European social dialogue: truly representative?

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1. Introduction

The notion of ‘European social partners’ usually refers to all those European interest organizations that participate in the European Social Dialogue (ESD) on the grounds of Articles 154 and 155 TFEU.1 First with the ASP from 31 October 1991, and last with the introduction of Articles 154 and 155 into the TFEU, the European social partners have become corporate actors in European politics and its polity. As actors they have even ‘obtained a status similar to legislators’.2 Their impact is quite tangible in form of the sectoral, inter – and multisectoral agreements they have concluded and which have subsequently been forged into European directives, or remained autonomous agreements. The European social partners and the social dialogue have become important elements of the social acquis itself, as corroborated by Treaty on the Functioning of the European Union (TFEU) (Article 152 (1):

The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.3

Under the European Social Dialogue (ESD), the social partners have become key players in a process that is sometimes tagged as ‘negotiated legislation’4 or social partnership, and has obtained the quality of a ‘Leitidee’ as described by Hauriou.5 Yet, an important question remains the issue of representativeness which has been a conundrum of EU social policy since its inception in 1993. It is the duty of the European Commission (EC) to scrutinize the European social partners and to identify those who are eligible to engage in the ESD. Primary and secondary EU law never recur to the notion of representativeness, and the Commission first used this criterion in its 1993 Communication concerning application of the Agreement on Social Policy.6 Annex 3 of the Communication entitled ‘Main findings of the social partners' study (Representativeness)’, defines criteria for representativeness in the consultation phase of social dialogue.7

Thus, ‘management and labour’ in the sense of Article 154 TFEU are to be understood as the European social partners, organized at intersectoral or sectoral

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6 EC, 1993, Communication concerning the application of the Agreement on social policy, COM (93)600 final.
7 Ibid., annex 2.
level. The Commission has drawn up a list of organizations it consults under Article 154 TFEU. This list, which is regularly revised, consists currently of about 86 organizations.\(^8\) In Annex 2 of the 1993 Communication, the EC clearly identified those intersectoral organizations which met the above criteria and acknowledged the special status of a limited number of EU level interest organizations: ‘[T]he Commission recognises that there is a substantial body of experience behind the social dialogue established between the UNICE (now BUSINESSEURO),\(^9\) CEEP and ETUC’.\(^10\)

Despite the fact that they are not the only interest organizations at EU intersectoral level representing management and labour, BUSINESSEUROPE, ETUC and CEEP are generally understood to be the European social partners.\(^11\) A complaint by UEAPME, representing craft and small and medium-sized enterprises (SMEs), to the European CFI doubting the legality of Council Directive 96/34/EC of 3 June 1996 on the Framework Agreement on parental leave concluded by UNICE, CEEP and the ETUC,\(^12\) and challenging their status as European social partners in the UEAPME case,\(^13\) led to a strategic coalition between UNICE and UEAPME. Over time two interest organisations on the employee side (CEC and EUROCADRES), representing professional and managerial staff, joined the ranks. Thus we will analyse as intersectoral social partners and actors in the sense of Articles 154 and 155 TFEU the supranational interest organizations of BUSINESSEUROPE, ETUC, CEEP, UEAPME, CEC and EUROCADRES and take a closer look at their structure, competences, national level affiliates, and internal decision-making processes.

2. Representativeness as seen by the European Commission

The issue of representativeness\(^14\) is a longstanding problem of international labour law, which goes back to a judgment of the International Court of Justice in 1927 within the framework of the International Labour Organization (ILO).\(^15\) According to the ILO, criteria for representativeness have to be established in “(...) an objective and independent (emphasis in the original) manner (...)” and “(...) should exist in the legislation and such a determination should not be left to the governments.”\(^16\)

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\(^9\) On 23 January 2007 UNICE changed its name to BUSINESSEUROPE. We will use this expression in the remainder of the paper.

\(^10\) EC, 1993, Communication concerning the application of the Agreement on social policy, COM (93)600 final, annex 2.


polticy the European Union it is the duty of the EC to scrutinize the European social partners and to identify those who are eligible to engage in the ESD. In the 1993 Communication tackled the intrinsic problem of the EU social dialogue, i.e., the question of representativeness, for the first time.

Since the adoption of the Maastricht Treaty…a number of the organisations, which do not participate in the existing social dialogue, have submitted formal requests to the Commission to take part directly in the social dialogue. To take a position on this question in full knowledge of the facts, the Commission carried out a study of European employers' and workers' organisations so as to enable the Commission to understand more clearly the different mechanisms by which representative social dialogues are established at national level, and to assist in assessing how this process might best operate at Community level.

Annex 3 of the 1993 Communication summarized the main findings of the study on the representativeness of the social partners. The study identified the concept of representativeness as a key criterion and comes to the conclusion:

For collective bargaining, in most countries mutual recognition is the basic mechanism, but additional formal or legal requirements may have to be fulfilled. In several countries there are mechanisms (for example quantitative criteria established by law or otherwise) to make a distinction between organisations with (the most) substantial membership and those which are less representative.

Annex 3 then defined criteria for representativeness, which were taken up in the Communication of 20 May 1998 on adapting and promoting the social dialogue at Union level. Representative interest organizations in the sense of Articles 154–155 TFEU must:

− be cross industry or relate to specific sectors or categories and be organised at European level;
− consist of organizations, which are themselves an integral and recognised part of Member State social partner structures and with the capacity to negotiate agreements, and which are representative of all Member States, as far as possible;
− have adequate structures to ensure their effective participation in the consultation process.

In spite of considerable criticism vis-à-vis the criteria of representativeness, the EC did not elaborate a definition which would go beyond the scope and precision of the

17 Or as Gérard Lyon-Caen, 1972, A la recherche de la convention collective européenne, Commission des Communautés Européennes, DG Affaires Sociales, V/D/3, Doc. no.V/855/72-F, 39/40 put it: ‘...il est manifestement nécessaire que les interlocuteurs en présence soient dûment habilités par les entreprises et les syndicats (emphasis in the original)’.
18 EC 1993, Communication concerning the application of the Agreement on social policy, COM (93) 600 final.
19 Ibid., p.21.
20 Ibid., p.39.
21 EC 1993, Communication concerning the application of the Agreement on social policy, COM (93) 600 final, 22 and EC, 1998, Communication on adapting and promoting the social dialogue at Community level, final, Brussels, 20 May 1998, p.4/5.
one cited above and its view on the issue even changed over time.\textsuperscript{22} To justify this restraint the Commission constantly put forward a number of arguments. First, the structures of the European social partners had not become sedimentary yet. The second argument for not further elaborating on the criteria was the respect of the autonomy of the social partners. In the eyes of the Brussels administration, the diversity of interpretations, given to the concept of representativeness at Member State level, also constituted an insurmountable obstacle for a common definition.\textsuperscript{23}

In its 1996 Communication,\textsuperscript{24} the Commission argued that it was not so much via an official decision, but rather based on mutual recognition of the European social partners that the representativeness of management and labour in the process of Articles 154 and 155 TFEU had to be assessed.\textsuperscript{25} In the second Communication from 1998, the Commission confirmed its 1993 criteria. In its Communication from 2002 on the ESD, a force for innovation and change,\textsuperscript{26} the Commission reiterated its position.\textsuperscript{27} The Commission announced, however, that it would ‘launch a fresh study on representativeness to cover further sectors reflecting developments in the European economy and prepare studies on the intersectoral and sectoral social partner organisations in the candidate countries’.\textsuperscript{28} In its 2004 Communication on social dialogue, the Commission proposed Eurofound for this task,\textsuperscript{29} and in 2006 the Dublin tripartite EU agency commenced to conduct sectoral representativeness studies. In mid-July 2014, Eurofound has published 35 sectoral studies and finished the cross-sectoral representativeness study on which the second part of this paper is based.\textsuperscript{30} The Commission also promised that it would present an amended list of organizations consulted under Article 154 TFEU, and that it would adapt the list again in function of the potential establishment of new social dialogue committees and of the results of the studies on representativeness.

