Mapping key dimensions of industrial relations

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1. Why mapping industrial relations matters!

“Industrial relations has always had to justify its existence. “

According to its four-year-programme 2013-2016 Eurofound’s mission is to provide knowledge to assist in the development of social and work-related policies in accordance with its 1975 Founding Regulation remains as valid today as it was then:

The aim of the Foundation shall be to contribute to the planning and the establishment of better living and working conditions through activities designed to increase and disseminate knowledge likely to assist this development. With this aim in view, the tasks of the Foundation shall be to develop and to pursue ideas on the medium and long-term improvement of living and working conditions in the light of practical experience and to identify factors leading to change.

The programme also states that Eurofound should be the “(...) first port of call for comparative information on industrial relations and social dialogue (...)” this new key corporate text describes the agency’s vision as follows:

Eurofound’s vision is that this knowledge will be used in the development of effective policies that lead to the improvement of quality of life and work in a competitive and fair Europe.2

In this paper we define industrial relations as the collective governance of the employment relationship.3 Industrial relations (IR) as a field of study stems from the Anglo-American sphere of academia and is not present to a similar extent in the continental European curricula. The IR as a field of study goes back to Beatrice and Sydney Web in the UK and John Rogers Commons in the US.4 The central concern of IR is the collective regulation (governance) of work and employment, and as Dunlop would have put it, the actors, processes and outcomes of the IR system.

Thus, throughout the major part of the 20th century the role of IR and its importance for the political, economic and societal context was not put into question. The actors, trade unions and employers, were strong and visible, the processes, collective bargaining and industrial action, were felt by the citizens and the outcomes, collective agreements and labour law, played an important, if not central role, in the governance of work and employment.

Yet, this assessment changed in at the beginning of the 1980ies in both IR practice and academia. Some IR megatrends surfaced which have become more acute since the beginning of the global economic crisis: mergers of IR actors, decline in trade union density, decentralisation of collective bargaining, opt-out and opening

2 Eurofound, 2013a, From crisis to recovery: Better informed policies for a competitive and fair Europe - Four-year work programme 2013-2016, Dublin, p.9.
3 Adapted from Keith Sisson, 2010, Employment relations matters, IRRU, Warwick.
clauses of collective agreements, decrease of extension of collective agreements, labour quiescence and decline in industrial action, and etc.

The most recent Eurofound comparative analytical report (2013c) on the “Impacts of the crisis on IR” as well as subsequent overview report (2014a) tried to map these megatrends and to assess insofar these were crisis induced, accelerated of not impacted by the crisis at all:

**Table 1: Crisis induced trends vs. megatrends**

<table>
<thead>
<tr>
<th>Trend</th>
<th>Origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restructuring of actors</td>
<td>Megatrend</td>
</tr>
<tr>
<td>Decline in trade union density</td>
<td>Megatrend</td>
</tr>
<tr>
<td>Public Sector Reform</td>
<td>Megatrend</td>
</tr>
<tr>
<td>Decentralisation of collective bargaining</td>
<td>Megatrend (crisis accelerated)</td>
</tr>
<tr>
<td>Increase in opt-out clauses</td>
<td>Crisis-induced trend</td>
</tr>
<tr>
<td>Increase in opening clauses</td>
<td>Crisis-induced trend</td>
</tr>
<tr>
<td>Decrease of extensions</td>
<td>Crisis-induced trend</td>
</tr>
<tr>
<td>Shorter duration of collective agreements</td>
<td>Crisis-induced trend</td>
</tr>
<tr>
<td>Drop in volume of bargaining</td>
<td>Crisis-induced trend</td>
</tr>
<tr>
<td>Drop in quality of bargaining</td>
<td>Crisis-induced trend</td>
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<tr>
<td>Shorter continuation of CAs</td>
<td>Crisis-induced trend</td>
</tr>
<tr>
<td>Reforms in wage-setting mechanisms</td>
<td>Crisis-induced trend</td>
</tr>
<tr>
<td>More adversarial industrial relations</td>
<td>Crisis-induced trend</td>
</tr>
</tbody>
</table>

Source: EIRO 2013

There have been many significant and far-reaching impacts of the crisis on a range of aspects of industrial relations in the EU’s 28 Member States and Norway, although it should also be stressed that in many cases it is difficult to disentangle the impact of the crisis from other factors and developments, such as longer-standing national industrial relations trends (megatrends). Table 1 attempts to classify the main developments as either crisis-induced, or megatrends accelerated by the crisis.

In terms of the restructuring of industrial relations actors, such as mergers of different actors, and the decline in trade union membership, while there has been increased merger and reorganisation activity during the crisis and trade union membership in most cases has declined, these are two pre-existing industrial relations megatrends that are likely to continue beyond the crisis.

One clear result has been a trend towards decentralisation in collective bargaining in many countries. It could be argued that in many countries, this is a trend that has been in train for some decades now, and that the crisis has merely served to exacerbate and accelerate the process, due to the need for more flexibility and more tailoring of agreements to the individual circumstances of companies. The only countries where there was a trend towards centralisation have been Finland and Belgium. In many

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cases, the EU has advised national governments to work towards decentralisation of bargaining.

Other impacts on collective bargaining have included a drop in the overall volume of bargaining, as the bargaining parties find it difficult to agree, the conclusion of agreements of shorter duration, deemed to be more suited to the changing economic climate and uncertain times and in some countries, curbs on provisions allowing collective agreements to remain in force for a period once they have expired.

Government austerity measures and budget cuts have had the expected results in most countries, notably a marked downward pressure on pay, the result of pay cuts and pay freezes, particularly – although not solely – in the public sector. In countries where wage indexation systems operate, there has been pressure to reform these systems – both from the EU and from national employers.

In parallel to the above developments and trends in the IR practice a paradigm shift in theory took place. First the turn to strategic choice approaches and then the eclipse of IR by HR in companies and universities put the question blatantly on the table:

**Do industrial relations still matter in 2014?**

Yes. IR still matter, since in the governance of the employment relationship good quality IR assure a sound balance between social justice (equity), industrial democracy, and productivity and industrial competitiveness (efficiency).

According to Sisson, “(…) a measure of the significance of employment relations is the number of people that are directly involved. For example, in the UK, at the end of 2009, just under 29 million or something approaching six out of ten of the population above the age of 16 were regarded as being in ‘employment’ according to the Office for National Statistics. Of these, just fewer than 25 million people or 86 per cent were classified as ‘employees’ and nearly 3.9 million as ‘self-employed’. The 5th European Working Condition Survey recorded about 216 million people who were employed in the EU27 main reference area of the survey. Sisson further distinguishes the following determinants of the workplace and employment relationship as shaped by industrial relations and their impact work-life balance, health, personal development opportunities, control and autonomy, information sharing, business performance and productivity, poverty and social justice:

- absolute and relative levels of pay;
- distribution and flexibility of working time;
- type of work organisation;
- autonomy and decision making;
- information / knowledge sharing.

Sisson cites the UN’s *Human Development Report which* emphasises inequality not only matters just because of the implications for individual well-being.

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However, but also society at large.\textsuperscript{9} As part of its 2020 strategy the European Union launched European platform against poverty and social exclusion as one of seven flagship initiatives smart, sustainable and inclusive growth with the aim of lifting 20 million people out of poverty and social exclusion.\textsuperscript{10}

Thus, mapping IR matters because it is a mechanism which is perceived by many as a tool to combat social injustice and to strive for social justice. Furthermore, as a mechanism involving both sides of industry it is also well placed to accomplish better business performance and productivity.

