners are not members of any association.

According to 5 of the Collective Agreements Act (Tarifvertragsgesetz), the Minister of Labour and Social Affairs may issue an order imposing extension only if several preconditions are met:

- the trade union or the employers' association signing the agreement, or both, must have applied for such an order;
- the employers bound by the collective agreement in question must together employ at least 50% of all employees working within the occupational and geographical area covered by the agreement;
- the procedure must be deemed to be "in the public interest"; and
- a committee consisting of three trade union and three employers' representatives (from other industries)

must have approved the application by a majority of at least four votes.

According to the Federal Ministry of Labour and Social Affairs, of the more than 30,000 association-level agreements in force in 1998, only 588 were made generally applicable by extension. The largest number of extensions - 202 cases - were found in the building industry, followed by the retail trade (72 cases). Most of the agreements extended were framework agreements on working conditions, and only 89 extensions referred to pay agreements. Of the 588 agreements extended, 163 covered eastern Germany.

Extension of minimum wages in construction

In order to limit low-wage competition and to secure employment of German workers, the Posted Workers Act (Arbeitnehmer-Entsendegesetz) of 1996 stipulates that the norms of extended collective agreements in the building industry also apply to foreign employers and employees doing construction work in Germany. An important collective agreement concluded and extended in 1997 set minimum wages for construction workers at DEM 16.00 (EUR 8.18) per hour in western Germany and DEM 15.14 (EUR 7.74) per hour in eastern Germany. In April 1999, the collective bargaining parties in the building industry - the construction workers' union IG Bauen-Agrar-Umwelt (IG BAU) and the two employers' associations, Hauptverband der Deutschen Bauindustrie (HDB) and Zentralverband des Deutschen Baugewerbes (ZDB) - agreed to raise these hourly minimum rates to DEM 18.50 (EUR 9.46) in western Germany and DEM 16.28 (EUR 8.32) in eastern Germany from 1 September 1999.

This move provoked substantial opposition from employers in other industries. They criticised what they saw as the excessive increase in wages, which meant that the new hourly minimum wage of DEM 18.50 in the western German building industry would be much higher than, for instance, that in metalworking (DEM 17.20 - EUR 8.79) or in the textile industry (DEM 15.04 - EUR 7.69). This, it was claimed, could hardly be in the public interest. The Confederation of German Employers' Associations (Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA) and the three employer representatives on the committee dealing with orders imposing extensions made it clear that they would not approve an application for extension of the construction wage agreements.

As a consequence, the Federal Ministry of Labour and Social Affairs decided to make use of a new provision introduced by the Posted Workers Act in December 1998. This states that, instead of issuing an order imposing extension, the Ministry may also declare wages and working conditions to be generally binding by a ministerial directive. Following an application by IG BAU, the Ministry issued such a directive in August 1999, stipulating that the collectively agreed minimum wages would be extended to cover all construction workers in Germany with effect from 1 September 1999.

BDA, however, has criticised this move as unconstitutional on the grounds that it circumvents the traditional legal procedure for extensions of collective agreements, violates freedom of association and does not give adequate room for legal objections and parliamentary control. Although several legal experts have also been quite critical of this procedure, the Ministry regards its directive as constitutional and as legally binding.

Commentary

From an economic point of view, an order imposing extension can be interpreted as an instrument for eliminating labour market competition. Therefore most economists, including the Council of Economic Experts (Sachverständigenrat), have for years demanded restraint in issuing such orders. In particular, they have criticised the Posted Workers Act and the extension of the relatively high minimum wages in the building industry as being protectionist measures.

In contrast to this view and in order to circumvent opposition from the employers' side, however, the Federal Ministry of Labour and Social Affairs has decided to make use of a new procedure for extending collective agreements in the building industry. As this procedure does not take account of the legal prerequisites laid down in the Collective Agreements Act, it remains to be seen whether it is constitutional. Since the increased minimum wages cannot be expected to have positive employment effects, but may well push up construction prices and stimulate "moonlighting", their extension should arguably be revoked. (Claus Schnabel, IW Köln)

DE9909117F (Related records: DE9702202F, DE9905109N, TN9909201S)

24 September 1999

Bill on 35-hour week rejected

The 35-hour working week has occupied a prominent and controversial place on the Greek industrial relations agenda in 1999. A bill on the issue was discussed in parliament in September, though without being adopted.

On 7 and 9 September 1999, the parliamentary standing committee for social affairs discussed and rejected a private member's bill introduced by the Coalition of the Left and Progress regarding "introduction of the 35-hour working week and other provisions". This issue is currently topical in Greece, with controversial discussions underway in the national social dialogue process and collective agreements at sectoral (EIRObserver 4/99 p.5) and company (EIRObserver 6/98 p.11) level starting to deal with the matter.

Basic principles of the bill

The preamble to the bill links the introduction of the 35-hour working week without loss of pay to the prospect that it will help to address unemployment, boost employment and increase workers' free time. It invokes the experiences of other European countries which are reducing working time and general international trends and developments, together with the fact that Greece is among the EU countries where actual working time is longest (averaging 40.8 hours per week) and economic competitiveness is lowest. The latter element also constitutes an argument against the contrary view which maintains that a 35-hour week would increase labour costs and worsen Greece's competitive position. This is because low Greek national competitiveness already coexists with low labour costs (17% of total production costs, compared with 30%-37% in the rest of the EU). The subsequent rise in labour costs by 1%-2% could, it is argued, be offset by increasing productivity through technological and organisational restructuring. The preamble is based on a study by the Institute of Labour (INE) of the Greek General Confederation of Labour (GSEE) on implementation of the 35-hour week, according to which its immediate introduction would create 130,000 new jobs and save 50,000 jobs at risk.

The bill states that implementation of the 35-hour week should apply immediately to capital-intensive and profit-intensive enterprises. For the rest, primarily small and medium-sized enterprises, there should be a transitional stage during which incentives are introduced. The bill considers it necessary to promote the 35-hour week through legislation, following the employers' continued refusal, despite their participation in relevant social dialogue com-

mittees, to accept such a measure at national or sectoral level.

The basic principles of the bill are: generalised implementation of the 35-hour week in the near future; maintenance of workers' pay; abolition of overtime; drastic reduction of hours worked exceeding maximum working hours, and pay increases for such hours; prevention of parallel introduction of "labour flexibility" (eg part-time work and working time reorganisation) designed to absorb the reduction in working time; and combination of the measure with a policy for growth (aiming at 3.5% GDP growth) and productivity increases, through technological and organisational modernisation.