The Commission maintains and regularly updates a ‘List of European social partners’ organisations consulted under Article 154 TFEU’ which comply with these criteria. The latest version of this list, dated November 2013, includes 88 organisations which are divided into five groups:

- general cross-industry organisations (BUSINESSEUROPE, CEEP, ETUC);

\textsuperscript{24} EC, 1996, Communication on the development of the social dialogue at Community level, COM (96) 48 final.
\textsuperscript{27} Ibid., p.9.
\textsuperscript{28} Ibid.
\textsuperscript{29} Ibid.
• cross-industry organisations representing certain categories of workers or undertakings (EUROCADRES, UEAPME, CEC);
• specific organisations (Eurochambres);
• sectoral organisations representing employers (65 organisations); and
• sectoral European trade union organisations (15 organisations).31

3. Representativeness as seen by the EP and EESC

In April of 1994 the Committee on Social Affairs, Employment and the Working Environment of the EP adopted a report on the application of the Agreement on Social Policy. In this report the Committee proposed to complement the selection criteria of the Commission by the following two conditions:

(a) eligible organisations should be composed of organizations representing employers or workers with membership which is voluntary at both national and European level;
(b) eligible organisations should have a mandate from their members to represent them in the context of the Community social dialogue and are to demonstrate their representativity.32

Both criteria, voluntary membership and mandate to represent their affiliates in the ESD, had also been identified by the social partners themselves as key representativeness criteria in both the consultation and negotiation phases.33

In 1994 the Economic and Social Committee (EESC), too, issued a critical opinion vis-à-vis the 1993 Communication with regard to the use of the concept of ‘representativeness’.34 The EESC claimed that the criteria assessing the representativeness of an interest organization should reflect the specific context of the ESD:

Consultation and social dialogue at EC level should not be assumed to be the same as collective bargaining within the Member States. The processes and outcomes may be different; those engaged in EC social dialogue may also be identified with especially different criteria. It is important not simply to extrapolate from national experience to EC level.35

33 ETUC, UNICE, CEEP, 1993, Proposals by the social partners for implementation of the Agreement annexed to the Protocol on social policy of the Treaty on European Union, Brussels, 29 October 1993 <http://ec.europa.eu/employment_social/dsw/actSearchRecord.do;jsessionid=HJpNw02S0YScTP5Xjx kLHsfvxx3GXLjBfrv5sFTQnmsFYm2fQ9y!-600766452>, p.2/3.
35 Ibid., paragraph 2.1.3.6.
Furthermore, the EECS claimed that ‘the social partners at EU level are to be selected having regard to the nature of the process and of the outcome of EU social dialogue. These would indicate transnational criteria linked to national social partners, and organizational capacity’.\textsuperscript{36} The EESC proposed to add an additional criterion, i.e., the capacity to negotiate binding agreements.\textsuperscript{37} The European social partners engaging in negotiations should dispose of the capacity to negotiate agreements which are potentially binding on the national industrial-relations structures. Only those European employers' and employees' organizations that are in a position to do so should be admitted to participate in the consultation phase of the ESD.

Aware of the problems linked to the concept of ‘representativeness’, as criticized by the EESC, the Commission drew the following two main conclusions from its 1993 study:

(a) the diversity of practice in the different Member States is such that there is no single model, which could be replicated at European level, and (b) the different Member States' systems having all taken many years to grow and develop, it is difficult to see how a European system can be created by administrative decision in the short-term.\textsuperscript{38}

In 2002 Communication on the ‘ESD, a force for innovation and change’, the EC reiterated the central role of the concept of representativeness.\textsuperscript{39}

4. The UEAPME Case

At the peak of the parental leave dispute UEAPME drafted a complaint to the European CFI doubting the legality of Council Directive 96/34/EC of 3 June 1996 on the Framework Agreement concluded by UNICE, CEEP and the ETUC,\textsuperscript{40} and challenged their status as European social partners.\textsuperscript{41}

The criterion of ‘sufficient collective representativity’ became the bone of contention in the so-called UEAPME case. In a first step, the CFI exposed the link between the principles of democracy and representativity:

\textsuperscript{36} Ibid., paragraph 2.1.9, 7.
\textsuperscript{38} EC, 1993, Communication concerning the application of the Agreement on social policy, COM (93)600 final, 22, paragraph 23.
However, the principle of democracy on which the Union is founded requires – in the absence of the participation of the European Parliament in the legislative process – that the participation of the people be otherwise assured, in this instance through the parties representative of management and labour who concluded the agreement which is endowed by the Council, acting on a qualified majority, on a proposal from the Commission, with a legislative foundation at Community level. In order to make sure that that requirement is complied with, the Commission and the Council are under a duty to verify that the signatories to the agreement are truly representative.42

According to Bercusson it follows from the above paragraph that in the view of the CFI ‘the European social dialogue is equated with the EU legislative process; as such, it must attain the equivalent degree of democratic legitimacy’.43 Following on this, the CFI argues that if a European collective agreement is to be democratically legitimate, that it had to be assured ‘whether, having regard to the content of the agreement in question, the signatories, taken together (emphasis added), are sufficiently representative’.44 The CFI further claims that the representativeness of the signatory parties has to be judged ‘in relation to the content of the agreement’,45 or ‘with respect to the substantive scope of the framework agreement’.46 The consequence for the European social partners is that agreements may be democratically legitimate when signed by organizations which are only representative in relation to the limited content or scope of the specific agreement.47 A sufficient cumulative representativity may be achieved, even if the signatory parties of either side, taken separately, are not representative individually, but taken together achieve a cumulative representativity.48

The CFI held that legitimate employers' and employees' representatives may challenge collective agreements that are negotiated at the EU level between social partners lacking sufficient collective representativity. However, the CFI was of the opinion that UEAPME was not in such a position, where

its level of representativity is so great that its non-participation in the conclusion of an agreement between general cross-industry organisations automatically means that the requirement of sufficient collective representativity was not satisfied.49

The CFI, rather adamant about the concept of collective representativity, was, however, less clear on the question of the relevant and corresponding criteria. The

45 Ibid.
46 Ibid., paragraph 91.
CFI only referred to the criteria as sketched by the Commission in its 1993 Communication, but did not comment on these criteria. The Court only stressed the duty of both the EC and the Council of Ministers to assess the representativity of the European social partners as signatory parties to any agreement. As regards the EU-level employers, UNICE, the CFI concluded that this ‘body represented undertakings of all sizes in the private sector, which qualified it to represent the SMDEs, and that it counted among its members associations of SMEs, many of which were also affiliated to the applicant’. 50 The CFI took into consideration that the numeric criterion of interest organizations may be validated, but concluded:

The applicant's criticisms cannot be accepted. In the first place, they are all based on a single criterion, namely the number of SMUs represented respectively by the applicant and UNICE. Even if that criterion may be taken into consideration when determining whether the collective representativity of the signatories to the framework agreement is sufficient, it cannot be regarded as decisive in relation to the content of that agreement. Since the framework agreement concerns all employment relationships..., it is not so much the status of undertaking which is important, but that of employer. 51

In summary, it is certainly not exaggerated to conclude that ‘the judgment of the Court of First Instance does not seem to have clarified the relevant uncertainties concerning the "dogma" of representativity’. 52

UEAPME's complaint was dismissed by the CFI, and UEAPME lodged an appeal to the ECJ, the next instance in European judicial review. In the meantime however, new intra-associational developments had occurred. On 4 December 1998, UEAPME and UNICE signed a cooperation agreement. 53 According to the text of this agreement, UEAPME recognizes UNICE as the sole European organization representing businesses of all sizes active in all sectors of the economy, and takes for granted the fact that the vast majority of businesses represented by UNICE are SMEs. UNICE recognizes that UEAPME is the main cross-industry organization representing the specific interests of SMEs at European level, and that it therefore has a role to play in the social dialogue and can make a useful contribution to defending the interests of employers in negotiations with ETUC, in cooperation with UNICE. In terms of the agreement, the two employers' organizations will strive to ‘reach consensus on the positions to be defended in the social dialogue while fully respecting the autonomy of the two organisations’. 54 Specifically, as leader of and spokesperson for employees within the social dialogue process, UNICE will consult UEAPME before taking public positions on behalf of employers in negotiations and in the social dialogue. For their part, the representatives of UEAPME are to play a full part in preparatory meetings of the employers' group, and in plenary meetings with the ETUC. UNICE is to take into account, as much as possible, the views expressed by UEAPME during preparatory meetings of the employers' group.

50 Ibid., paragraph 98.
51 Ibid., paragraph 102.
53 EIRR, 1999, issue 300, p.3.
54 Ibid.
The issue of representativeness also played an important role in relation to the other employers' organization CEEP, which also claimed to be representative. The European CFI acknowledged CEEP as an essential social partner in the context of the Agreement on parental leave.  

5. Eurofound’s methodology for assessing representativeness

Following on the EC criteria discussed above Eurofound methodology for the representativeness studies at both cross-sector and sectoral level have to address two main tasks. The first one is to analyse the relevant European associations of the two sides of industry. The second one is to identify the relevant national associations on both sides of industry. For this purpose a combined approach was used for screening the relevant interest associations.

1. **Top-down screening**: it starts with reference to the current relevant cross-industry European interest associations and then looks at their affiliate members at national level affiliated members at national level. In the top-down approach, it should be stressed that the analysis only focus on affiliates in the 28 Member States of the European Union. All members and affiliated associations in other countries are not considered in this study. Moreover, only social partner organisations will be take into consideration, so that other kinds of member associations with no role in industrial relations and individual companies are not covered by the present representativeness study, although they are important national affiliates of some of the relevant cross-industry EU-level organisations included here.

2. **Bottom-up screening**: it starts with reference to the cross-industry national associations involved in cross-industry collective bargaining and/or direct bipartite or tripartite consultations, and then proceeds with the collection of data on their affiliation to any European associations;

Via the top down and bottom-up screening the cross-sector study aimed at identifying and analysing all the relevant interest associations of the cross-sector social dialogue at EU and national level. For this study:

1. a European association is a relevant cross-industry interest organisation if:

   1. it is on the Commission’s list of interest organisations to be consulted in matters of cross-industry social dialogue under Article 154 of the TFEU,
   2. and/or it participates in the cross-industry European social dialogue,
   3. and/or it has requested to be consulted under Article 154 of the TFEU.

2. a national association is a relevant cross-industry national interest organisation if it meets both the criteria (a) and (b) below:

   a. The association is:

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1. either regularly directly or indirectly (via its member organisations) involved in cross-industry collective bargaining (or employment regulation) or directly involved in bipartite/tripartite consultations on cross-industry labour market and industrial relations issues (i.e. bottom-up screening),

2. and/or affiliated to a relevant European interest association (i.e. top-down screening).

b. The association’s domain relates to:

1. either more than one sector of the economy (i.e. at least two sections in terms of the NACE Rev.2 classification system – that is one-digit sectors), thus including associations with a general membership domain

2. or a group of enterprises or organisations (e.g. SMEs, cooperatives, public-owned companies, etc.) across the economy, in the case of employer organisations, or a category of employees (e.g. white-collar workers, blue-collar workers, academics etc.) across the economy, in the case of trade union confederations.

In the framework of its representativeness study on the sectoral social partners Eurofound uses the following criteria in order to identify relevant national associations (the European criteria are identical):

a) the association’s domain relates to the sector (congruence, overlap, sectional overlap, sectionalism);

b) the association is

1. either regularly involved in sector-related collective bargaining,

2. and/or affiliated to any relevant European interest association

6. Representativeness of European cross-sector social partners\(^{56}\)

The cross-sector representativeness study covered social partners involved in European social dialogue at cross-industry level. According to the list presented above, the cross-industry bipartite European social dialogue takes place between the “general cross-industry organisations” (CEEP, ETUC, BUSINESSEUROPE) and the “cross-industry organisations representing certain categories of workers or undertakings” (EUROCADRES, UEAPME, CEC). In particular, EUROCADRES and CEC “participate in this dialogue as part of the ETUC delegation” and UEAPME is integrated in the cross-industry bipartite European social dialogue as a result of a cooperation agreement with BUSINESSEUROPE. These six organisations are the

\(^{56}\) This section draws on Eurofound, 2014, Roberto Pedersini, Christian Welz, Representativeness of EU Level Cross-Sectoral Social Partners, Dublin.
relevant EU-level social partners which have been considered in the ‘top down screening’.

BUSINESSEUROPE organises national cross-industry employer confederations and represents companies of all sizes – small, medium and large. Members include both employer and business associations. CEEP (European Centre of Employers and Enterprises providing Public services) organises and represents both associations and enterprises and notably “enterprises and employers’ organisations with public participation and enterprises carrying out activities of general economic interest, whatever their legal ownership or status”. CEEP is organised in national sections, which cover both associations and enterprises. Moreover, CEEP has a number of European associations among its members. Since the representativeness studies take into consideration only associations and not individual enterprises, this overview shall include only CEEP’s member employer associations at national level. Member enterprises, which are often quite important national employers, have been excluded, since they do not usually participate in cross-industry industrial relations, which is the focus of the present analysis. However, if some of the member enterprises participate in national-level cross-industry industrial relations (either in collective bargaining or in consultations), this will be noted in the text and/or in the appropriate tables. UEAPME (Union Européenne de l’Artisanat et des Petites et Moyennes Entreprises) organises “national, cross-sectoral organisations representing craft activities and/or SME businesses in the different sectors of the economy within the European Union”. UEAPME includes a number of European sectoral organisations among its associated members. The members of the ETUC include national trade union confederations, which will be considered in this representativeness study, as well as European trade union federations. ETUC represents workers in all sectors of the economy.

