EUROPEAN INDUSTRIAL RELATIONS OBSERVATORY

eiro observer

UPDATE 1'00

ISSN 1028 0588, Issue 1/00

The growth, regulation and effects of ''atypical'' forms of employment seem sure to be key issues for industrial relations in the 21st century, as they were in the later years of the 20th. Temporary agency work, involving a three-way relationship between an employment agency, a worker and a user company, is a fast-growing model of employment, and one which the European-level social partners are considering as a subject for negotiations in 2000. Against this background, the comparative supplement in this issue of *EIRObserver*: provides brief information on the extent of temporary agency work; examines the extent to which this form of employment is regulated by law and/or collective bargaining; outlines the key points of regulation; and looks at the views of the social partners.

Our comparative supplement highlights the diversity in national situations and definitions, but detects a number of common trends. Despite rapid growth, the extent to which temporary agency work has spread is still generally modest, and it is concentrated in industry in some countries and in services in others. The way in which temporary agency work is regulated, either by legislation or collective bargaining, varies between countries and diverges quite distinctly from traditional national industrial relations practices in some cases. The regulatory constraints on companies and the protection to which employees are entitled, as well as the strategies and forms of organisation adopted by the social partners, are also widely divergent.

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

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

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

Mark Carley, Editor

EUROPEAN FOUNDATION *for the Improvement of Living and Working Conditions*

EU

Commerce social dialogue agrees on fundamental workers' rights

The social dialogue in the European commerce sector developed further over 1999. Notably, in August it produced an agreement on fundamental rights and principles at work, covering the elimination of forced labour, child labour and discrimination, freedom of association and the right to collective bargaining.

The European-level social dialogue within the commerce sector has recently made significant progress, including the conclusion of a ''landmark'' agreement on'' fundamental rights and principles at work'' on 6 August 1999 between EuroCommerce, representing employers in the European retail, wholesale and foreign trades, and the commerce section of Euro-FIET (renamed UNI Europa Commerce since 1 January 2000), representing trade unions.

New phase of dialogue

Sectoral social dialogue in the commerce sector was first established in the mid-1980s and has since produced a variety of agreements, joint opinions and declarations on a range of subjects, including child labour, employment, training and violence at work.

Social dialogue in this sector entered a new phase following the European Commission's 1998 Communication on *Adapting and promoting the social dialogue at Community level* and its subsequent Decision on the establishment of sectoral dialogue committees to replace existing dialogue arrangements at sector level (*EIRObserver* 2/99 p.3). Thus, on 30 November 1998, EuroCommerce and Euro-FIET Commerce concluded an agreement to establish a formal sectoral dialogue committee to replace their informal working party. This committee is consulted by the Commission on developments at Community level with social policy implications and is responsible for developing and promoting the social dialogue in this sector. The priority topics for discussion in the dialogue are: employment promotion; electronic commerce; EU enlargement; child labour; and racism and xenophobia. The structure of the dialogue involves an annual plenary session, which is the main steering body, complemented by bipartite working groups on specific issues. In 1999, groups were established in areas such as: employment; education and vocational training; electronic commerce; racism and xenophobia; child labour; and wholesale trade and commercial sales agents.

Agreement on workers' rights

The recent agreement on fundamental workers' rights builds on the social partners' 1996 joint statement on combating child labour and also follows up a June 1998 EuroCommerce recommendation on social buying conditions, covering child, forced and prison labour.

The agreement enshrines the four sets of rights defined by the International Labour Organisation (ILO) in its Declaration on fundamental principles and rights at work. The ILO Declaration, signed at its 1998 conference, reaffirms the rights contained in the following ILO Conventions:

- no. 29 and no. 105 on forced labour;
- no. 138 on child labour;
- no. 111 on non-discrimination in respect of employment; and
- no. 87 and no. 98 on freedom of association and collective bargaining.

EuroCommerce and Euro-FIET Commerce state that the aim of the agreement is to ''lend support to innovative measures aimed at promoting fundamental rights at work worldwide''. Under the terms of the agreement, the social partners state that their members should encourage companies and workers in commerce to abide by and promote:

- the elimination of all forms of forced or compulsory labour;
- the effective abolition of child labour;
- the elimination of discrimination in respect of employment and occupation; and
- freedom of association and the effective recognition of the right to collective bargaining.

While the partners recommend that their members develop their own codes of conduct for business relations with third countries based on the above principles, they acknowledge that it will be easier for large companies to implement direct measures to avoid dealing with products that are manufactured in violation of ethical labour standards. Nevertheless, the social partners state that small and medium-sized companies are also covered by the agreement's general objectives.

EuroCommerce and Euro-FIET Commerce both recommend that their members endorse the accord. The social partners have agreed to review and evaluate the agreement's implementation on a regular basis and, within the framework of the dialogue, undertake any consequent necessary action.

Developing the social dialogue

Following the successful conclusion of this agreement on fundamental rights, EuroCommerce and Euro-FIET Commerce are keen to develop their social dialogue further. At a plenary session of their dialogue forum on 29 September 1999, the social partners agreed to pursue a series of further objectives. They agreed to negotiate European framework accords on ''distance work with computers'' - telework - and on protecting older workers in the context of structural and technological changes, and discussions have since occurred on these issues. Meanwhile, it was reported in November that a draft agreement on combating racism and xenophobia had been sent to members for ratification.