Specific proposals

The bill proposes:

- implementation of the 35-hour week without loss of pay, in the form of a five-day week and a seven-hour day;
- implementation of this measure from 1 January 2000 in public utilities and services, banks, public administration and capital- and technology-intensive companies in the private sector;
- implementation from 1 January 2001 for private labour-intensive enterprises employing over 10 people;
- implementation from 1 January 2002 for private labour-intensive companies employing under 10 people;
- approximation between statutory and contractual working hours, leading to abolition of overtime - ie working time in between statutory and contractual weekly working hours (40-45 hours or 48 hours);
- the most favourable regulation for workers through collective agreements;
- the ability to regulate the 35-hour week through collective agreements for enterprises working round the clock, the aim being to reorganise working time in shifts and not through collective working time arrangements;
- introduction of a 50% pay premium (instead of the current 25%) for the first 60 hours of overtime exceeding maximum working hours worked annually, 175% (instead of 50%) for 60-120 hours of such overtime, 200% (instead of 75%) for over 120 hours, and 250% (instead of 100%) in cases where such overtime is unlawful;
- reduction by 50% of total statutory overtime exceeding maximum working hours, beginning on 1 February 2000;
- determination by ministerial decision of the amount and form of incentives to

implement the 35-hour week. Incentives should apply only to enterprises where implementation of the measure begins on 1 February 2001, on the condition that 12% or 15% reductions in working time will increase employment by at least 6% or 9% respectively. These incentives would be in the form of tax relief and assistance in rationalisation and modernisation to increase enterprises' productivity; and

- limits on the use of temporary and part-time employment in enterprises, setting a maximum limit of 10% of the workforce for such forms of employment, a minimum working week of 20 hours for part-timers and a premium of 25% on part-timers' hourly pay.

Positions of the political parties

During the parliamentary discussion, only deputies from the Coalition of the Left and Progress voted in favour of the bill. Although the ruling socialist PASOK party and the main opposition party, the conservative Nea Dimokratia, agreed with the principle, they voted against the bill for the following reasons:

- promotion of the 35-hour week should be the subject of dialogue between employers and unions, and not the subject of legislation;
- generalised implementation of the measure will have negative consequences for the competitiveness of the economy, and particularly for small and medium-sized enterprises; and
- the outcomes of the dialogue process already under way between GSEE and the employers' organisations should be awaited without legislative interventions.

The Communist Party rejected the private member's bill on the grounds that it needs to be revised to avoid any possibility of combining the 35-hour week with labour flexibility.

Commentary

The discussion of the private member's bill on implementation of the 35-hour week is yet another example of the general thinking which seems to be developing at a slow but sure pace in Greece. However, its rejection by the great majority of the parliamentary parties, together with the strong resistance to the measure from the employers' side, despite the fact that they have taken part in the dialogue on the subject, indicate that at present the correlations of social and political forces are not favourable to a generalised implementation of the 35-hour week in Greece. (Giannis Kouzis, INE/GSEE)

GR9910154F (Related records: GR9908147N, GR9906135F, GR9810197N, GR97041110F)

22 October 1999

"Virtual strike" held at Meridiana airline

Pilots and flight attendants at the Meridiana airline have staged Italy's first "virtual strike", whereby the employees worked as usual without being paid, while the company donated the receipts from the flights involved to humanitarian organisations.

During negotiations over the renewal of company agreements, pilots and cabin crew employed by the Meridiana airline have staged a four-hour "virtual strike" - the first of its kind in Italy. Meridiana is Italy's largest private airline, employing 1,500 workers. Through the "virtual strike", the workers guaranteed that flight schedules would not be disrupted. They worked for free during the action, while the company pledged to donate receipts from the flights concerned to humanitarian organisations.

The virtual strike and mediation ■

In July 1999, Meridiana pilots belonging to the Anpac and Appl occupational unions proposed that a four-hour strike already called for 27 July should be transformed into a "virtual strike". The proposal was formalised during negotiations on the renewal of the pilots' company collective agreement.

The Meridiana pilots proposed this alternative form of industrial action in a letter to the chair of the Guarantee Authority which enforces the law on strikes in essential public services (law 146/90), Gino Giugni, and to the Minister of Transport, Tiziano Treu. This letter referred to the December 1998 *Pact on concertation policies and on new rules on industrial relations* for the transport industry which, among other matters, envisages forms of collective action that, although onerous for the enterprises and workers involved, neither affect service provision nor penalise users.

The Minister expressed interest in the pilots' proposal, stating that this kind of industrial action is not troublesome for users. According to the Minister, "such action means that conflict is reduced and the workers' right to protest is matched by the public's right to free movement, so that strike action, in the traditional sense, becomes an extreme measure resorted to only when absolutely necessary." After mediation by the Minister, Meridiana accepted the pilots' proposal and undertook to donate receipts from flights during the "virtual strike" to humanitarian organisations. The parties agreed to comply with an arbitration award to be issued by the Minister,

defining the amount the company should pay.

The strike was then joined by cabin crew belonging to the Filt-Cgil union, who preferred to call this kind of alternative action "solidaristic", in order to apply pressure in the negotiations for renewal of the company agreement for flight attendants.

There was no disruption to Meridiana's flight schedules on 27 July. Passengers were notified by the cabin crew that their flights would not be affected because the strike was being conducted "virtually". During the protest, those taking part wore a white bow on their sleeves to make their participation apparent.

Commentary

The option of calling "virtual strikes" in public services, and transport in particular, is undoubtedly an important development which should be greatly encouraged. Nevertheless, "technical" issues must be resolved before this form of action can be regarded as a viable alternative to industrial conflict.

The Meridiana experience highlights crucial aspects of this type of strike. First, opting for a "virtual" rather than a conventional strike is a strategic choice which cannot be taken for granted. The aim of the Meridiana pilots' proposal was to signal a willingness to negotiate with the company and a desire to reduce levels of conflict (the proposal was made when the Meridiana pilots were embroiled in controversy over flight cancellations due to mass sickness absence). Moreover, Anpac's national leader has declared that a "virtual strike" cannot be imposed; "it is up to the union to decide according to the circumstances whether a virtual or a traditional strike is more appropriate."

Second, the "technical" issues of checking workforce participation in the strike and fixing the sum to be paid by the company are crucial. The unions' proposal and Meridiana's assent were essentially "strategic", in that they were expressed "in principle", before definition of the concrete aspects, which were largely left to Minister Treu's arbitration.

Regarding verification of participation, a company can withhold and donate the wages only of those workers who manifestly express their participation. A further problem connected with a "working strike" is the possible exacerbation of opportunistic behaviour or "free-riding". Individual opportunism

may be encouraged by the absence of automatic pay deduction, which in conventional strikes is ensured by absence from work. Most importantly, the "virtual strike", given the fragmentation of representation and the spread of independent and occupational unions in public services, may further encourage opportunistic behaviour by unions.

The cost to the company is also crucial: a "virtual strike" may be more costly for employers than a conventional strike. The Meridiana pilots' original demand was for 100% of all receipts from flights during the four-hour strike to be donated. The company considered this unacceptable. The cost to the company should probably be calculated on the basis of profits, not receipts. But what happens in the case of public service enterprises which operate at a loss (like the state railways)? Companies are also likely to demand that their costs should be made proportional to the number of employees involved in the strike (again raising the problem of checking participation), otherwise the link between workforce participation and the capacity to apply pressure on the employer will collapse.