EUROCADRES (Council of European Professional and Managerial staff) represents “employees holding professional or managerial positions [...] in all sectors of business, in industry as well as in the civil and public services”; it is a cross-industry Social Partner and is associated to ETUC. The latter means that a significant overlap between the two organisations should be expected. While usually organisations covered by REP studies tend to be alternatives in the respective representational domain, so that it is difficult to find multiple affiliations, in this specific case it is rather common. Indeed, the formal members of EUROCADRES are mostly national confederations, with only a small number of sectoral member organisations, which are affiliated to the European Industry Federations which are members of EUROCADRES rather than to ETUC. This second type of trade unions, however, is not to be covered by this study, since such organisations are not cross-industry. As a

consequence, within the remit of this study, EUROCADRES shares the same members as ETUC, with the exclusion of those national confederations which are not active within EUROCADRES since they do not organise professional and managerial workers. Among its active members, EUROCADRES includes a number of national federations of professional and managerial workers, which cannot be considered in this report because they are not part to cross-industry industrial relations. CEC (European Confederation of Managers) is made of national and European sectoral federations and represents managers.

6.1 EU-level cross-industry trade unions

ETUC, EUROCADRES and CEC together represent almost 80% of all listed national trade union organisations. ETUC is by far the trade union peak level organisation which associates most national organisations (70 out of 108, or 65%) with comprehensive representational domains (48 out of 61, or 79%) and those which are most prominent in national cross-industry industrial relations (38 out of 59 in collective bargaining and 68 out of 97 in consultations, corresponding to 64% and 70% respectively). EUROCADRES’ member associations are a subsection of ETUC’s members and therefore are often all-encompassing unions. CEC, which is independent of ETUC although it participates in cross-industry social dialogue within the ETUC’s delegation, presents only sectional representational domains. Data on trade union membership are available for three-quarters of the surveyed organisations (83 out of 108). Some 36.2 million active workers are affiliated to the unions included in this study for which membership data were available.

According to these data, at least 32.4 million workers are members of ETUC through its national affiliates in the 28 EU countries (data on 59 national trade union organisations out of 70 affiliates). This corresponds to almost 90% of the overall membership included in this study. EUROCADRES has similarly high membership because its members comprise a subsection of the same trade union confederations affiliated to ETUC. As a general indication of professional and managerial staff membership in EUROCADRES, self-reported data provided for the 2013 Congress by affiliated trade unions indicate a total of some 4.1 million workers. Member organisations of CEC have at least 600,000 affiliated workers (data on nine cases out of 13) or 2% of the overall membership.

6.2 EU-level cross-industry employer associations

The three current EU-level cross-industry employers’ associations, BUSINESSEUROPE, UEAPME and CEEP, represent almost 70% of all national-level organisations. BUSINESSEUROPE, UEAPME, and CEEP are the EU-level employers’ associations which affiliate most of the national organisations involved in

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national cross industry industrial relations. BUSINESSEUROPE tends to have a broader representational domain, whereas the members of UEAPME and CEEP tend to have sectional representation, focused on small and medium-sized enterprises (SMEs) and public services respectively. Data on membership of the employers’ organisations included in this study (134 organisations) are available for 106 organisations in the case of firms (79%) and for 82 organisations in the case of employees (61%). In total, the national organisations included in this study for which data are available group at least 11.9 million affiliated firms, which employ at least 107.8 million workers. At least 3.8 million firms (32%) are affiliated with BUSINESSEUROPE through its national members (data for 26 cases out of 29); such firms employ at least 60.1 million workers (56%, data for 22 cases out of 29). UEAPME affiliates through its national members (data for 27 cases out of 36) at least 6.1 million firms (52%), with at least 16 million employees (15%, data for 16 cases out of 36). CEEP affiliates at least 193,000 firms (2%) – which in this case can actually be public sector administrations in accordance with its representational domain – through its national members (data for 27 cases out of 29); these administrations and enterprises together have at least 19.7 million employees (18%, data for 24 cases out of 29). These differences reflect the distinct membership bases and notably the focus of UEAPME on small firms and of CEEP on public services. In particular, CEEP covers public administrations, services of general interest including network services, and publicly owned firms. These organisations are usually among the largest employers in each country and can group, under one single formal organisation, a very large number of local branches and establishments – for instance, the UK section includes 22 organisations covering five million employees.

7. Representativeness criteria revisited

If the European social dialogue is to become a veritable polity of good governance, improvements with regard to the representativeness and legitimacy of the social partners are necessary. For the time being, the ESD draws its legitimacy from a sufficient functional representativeness of the EU-level social partners, measured by the Commission against its own well established criteria. We have argued that there is room for a conceptual clarification of these criteria and will offer some recommendations hitherto in the last part of our analysis. Finally, when assessed against the criterion of democratic legitimacy, we have demonstrated that the European social partners dispose of their own reservoir of legitimacy: legitimacy on basis of functional representation. Functional legitimacy, however, does not equal the one of the European Parliament, which, as the only actor of the Community method, is directly elected by the European citizens. Thus, for functional legitimacy to be acceptable the European social partners have to be representative of their constituent affiliates.

In a nutshell, the representativeness of the European social partners is assessed in the light of a twofold approach distinguishing the two phases of the ESD:

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1. **Phase (consultation):** representativeness by accreditation of the Commission on the basis of the representativeness criteria as elaborated in the 1993 – 1998 Communications as well as the representativeness studies; and

2. **Phase (negotiation):** representativeness by mutual recognition.\(^64\)

It is certainly correct to argue that the Commission has adopted a ‘formal’ approach in tackling the issue of the European social partners' representativeness\(^65\) and Zeppenfeld is right in assessing that the notion of representativeness/representativity still is rather vague. In light of the cross-sector representativeness study as well as the previous sectoral studies the three criteria used by the EC for the consultation of the social partners could be further developed in the following directions.

As mentioned above, annex 3 then defines criteria for representativeness, which were taken up in the Communication of 20 May 1998 on adapting and promoting the social dialogue at Union level. Representative interest organizations in the sense of Articles 154–155 TFEU must:

- be cross industry or relate to specific sectors or categories and be organised at European level;
- consist of organizations, which are themselves an integral and recognised part of Member State social partner structures and with the capacity to negotiate agreements, and which are representative of all Member States, as far as possible;
- have adequate structures to ensure their effective participation in the consultation process.\(^66\)

In spite of the some discrepancies and considerable criticism vis-à-vis the criteria of representativeness, the EC did not elaborate a definition which would go beyond the scope and precision of the one cited above and its view on the issue even changed over time. To justify this restraint the Commission constantly put forward a number of arguments. First, the structures of the European social partners had not become sedimentary yet. The second argument for not further elaborating on the criteria was the respect of the autonomy of the social partners. In the eyes of the Brussels administration, the diversity of interpretations, given to the concept of representativeness at Member State level, also constituted an insurmountable obstacle for a common definition.

### 7.1 Cross-sector or sector related

Out of the three criteria to be applied this seems to be the least controversial one as far as the cross-sector social dialogue is concerned.