2. The four key dimensions: industrial democracy, industrial competitiveness, social justice and job and employment quality

Background

In its 2001 Communication the European Commission had also elaborated a number of indicators for job quality. Only very few, however, dealt with industrial relations:

- “Coverage of collective agreements and number of EU-wide companies with EU works councils with employee representatives;
- Proportion of workers with a financial interest/participation in the firms where they are employed;
- Working days lost in industrial disputes.”\textsuperscript{11}

One year later, in 2002, the High Level Group on Industrial Relations and Change came up with 14 indicators for benchmarking the quality of industrial relations which were a mixture of quality criteria as well as process and outcome indicators. Some of these are closely related to Biaggi’s indicators as mapped in a 2002 Eurofound report.\textsuperscript{12} This does not come as a surprise since he was a member of the high level group. In light of the Biaggi and other indicators the High Level Group advanced the following three propositions to improve the quality of European IR:

- “the interaction between European industrial relations and the national and local level;
- the interaction between bipartite and tripartite processes at European level; and
- the interaction between the sectoral and intersectoral levels.”\textsuperscript{13}

\textsuperscript{9} Ibidem.
\textsuperscript{12} Eurofound, 2002, Marco Biaggi et al. The ‘Europeanisation’ of industrial relations: Evaluating the quality of European industrial relations in a global context. A literature review, Dublin
\textsuperscript{13} http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/highlevelgrouponind ustrialrelations.htm.
Previous Eurofound studies

In 2004, Eurofound looked into ‘quality’ in industrial relations. From an economic policy perspective, striving for quality in industrial relations means promoting more and better jobs and addressing persistent unemployment, raising labour force participation and employment, as well as strengthening the conditions for high-productivity, sustainable growth. From the European social policy perspective, the quality aspect of industrial relations is underlined in the efforts on the part of social partners at all levels to implement the Lisbon strategy objectives and to achieve the ambitious goals set by the European summits of Nice and Stockholm.

Previous Foundation studies explored the issue of quality in industrial relations in the light of Economic and Monetary Union, both in the private and public sectors, and in relation to the impact of globalisation and European integration on industrial relations.

The aim of the 2004 study was to develop a draft set of indicators which could be applied to industrial relations in the context of the priorities set out in the European social policy agenda. The report explored the concept of quality in industrial relations, against a background of EU policies and of industrial relations theories and research.

The first task of the report was to draw up a conceptual framework for the establishment of comparative indicators, which could serve as an instrument assessing various aspects of industrial relations in terms of quality. Yet, the 2004 report fell short of submitting a robust framework for a conceptual mapping exercise of industrial relations.

Purpose and scope of the present study

The four-year programme commits Eurofound to examine the dynamics of industrial relations and to analyse, in a comparative way, how industrial relations systems are changing and adapting to new challenges. This strand of research activity would be facilitated by the existence of an agreed comparative framework identifying the key dimensions of industrial relations, indicators and data sources that can be used to describe and assess developments across the Member States. Improving the tools assisting comparative research in this field is likely to result in higher policy relevance of findings.

The research questions guiding the current study are the following:

a) Which elements can be identified as the key dimensions and sub-dimensions of a comparative framework for industrial relations?
b) Which indicators and which data sources can be used for measuring these dimensions?

In trying to find answers to the above research questions the project aims at the following:

• to establish dimensions of a comparative framework for industrial relations and identify associated indicators;
• to identify industrial relations data from the three waves of the European Company Survey, validate them against national data sources and apply them for testing the comparative framework;
• to integrate, validate and apply industrial relations data from version 4 of the ICTWSS data base (J. Visser); and
• to identify other relevant data sources and gaps in data availability

Building on a 2012 Eurofound project which examined what constitutes a meaningful social dialogue, as well as on previous projects from 2002/04, this project will map, analyse and discuss dimensions and indicators for a comparative framework of industrial relations. The project will then identify and assess existing data sources, which can be used to measure the different dimensions of the comparative framework. Lastly, the project will analyse how possible data gaps may be filled through future work of Eurofound. In a future step, this framework may be used for comparisons with other IR systems in the world.

In terms of its methodology, the project will be an in-house desk research exercise with input from an expert seminar. First findings on dimensions and indicators of a comparative framework will be discussed with Eurofound's stakeholders and academia in an expert workshop. The validation exercise will be based on short contributions from national correspondents in all Member States and Norway. Correspondents will be asked to look for relevant national statistics and submit them with associated meta-data.

**Four key dimensions**

After a literature and policy document review we propose to use as key dimensions of the mapping exercise the concepts of *industrial democracy, industrial competitiveness, social justice and job and employment quality*. A cross-cutting key dimension will be the one of *good governance.*
2.1. Industrial democracy

The first dimension of our mapping exercise is industrial democracy. The coining of the term ‘industrial democracy’ goes back to Sydney and Beatrice Webb and their seminal publication of 1898: this book has been labelled by some eminent academics as the best book ever written on British Trade Unionism. Not without a certain degree of humoresque exaggeration Harrison tags British Trade Unionism as a footnote to ‘Industrial Democracy’ by the Webbs. In the ‘History of Trade Unions’ the Webbs had carefully defined one of the IR actors, i.e. the trade unions, as a “(…) continuous association of wage-earners for the purpose of maintaining and improving the conditions of their employment.” For the first time, the Webbs identified collective bargaining as one of the key processes of industrial relations. Yet, they never defined industrial democracy in their publication bearing the same name. The translated into more detailed processes, we will define industrial democracy as encompassing all participation rights of employees in the governance of the employment relationship, either directly or indirectly, via trade unions, works councils, shop stewards or other forms of employee representation at any level.

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(European, national, sectoral, territorial, workplace,..). On a scale from low to high participation these rights would go from information, consultation to codetermination. Board-level workers involvement can be seen as the ultimate form of employee participation in corporate decision-making. Industrial democracy would, however, also include other forms of employee voice such as industrial action and dispute resolution.  

As sub-dimensions of industrial democracy and based on EU law, policy documents, social partner texts and company practices, we have identified autonomy, representation and participation.

**Figure 2: Key dimensions, sub-dimensions of IR and elements of good governance**

Autonomy

Primary Union law refers to the notion of ‘autonomy social partners’ in Article 152 of the Treaty on the Functioning of the European union (TFEU):

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18 See also Eurofound, 2012b, Alex Bryson, John Forth, Anitha George, *Workplace social dialogue in Europe: An analysis of the European Company Survey 2009*, Dublin, Eurofound, 5, for a more workplace focussed diagram.
“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.” 19

Only recently the ILO recognized the importance of the autonomy of the social partners as one of the fundamental measure to support social dialogue.

« Members, with the support of the Organization, should:
(2) Respect the independence and autonomy of workers’ and employers’ organizations and refrain from interfering in their establishment, functioning and administration.
(3) Ensure that collective bargaining is carried out in observance of the autonomy of the parties. » 20

For the vast majority of scholars, too, “(...) free collective bargaining and the autonomy of the social partners have always been regarded as fundamental aspects of the freedom of association.” Blanpain continues that “(...) autonomous collective bargaining constitutes a prerequisite for a pluralist democratic society (...).” 21

This autonomy of the social partners has come under threat during the global economic crisis. The EU level social partners voiced their concern that “(...) about what they saw as interference from EU institutions in national-level wage determination and wage policy.” 22 This finding was corroborated by Eurofound 2014 which saw an upswing of governmental unilateralism in many EU member States in the crisis at the expense of the autonomy of the social partners. 23

**Representation**

The European industrial relations dictionary describes employee representation “(...) as the right of employees to seek a union or individual to represent them for the purpose of negotiating with management on such issues as wages, hours, benefits and working conditions.”

Employee representation is rooted in the Member States’ labour laws on trade unions and the representation of workers at workplace and enterprise levels. It may encompass a range of issues concerning, for example, terms and conditions of employment, working practices, conduct at work, health and safety, and many others. It is most closely associated with trade unions, both at the macro-level of consultation/dialogue, which influences major issues of social and economic policy, and in collective bargaining, which determines pay and other terms and conditions of employment. It is also found in various forms of participation by workers, including ‘works councils’ and ‘enterprise committees’.