Finally, are "virtual strikes" covered by the strike-free periods which, under the provisions of law 146/90, protect companies in essential services against action during certain periods of the year? The unions seem to argue that strike-free periods were introduced to guarantee services, and therefore cannot be applied to alternative forms of industrial action. If so, then "virtual strikes" would further weaken the position of companies.

In conclusion, there seem to be numerous obstacles in the way of the "virtual strike". It is no coincidence that after the first positive reaction to the Meridiana initiative, the pilots have maintained that the experiment cannot be repeated until the "virtual strike" issue has been settled in all its aspects, if necessary through governmental or parliamentary intervention. The key concern is to strike a balance which reconciles the interests of all actors involved: workers, users and companies. Thus, a possible way out of the dilemmas raised by the virtual strike may be what at the moment appears to be a makeshift solution: arbitration by an impartial authority within a framework agreed by the parties may be a useful development of the experience gained from the arbitration entrusted, on this occasion, to Minister Treu (Roberto Pedersini, Fondazione Regionale Pietro Seveso).

IT9909252F (Related records: IT9901240F)

24 September 1999

Unions make increasing use of Internet

The Internet is gaining importance in Norwegian working life. Two-thirds of all members of the LO trade union confederation have access to the Internet, while social partner organisations increasingly use the Internet and Web for their communications and internal activity.

The Internet and World-Wide Web are becoming increasingly important in Norwegian working life, and social partner organisations are also taking advantage of new technology in their organisational activity - partly to improve communication between members and representatives and partly to inform society at large about their activity. Most Norwegian trade unions and employers' organisations have developed their own websites. Although the quality and ambitions of website information vary, there is a general tendency towards increased utilisation of the Internet and the Web as a channel for communication and information exchange. Members and non-members alike are thereby given the opportunity to keep up to date with developments in wage negotiations, further and continuing education, and other important work-related issues and activities. The Internet is also becoming more important in the internal activity of social partner organisations, for example to train and educate union representatives or to improve communication between central bodies and representatives at different levels.

PC and Internet use among LO members

A June 1999 survey by the Opinion research institute indicates that seven out of 10 members of the Norwegian Confederation of Trade Unions (LO) (<http://www.lo.no/>) regularly use a personal computer (PC) at home, at school, or at work. Furthermore, 66% of all LO members have access to the Internet, and a majority of these utilise this opportunity on a weekly basis, or more often. The recent survey indicates a significant increase in the use of information technology since 1997, when Opinion undertook a similar survey for LO. In 1997, only 33% claimed to have access to the Internet, and six out of 10 members claimed to be regular users of PCs at home, at school or at work.

Although Internet use is relatively widespread among LO members, the survey shows that the websites of LO and its member unions are not as yet significant channels of communication between members and the more central levels of the union movement. The survey indi-

cates that union journals are still the most important channels used to acquire information about union activity. Ordinary newspapers and television are also important. Furthermore, 72% of members with access to the Internet have not, or are uncertain about the extent to which they have, visited trade union websites.

Education and training via the Internet

The Internet generates new opportunities with regard to education and training. LO-Stat, LO's bargaining cartel for the state sector, is presently running an adult education scheme (<http://www.lostat.no/studier/defkurs.htm>) which provides training courses via the Internet for its members and union representatives. This is a pilot project initiated in 1998, sponsored by the Ministry of Education, Research and Church Affairs.

The scheme includes a "virtual classroom", with 30 students located in their homes, and with teaching staff drawn from the LO-Stat's district branches. The course being run at present covers the legal framework and collective agreements in the public and semi-public sectors, and the students are mostly public sector union representatives. The ambition is to encourage more LO-Stat members to participate in the future. LO-Stat was also represented in a public working committee examining alternative channels of training, and is planning to develop virtual Internet seminars on bargaining issues.

The Workers' Education Association of Norway (AOF) (<http://www.aof.no/>), an adult education association closely associated with the labour movement, has also established working groups to examine providing education and courses via the Internet.

NOPEF and electronic union branches

The LO-affiliated Norwegian Oil and Petrochemical Workers Union (NOPEF) (<http://www.nopec.no/>) has long been one of Norway's pioneering unions in taking advantage of information technology and the Internet in its activities. Its "electronic union branches", an information network for its local branches, are available on the Internet, although some services are limited to union representatives. The project has also involved educating union representatives in information technology, especially with regard to their use of Internet-based services and in the acquisition of

information. It allows NOPEF's branches easier access to collective agreements, negotiation protocols etc, as well as allowing for smoother information exchange between representatives. An internal evaluation suggests that a majority of branches have been regular users of the scheme. NOPEF is also the first Norwegian trade union to have utilised the Internet, in combination with e-mail, for industrial action purposes. In spring 1998, NOPEF campaigned against the possible outsourcing of employees in the Norwegian oil company Saga Petroleum, during which information was made available both internationally and nationally through the Internet, on various trade union websites and in Internet-based newspapers. During the campaign, NOPEF encouraged members, and others, to send e-mails of complaint to Saga management.

The Confederation of Norwegian Business and Industry (Næringslivets Hovedorganisasjon, NHO) has initiated a pilot project, which is similar to NOPEF's. In addition to its ordinary website (<http://www.nho.no/>), NHO has created a membership site, which allows members access to more information about the organisation's activity, such as internal discussion groups and questionnaires for internal evaluations.

Commentary

The growth in the use of PCs and the Internet have led most of the larger social partner organisations to focus more of their information efforts through their websites. Most unions, however, seem to regard the Internet first and foremost as a channel for swift communication of information - on wage settlements, for example - and as a general information channel serving the media. So far, the Internet has to only a limited degree been used as a medium for education and training of shop stewards, or network-building between union representatives at different organisational levels. LO members stress, according to the Opinion survey, that unions should pay greater attention to the Internet in their activity. Although it is worrying that only a minority of those with access to the Internet have actually visited the websites of LO and its affiliates, trade unions are becoming increasingly aware of the opportunities generated by the Internet, and recognise the importance of keeping up with developments in new technology, both for their members as well as the organisations themselves. Thus, on 24 August 1999, LO launched a package deal offer of PC and Internet access at home to all of its 830,000 members. (Haavard Lismoen, FAFO Institute for Applied Social Science)

NO9910159F (Related records: NO9803155F, NO9803155F, NO9803155F)

22 October 1999

Consultation procedure on redundancies and transfers reformed

The UK government has amended existing legislation on employees' information and consultation rights in the event of redundancies and transfers of undertakings.

The Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1999 came into force on 28 July 1999, introducing revised consultation requirements which apply to redundancies and transfers occurring from 1 November 1999. Under the UK's original statutory requirements, the right to be consulted was confined to representatives of trade unions recognised by the employers concerned, and the law provided no mechanism for consulting employee representatives in the absence of union recognition. In 1994, the European Court of Justice ruled that this approach did not adequately implement the EU Directives on transfers of undertakings and collective redundancies, prompting the then Conservative government to introduce new Regulations in 1995 requiring consultation on these issues either with representatives of recognised unions or with other representatives elected by employees.