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\(^{65}\) See Marie-Ange Moreau, 1999, Sur la représentativité des partenaires sociaux européens, Trib. 1ère instance des Communautés européennes, Droit Social, no. 1, p.56

\(^{66}\) EC 1993, Communication concerning the application of the Agreement on social policy, COM (93) 600 final, 22 and EC, 1998, Communication on adapting and promoting the social dialogue at Community level, final, Brussels, 20 May 1998, p.4/5.
On the trade union side, ETUC, EUROCADRES and CEC together represent almost 80% of all listed national trade union organisations. ETUC is by far the trade union peak level organisation which associates most national organisations (70 out of 108, or 65%) with comprehensive representational domains (48 out of 61, or 79%) and those which are most prominent in national cross-industry industrial relations (38 out of 59 in collective bargaining and 68 out of 97 in consultations, corresponding to 64% and 70% respectively). EUROCADRES’ member associations are a subsection of ETUC’s members and therefore are often all-encompassing unions. CEC, which is independent of ETUC although it participates in cross-industry social dialogue within the ETUC’s delegation, presents only sectional representational domains.

On the employers side, BUSINESSEUROPE, UEAPME, and CEEP are the EU-level employers’ associations which affiliate most of the national organisations involved in national crossindustry industrial relations. BUSINESSEUROPE tends to have a broader representational domain, whereas the members of UEAPME and CEEP tend to have sectional representation, focused on small and medium-sized enterprises (SMEs) and public services respectively.67

In the framework of the sectoral representativeness studies the criterion of sector relatedness is often much more problematic. The first step in each representativeness study is a discussion with the relevant sectoral actors at European level, to agree on the definition of the sector to be studied. The introductory chapter of each study provides details of the given sector definition, in terms of the ‘Statistical classification of economic activities in the European Community’ (Nomenclature statistique des activités économiques dans la Communauté européenne, NACE) to ensure that the findings can be compared cross-nationally. Consequently, the domains in which the trade unions and employer organisations work often do not correspond exactly to the NACE demarcation. The extent to which, and the manner in which, the bodies and agreements relate to the sector may however differ. Eurofound has identified four patterns by means of which an organisation may make proof of its sector relatedness:

Graph 1: Forms of sector-relatedness and domain patterns of sectoral social partners

- **congruence**: the domain of the organisation or scope of the collective agreement is identical to that of the NACE demarcation;

- **sectionalism**: the domain of the organisation or scope of the agreement covers only part of the sector, as defined by the NACE demarcation;

- **overlap**: the domain of the organisation or scope of the agreement covers the entire sector, along with parts of one or more other sectors; and

- **sectional overlap**: the domain of the organisation or scope of the agreement covers part of the given sector, as well as parts of one or more other sectors.68

Previous studies based on the Eurofound sectoral representativeness studies have identified a huge variety of sectoral domains within the analysed sectoral social dialogue committees (agriculture, postal services and electricity):

“(...) European sectoral committees may not even cover similar socioeconomic situations across all Member States. The definition of a given sector in a particular country, from an industrial relations perspective, results from its domestic institutional history and the progressive constitution of the actors and the industrial relations bodies in the sector. It does not necessarily correspond to the economic demarcation of the sector. Variations across the countries can also reasonably be expected, and data on selected sectors analysed for this study indicate that the variation can be significant.”69

The ideal type of congruence between the domains of the organisations analysed and that of the NACE demarcation of the sectoral social dialogue committee has been a rare exception in all the sectors analysed to date. In study on the postal service sector, for example no national trade union organisation figured among this category.70

### 7.2 Integral part of Member State industrial relations and capacity to negotiate

#### 7.2.1 Integral part of Member State industrial relations

This second criterion is already much more complex and less clear. There is, first of all, some discrepancy with regard to the second indent between English and other language versions. In contrast to the English version the French, German and Italian versions read as follows:

“être composées d'organisations elles-mêmes reconnues comme faisant partie intégrante des structures des partenaires sociaux des États membres et avoir la capacité de négocier des accords et être représentatives dans plusieurs États membres;”

“sie sollten aus Verbänden bestehen, die in ihrem Land integraler und anerkannter Bestandteil des Systems der Arbeitsbeziehungen sind, sollten Vereinbarungen aushandeln können und in mehreren Mitgliedstaaten repräsentativ sein;”

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70 Cf. ibid., p. 37.
“siano composte da organizzazioni che, a loro volta, formino parte integrante e riconosciuta delle strutture delle parti sociali degli Stati membri, siano abilitate a negoziare accordi e siano rappresentative in più Stati membri.”

Thus, in the English version the criterion to “have the capacity to negotiate agreements” may be read as referring to associations at national level, whereas in German and Italian this requirement clearly refers to the EU level social partners only.

Eurofound has applied the criterion of “capacity to negotiate” to both the EU level partners associations, and, in the bottom up approach also to the national associations. This interpretation is shared by the European Parliament (to a less clear extent) and the EESC both arguing that the EU and national social partners must have statutory capacity to negotiate collective agreements. In April of 1994 the Committee on Social Affairs, Employment and the Working Environment of the EP adopted a report on the application of the Agreement on Social Policy. In this report the Committee proposed to complement the selection criteria of the Commission by the following two conditions:

(a) eligible organisations should be composed of organizations representing employers or workers with membership which is voluntary at both national and European level;

(b) eligible organisations should have a mandate from their members to represent them in the context of the Community social dialogue and are to demonstrate their representativity.

Both criteria, voluntary membership and mandate to represent their affiliates in the ESD, had also been identified by the social partners themselves as key representativeness criteria in both the consultation and negotiation phases.

In 1994 the Economic and Social Committee (EESC), too, issued a critical opinion vis-à-vis the 1993 Communication with regard to the use of the concept of ‘representativeness’. The EESC claimed that the criteria assessing the

71 http://eur-lex.europa.eu/Result.do?checktexts=checkbox&TypeAffichage=sort_key&page=1&idReq=1&Submit2=GO accessed on 22.11.2013. The author would like to thank Jean-Paul Tricart, Head of Unit B1, DG EMPL, for drawing his attention to this discrepancy.


representativeness of an interest organization should reflect the specific context of the ESD:

*Consultation and social dialogue at EC level should not be assumed to be the same as collective bargaining within the Member States. The processes and outcomes may be different; those engaged in EC social dialogue may also be identified with especially different criteria. It is important not simply to extrapolate from national experience to EC level.*

Furthermore, the EECS claimed that ‘the social partners at EC level are to be selected having regard to the nature of the process and of the outcome of EC social dialogue. These would indicate transnational criteria linked to national social partners, and organizational capacity’.* The EESC proposed to add an additional criterion, i.e., the capacity to negotiate binding agreements.* The European social partners engaging in negotiations should dispose of the capacity to negotiate agreements which are potentially binding on the national industrial-relations structures. Only those European employers' and employees' organizations that are in a position to do so should be admitted to participate in the consultation phase of the ESD.

Aware of the problems linked to the concept of ‘representativeness’, as criticized by the EESC, the Commission drew the following two main conclusions from its 1993 study:

(a) the diversity of practice in the different Member States is such that there is no single model, which could be replicated at European level, and (b) the different Member States' systems having all taken many years to grow and develop, it is difficult to see how a European system can be created by administrative decision in the short-term.