In the European Union employee representation was first declared mandatory under two Directives in the decision of the European Court of Justice in *Commission of the European Communities v. United Kingdom* Cases C-382/92 and C-383/92, [1994]. Directives further developed the principle of mandatory employee representation. First, at EU level in Community-scale undertakings and Community-scale groups of undertakings, Directive 94/45/EC, which was recast in 2008, requires the establishment of a European Works Councils, or a procedure for the purposes of informing employees and consulting with them, where requested by employees or their representatives or triggered by management. Second through Council Directive No. 2002/14/EC, establishing a framework for informing employees and consulting with them at national level. Other directives have been dealing with employee involvement in the course of collective redundancies and transfers of undertakings, safeguarding workers’ information and consultation rights.

**Participation**

In the terms of the European industrial relations dictionary participation refers to mechanisms for the involvement of employees in management decision-making by means other than information and consultation. It further distinguishes between direct and indirect participation.

‘Direct’ employee participation is practised face-to-face or individually between employees and managers. ‘Indirect’ participation occurs through employee representation.

Employee participation is referred to in Council Directive 2001/86/EC supplementing the European Company Statute with regard to the involvement of employees. Article 2(k) defines participation in particular terms as ‘the influence of the body representative of the employees and/or the employees’ representatives in the affairs of a company by way of the right to elect or appoint some of the members of the company’s supervisory or administrative organ; or the right to recommend and/or oppose the appointment of some or all the members of the company’s supervisory or administrative organ’. This very definition of participation is repeated in Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees.

Finally, we have also identified participation as one of the key dimensions of good governance (supra 3).

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24 Directive 2009/38/EC


2.2. Industrial competitiveness

The second dimension for mapping IR is defined by the notion of **competitiveness**, or in the terms of Budd efficiency.

“Efficiency is the effective use of scarce resources. The standard economic definition of efficiency is Pareto optimality; when no one can be made better off without making someone else worse off.”

According to economic and social policy scholars there is a strong link between efficiency and industrial competitiveness. Mainstream neoliberal economists would by and large agree that competitive markets result in efficient outcomes, i.e. that “(…) economic welfare is maximised by the invisible hand of economic activity in competitive markets.”

In this paper we propose to recur to a high level concept of competitiveness, i.e. industrial competitiveness at EU and national level, not neglecting the firm level, of course. It is industrial competitiveness that a system of good quality industrial relations will foster. We will define industrial competitiveness in the terms of DG Enterprise as follows:

“A competitive economy is an economy with a consistently high rate of productivity growth. Competitiveness depends on the performance of the economy’s SME-fuelled industry. To be competitive, the EU must outperform its competitors in terms of research and innovation, information and communication technologies, entrepreneurship, competition, education and training. The Lisbon Strategy set out to make Europe the most competitive and dynamic economy in the world: competitiveness is therefore one of the top political priorities of the European Union.”

Yet, what seems to be a relative easy exercise for the economic subsystem of society – measuring economic efficiency - is a far more difficult exercise with regard to industrial relations system. Thus many questions remain unanswered as to how to measure the competitiveness and efficiency of IR processes and outcomes for the time being unanswered. Finding an, at least partial, answer to this questions, seems to be one of the most challenging tasks of this project.

As sub-dimensions of industrial competitiveness we have identified productivity and growth; research and development/innovation; entrepreneurship; and human capital.

**Productivity and growth**

According to the OECD productivity is

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29 Ibidem.
“(…) commonly defined as a ratio between the output volume and the volume of inputs. In other words, it measures how efficiently production inputs, such as labour and capital, are being used in an economy to produce a given level of output. Productivity is considered a key source of economic growth and competitiveness and, as such, is basic statistical information for many international comparisons and country performance assessments.”

Productivity is one of the most relevant variables governing economic production at national level and consequently, an essential factor of competitiveness. It is a knock-on factor: increasing productivity has a multiplying effects on other economic variables. Furthermore, national productivity is usually calculated by dividing GDP by the country's total population. An increase in this measure/ratio and bring along that each person in that country produced more goods and services on average and then, there is more wealth as profits increase. It is also well known the link between inflation and productivity, as the latter can influence a lot the former particularly through wage increases. In short, increasing productivity constitutes a major challenge for economies and thus governments and enterprises as it is strongly associated to more competitive industry and undertakings as well as to better standards of living.

At workplace level, productivity is related to several fields and not only to wage increases or employees’ productivity. Other relevant factors contributing to its performance are related to work organization including appropriate workflow and workload; HRM policies (basically addresses to evaluate the cost of labour); fair pay and career opportunities and subsequently providing training facilities; learning environment; technological investment, etc.. Amongst others, all these variables can and should be evaluated and measured as a sub-dimension of industrial competitiveness

**Research and development/innovation**

Research and development is defined by the BusinessDictionary as the

“systematic activity combining both basic and applied research, and aimed at discovering solutions to problems or creating new goods and knowledge. R&D may result in ownership of intellectual property such as patents. In accounting for R&D costs, the development costs may be carried forward but the basic and applied research costs are often written-off as incurred.”

The same source characterises innovation as

“the process of translating an idea or invention into a good or service that creates value or for which customers will pay. To be called an innovation, an idea must be replicable at an economical cost and must satisfy a specific need. Innovation involves deliberate application of information, imagination and initiative in deriving greater or different values from resources, and includes all processes by which new ideas are generated and converted into useful

products. In business, innovation often results when ideas are applied by the company in order to further satisfy the needs and expectations of the customers.”

Since a number of years academia has also been discussing another form of innovation, viz workplace innovation. According to the European Commission, workplace innovation is a generic term used to describe ‘innovations in the way enterprises are structured, the way they manage their human resources, the way internal decision-making and innovation processes are devised, the way relationships with clients or suppliers are organised or the way the work environment and the internal support systems are designed’. Workplace innovation aims to increase employee motivation and enhance working conditions. This in turn can impact positively on a range of factors such as productivity, organisational performance and competitiveness. Workplace innovation is often combined with other types of innovation, such as technological innovation.

Entrepreneurship

Entrepreneurship figured as the second of the four pillars of the European Employment Strategy is ‘entrepreneurship’. This concept aimed at promoting the development of new businesses, in general, and the growth of small and medium-sized enterprises (SMEs), in particular. This was to be achieved through the creation of a ‘new culture of entrepreneurship’ in Europe. The European Commission viewed entrepreneurship as a crucial element for achieving the political objectives set at the European Council meeting in Lisbon in 2000, where the European Union committed itself to becoming, within a decade, ‘the most competitive and dynamic knowledge-based economy in the world’. Entrepreneurship is seen as a driver for economic growth, competitiveness and job creation, as well as a vehicle for personal development and for resolving social issues. In 2003 the European Commission launched the Green Paper on Entrepreneurship aimed to stimulate debate among policymakers, businesses and representative organisations on how to promote entrepreneurship and shape policy for the future. Priority points for policy action included liberalising regulations that most directly impinge on entrepreneurship and the activities of SMEs; improving access of start-up enterprises and SMEs to financial markets; reducing costs for new enterprises and SMEs; improving innovation; supporting cooperation and strengthening of networks between innovative enterprises and research and knowledge institutions; promoting the implementation of innovation and ICT applications by start-up enterprises and SMEs; and improving services provided by the authorities to start-up enterprises and SMEs.

In 2012 the European Commission launched the Entrepreneurship Action Plan which is built on three main pillars:

1. entrepreneurial education and training;
2. creation of an environment where entrepreneurs can flourish and grow; and

34 http://www.businessdictionary.com/definition/innovation.html accessed on 05.08.2014.
35 http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/workplaceinnovation.htm accessed on 02.08.2014.
3. developing role models and reaching out to specific groups whose entrepreneurial potential is not being tapped to its fullest extent or who are not reached by traditional outreach for business support.