The 1995 Regulations were strongly criticised, particularly by unions, and questions persisted over whether they fully complied with EU law. The incoming Labour government in 1997 believed that the 1995 Regulations "still [did] not provide a clear and satisfactory framework for the necessary information and consultation", and in February 1998 the Department of Trade and Industry (DTI) initiated consultations on proposed changes to the legislation, which resulted in the 1999 Regulations.

Key provisions

The 1999 Regulations closely reflect the consultation document's proposals and make parallel amendments to the redundancy consultation provisions of the Trade Union and Labour Relations (Consolidation) Act 1992 and the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (the TUPE Regulations).

On redundancies, the amendments widen the scope of statutory consultation by requiring this to take place with representatives of "employees who may be affected by the proposed dismissals or may be affected by measures taken in connection with those dismissals", rather than employees who may be actually dismissed, as previously provided. This broader constituency brings the statutory position into line with the corresponding provisions of the TUPE Regulations. In the context of redun-

dancies, this change will require employers to consult over the impact on "survivor" employees in areas like work organisation and workload.

For both redundancies and transfers, the new Regulations close off the potential under the 1995 Regulations for employers to "bypass" recognised unions, by providing that where an employer recognises an independent union in respect of employees affected by the proposed redundancies/transfer, consultation must occur with representatives of that union. Consultation may occur exclusively with other representatives of the affected employees only in the absence of a recognised union. In this case, the employer may choose to consult either: existing employee representatives elected or appointed by the affected employees, provided they have the authority to be informed and consulted about proposed redundancies/transfers; or employee representatives specially elected for statutory consultation purposes under new election rules laid down by the Regulations.

If the affected employees fail to elect representatives within a reasonable time of the employer inviting them to do so (eg if no candidates stand for election), the employer must give each affected employee the same information as it would have been required to give employee representatives.

Both lay union officials and other employee representatives are now entitled to paid time off for training in their duties under the statutory information and consultation provisions concerning redundancies/transfers.

In the redundancy provisions, the maximum level of the "protective award" available to employees in cases of inadequate consultation has been standardised at 90 days' pay. The ceiling on compensation available under the TUPE Regulations has been raised from four weeks' to 13 weeks' pay.

The one potential change identified by the consultation document with which the government has not proceeded is the removal of the 1995 Regulations' exemption from the consultation requirements of redundancy proposals affecting under 20 employees. The firmness of ministers' intention to make this change was always doubtful: the consultation document stated only that the government "[had] it in mind" to remove the 20 redundancies threshold. Nevertheless, the retention of the status quo on this important issue represents a victory for employers' lobbying, and the Trades Union Congress has registered disappointment.

Commentary

Recent research sponsored by DTI and carried out by the Industrial Relations Research Unit broadly supports the present government's case for the main changes made by the 1999 Regulations (*Redundancy consultation: a study of current practice and the effects of the 1995 Regulations*, J Smith, P Edwards and M Hall, DTI Employment Relations Research Series, No. 5, 1999).

- Employers which recognised unions rarely if ever "bypassed" them in favour of consulting via non-union, elected representatives. Most employers contemplating the difficult issues raised by redundancy were likely to use established consultation channels rather than risk exacerbating the problem by choosing another route.

- The research showed that, though not without limitations, consultation over redundancies conducted via union representatives, and in one case via specially elected employee representatives, "made a difference" in terms of influencing the handling (though not the principle) of job losses.

- In only one of three non-union case study companies were representatives elected to meet the consultation requirements. The other two companies consulted on an individual basis. The 1999 Regulations' provision that an "individual" route may be followed by employers if employees do not elect employee representatives is likely to be among the new requirements' most significant practical aspects.

- Some employers were uncertain about their statutory obligations under the 1995 Regulations, suggesting that the previous government's "minimalist" approach to the regulation of the necessary consultation, intended to be business-friendly, may have proved counter-productive (eg the absence of more specific guidelines on electing representatives). The Confederation of British Industry welcomed the present government's move to "clarify" the election requirements.

Collective redundancies and transfers are among a burgeoning range of industrial relations matters for which UK law now specifies ad hoc, issue-specific employee representation mechanisms in the absence of union recognition. Other areas are health and safety, working time and parental leave. The European Commission's draft Directive on national information and consultation procedures (*EIRObserver* 1/99 p.9) would, if adopted, signal the end for UK governments' continued reliance on this approach for the purposes of fulfilling EU consultation requirements. UK companies may in any event increasingly be prompted to consider dealing with such issues via a permanent, standing consultative body. (Mark Hall and Paul Edwards, IRRU)

UK9910134F (Related records: UK9708152F, UK9803109F, UK9810154F, UK9908123N, EU9812135F)

22 October 1999

EIROOnline - the Observatory's database on the Web

EIROOnline, the European Industrial Relations Observatory's database, is accessible to the public on the World-Wide Web. Here we provide information for *EIROObserver* readers on how to use *EIROOnline*

EIROObserver contains a small edited selection of the records supplied to the European Industrial Relations Observatory (EIRO) by its network of national centres in the EU Member States (plus Norway) and its European-level centre. Each month, a comprehensive set of reports on key developments in industrial relations across Europe is submitted by the network, edited technically and for style and content, and loaded onto the *EIROOnline* database. *EIROOnline* is available via a site on the World-Wide Web.

Getting started

To make use of *EIROOnline*, you require Internet access and browser software - *EIROOnline* is best viewed with Netscape Navigator or Microsoft Internet Explorer versions 3 and above. Simply go to the URL address of our home page:

<http://www.eiro.eurofound.ie/>

This will bring you to the EIRO home page. EIRO's central operation is based on a monthly cycle, with national centres submitting news and features on the main issues and events in a particular month. These records are processed, edited and then uploaded from early the next month. Thus, records relating to events in November, for example, will appear on the website from early December.

The home page indicates the last time that *EIROOnline* was updated and provides direct links to the most recently added records. These are designated as either features, news or studies, with the titles in blue lettering, underlined. Whenever you see such blue (or green) underlined text in *EIROOnline*, this indicates that clicking on the text will link you to further information. In the top left-hand corner of the home page, and of every page of *EIROOnline*, there is a blue and black **EIROOnline** logo. Clicking on this will always return you to the home page.

To the left of the home page is a link to the EIRO **comparative studies** and a list of links to additional facilities - **about EIRO, register, help, feedback, EIROObserver, contacts, related sites** and **EMIRE** (the online version of the European Employment and Industrial Relations Glossaries).

Along the top of the home page there is the **EIROOnline navigation bar** contain-

ing four links: **news** connects to a list of the news items for the current month, and **features** to a list of that month's feature items; **site map** connects to a variety of ways of browsing *EIROOnline* records; and **search** connects to an *EIROOnline* search engine.