Following the arguments above, the standard Eurofound methodology for assessing the criterion “*integral part of Member State industrial relations and capacity to negotiate*” applies the ‘capacity to negotiate agreements’ to both the EU and the national level.

A **national association** is only considered of relevance, if the association is

1. either *regularly involved in sector-related collective bargaining*,
2. and/or affiliated to any relevant European interest association

If the **national association** in question is not affiliated to a European interest association, it will only be regarded as relevant in the sense of the study if it is regularly involved in collective bargaining, i.e. if it is not only a trade association but a fully-fledged social partner having the capacity to negotiate agreements.

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75 *Ibid.*, para. 2.1.3.6.
78 EC, 1993, *Communication concerning the application of the Agreement on social policy*, COM (93)600 final, 22, paragraph 23.
7.2.2 ‘Capacity to negotiate’ in practice

A European association is only deemed representative on ground of the 1998 decision if it “consist(s) of organizations, which are themselves an integral and recognised part of Member State social partner structures and with the capacity to negotiate agreements (…)”. The EC and Eurofound have very recently tried to render this criterion more precise by distinguishing different kinds of mandates. In order to fulfil the criterion of “capacity to negotiate” a European association must give proof of the following:

a) to have an explicit de jure mandate in their constitution, statutes, rules and procedures;

b) to have a general and permanent mandate by their members;\(^{79}\)

b) to have an ad-hoc mandate by their members;

c) to have a de facto mandate via their practical involvement in binding agreements in the past.

In application of the new distinction between different forms of mandate the situation with regard to the EU cross-sector social partners is as follows:

- BUSINESSEUROPE has a de jure mandate in article 6.3 last indent of its Statutes;\(^{80}\)

- CEEP has a de jure mandate in a special section of its Rules of Procedure;\(^{81}\)

- ETUC has a de jure mandate in article 13 of its constitution;\(^{82}\)

- UEAPME has a de facto mandate. UEPAME participates in the European social dialogue on basis of the cooperation agreement with UNICE of 4 December 1998;\(^{83}\)

- EUROCADRES and CEC seem to have an ad hoc mandate. They signed a cooperation agreement, on the basis of which the liaison committee was founded. It is via the liaison committee that both associations participate in the ESD.\(^{84}\)

Up to September 2014 Eurofound has analysed 37 of the 43 sectoral social dialogue committees. The situation regarding the capacity to negotiate of these 37 EU sectoral social dialogue committees – provided that relevant information was given – is much more heterogeneous than in the cross-sector social dialogue and may be portrayed as follows.

On the employers’ side, a total of 48 employers associations participate in the 37 sectoral social dialogue committees analysed to date.

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79 This is a new category in addition to the EC typology.
81 Ibidem,
83 Ibidem,
Table 1: Mandate of sectoral employers organisations

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<th>de jure</th>
<th>general</th>
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<td>ACT</td>
<td>AEA</td>
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<td>CEC</td>
<td>AMICE</td>
<td>ACI</td>
<td>Europe</td>
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<td>CEEMET</td>
<td>BIPAR</td>
<td>CEMR</td>
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<td>CER</td>
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<td>GEOPA-COPA</td>
<td>ELFAA</td>
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<td>IACA</td>
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<td>FIAPF</td>
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<td>FOODDINKEUROPE</td>
<td>IAHA</td>
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<td>HOSPEM</td>
<td>PEARLE</td>
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<td>IRU</td>
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2 18 18 0 5 5

As for the full names of these organisations cf. annex 2.
Of these 48 associations only two, ERA and Post-Europe, have a de jure mandate. Eighteen associations have a general and permanent mandate and another 18 associations an ad hoc mandate by their members. No data is available for 5 organisations, and no mandate is given to another 5 associations, most of which are from the civil aviation sectoral social dialogue.

On the workers side, 40 industry federations participate in the 37 sectoral social dialogue committees (counting the sub-sections of EPSSU, ETF and UNI separately). Thus, as a first striking feature less industry federations than employers organisation are involved in the sectoral social dialogue.

**Table 2: Mandate of industry federations**

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<tr>
<th>de jure</th>
<th>general</th>
<th>ad hoc</th>
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<th>no mandate</th>
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<td>EFJ</td>
<td>ECA</td>
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<tr>
<td>EPSU</td>
<td>EFBWW</td>
<td>ETF - sea and coastal waters</td>
<td>ETUCE</td>
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<tr>
<td>ETUCE</td>
<td>EFFAT - food and drink</td>
<td>EFFAT - agriculture</td>
<td>industriAll</td>
<td></td>
<td></td>
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<tr>
<td>industriAll</td>
<td>EMCEF</td>
<td>ETUCE</td>
<td>UNI-Post</td>
<td></td>
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<tr>
<td>UNI - telecom</td>
<td>EPSU</td>
<td>industriAll - textile</td>
<td>ETF - inland waterways</td>
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<tr>
<td>ETF - railways</td>
<td>UNI</td>
<td>ETF - road transport</td>
<td>ETF - sea fisheries</td>
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<tr>
<td>ETF - civil aviation</td>
<td>EPSU - electricity</td>
<td>ETUCE</td>
<td>EUROFIA</td>
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<tr>
<td>EURO MEI</td>
<td>FIFPro</td>
<td>FIM</td>
<td>industriAll - electricity</td>
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<tr>
<td>UNI - commerce</td>
<td>UNI - finance</td>
<td>UNI - hair/beauty</td>
<td>UNI - insurance</td>
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<tr>
<td>UNI - private security</td>
<td>UNI - property services</td>
<td>UNI - sport</td>
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86 As for the full names of these organisations cf. annex 2.
Of these 40 industry federations, 6 have a de jure mandate, thus 4 more than on the employers’ side. Twenty-five federations have a general and permanent mandate, i.e. 7 more than on the other side of industry. Only 7 federations have an ad hoc mandate, and only 1 industry federation (ECA) has no mandate at all. Thus, on the workers side, 4 associations less than on the employers’ side do not have a mandate to negotiate. No information is available for the EFJ. The only sectoral social dialogue committee in which the two sides of industry dispose of a de jure mandate is the postal sector. In light of the above findings, one might question whether the de facto category is a useful tool of analysis.

In a further step, we than looked into the EU level sectoral social partners’ agreements (cf. annex 1) as mapped by the database of the European Commission. From 1998 until 2012 a total of 12 agreements were been signed by the two sides of industry: 7 to be implemented by Council decision and 4 by the so-called autonomous route o grounds of article 155 TFEU.

A total of 16 sectoral social partners were involved in the negotiation of these agreements: 4 on the trade union and 12 on the employers’ side. The European Transport Workers Federation (ETF) has signed by far the most agreements, i.e. 7 in total. UNI Hair & Beauty and Coiffure EU have signed two agreements.