This action plan and its key actions will be followed up by the Commission through the competitiveness and industrial policy and the small business act.  

Human capital

The webpage of Eurofound showcases human capital as one of its areas of expertise. This is explained by the fact that developing people's skills and competencies - as part of the investment in the capital of human resources - is essential in improving quality of work and employment. Research indicates that policies aimed at enhancing workers' skills contribute to an improvement in employment performance.

The European working conditions surveys investigate levels of training and skills development in the workplace, new forms of work organisation, changes in the nature of work and new technologies require new and higher levels of qualification. These include social relations and communication skills as well as occupational skills. Employment and guidance counselling is also increasingly necessary.

2.3 Social justice

‘[U]niversal and lasting peace can be established only if it is based upon social justice.’

Social justice is one of the most important outcomes of the industrial relations. Henceforth it will constitute another dimension for our mapping exercise of a polity of good governance, or as John Rawls put it in his seminal publication ‘A Theory of Justice’:

“Justice is the virtue of social institutions, as truth is of systems of thought. A theory however elegant and economic must be rejected or revised if untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust.”

Social justice is the leitmotif of a number of international organisations, research institutes and academics dealing with social dialogue and industrial relations.

It was an Irish scholar, Dr. John Kells Ingram who in 1880 during an address to the British TUC in Dublin came up with the postulate that labour should not be a commodity. Yet, 39 years later article 427 of the Treaty of Versailles establishing the first principles of the newly created ILO stated that “that labour should not be

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regarded merely as a commodity or article of commerce.” The introduction of the qualifying “merely” happened at the instigation of the British delegation.\textsuperscript{42} Also in 1919 the commodity theory of labour was contested by John Rogers Commons one of the pioneers of industrial relations in the United States. He also contests that labour is a commodity as other and puts forward his theory of industrial goodwill. For Commons “…goodwill of labor is a collective goodwill that does not play one labourer against another, or the unemployed against the employed, or take advantage of the needs of a class, but acknowledges laborer’s solidarity of interest as well as the individual laborer’s self-interest.”\textsuperscript{43} Goodwill is productive and based on reciprocity and competitive persuasion, i.e. “the knowledge of alternatives and the freedom to choose them (…)”.\textsuperscript{44} In shorthand, goodwill is the soul of a company.\textsuperscript{45}

The current ILO Constitution on the basis of the Declaration of Philadelphia of 1o May 1944 reversed back to Ingram’s wording.

„Labour should not be regarded as a commodity or article of commerce”. Unlike goods and services human resources cannot be commodified, thus the labour “market” is a very distinct arena different from all the other markets.”\textsuperscript{46}

In 2004, John W. Budd coins the objective in another, some would say more modern way: Budd argues that labour is human and that the employment relationship should have a human face.\textsuperscript{47} In 2008 the ILO adopted the Declaration on Social Justice for a Fair Globalisation. According to the ILO this declaration is only the third major statement of principles since its Constitution of 1919. Building on the Philadelphia Declaration of 1944 and the Declaration on Fundamental Principles and Rights at Work of 1998 it expresses the vision of the ILO and serves as a powerful reaffirmation of ILO values.\textsuperscript{48}

Social justice is also deeply enshrined in primary Union law. Article 3 of the TFEU claims that the Union

“ (…) shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.”\textsuperscript{49}


\textsuperscript{44} \textit{Ibidem}, pp.19 and 24.

\textsuperscript{45} \textit{Ibidem}, p.20.

\textsuperscript{46} Keith Sisson (2010), \textit{Why employment relations matter}, Warwick, IRRU, 1.


As sub-dimensions of social justice we have identified fundamental (human rights), cohesion, quality of life, equality and non-discrimination

**Fundamental (human) rights**

As the European industrial relations dictionary rightly claims Fundamental rights are now part of the EU legal order. However, the original Treaties did not contain provisions relating to basic human rights. The European Economic Community was limited to economic matters, and the European Court of Justice first developed protection for fundamental rights in economic and commercial interests, rights to property and the freedom to pursue a trade or profession.

Moreover, the Court was impelled to include fundamental rights in the EU legal order so as to defend the principle of supremacy of EU law. The threat to the supremacy of EU law over national law arose when national constitutional courts resisted Community action, insofar as they considered it as violating fundamental rights protected in national constitutions.

In *Stauder v. City of Ulm*, Case 29/69, [1969] ECR 419, a Commission decision was said to be contrary to basic rights under German constitutional law. The ECJ managed to interpret the Commission’s action to avoid this conflict, but added: (paragraph 7) ‘Interpreted in this way, the provision at issue contains nothing capable of prejudicing the fundamental human rights enshrined in the general principles of Community law and protected by the Court.’

On the one hand, the European Court of Justice emphasises that fundamental rights as general principles of Community law are autonomous from specific principles protected by the constitutional laws of individual Member States. On the other hand, these fundamental rights as general principles of EU law are rooted in the national legal cultures and reflect the constitutional traditions of the Member States.

**Fundamental labour rights**

As regards fundamental rights in the field of employment and industrial relations, the Preamble to the Treaty of the European Union confirms the Member States’ ‘attachment to fundamental social rights as defined in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers.’ Article 151 of the ‘Social Chapter’ of the TFEU begins: ‘The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.’ These references have been considered by some Authors as an incorporation of the fundamental rights in the Treaties.
The Charter of Fundamental Rights of the European Union includes seven chapters divided into 54 Articles covering fundamental rights relating to dignity, liberty, equality, solidarity, citizenship and justice. Of particular interest to employment and industrial relations are provisions on protection of personal data (Article 8), freedom of association (Article 12), freedom to choose an occupation and right to engage in work (Article 15), non-discrimination (Article 21), equality between women and men (Article 23), workers’ right to information and consultation within the undertaking (Article 27), right of collective bargaining and collective action (Article 28), protection in the event of unjustified dismissal (Article 30), fair and just working conditions (Article 31), prohibition of child labour and protection of young people at work (Article 32) and reconciliation of family and professional life (Article 33).

The latest development in the integration of fundamental rights in the EU legal order has been the incorporation of the Charter of Fundamental Rights of the European Union, initially proclaimed at the European Council at Nice on 7 December 2000, into primary EU law by the Treaty of Lisbon which took effect on 1 December 2009.

The Court of Justice of the European Union can also draw upon a range of international law sources of fundamental rights in the labour field. The Council of Europe’s Social Charter is referred to in the Treaties. Ratification by all Member States of ILO Conventions, for example, Convention No. 87 of 1948 (Freedom of Association and Protection of the Right to Organise), and Convention No. 98 of 1949 (Application of the Principles of the Right to Organise and to Bargain Collectively) has produced a common foundation of fundamental rights of labour in all Member States of the EU.50

Cohesion

The Council of Europe defines social cohesion as “(…) the capacity of a society to ensure the well-being of all its members, minimising disparities and avoiding marginalisation.”51

Eurofound’s research in this area relates to the key priorities of the EU Social Agenda – full employment and a more inclusive society – and will continue to be a major focus. Areas of research undertaken by Eurofound include a three-phase report on the issue of disability and social inclusion, which identified policy initiatives that can facilitate social and economic integration, as well as examining ways to retain people with chronic illnesses and disabilities in employment. A key focus is the active inclusion of young people with disabilities or health problems, as recent research has shown an increase in the take-up of incapacity benefits by young people of working age in EU Member States.