News and features

The basic content of EIRO consists of news and feature records. News items are short factual article about a significant event or issue in industrial relations in the country concerned. Features also set out the facts, but they are longer, allowing more detail and a commentary ("signed" by the author(s)) to be included. Features cover the most significant developments, activities and issues, and those which can benefit most from a greater degree of analysis and background. From the home page, clicking on **news** or **features** on the **EIROOnline navigation bar** connects to lists of the news and features for the most recent month - an ideal form of browsing for users who want quick access to the most up-to-date records.

Site map

The **site map** - accessible from the **EIROOnline navigation bar** on every *EIROOnline* page - is the most useful starting point for browsing the contents of the database.

The site map provides a list of all countries covered by EIRO. Clicking on any of the **country** names (plus "EU level" and "transnational") connects to a full list of all the records submitted for that country for the current year, with links to previous years. It is also simple to navigate by **date**: each month since EIRO started collecting data in February 1997 is listed, and clicking on a particular month connects to a page providing access to all the month's records. The online version of the EIRO Annual Review for each year can also be accessed.

To follow up a story in *EIROObserver*, and read the full text of the original record(s) on which it is based, the easiest way is to input the record's unique **record ID** (eg SE9904111F), which is provided at the end of each item in *EIROObserver* (along with the IDs of related records). Type the ID into the field alongside Record ID in the site map, and click the **search** button to connect directly with the record.

The site map also provides a link to a chronological list (with links) of all the **comparative studies** produced by EIRO. These focus on one particular topical issue in industrial relations and its

treatment across the countries covered by EIRO.

Searching

The most sophisticated way of finding information in *EIROOnline* is to use the **search** option - accessible from the **EIROOnline navigation bar** on every *EIROOnline* page. The *EIRO* search engine offers users three types of search - **free text, advanced** and **thesaurus**. Before starting to search, it is strongly recommended that you click on **help**, which connects to useful tips on how to conduct all three types of search.

Feedback

A fuller users' guide is available on *EIROOnline* under the **help** facility. However, a written guide to a website/database is only ever of limited use, and *EIROObserver* readers are urged to gain access to *EIROOnline* itself, in order to experience how it works and what it offers. *EIROOnline* is still being developed and improved continuously (some features are not yet fully operational), and we welcome the views, comments and queries of users in order to feed into this process. As well as the **feedback** form available on the website itself, please send any input about *EIROOnline*, by e-mail to eiroinfo@eiro.eurofound.ie.

EWC agreements online

The European Foundation for the Improvement of Living and Working Conditions has created an important new online resource on European Works Councils (EWCs). A database is now available at <http://www.eurofound.ie/ewc/> containing detailed information on the provisions of 386 voluntary Article 13 agreements concluded before the EWCs Directive (94/45/EC) came into force in September 1996 and of 63 Article 6 agreements concluded since then. The provisions of each of these agreements have been coded against a classification scheme which enables users to search their contents under one or more of a series of headings including: company concerned; scope and nature of the EWC; role; composition; organisation; meetings; facilities; confidentiality; and protection. Full-text versions of almost 160 Article 13 agreements (in up to five language versions) and over 60 Article 6 agreements are also held in the database, and can be downloaded in PDF format. The SPSS data file coding the contents of the Article 13 agreements can be downloaded by those wishing to undertake further analysis.

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Community information system on social protection (MISSOC)

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Privatisation and industrial relations

Since the early 1980s, across western Europe, privatisation and liberalisation have increasingly affected not only public ownership and state-owned companies in competitive sectors, but also public services, public utilities and welfare provision. Public sector industrial relations are to some extent separate from private sector ones and have particular features, though this varies between countries. This comparative supplement - based on contributions from the national centres of the European Industrial Relations Observatory (EIRO) - investigates the changes caused in public sector industrial relations by privatisation and liberalisation, highlighting the example of telecommunications. The supplement is an edited version of a comparative study available on the *EIRO*Online database (see p.15).

The extent of privatisation

After the pioneering experience of the UK and a few other countries in the 1980s, privatisation and liberalisation have progressively become prominent in EU policy during the 1990s, notably influenced by: EU "liberalisation" Directives (on telecommunications, railways, air transport, energy and postal services) aimed at opening up domestic markets to competition; and Economic and Monetary Union, which, through the convergence criteria, has encouraged governments to sell state assets. Privatisation and liberalisation have thus occurred throughout Europe - see table 1 ("corporatisation" refers to public bodies taking the form of a company but remaining in public ownership).

Europe is now prominent in privatisation, and its sales of public assets accounted in 1998 for more than 50% of world privatisation receipts. However, privatisation has not been implemented to the same extent in all countries, with each defining guidelines for the process and developing a distinctive approach. In terms of the extent of privatisation, the countries can be divided into three broad groups:

- 1) countries in the forefront of privatisation in the 1990s - the UK, the "privatisation pioneer", plus Italy, France, Spain and Portugal, which have implemented large-scale privatisation;
- 2) countries where the sale of state assets has been of some importance, mainly for the domestic market - Finland, Denmark, Greece, Austria, Belgium, the Netherlands and Germany; and
- 3) countries where privatisation has been of lesser importance - Luxembourg, Ireland, Norway and Sweden.

Privatisation has affected competitive sectors, public utilities and welfare services, but to differing extents. The "retreat" of the state from competitive

sectors has been general, while the level of privatisation and liberalisation in public utilities has been high, though differing from country to country. In welfare services (such as health and social services), changes are occurring mainly because of the spread of outsourcing and competitive tendering. In examining privatisation's industrial relations effects, we focus particularly on public utilities, where privatisation is generally linked to the creation of new "sectoral" markets and industrial relations systems (not usually the case in competitive sectors). Moreover, it is easier to find common definitions of "privatisation" among public utilities, and examples which are more comparable between countries.

The impact on industrial relations

Distinctive features of public sector industrial relations include:

- often greater attention to good industrial relations and consensus, leading to a more collaborative management-union climate;
- protection and guarantees for workers are usually more pronounced, not least in terms of employment security. In some countries, much of this protection may arise from the particular status of "public employee"; and
- there may be specific public sector trade unions and the industrial relations system may have specific characteristics - eg in terms of centralisation.

The move towards private ownership calls all these features into question and may lead to fundamental changes.

Employment levels

Privatisation affects sectoral employment levels essentially because of the combined effect of: company restructuring and the frequent accompanying workforce reductions, often connected to private investment; and employment creation provided by new entrants when denationalisation is coupled with liberalisation of domestic markets (as with public utilities and services).

Telecommunications illustrates these two contradictory tendencies. The net effect on employment levels of privatisation varies between countries and both increases and decreases in total sectoral employment are found, depending on the post-liberalisation structure of the industry and on the components of the sector taken into account. For example, sectoral employment has increased since deregulation and privatisation in Austria and Germany (after some years in the latter case).