Table 3: Sectoral agreements signed and social partners’ mandate

<table>
<thead>
<tr>
<th>Industry federations</th>
<th>de jure</th>
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<th>ad hoc</th>
<th>de facto</th>
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<td>ETF (7)</td>
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<td>FIFPro</td>
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<tr>
<td>UNI hair/beauty (2)</td>
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<table>
<thead>
<tr>
<th>Employers organisations</th>
<th>ERA</th>
<th>CER</th>
<th>IACA</th>
<th>AEA</th>
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<tr>
<td>Coiffure EU</td>
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<td>Europeche Cogeca</td>
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<td>EBU</td>
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<td>ECSA</td>
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Of these 16 sectoral social partners organisations, only ERA on the employers side has a de jure mandate. Most of the other social partners (9 out of 12) dispose of a general mandate to sign EU agreements. No information is available for 4 associations, and one industry federation (ECA) and one employer organisation (AEA) do not have an explicit mandate at all. Ad hoc mandates as well as de facto procedures did not play any role in the signing of the 11 sectoral agreements.

7.3 Representative of “all Member States, as far as possible/ of several Member States”

With regard of the geographical coverage which European associations must have in order to be regarded as representative, there is also a discrepancy between the COM 93(600), COM(98/322) and the decision annexed to the latter COM (98/500/EC). As for the geographical coverage the two communications require the EU level social partners to be “representative in all (emphasis added) Member States, as far as possible”, whereas the decision only requires the sectoral social partners to be “representative of several (emphasis added) Members States.” The differences between the 1993 and 1998 Communications and the 1998 Decision may be explained by the fact that in contrast to the cross-sectoral social dialogue some sectoral activities do not exist in all, but only in several MS (e.g. maritime transport, shipbuilding, sea fisheries, inland waterways, etc.). Consequently, the criterion related to the geographical coverage seems to be more encompassing for the cross-sectoral than for the sectoral EU level social partners.

In the following, we will try to make a first proposal how this criterion could possibly be fine-tuned and rendered less opaque.

7.3.1 Cross-sector social dialogue

With regard to the cross-sector social dialogue the EC criterion related to the geographical coverage claims that the relevant EU level social partners have to “(…) consist of organizations, which (…) are representative of all Member States, as far as possible.” Having analyses the representativeness of the EU cross-sectoral social partner in this paper one can certainly claim that this criterion is fulfilled and, for the time being do not need any further specification.

The European social partners currently involved in cross-industry social dialogue affiliate the great majority of national organisations which have a role in cross industry industrial relations in the EU28 Member States and cover about 90% of member employees and firms. Specifically, the national members of ETUC, EUROCADRES and CEC organise 91% of all employees and the national affiliated organisations of BUSINESSEUROPE, UEAPME and CEEP organise 85% of firms which employ 89% of workers. It should be noted that ETUC and BUSINESSEUROPE are the only organisations with affiliated members in each of the 28 Member States under scrutiny. Together, ETUC, EUROCADRES, CEC and
BUSINESSEUROPE, UEAPME, CEEP cover three quarters of the national social partner organisations which participate in cross-industry industrial relations across the EU. They also affiliate through their national members the great majority of unionised workers and firms affiliated to employers’ associations. With their specificities in terms of representation, according to the result of this study, they are to be regarded as the most important EU-wide representatives of labour and management at cross-industry level which are also present in all member States, as far as possible.

7.3.2 Sectoral social dialogue

In the sectoral social dialogue the picture is much more varied and complex. In summer 2014 there are 43 sectoral social dialogue committees. On the management side there are 65 sectoral organisations representing employers and 15 sectoral European trade union organisations represent the interests of workers.88

In some sectors for which the representativeness studies which the Foundation has conducted in the past (e.g. audio-visual) some of the actors only have a limited geographical coverage, e.g. they have affiliates in 8 to 10 Member States of the European Union. Thus, the question may be raised if these organisations fulfil the EC criterion stating that the relevant EU level sectoral social partners must “representative of several (emphasis added) Member States.” What does “several Member States” mean in the practice of the European sectoral social dialogue? If a sectoral organisation is to be present in several Member States, from which geographical coverage onwards is this criterion fulfilled? Does one have to take the size of the sector or the number of members in these States into account? What if certain sectors are hardly present in some Member States, e.g. shipbuilding ad and sea fisheries in Austria and Luxembourg, or railways and textiles in Cyprus and Malta?

In the past, Eurofound has analysed a number of sectors in which the relevant EU level social partners were only representative of a limited number of Member States. This is, for example, the case for the audio-visual sector in which some of the employers’ associations have direct affiliations in nine countries (three of them participate in collective bargaining) or 11 countries (five of them participate in collective bargaining) only. Furthermore, the EU level social partners on the employers side taken together represent 62 out of 148 relevant sector related national social partners only (i.e. 42%). On the trade union sides this ratio is 113 out of 169 (i.e. 67%). Again, for both sides of industry only those associations with the capacity to negotiate were counted. In light of the above findings one might ask the question whether the criterion of being “representative in several Member States” is fulfilled in this specific sector? Consequently, and in order to fine-tune this criterion we propose the following.

In the future, relevant sectoral EU level interest associations should only be considered as fulfilling this criterion

- if they have affiliates who engage in collective bargaining (capacity to negotiate) in at least 1/3 of the EU Member States; and

- if the EU level social partners per side of the industry taken together represent at least 50% of the relevant national sector related associations which have the capacity to negotiate.

If this fine-tuned criterion regarding the geographical coverage of the social partners had been applied to the Eurofound representativeness studies in the past, some doubts about the representativeness of some of the sectoral EU level social partners could have been cast.

7.4 Organizational capacity

The last criterion of the 1998 decision stipulates that relevant EU level social partners must “have adequate structures to ensure their effective participation in the consultation process.” Thus, the EC is calling for adequate financial and human resources. This is a criterion which is currently not assessed at all in the Eurofound representativeness studies and, henceforth, should be integrated in future analyses. In 1995, some academics proposed that an independent secretariat of the EU social partners or an autonomous department within ECOSOC be created.

In times of tight public finances both at national and EU level this does not appear to be a viable solution. For the sake of the autonomy of the EU level social partners it is by far preferable if the respective interest associations raised their own financial resources in order to strengthen their financial capacity. This funding can be complemented by subsidies and programmes stemming from the budget of the European Union.

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89 EC 1993, Communication concerning the application of the Agreement on social policy, COM (93) 600 final, p.22 and EC, 1998, Communication on adapting and promoting the social dialogue at Community level, final, Brussels, 20 May 1998, p.4/5.

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Annex 1: Agreements concluded in the EU sectoral social dialogue

A. Sectoral social partners’ agreements (implementation: Council decision)

1. European framework agreement on the protection of occupational health and safety in the hairdressing sector (2012); signed by
   TU: UNI Europa Hair & Beauty
   EO: Coiffure EU

2. European agreement concerning certain aspects of the organisation of working time inland waterway transport (2012); signed by
   TU: ETF
   EO: EBU, ESO

3. Implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector (2009); signed by
   TU: EPSU
   EO: HOSPEM

4. Agreement concluded by ECSA and ETF on the Maritime Labour Convention (2008); signed by
   TU: ETF
   EO: ECSA

5. Agreement on certain aspects of the working conditions of railway mobile workers assigned to interoperable cross-border services (2004); signed by
   TU: ETF
   EO: CER

6. European agreement on the organisation of working time of mobile staff in civil aviation (2000); signed by
   TU: ETF, ECA
   EO: AEA, ERA, IACA

7. European agreement on the organisation of working time of seafarers (1998); signed by
   TU: ETF
   EO: ECSA
B. Sectoral social partners’ agreements (implementation: autonomous)