In the context of an ageing population and increasing demand for care services in the EU, there is growing concern about the supply of suitably qualified care workers. Low pay, low status, and high rates of turnover and burnout make it difficult to attract workers to the care sector and keep them in their jobs. Foundation research looks at a

50 http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/fundamentalrights.htm accessed on 01.08.2014.
range of innovative approaches aimed at increasing the supply of qualified workers in the sector. Another key focus has been the exploration of employment initiatives for an ageing workforce.

Another Eurofound project examined if, and to what extent, regional social capital is a factor, both in combating social exclusion and in promoting employment in disadvantaged regions. The study on a new organisation of time over working life provides a significant input into the emerging debate in Europe on employment, social protection and care over the life course.\textsuperscript{52}

\textbf{Quality of life}

Arising from low employment rates, an ageing population, changing family structures and social exclusion have put quality of life issues at the top of the EU social policy agenda.

Recognising the need for additional comparable data on the subject of living conditions, Eurofound launched a pan-European Quality of life survey in 28 countries in May 2003. This was the first step in a major initiative to monitor and report on living conditions and quality of life in Europe.

The second European Quality of Life Survey was carried out in 2007 and the third one in 2011/12.\textsuperscript{53} Fieldwork for the third European Quality of Life Survey (EQLS) took place from the end of September 2011 to early February 2012 in the 27 European Union Member States. The report of the findings, \textit{Quality of life in Europe: Impacts of the crisis}, was published and launched in November 2012.\textsuperscript{54}

\textbf{Equality and non-discrimination}

According to the European industrial relations dictionary, the principle of equal treatment requires that all people, and in the context of the workplace all workers, have the right to receive the same treatment, and will not be discriminated against on the basis of criteria such as age, disability, nationality, race and religion. The EU has been an important force in combating discrimination and in promoting the equal treatment principle in employment and industrial relations. From the beginnings of the European Economic Community (EEC), its common market objective of fair competition among employers meant that the non-discrimination principle was at its core. Discrimination was initially the focus of EU attention in two respects. The EU Member States’ economic objective of creating a common labour market through the free movement of workers required the prohibition of discrimination on grounds of nationality (Article 45 TFEU) and the different treatment of workers who are nationals of a Member State of the EU is thus prohibited if based on grounds of their nationality.

The equal treatment principle goes hand in hand with the non-discrimination principle. The latter requires the equal treatment of an individual or group irrespective of their particular characteristics, and is used to assess apparently neutral criteria that

\begin{itemize}
\item \textsuperscript{52} http://www.eurofound.europa.eu/areas/socialcohesion/index.htm accessed on 01.08.2014.
\item \textsuperscript{53} http://www.eurofound.europa.eu/areas/qualityoflife/index.htm accessed on 01.08.2014.
\item \textsuperscript{54} http://www.eurofound.europa.eu/surveys/eqls/2011/index.htm accessed on 01.08.2014.
\end{itemize}
may produce effects which systematically disadvantage persons possessing those characteristics. The principle of non-discrimination has been affirmed by Article 21 of the Charter of Fundamental Rights of the European Union and has been integrated by the Treaty of Lisbon into primary Union law via Article 6 TEU. In the context of employment and industrial relations in the EU, the principle has two applications in the TFEU: Article 18 TFEU which prohibits discrimination on the grounds of nationality, and Article 157 TFEU with its requirement for ‘equal pay for female and male workers for equal work’. The principle of non-discrimination on the basis of nationality was essential for the establishment of a common labour market in Europe (Article 45 TFEU).

Initially the principle of non-discrimination was applied to gender-based discrimination in relation to equal pay for women and men (Article 119 EC, now Article 157 TFEU) as the ‘pay gap’ between male and female earnings was significant in every Member State. The concept of ‘pay’ was given a particularly wide definition, so as to include fringe benefits and eventually also occupational pensions. The legislation to promote equal pay depended on being able to show that there were comparable workers of the opposite sex whose pay was higher. However, occupational segregation in terms of gender, which meant that in many workplaces certain occupations were predominantly or exclusively occupied by one gender, made it very difficult in practice to identify such a comparator. In the case of equal pay, this was addressed when the principle was later extended to require ‘equal pay for work of equal value’ in Council Directive 75/117/EEC. The equality principle was expanded beyond equal pay by a 1976 directive to include a wider principle of equal treatment in employment for female and male workers, prohibiting discrimination directly or indirectly by reference in particular to marital or family status. This brought the law into many areas previously unregulated: access to employment, including recruitment, promotion, dismissal, vocational training, working conditions, pensions and social welfare. Specific directives required equal treatment in social security (Council Directive 79/7/EEC), outlawed discrimination in occupational social security (Council Directive 86/378/EEC and Council Directive 96/97/EC), and towards self-employed persons (Council Directive 86/613/EEC). However, as in the case of equal pay legislation, problems emerged with regard to the issue of proving discrimination. The situation was first examined in the case of sex discrimination, with the application of Council Directive 97/80/EC which reversed the burden of proof placing a primary obligation on employers to prove that they had not discriminated, once a difference in treatment had been established by the worker.

2.4 Job and employment quality

Finally, our fourth dimension is job and employment quality which has been operationalised by the working conditions team of Eurofound for a number of years. In 2002 the European Foundation for Living and Working Conditions developed an influential conceptual framework, in which job quality was built upon four blocks: ‘career and employment security’, ‘health and well-being’, ‘reconciliation of working and non-working life’ and ‘skills development’ (Eurofound, 2002).

Job and employment quality, or quality of work refers to the European Union’s objective to promote ‘improved living and working conditions’ as laid down in Article 151 TFEU. While the commitment to improving working conditions was already a part of the Treaties of Rome, it was further stipulated in the 2007 Charter of Fundamental Rights of the European Union. The commitment was renewed by the Lisbon Strategy aimed at combining ‘sustainable economic growth with more and better jobs and greater social cohesion’. It incorporates policy concerns over employment, competitiveness and adaptability, particularly in debates over balancing flexibility with security, the so-called ‘flexicurity’ concept. The European Commission’s renewed Social Policy Agenda 2006–2010 (COM(2008) 412 final, 2 July 2008) emphasised the joint goals of ‘more and better jobs’ since ‘the aim is not only to have more jobs but also to develop quality jobs, in particular those linked to the knowledge-based economy’.

Improving quality of work is also an important objective of European social dialogue. A number of European framework agreements and frameworks of action address issues regarding the quality of work. These include:

- the agreement on telework (2002);
- the framework of action on lifelong learning (2002);
- the agreement on stress at work (2004);
- the framework of action on gender equality (2005);
- the agreement on harassment and violence at work (2006).

Figure 3: Quality framework of work and employment

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57 Eurofound, 2002, *Quality of work and employment in Europe. Issues and Challenges*, p.6
As sub-dimensions of job and employment quality the working conditions team of Eurofound identified career and employment security, health and well-being, reconciliation of working and non-working life and skills development. Bearing the above in mind we will not further develop in this research project on this fourth dimension nor his sub-dimensions or indicators.

3. Cross-cutting dimension of good governance

Definition and criteria of good governance

On its web page on European Governance the Commission invokes Roderick Rhodes by stating that ‘the concept of governance is currently used in contemporary social sciences with at least six different meanings: the minimal State, corporate governance, new public management, good governance, social-cybernetic systems and self-organised networks’.  

We will follow the rather broad definition, as developed by Kohler-Koch, with regard to the term of governance, which is the central paradigm of our second research question:

“[G]overnance can be considered both a process and a state whereby public and private actors engage in the intentional regulation of societal relationships and conflicts. Governance is thus different from government, the latter stressing hierarchical decision-making structures and the centrality of public actors, while the former denotes the participation of public and private actors, as well as non-hierarchical forms of decision-making.”

In her definition, Kohler-Koch rightly puts the emphasis on the fact that governance, both as a polity and a process, encompasses public and private actors, thus in our case the EC institutions and the European-level social partners. This is one of the main characteristics distinguishing ‘government’ from ‘governance’. Governance is further characterized by the fact that, at its basis, we will find a non-hierarchical polity using deliberative and predominantly soft-law processes.