In the individual telecommunications companies involved in privatisation (and liberalisation), employment has usually decreased, often quite substantially. However, as table 2 shows, job losses have generally been addressed in a consensual way, often without collective redundancies, through staff turnover and the use of incentives for individual resignation or retirement. This does not mean that there have been no confrontations over employment reductions, but that the parties have generally been able to find an agreement.

Employment status

Specific guarantees and benefits are usually attached to the status of "public employee", and the state's "retreat" from economic intervention may lead to "privatisation" of this status. This applies mainly to workers in public utilities, since employees of state-owned enterprises in competitive sectors generally had a "private sector" employment relationship already, while welfare sector workers usually maintain "civil servant" status, even where there is deregulation.

In France the employees of France Telecom have retained civil service status, which legally protects them against redundancy, even after transformation into a limited company and partial privatisation. In Germany, one problem in privatising post and telecommunications has been the complicated transition of former public employees to the private sector's different employment patterns and principles. Questions have included the statutorily defined rights - particularly the comprehensive job security - attached to career public servants. Such rights do not apply to public sector blue- and white-collar employees, but there has still been the problem of adapting their collectively agreed terms of employment to private sector mechanisms. Usually, such changes are highly controversial, with unions supporting the retention of acquired rights. As a result, "privatised" workers may retain their "civil service" rights (as in Norway) or there might be differentiation between existing employees and new recruits (as in Belgium and Denmark).

Wages, labour costs and productivity

A reduction in wage levels as such is uncommon as a consequence of privatisation, though benefits formerly granted under specific public sector regulations may be cut (eg pensions, holidays and sick pay). However, the reduction of labour costs seems to be a general priority in the privatisation process, mainly through workforce reductions and outsourcing of non-core activities. Increased productivity is another important objective, with the restructuring and reorganisation plans implemented along with privatisation generally aiming to achieve this by making working arrangements more flexible. In some cases (eg telecommu-

Table 1. Main privatisation and liberalisation developments, EU and Norway

Country	Developments
Austria	Partial or complete sale of companies in competitive sectors (banking, oil, gas, salt and tobacco monopolies etc). Minority stakes sold in telecoms. Rail, post and electricity undergoing restructuring.
Belgium	Companies privatised in competitive sectors (banking, insurance, ferries). Public utilities transformed into "autonomous public enterprises" (telecoms, post, railways).
Denmark	Some firms privatised in competitive sectors (banking and transport). "Corporatisation" of some public services (Copenhagen airport, post, shipping). Full privatisation of TeleDanmark telecom company. Increasing contracting-out of local welfare services.
Finland	"Corporatisation" of some activities (railways, post, air traffic). Privatisation in competitive sectors (banking) and some utilities (power generation, road transport and - partially - telecoms). Contracting-out very common when reorganising local welfare services.
France	Privatisation of companies in competitive sectors almost complete. Public utilities excluded from full privatisation, with partial sales at France Telecom and Air France. Local contracting-out extensive, particularly in water. No privatisation in welfare services - only tendency to contract out auxiliary activities (catering, cleaning).
Germany	Privatisation of firms in competitive sectors (automobiles, chemicals) and of eastern German former state-owned enterprises. Some privatisation at regional level, as in transport and refuse collection. Liberalisation in some public utilities (energy and post), with some partial privatisation (telecoms).
Greece	Some privatisation in competitive sectors. Privatisation of public utilities under debate.
Ireland	Privatisation under discussion for state-owned banks, Aer Lingus airline, airport management and state forestry. Telecom Eireann privatised and Electricity Supply Board facing liberalisation.
Italy	Much privatisation in competitive sectors (banks, insurance and subsidiaries of Iri and Eni), many public utilities at national and local level, and - to much smaller extent - welfare services, notably locally and through outsourcing.
Luxembourg	Some changes in legal status of some state-owned firms (railways, banks).
Netherlands	Privatisation in competitive sectors (banking, chemicals, steel etc) and public utilities (post, telecoms, regional transport, a few energy companies).
Norway	Partial privatisation in some sectors (grain, pharmaceutical supply). Partial privatisation of state-owned oil company and in telecoms under debate. Liberalisation and competition in public utilities, telecoms, post, railways and power and state bodies turned into autonomous companies.
Portugal	Privatisation in both competitive sectors and public utilities (eg telecoms). Some forms of privatisation in welfare - eg some hospitals privately managed.
Spain	Substantial privatisation in competitive sectors (iron and steel, textiles, chemicals etc) and public services (electricity, transport, telecoms). Privatisation now being extended to welfare services.
Sweden	"Corporatisation" of state-owned enterprises. Form of privatisation under discussion only for railways and telecoms.
United Kingdom	Extensive privatisation of firms in competitive sectors and - coupled with liberalisation - public utilities. At local level, legislation requires competitive tendering for many ancillary services (cleaning, catering etc).

nications), technological change may also improve productivity.

In countries where sectoral bargaining predominates, differentiation of wages may result from a combination of privatisation and liberalisation, when new entrants into a market apply different collective agreements than that which covers the sector's existing, former publicly-owned enterprise. This occurs typically in the cases of former public monopolies (such as telecommunications) where there was previously no sectoral agreement, but a company-level agreement that filled this role (as the monopoly was the sector's only employer). Following privatisation and the end of the monopoly, people performing the same job in the sector may be subject to different collectively agreed provisions, depending on the identity of their employer. Usually, the former monopoly offers higher pay and conditions and employment protection, agreed earlier in a different context, while new entrants tend to provide lower pay and conditions. Such widening "differentials" are reported from telecommunications in *Spain* and *Italy*, for example, where unions seek negotiations to define a single framework for the industry.

Pay and conditions within a sector may also become differentiated following privatisation through the use of outsourcing. For instance, the *Belgian* banking and insurance sector - much of which was formerly publicly owned - has seen a trend towards outsourcing of support services. The companies' labour costs fall in these cases since the suppliers of outsourced services are generally covered by collective agreements

which are less favourable for workers than the banking sector agreement. However, this controversial development is difficult to ascribe to privatisation more than to general restructuring.

Deutsche Telekom seems a partial exception to labour cost reduction following privatisation. While most employees' wages have risen in line with those in the public sector (whose terms of employment remain the yardstick), the wages of some specially qualified employees and managers have been raised to the higher level found in private companies. This, together with rapid equalisation of wages between eastern and western *Germany*, has meant that average labour costs per employee have risen by more than in the public sector. However, this situation is being reconsidered and the company and unions are negotiating a new pay structure which would differ from the public sector one and be more flexible and performance-related.

Trade union membership

Trade union membership does not appear to have decreased in connection with the privatisation of specific enterprises, where it has generally remained at the relatively high levels typical of the public sector. There are some signs of reductions, but it is hard to distinguish between more general trends towards falling union membership and a specific "privatisation-related" effect. Any weak link between privatisation and falling unionisation probably operates through workforce reduction: redundancy often hits older workers who are more likely to be unionised, while new recruits are generally young, higher skilled and less likely to join unions.