1. Agreement on the work in fishing (2012); signed by
   TU: ETF
   EO: Europeche Cogeca

2. Agreement regarding the minimum requirements for standard player contracts in the professional football sector in the European Union and in the rest of the UEFA territory (2012); signed by
   TU: FIFPro
   EO: EPFL, ECA

3. European agreement on the Implementation of the European Hairdressing Certificates (2009); signed by
   TU: UNI Europa Hair&Beauty
   EO: Coiffure EU

4. Agreement on the European licence for drivers carrying out a cross-border interoperability service (2004); signed by
   TU: ETF
   EO: CER

Annex 2: List of EU level social partners’ organisations consulted under article 154 TFEU

<table>
<thead>
<tr>
<th>General cross-industry organisations</th>
</tr>
</thead>
<tbody>
<tr>
<td>BUSINESSEUROPE</td>
</tr>
<tr>
<td>European Centre of Employers and Enterprises providing Public Services (CEEP)</td>
</tr>
<tr>
<td>European Trade Union Confederation (ETUC)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cross-industry organisations representing certain categories of workers or undertakings</th>
</tr>
</thead>
<tbody>
<tr>
<td>CEC-European Managers</td>
</tr>
<tr>
<td>EUROCADRES (Council of European Professional and Managerial Staff)</td>
</tr>
<tr>
<td>European Association of Craft, Small and Medium-Sized Enterprises (UEAPME)</td>
</tr>
<tr>
<td>---</td>
</tr>
<tr>
<td><strong>Specific organisations</strong></td>
</tr>
<tr>
<td>Eurochambres</td>
</tr>
<tr>
<td><strong>Sectoral organisations representing employers</strong></td>
</tr>
<tr>
<td>Airports Council International - Europe (ACI EUROPE)</td>
</tr>
<tr>
<td>Airport Services Association (ASA Europe)</td>
</tr>
<tr>
<td>Association of Commercial Television in Europe (ACT)</td>
</tr>
<tr>
<td>European Association for Coal and Lignite (Euracoal)</td>
</tr>
<tr>
<td>European Association of Co-operative Banks (EACB)</td>
</tr>
<tr>
<td>European Association of Employers’ Organisations in Hairdressing (Coiffure EU)</td>
</tr>
<tr>
<td>European Association of Mining Industries (Euromines)</td>
</tr>
<tr>
<td>European Association of Potash Producers (APEP)</td>
</tr>
<tr>
<td>European Banking Federation (EBF)</td>
</tr>
<tr>
<td>European Barge Union (EBU)</td>
</tr>
<tr>
<td>European Broadcasting Union (EBU)</td>
</tr>
<tr>
<td>European Chemical Employers Group (ECEG)</td>
</tr>
<tr>
<td>European Club Association (ECA)</td>
</tr>
<tr>
<td>European Committee of Sugar Manufacturers (CEFS)</td>
</tr>
<tr>
<td>European Community Shipowners Associations (ECSA)</td>
</tr>
<tr>
<td>European Confederation of Private Employment Agencies (Eurociett)</td>
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<tr>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>European Confederation of the Footwear Industry (CEC)</td>
</tr>
<tr>
<td>European Confederation of Woodworking Industries (CEI–Bois)</td>
</tr>
<tr>
<td>European Construction Industry Federation (FIEC)</td>
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<tr>
<td>European Coordination of Independent Producers (CEPI)</td>
</tr>
<tr>
<td>European Federation of Cleaning Industries (EFCI)</td>
</tr>
<tr>
<td>European Federation of Education Employers (EFEE)</td>
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<tr>
<td>Association of European Airlines (AEA)</td>
</tr>
<tr>
<td>Association of European Professional Football Leagues (EPFL)</td>
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<tr>
<td>Association of European Public Postal Operators (PostEurop)</td>
</tr>
<tr>
<td>Association of European Radios (AER)</td>
</tr>
<tr>
<td>Association of Mutual Insurers and Insurance Cooperatives in Europe (AMICE)</td>
</tr>
<tr>
<td>Association of National Organisations of Fishing Enterprises in the EU (EUROPECHE)</td>
</tr>
<tr>
<td>Civil Air Navigation Services Organisation (CANSO)</td>
</tr>
<tr>
<td>Community of European Railway and Infrastructure Companies (CER)</td>
</tr>
<tr>
<td>Confederation of European Paper Industries (CEPI)</td>
</tr>
<tr>
<td>Confederation of European Security Services (CoESS)</td>
</tr>
<tr>
<td>Confederation of National Associations of Tanners and Dressers of the European Community (COTANCE)</td>
</tr>
<tr>
<td>Council of European Employers of the Metal, Engineering and Technology-Based Industries (CEEMET)</td>
</tr>
<tr>
<td>Council of European Municipalities and Regions (CEMR)</td>
</tr>
<tr>
<td>Employers’ Group of the Committee of Agricultural Organisations in the European Union (GEOPA-COPA)</td>
</tr>
<tr>
<td>European Aggregates Association (UEPG)</td>
</tr>
<tr>
<td>European Apparel and Textile Organisation (EURATEX)</td>
</tr>
<tr>
<td>European Federation of National Insurance Associations (Insurance Europe)</td>
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<tr>
<td>European Federation for Print and Digital Communication (Intergraf)</td>
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<tr>
<td>European Furniture Industries Confederation (EFIC)</td>
</tr>
<tr>
<td>European Furniture Manufacturers Federation (UEA)</td>
</tr>
<tr>
<td>European Hospital and Healthcare Employers’ Association (HOSPEEM)</td>
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<tr>
<td>European Industrial Minerals Association (IMA-Europe)</td>
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<tr>
<td>European Public Administration Employers (EUPAE)</td>
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<tr>
<td>European Rail Infrastructure Managers (EIM)</td>
</tr>
<tr>
<td>European Regions Airline Association (ERA)</td>
</tr>
<tr>
<td>European Savings Banks Group (ESBG)</td>
</tr>
<tr>
<td>European Sea Ports Organisation (ESPO)</td>
</tr>
<tr>
<td>European Ships and Maritime Equipment Association (SEA Europe)</td>
</tr>
<tr>
<td>Sectoral European trade union organisations</td>
</tr>
<tr>
<td>---------------------------------------------</td>
</tr>
<tr>
<td>European Union of the Natural Gas Industry (Eurogan)</td>
</tr>
<tr>
<td>European Arts and Entertainment Europe's Film Industry Organisation (EFA)</td>
</tr>
<tr>
<td>Federation of European Public Service Unions (EPSU)</td>
</tr>
<tr>
<td>European Federation of Trade Unions in the Food, Agriculture and Tourism Sectors and Allied Branches (EFAT)</td>
</tr>
<tr>
<td>International Road Transport Union European Tradunion Committee for Performing Arts Employees' Associations League Europe (ETUCE)</td>
</tr>
<tr>
<td>Union of the Electricity Industry (UNI)</td>
</tr>
<tr>
<td>International Federation of Musicians (FIM)</td>
</tr>
<tr>
<td>International Federation of Professional Footballers' Associations – Division Europe (FIFPro)</td>
</tr>
<tr>
<td>Union Network International (UNI)</td>
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</tbody>
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