As regards the definition of good governance in the European context, we follow the 2001 definition of the Commission in its White Paper on European Governance. European Governance is defined by the Commission in its 2001 White Paper in the


61 The 2001 White Paper on European Governance was developed by a team of about 15 specialists under the leadership of Jerôme Vignon, who from 1989 to 1998 was the Head of Unit of one of the Commission's most prominent think tanks, 'la cellule de prospective’. Vignon was a former advisor to Jacques Delors, cf. Laurence Jourdain, 2005, La ‘gouvernance’, in: Centre de recherche universitaire
The following terms: "Governance" means rules, processes and behaviour that effect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence.  

**Figure 4: Key dimensions of good governance**

In the eyes of the Commission, ‘civil society must itself follow the principles of good governance, which include accountability and openness’. A similar view is shared by the EESC, stating that the ‘quasi-constitutional’ social dialogue is an application of the Commission's governance principles. The Committee attaches great importance to the fact that the special role of the social partners within the framework of organised civil society is made crystal-clear. It therefore welcomes the White Paper's express reference to this special role and the special influence of the social partners. The task of the social partners within the framework of the Social Dialogue is an excellent example of the effective implementation of the governance principle at European level.

Until 31 March 2002 the Commission ran a public consultation on this White Paper, in the course of which it received 260 contributions. The consultation process was ‘modest in numbers…but rich in content’. According to the Commission's evaluation of these contributions, the public consultation has largely supported the White paper's definition of the principles of underlying European Governance of...
openness, participation, accountability, efficiency and coherence, while principles such as democratic legitimacy and subsidiarity have been proposed as additions.\textsuperscript{66}

In addition to this public support, the criteria of good governance were also upheld by the European Economic and Social Committee,\textsuperscript{67} the EP in its report on the Commission's White Paper\textsuperscript{68} and, to some extent, by the Council of the European Union.\textsuperscript{69} Yet, the Parliament also stressed the necessity of taking the principle of ‘democratic legitimacy’ on board, and the EESC claimed that the criterion of accountability was not complete and underlined the importance of ‘subsidiarity as the basic and the most important principle of good governance’.\textsuperscript{70}

Finally, initiatives to assess good governance via the use of benchmarking criteria are not only an exercise undertaken by the European Union. The first attempt to operationalize the concept of good governance stems from the World Bank\textsuperscript{71} in the mid-1990s, which was followed by the UN\textsuperscript{72} and the OECD\textsuperscript{73} with regard to their Member States. The European Community had already previously recurred to the concept of good governance in its cooperation with the ACP countries.\textsuperscript{74} Furthermore, a High Level Consultative Group on Regulatory Quality composed of representatives from the EU 15 worked on the concept of good governance. The group, named after its chairperson as the ‘Mandelkern Group’, tabled a final report in November 2001,\textsuperscript{75} which forwarded a number of recommendations on topics such as impact assessment, simplification of regulation, transposition and enforcement of regulation. The Mandelkern report was discussed and welcomed by the European Council in Laeken in December 2001.\textsuperscript{76}

\textsuperscript{66} Ibid.
\textsuperscript{76} See also Department of the Taoiseach, 2002, Towards better regulation. A consultation document, PN no. 11153, Dublin, February 2002, p.17.
Table 2: Indicators of Good Governance used by International Organizations

<table>
<thead>
<tr>
<th>Indicator</th>
<th>EC</th>
<th>OECD</th>
<th>World Bank</th>
<th>UN</th>
<th>Mandelkern Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Openness</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Participation</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Accountability</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Effectiveness</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Coherence</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proportionality</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Subsidiarity</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

All of the seven indicators identified by the EC in its White Paper on European Governance are also found among the criteria developed by other international organizations or the Mandelkern Group. The criterion of accountability is shared by all four international organizations and the Mandelkern Group, and thus appears to have the strongest backing (five-fifths). Openness and effectiveness range second as important indicators of good governance (four-fifths). Openness, as a criterion of good governance, is recurred to by the EC, the OECD, the UN and the Mandelkern Group (four-fifths). Effectiveness is shared by the Commission, the OECD, the World Bank and the UN (four-fifths). Participation is a core element of good governance to the Commission, the World Bank and the UN (three-fifths), whereas coherence is on the list of the Commission only (one-fifth). Finally, proportionality and subsidiarity are criteria of good regulation for both the Commission and the Mandelkern Group (two-fifths). It does not surprise that the criterion of subsidiarity has not been mentioned by the OECD, the World Bank or the UN. Subsidiarity only makes sense in a polity where different levels of exercise of power are competing with each other. This scenario only arises in a federal state or in a pre-federal supranational community, such as the European Union. In classic international organizations, which are of a mere cooperative nature and are not exercising regulatory powers, such a quest for the most appropriate level of power does not surface.

In sum, except for the criterion of coherence, there are at least two other international organizations and/or the Mandelkern Group, which recur to the remaining six indicators of good governance as developed by the EC. The majority of the criteria have also been put forward and supported by both the social partners and by academia.

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77 The table draws on José Candela Castillo, 2005, La bonne gouvernance comprise comme intégration des principes de légitimité, efficacité et justice, Revue du Droit de l'Union européenne, no. 2, 243. In contrast to Candela Castillo we did not find any evidence that the Mandelkern group also used the indicator of effectiveness.
78 See also Jacques Brouillet, Marc Rigaux and François Vandamme, 2006, Le modèle social européen: source ou moteur de la construction européenne?, Droit social, no. 12, p.1182 citing subsidiarity and proportionality as criteria for good governance.
as common features of good governance. Despite the fact that the notion of good governance is considered by some scholars as ‘notoriously slippery’ and that the criteria applied are ‘debatable,’ we consider that we have found sufficient empirical evidence for their usage in order to use them as criteria for good regulation at European level. The criteria of good governance are also an integral part of the constitutions and legal systems of many of the Member States. The definition of good governance, as used above, as well as the criteria developed by the Commission and the other international organizations will help us to better understand, analyse and assess the ESD with regard to our second research question.

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Cf. Table 2 above.


Eurofound, 2014d, Paul Marginson, Christin Welz, Changes in wage-setting mechanisms in the context of the crisis and the new European economic governance, Dublin.
European Trade Union Institute, 2012, Benchmarking Working Europe 2012, Brussels, ETUI.
OECD, 2005, Modernizing Government. The way forward, Paris, OECD.
Annex 1
Mapping key dimensions in Industrial Relations
Sub-dimension: Industrial democracy
Examples of indicators on Autonomy, Representation and Participation

<table>
<thead>
<tr>
<th>Indicator No. ...</th>
<th>Freedom of association and protection of the right to organise</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension</td>
<td>Industrial democracy</td>
</tr>
<tr>
<td>Type of indicator</td>
<td>Context indicator</td>
</tr>
<tr>
<td>Definition</td>
<td>Freedom of association refers to the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation. This right applies to workers and employers, without distinction whatsoever. Protection of the right to organise is to be ensured by the country through appropriate measures which guarantee workers and employers to freely exercise this right.</td>
</tr>
<tr>
<td>Rationale</td>
<td>Convention C087 is a fundamental convention adopted in 1948. The Preamble to the Constitution of the International Labour Organisation (ILO), to which currently 185 countries are members, declares the &quot;recognition of the principle of freedom of association&quot; to be a means of improving conditions of labour and of establishing peace. In addition the ILO’s Declaration of Philadelphia reaffirms that &quot;freedom of expression and of association are essential to sustained progress&quot;.</td>
</tr>
<tr>
<td>Source available</td>
<td>Name and ownership: <a href="http://ilo.org/lex/lexhome.htm">ILOLEX</a> for ratifications of conventions and <a href="http://ilo.org/LEX/natlexhome.htm">NATLEX</a> for their translation into national legislation on the subject</td>
</tr>
<tr>
<td>Characteristics</td>
<td>NA</td>
</tr>
</tbody>
</table>
Limitations
The indicator provides information on the acceptance by a country of international labour rights and its intention and commitment to undertake steps to realise labour rights in conformity with the provisions of the relevant instrument. It does not however capture the actual process of implementation or the results thereof.