In certain cases, some variation in union membership is reported in connection with negotiations over privatisation-related reorganisation; at TeleDanmark, unionisation has reportedly increased in the 1990s because of employee uncertainty caused by reorganisation and redundancies; while in *Italy*, an agreement at Banca di Roma had the opposite effect - workers' discontent led to a temporary decrease in membership.

In telecommunications, difficulties in recruiting new union members are reported among new companies. These are often much smaller than traditional state-owned enterprises and mainly employ people who, because of their jobs (commercial and customer-care positions predominate) and employment relationship (part-time, fixed-term or other "atypical" contracts) may be less likely to join unions. This trend (which may also apply to firms providing outsourced services) may be another element in an emerging fragmentation of post-privatisation industrial relations.

The industrial relations system

A number of transformations are underway in industrial relations systems as a result of privatisation, and these are listed below.

- The **legal status of the employees** of privatised organisations changes when they are employed on a private sector basis and lose their specific public sector employment relationship. This process affects almost every country.
- There is a trend towards the **reduction of the distance between public and private sector industrial relations**, with the former adopting the principles of the latter. This development - affecting

Table 2. Management of redundancies accompanying privatisation/liberalisation in telecommunications

Country	Management of redundancies
Austria	Telekom Austria's workforce of 16,800 is to be cut by 10% by 2003. Under a social plan agreed between works council and management, implemented since August 1999, 1,049 employees turning 56 before 2001 may opt for pre-retirement, being granted leave and receiving at least 75% of pay until eligible for a pension at 60. In 1998, 1,711 employees chose similar pre-retirement.
Belgium	At Belgacom, 6,289 employees have been offered early retirement and 6,600 an individual retraining programme with a view to redeployment.
Denmark	In January 1997, TeleDanmark announced that 2,500 employees would be made redundant while 500 new employees with specific skills would be recruited. Management was criticised by employees and unions for failing to retrain and redeploy existing employees. Following industrial conflict, management agreed to cooperate with the unions on addressing the redundancy issue. By 1999, 2,500 employees - primarily older workers and technicians with outdated skills - had left, while 1,000 new employees had been recruited.
Finland	At PTL, employment fell from 10,000 at the beginning of the 1990s to 9,000 in 1999 mainly due to technological change, reducing the need for low-skill positions and increasing the need for more qualified workers (especially in new service jobs). Over 1994-6, early retirement and development money were offered to redundant staff. Furthermore, the company offers training and job opportunities to redeploy redundant workers.
France	Before and after partial privatisation of France Telecom, unions negotiated agreements to mitigate planned redundancies, including a "partial early retirement" scheme. State intervention reduced the cost of these measures.
Germany	On privatisation in 1995, Deutsche Telekom announced that staff would be cut by 60,000 to 170,000 by 2001. The company negotiated collective agreements in which it renounced dismissals until 2001, while the unions accepted increased employee mobility and flexibility. Generous compensation for leavers and favourable early retirement schemes were offered and widely accepted. By mid-1999, employment had fallen to 174,000.
Greece	The OTE workforce is being cut during privatisation from 26,000 in 1996 to 16,000 by 2000. In 1995, a system of voluntary resignation was agreed, under which 4,000 workers have left.
Ireland	Telecom Eireann's workforce fell from 13,000 in 1994 to 10,500 in 1998. Reductions will continue over the next three years, as another 2,500 employees are expected to leave. Recent changes in employment levels have been subject to negotiation, with the "Telecom partnership agreement" signed by unions and management in 1997 providing for 2,500 voluntary redundancies.
Italy	At British Telecom, where employment decreased by 20% over 1994-9, though economic incentives to resign or retire. These were agreed by social partners on a temporary basis and should have ended in 1997; however, the company has since maintained them unilaterally.
Norway	In 1993, Telenor set up a special unit to help employees facing redundancy. When the unit closed in 1997, 5,000 persons had passed through the system; 2,000 were reassigned to jobs within Telenor; 2,000 left; and 460 retired.
Portugal	Telecom Portugal began workforce cuts in 1992. The company, which employed 23,000 in 1995, has used: a) subsidised early retirement; b) mutually agreed termination; c) outplacement; and d) transferring workers to companies with which it has close ties.
Spain	Telefónica has reduced its workforce mainly through redundancy procedures and agreements, using early retirement and voluntary redundancy in three stages - two agreed between the company and unions and one imposed by the company - affecting over 15,000 workers.
United Kingdom	At British Telecom, where employment fell from 238,384 at privatisation in 1984 to 156,000 a decade later, job losses affected all grades, but particularly areas affected by technological innovation and middle managers affected by "delayering" to produce flatter organisational structures. Generous redundancy payments were the major supporting mechanism. BT provided outplacement facilities, retraining costs and offers of temporary work through recruitment agencies. Formal union consultation was normal; however, the central issues were payment levels and selection criteria, rather than alternatives to job loss.

countries such as *Belgium*, the *Netherlands* and *Italy* - concerns mainly those parts of the public sector, such as the civil service and public administration, not directly affected by privatisation, and constitutes "privatisation" of the public sector employment relationship.

- The **structure of employers' representation** is transformed as privatised companies join private sector employers' associations, either through affiliation to existing organisations (as in *Denmark*) or through the creation of new organisations for privatised companies (as in telecommunications in *Finland*). Former public sector employers' associations may join private sector organisations or simply dissolve (as in *Italy*). However, when privatisation is limited to "corporatisation", new public sector employers' associations may be established, as in *Finland* and *Norway*.

- **Trade union representation** is affected, with some conflicts reported between public and private sector unions over the representation of workers in privatised companies (as in *Denmark*, *Norway* and *Sweden*). There have also been some mergers between unions organising in privatised industries, both in the same sector (as in telecommunications in the *UK* and *Italy*) and across them (as in *Portugal*).

- In some cases, privatisation has meant the **elimination of specific forms of workers' or trade union representa-**

tion in the public sector. An example is the removal of worker directors from company boards, as at Telecom Eireann. However, in some cases privatisation has not resulted in a loss of representation, but an increase: eg at Deutsche Telekom, the shift from coverage by public sector worker representation legislation to private sector legislation has broadened, in certain respects, employees' co-determination rights.

- The **greater attention to company performance**, linked to increased competition and - where relevant - to quotation on the stock exchange, has a considerable impact on industrial relations. The introduction of performance assessment, performance-related pay and a more "aggressive" human resources management approach may lead to a reconsideration of existing union-management relations (while the identity of the top management itself might have changed). The results may be mixed: more conflict and antagonism, but also new forms of cooperation. Overall, unilateral initiatives by management - including demands for more flexibility - seem to be increasing in privatised organisations.