The indicator does also not reflect conditional ratifications of conventions which demonstrate the general acceptance of a convention but allow for changing legal effects in their application.

Overall assessment
All EU Member States have ratified C087 which means that it is legally binding for the country to implement the principles and rights laid down in the convention. Hence, comparability of legislation on the subject matter between Member States is given.

Indicator No. ...

**The right to organise and collective bargaining**

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Industrial democracy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of indicator</td>
<td>context</td>
</tr>
</tbody>
</table>

**Definition**
The right to organise asks the country to adequately protect workers against acts of anti-union discrimination in respect of their employment. The protection shall particularly apply when employment of a worker is made subject to the condition that he or she shall not join a union or relinquish existing membership, or when a worker is dismissed due to engaging in union activities.

The right to collective bargaining asks the country to establish measures to encourage and promote full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

**Rationale**
Convention C098 is a fundamental convention adopted in 1949. As it is linked to C087 the same rationale applies.

**Source available**

<table>
<thead>
<tr>
<th>Name and ownership</th>
<th>ILOLEX for ratifications of conventions and NATLEX for their translation into national legislation on the subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>Characteristics</td>
<td>NA</td>
</tr>
<tr>
<td>Type of measurement</td>
<td>Legal and/or political implementation</td>
</tr>
<tr>
<td>Geographical coverage</td>
<td>NA</td>
</tr>
<tr>
<td>Disaggregation</td>
<td>NA</td>
</tr>
<tr>
<td>Periodicity</td>
<td>NA</td>
</tr>
<tr>
<td>Years covered (record)</td>
<td>Information on supervision of the application of ILO conventions is available on a regular basis</td>
</tr>
<tr>
<td>------------------------</td>
<td>------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Limitations</td>
<td>The indicator provides information on the acceptance by a country of international labour rights and its intention and commitment to undertake steps to realise labour rights in conformity with the provisions of the relevant instruments. It does not however capture the actual process of implementation or the results thereof. The indicator does also not reflect conditional ratifications of conventions which demonstrate the general acceptance of a convention but allow for changing legal effects in their application.</td>
</tr>
<tr>
<td>Overall assessment</td>
<td>All EU Member States have ratified this C087 which means that it is legally binding for the country to implement the principles and rights laid down in the convention. Hence, comparability of legislation on the subject matter between Member States is given.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicator No. ...</th>
<th>The right to tripartite consultation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension</td>
<td>Industrial democracy</td>
</tr>
<tr>
<td>Type of indicator</td>
<td>Context</td>
</tr>
<tr>
<td>Definition</td>
<td>The right to tripartite consultation asks a country to operate procedures which ensure effective consultations, with respect to the matters concerning the activities of the ILO between representatives of the government, of employers and of workers.</td>
</tr>
<tr>
<td>Rationale</td>
<td>Convention C144 is a governance (priority) convention of the ILO adopted in 1976. The right to tripartite consultation is an enabling right which intends to promote the implementation of international labour standards. C144 is directly linked to the Freedom of Association and Protection of the Right to Organise Convention and the Right to Organise and Collective Bargaining Convention and hence the same rationale applies.</td>
</tr>
<tr>
<td>Source available</td>
<td>Name and ownership: ILOLEX for ratifications of conventions and NATLEX for their translation into national legislation on the subject</td>
</tr>
<tr>
<td></td>
<td>Characteristics: NA</td>
</tr>
<tr>
<td></td>
<td>Type of measurement: Legal and/or political implementation</td>
</tr>
<tr>
<td></td>
<td>Geographical coverage: NA</td>
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<td></td>
<td>Disaggregation: NA</td>
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<tr>
<td></td>
<td>Periodicity: NA</td>
</tr>
<tr>
<td></td>
<td>Years covered (record): Information on supervision of the application of ILO conventions is available on a regular basis</td>
</tr>
<tr>
<td>Limitations</td>
<td>The indicator provides information on the acceptance by a country of international labour rights and its intention and commitment to undertake steps to realise labour rights in conformity with the provisions of the relevant instruments. It does not however capture the actual process of</td>
</tr>
</tbody>
</table>
implementation or the results thereof. The indicator does not reflect conditional ratifications of conventions which demonstrate the general acceptance of a convention but allow for changing legal effects in their application.

| Overall assessment | Croatia, Malta and Luxembourg are the only EU Member States who have not ratified C144. |

<table>
<thead>
<tr>
<th>Indicator No.</th>
<th>Government intervention in wage bargaining</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dimension</strong></td>
<td>Industrial democracy</td>
</tr>
<tr>
<td><strong>Sub-dimension</strong></td>
<td>Autonomy</td>
</tr>
<tr>
<td><strong>Type of indicator</strong></td>
<td>Process</td>
</tr>
<tr>
<td><strong>Definition</strong></td>
<td>Degree of government intervention, if any, in wage settlement</td>
</tr>
<tr>
<td><strong>Rationale</strong></td>
<td>Relevant indicator in order to measure to what extent governments intervene or influence in wage settlement either directly or through participating in bargaining</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Source available</th>
<th>Name and ownership</th>
<th>Government intervention in wage bargaining (ICTWSS-Govint) Developed by Hassel (2006) and adjusted by Visser</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Characteristics</strong></td>
<td>Single indicator 5-point assessment scale</td>
<td></td>
</tr>
<tr>
<td><strong>Geographical coverage</strong></td>
<td>All OECD and EU member states</td>
<td></td>
</tr>
<tr>
<td><strong>Disaggregation</strong></td>
<td>Member states</td>
<td></td>
</tr>
<tr>
<td><strong>Periodicity</strong></td>
<td>Year basis?</td>
<td></td>
</tr>
<tr>
<td><strong>Years covered (record)</strong></td>
<td>1960-2011</td>
<td></td>
</tr>
<tr>
<td><strong>Limitations</strong></td>
<td>Data come from different and various authors covering different countries</td>
<td></td>
</tr>
<tr>
<td><strong>Overall assessment</strong></td>
<td>Quite robust indicator, able to be compared and usually accepted by scholars and institutions</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicator No.</th>
<th>Minimum wage setting mechanisms</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dimension</strong></td>
<td>Industrial democracy</td>
</tr>
<tr>
<td><strong>Sub-dimension</strong></td>
<td>Autonomy</td>
</tr>
<tr>
<td><strong>Type of indicator</strong></td>
<td>Process</td>
</tr>
<tr>
<td><strong>Definition</strong></td>
<td>The degree of government intervention and discretion in setting the minimum wage, or – reversely – the degree to which the government is bound in its decisions by unions and employers, and/or fixed rules.</td>
</tr>
<tr>
<td><strong>Rationale</strong></td>
<td>This indicator measures whether or not a mandatory minimum wage exists for some or all of the economy; and how decisions regarding the minimum wage are actually made, with or without the involvement of unions and employers.</td>
</tr>
<tr>
<td>Source available</td>
<td>Name and ownership</td>
</tr>
<tr>
<td>------------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>Characteristics</td>
<td>Single indicator</td>
</tr>
<tr>
<td>Geographical coverage</td>
<td>All OECD and EU member states</td>
</tr>
<tr>
<td>Disaggregation</td>
<td>Member States</td>
</tr>
<tr>
<td>Periodicity</td>
<td>Year basis?</td>
</tr>
<tr>
<td>Years covered (record)</td>
<td>1960-2011</td>
</tr>
</tbody>
</table>

Limitations: Data come from different institutional sources (including ERO reports) and various authors, covering different countries.