- The **structure of collective bargaining** changes in privatised firms, but there is no common trend. In some cases, post-privatisation bargaining is more centralised, in others more decentralised. Apparently, the change mirrors the distribution of responsibility in the

company structure that results from reorganisation. If privatisation and restructuring mean the merger of companies (as at TeleDanmark) or the centralisation of management functions (as at Telecom Italia), industrial relations may be centralised. The opposite happens in the more frequent cases where decision-making within the company is decentralised, as at Deutsche Telekom and, more generally, in the *Netherlands* and *Norway*. Further decentralisation, or greater fragmentation of bargaining results from the deregulation processes that have led to the subdivision of former companies in cases such as Telenor in *Norway* or public utilities in the *UK*.

- In some countries, a **fragmentation of sectoral bargaining** is emerging, as different companies operating in the same industry apply different sectoral agreements - usually where new market entrants or subcontractors apply different agreements from that followed by a former state-owned organisation, as in telecommunications in *Germany*, *Italy* and *Spain* - though in *Italy*, it is being challenged by unions and some employers and negotiations are due on a possible new encompassing industry-wide agreement.

- A common tendency is the **spread of employee share ownership in privatised companies**, with the notable exceptions of the *Netherlands* and *Norway*. In only a few cases has

employee share ownership had implications for workers' representation on privatised companies' boards. This seemingly depends on the presence of specific legislation on employee share ownership plans (ESOPs) and the level of employee ownership. An example is the "model" ESOP negotiated at Telecom Eireann, whereby workers own 14.9% of the privatised company and will have a nominee on the board of directors. By contrast, in *Italy* - where no ESOP legislation exists - although a large majority of employees of privatised companies became shareholders on privatisation, employee shareholder associations have been unable to obtain significant board representation. Therefore, employee ownership has steadily decreased since privatisation, as workers have sold their shares.

Although these general tendencies can be identified, it is not possible to say that industrial relations within specific companies have necessarily changed considerably. The picture is more complex, since elements of both change and continuity are present, with national reports often stating that company-level industrial relations have not been drastically changed by privatisation.

Industrial conflict

The overall level of industrial conflict in the organisations affected has generally not changed as a consequence of privatisation. However, periods of intense confrontation over specific details of the restructuring processes connected with privatisation and liberalisation have been common - eg in *Finland, France, the Netherlands, Norway, and Portugal*. In some cases, the issue of contention has been privatisation itself, most notably *Greece* and the *UK*, where union campaigns and industrial action against denationalisation have been particularly strong, though not necessarily successful. Lobbying has proved a more fruitful means of opposing privatisation - successful efforts at postponing or revoking privatisation decisions through lobbying are reported from the *UK, Denmark, the Netherlands, and Norway*.

The social partners' position

Employers' associations are generally in favour of privatisation, maintaining that it can help eliminate "unfair" competition by state-owned enterprises, decrease state budget deficits, reduce tariffs and prices, and increase the overall competitiveness of the domestic economy through higher efficiency. They support more scope for regulation by the market, to sustain economic growth.

Trade unions today are not usually opposed to privatisation in principle, though some unions are against it in every country and this negative attitude is particularly strong in countries like *Greece* and the *UK*. However, the most common stance is one of "critical pragmatism". Unions often recognise

Commentary

In the past decade, privatisation has gained momentum and spread throughout Europe. Probably thanks to EU Directives, privatisation and liberalisation have become policy options that all governments and social partners have to confront. Privatisation is a complex issue to analyse, since it covers very different situations and may group together, under the same heading, heterogeneous meanings and contents. However, some tentative conclusions may be drawn on the industrial relations impact of such measures.

First, there is a tendency towards a progressive reduction of the distance between public and private sector industrial relations, exemplified by the change in workers' status and the reconfiguration of employer and employee representation. This change is taking place, to a certain extent, regardless of privatisation processes. Privatisation, rather than an objective in itself, is part of a more general move towards increased reliance on market mechanisms for effective regulation of the economy. However, privatisation is an important step which helps accelerate this transformation.

A second important element of the changes introduced by privatisation and liberalisation is the diffusion of private sector management styles in domains, such as public utilities and welfare services, where they were almost completely absent. The pressure of competition and the importance of economic performance, cost-effectiveness and profitability are part of the new context that both management and unions have to deal with. Moreover, this situation can support claims by company management for more room for manoeuvre and for unilateral action.

The combination of these two tendencies challenges existing management-union relations in public utilities (and partially in welfare services), which were embedded in a completely different framework of high external employment regulation (by law), less rigid budget constraints and a lack of competition. At the same time, the prevalent "pragmatic approach" among unions is apparently "accommodating" these changes, slowly accepting them as the premises for their actions.

This is probably why many accounts of developments within companies emphasise not changes, but continuities. However, much is changing in terms of industrial relations processes and outcomes: there are signs of increasing decentralisation (and sometimes fragmentation) of labour relations; employment regulation is becoming more flexible; performance-related pay is gaining importance; and working conditions are changing in accordance with the new focus on cost-effectiveness and productivity. In this situation, trade union pragmatism may be an important factor in maintaining the collaborative management-union climate which was typical of many public sector companies and utilities. If this can be maintained, participatory industrial relations systems might be a viable outcome. Public utilities may be particularly likely candidates for such a development, since two other elements are usually present: residual public intervention, if only through independent regulatory agencies, which may stress the importance of a high standard of services and mitigate the pressure of cost competition; and persistently high trade union density, which may strengthen union action and demands.

These comments do not take into account what is happening outside privatised companies: above all, in new entrants in liberalised markets and in firms that benefit from contracting-out processes and the concentration of privatised organisations on core-business activities. In these cases, unions often have no "resources" to build upon in order to develop any industrial relations structure, let alone a participatory one. They may have to start from scratch and face numerous difficulties. Therefore, a situation in which unilateral management regulation is predominant cannot be ruled out, nor can increased "fragmentation" of industrial relations, with widening differentials between companies. However, the efforts being made to create new encompassing industry-wide agreements in liberalised sectors in certain countries seem to support the view that collective bargaining and collective industrial relations will play an important part in future developments. This comparative study suggests that the Europe-wide trend towards privatisation and liberalisation may be accompanied by a common "model" of reliance on "bargained" adjustments to face the new situation (Roberto Pedersini, Fondazione Regionale Pietro Seveso).

the tendency towards less state intervention in the economy and understand the reasons behind it. Therefore, they take a "pragmatic approach" and are more interested in managing the changes and protecting workers, than in opposing privatisation as such. The unions are greatly concerned by the impact on employment, workers' rights, representation and collective bargaining and focus their attention on avoiding negative effects in these areas. Unions are "critical" in that they tend to

distinguish between privatisation in competitive sectors, which is less controversial, and privatisation that involves public utilities and welfare services. In public utilities, unions want to maintain a degree of public control (and ownership) to protect public and user interests. Union opposition is strongest in welfare services, where they claim that priority should be given to quality and general availability which they believe are better guaranteed by direct public involvement.