Overall assessment: Quite robust indicator, able to be compared and usually accepted by scholars and institutions.

**Indicator No. ...**

<table>
<thead>
<tr>
<th>Predominant level of wage bargaining</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dimension</strong></td>
</tr>
<tr>
<td><strong>Sub-dimension</strong></td>
</tr>
<tr>
<td><strong>Type of indicator</strong></td>
</tr>
<tr>
<td><strong>Definition</strong></td>
</tr>
<tr>
<td><strong>Rationale</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Source available</th>
<th>Name and ownership</th>
<th>Predominant level of wage bargaining (ICTWSS-Level. Visser)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Characteristics</td>
<td>Single indicator</td>
<td>5-point assessment scale</td>
</tr>
<tr>
<td>Geographical coverage</td>
<td>All OECD and EU member states</td>
<td></td>
</tr>
<tr>
<td>Disaggregation</td>
<td>Member states</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Central</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cross-industry</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sector or industry</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Company</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other intermediate or alternating between levels (mainly central and industry bargaining)</td>
<td></td>
</tr>
<tr>
<td>Periodicity</td>
<td>Year basis?</td>
<td></td>
</tr>
<tr>
<td>Years covered (record)</td>
<td>1960-2011</td>
<td></td>
</tr>
</tbody>
</table>

Limitations: Data come from different institutional sources (including ERO reports) and various authors, covering different countries. Own authors’ definition of what means “predominant”, based on specific criteria (e.g. level is ‘predominant’ if it accounts for at least two-thirds of the total bargaining coverage rate in a given year and country. If it accounts for less, other assessment applies).

Overall assessment: Difficult topic to be measured. Overall, it is a rather solid comparative indicator, usually quoted by scholars and institutions, although other indicators sources exist at EU level.
### Trade Union Density

<table>
<thead>
<tr>
<th>Indicator No.</th>
<th>Trade union density</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension</td>
<td>Industrial democracy</td>
</tr>
<tr>
<td>Sub-dimension</td>
<td>Representation</td>
</tr>
<tr>
<td>Type of indicator</td>
<td>Process</td>
</tr>
<tr>
<td>Definition</td>
<td>Net union membership as a proportion of wage and salary earners in employment</td>
</tr>
<tr>
<td>Rationale</td>
<td>Union density influences the wage bargaining setting as well as the industrial relations and social dialogue performance, both at national and workplace level. It can be used as an indicator of the degree to which workers are organized, although it only measures union membership and it is not necessarily related to the influence or bargaining power of unions.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Source available</th>
<th>Name and ownership</th>
<th>Union density rate. (ICTWSS-UD. Visser)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Characteristics</td>
<td>(0-100) = NUM*100/WSEE</td>
<td></td>
</tr>
<tr>
<td>Geographical coverage</td>
<td>All OECD and EU member states</td>
<td></td>
</tr>
<tr>
<td>Disaggregation</td>
<td>Not</td>
<td></td>
</tr>
<tr>
<td>Periodicity</td>
<td>Not</td>
<td></td>
</tr>
<tr>
<td>Years covered (record)</td>
<td>1960-2011</td>
<td></td>
</tr>
</tbody>
</table>

**Limitations**

Strong limitations apply as unions’ membership data are not reliable and outdated. There is no methodological basis for data collection as industrial relations, social dialogue, institutional support and labour market factors differ from country to country. Furthermore, there exists a significant variation in the methods used to collect the information, (taking into account the whole workforce, or those “in employment”, or distinguishing the public from the private sector. Therefore, according to ILO, data are not directly comparable between countries.

**Overall assessment**

Even with strong limitations, and taking them into account, it is an indicator which can be accepted with cautions.

### Employers’ Organisation Density

<table>
<thead>
<tr>
<th>Indicator No.</th>
<th>Employers’ organisation density</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension</td>
<td>Industrial democracy</td>
</tr>
<tr>
<td>Sub-dimension</td>
<td>Representation</td>
</tr>
<tr>
<td>Type of indicator</td>
<td>Process</td>
</tr>
<tr>
<td>Definition</td>
<td>Percentage of employees working in the country for employers that are members of an employer organisation</td>
</tr>
<tr>
<td>Rationale</td>
<td>Employers’ organisation density influences the wage bargaining setting as well as the industrial relations and social dialogue performance. According to Eiro, they may be ‘pure’ employer organisations, which solely represent labour market/industrial relations interests, or ‘dual’ organisations, which</td>
</tr>
</tbody>
</table>
represent both labour market/industrial relations interests and other business interests – that is, acting as trade associations in relation to product or service markets. As a result, they may be able to negotiate collective agreements, directly or indirectly or/and be involved in bipartite and/or tripartite consultations on labour market and industrial relations regulation.

<table>
<thead>
<tr>
<th>Source available</th>
<th>Name and ownership</th>
<th>Employer density rate (ICTWSS-ED. Visser)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Characteristics</td>
<td>(0-100) = NUM*100/WSEE</td>
<td></td>
</tr>
<tr>
<td>Geographical coverage</td>
<td>All OECD and EU member states</td>
<td></td>
</tr>
<tr>
<td>Disaggregation</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Periodicity</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Years covered (record)</td>
<td>1960-2011</td>
<td></td>
</tr>
</tbody>
</table>

Limitations
Strong limitations apply as employers’ organisation data are not reliable and outdated. The structure and the way in which employer organisations exist and operate strongly differ across the countries, depending on factors of the existence of “peak” organisations, i.e. those that are not affiliated to any higher-level body, have national scope and organise employers in more than one economic sector. Other challenging topic is whether or not data from public and/or private companies are collected. There is no methodological basis for data collection and therefore data should not be directly comparable between countries.

Overall assessment
Even with strong limitations, and taking them into account, it is an indicator which can be accepted with due cautions.

<table>
<thead>
<tr>
<th>Indicator No.</th>
<th>Number of working hours lost through industrial action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimension</td>
<td>Industrial democracy</td>
</tr>
<tr>
<td>Type of indicator</td>
<td>Outcome indicator</td>
</tr>
<tr>
<td>Definition</td>
<td>Number of working hours lost through industrial action per 1,000 employees</td>
</tr>
<tr>
<td>Rationale</td>
<td>The days not worked due to industrial action per 1,000 employees is considered the most reliable indicator for comparing strike activity over time between countries. This rate is a quantitative indicator hiding considerable qualitative differences in strike activity.</td>
</tr>
</tbody>
</table>

Source available
Name and ownership
DNW indicator. ETUI’s Annual Benchmarking Social Europe

Characteristics
The strike volume or days not worked due to industrial action is calculated by the multiple of its duration and the number of workers involved.

Information also includes data on employment, the strictness of the right to strike, its legal
<table>
<thead>
<tr>
<th><strong>Geographical coverage</strong></th>
<th>European Union, candidate countries, Norway and Switzerland</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Disaggregation</strong></td>
<td>States included</td>
</tr>
<tr>
<td><strong>Periodicity</strong></td>
<td>Year basis (ETUI Benchmarking Social Europe)</td>
</tr>
<tr>
<td><strong>Years covered (record)</strong></td>
<td>Two batches/decades 1991-2000 and 2001-2010</td>
</tr>
</tbody>
</table>

**Limitations**

Its (changing) meaning for workers, employers and authorities and significance over time and between economic sectors and geographical area is not fully reflected by the DNW rate.

**Overall assessment**

Different sources are taken to build this indicator, although the predominant source data is Eurostat (*average days not worked*) and partially EIRO country reports. This indicator could also be directly taken from Eurostat.