At the session in November, Euro-FIET Commerce and EuroCommerce also discussed their current electronic commerce project. The social partners will define how four occupational profiles in commerce are being changed by technology developments, and then look at how vocational education and training should reflect these changes. Euro-FIET also reports a ''lively discussion'' about the aims of the social dialogue on employment - with union representatives raising issues such as the need to protect urban commerce areas and ensure the access of commercial workers to high-quality employment - and about the nature of European agreements (asking how they can be better implemented at national level). The meeting also stressed the importance of EU enlargement to include central and eastern European countries, and round-table meetings with commerce social partners in these countries will continue in 2000.

A major conference will be held in Lisbon in April 2000 to examine structural and technological change in commerce. Representatives of employers and unions will discuss how jobs can be protected and new ones created.

Commentary

The agreement on fundamental workers' rights represents a significant step in the development of the social dialogue in commerce. The accord will serve to raise the profile of fundamental workers' rights throughout Europe at a time when the European Council is considering including a charter of fundamental rights in the EU treaties. This accord is also a sign that the social dialogue continues to thrive in the pioneering commerce sector. The dialogue process in commerce will no doubt retain this momentum over the coming months, due to the commitment of the social partners to address other important issues, such as racism, teleworking and older workers. (Neil Bentley, IRS).

EU9911213F (Related records: EU9909192N, EU9807115F, EU9806110F, EU9902150F, EU9905172F, EU9808123F, EU9910202F)

25 November 1999

Public sector social dialogue conference decides on closer cooperation

A public sector European social dialogue conference was held on 2 November 1999 in Helsinki, attended by representatives of the European Federation of Public Service Unions, employer representatives in the area of national public sector administration and representatives of the European Commission. Delegates agreed a structure for further regular informal meetings.

A conference to debate social dialogue issues in the public national administration sector, organised by the Finnish EU Council Presidency, was held on 2 November 1999 in Helsinki. It was attended by delegates from the European Federation of Public Service Unions (EPSU), representatives from the main Finnish trade unions representing public sector workers, public sector employers and officials responsible for the development of public administration in the EU Member States and European Commission representatives. EPSU represents some 10 million workers in 180 trade unions and in the area of national administration it represents relevant trade unions in all Member States. EPSU has recognised status with the European Commission as a social partner organisation.

Taking as its main theme the issue of ''determining terms and conditions of employment at the European level and the needs and possibilities for participation of public sector actors'', the conference aimed to build on the general guidelines for social dialogue in the public sector which were laid down at an earlier meeting in Munich in May 1999. The Finnish government was keen during its EU Council Presidency to put the social dialogue into motion in the national administration sector, even though there is no employer body in this sector which is recognised by the Commission for the purposes of formal dialogue.

Proceedings of the November meeting

The conference was addressed by Allan Larsson, director general of the Commission's Employment and Social Affairs Directorate-General. Mr Larsson stressed the importance of the social dialogue process, noting that: ''The social dialogue is essential to Europe's economic and social progress - at national and European level, at company and sectoral level ... for governments, for enterprises and for employees, the fact is that the more the social partners can do themselves the better. The more the social partners do, as social partners, the less the political system will have to do, in terms of legislation and in other forms of political intervention.''

A variety of presentations were then given and debates held on a range of cross-sectoral and sectoral European social dialogue issues. Some concrete examples of experience in social dialogue were presented by delegates from the transport and the municipal sectors.

During the proceedings, it became clear that EU Member States differ widely in their practices with regard to labour market issues in the public sector, both in terms of governing legislation and actual practice. Nevertheless, all participating delegates stressed their willingness to take part in European-level discussions on these issues, and speakers highlighted the importance of reaching common positions by means of the process of social dialogue. This process was held to be a particularly effective way of averting possible conflicts which may be caused by the ''constant waves of change in the public sector''. In addition, it was noted that the social dialogue has an important role to play in the development of a common employment strategy more widely in the EU, helping to resolve issues such as labour shortages in certain areas of the labour market.

A debate was also held on the challenges presented to current Member States by the prospect of enlargement of the European Union, with delegates noting that present Member States have much to offer to applicant countries in terms of explaining the national structures they have in place.

Future meetings to focus on work modernisation

The conference agreed on a number of measures which, it is hoped, will promote closer EU-level cooperation in the national administration sector. For example, it was agreed that public administration director generals from the ''Troika'' countries (the previous, current and future EU Presidencies) should meet informally on at least an annual basis with trade union and Commission representatives in order to discuss particular areas of concern to the public sector. It is envisaged that these meetings will be held at the initiative of the Presidency of the day, and will be preceded by special preparatory group meetings.

The specific issue highlighted for discussion in this context was new forms of work organisation, which was the subject of a green paper issued by the Commission in April 1997. In its green paper, the Commission called upon the social partners and public authorities to draw up a framework encouraging companies to introduce more flexibility into the organisation of work, whilst ensuring adequate security for workers (see the supplement to *EIRObserver* 2/99).

In his concluding remarks, Juhani Turunen, permanent under-secretary of state in the Finnish Ministry of Finance and chair of the conference, stated that the meeting ''was an encouraging step forward in the ongoing efforts to create broader and deeper exchange between partners in the public sector.''

Commentary

This meeting represents, as one EPSU spokesperson noted, ''a constructive step and a move in the right direction'' for the social dialogue process in the public sector. EPSU, which has so far mainly limited its activities in the national administration sector to lobbying, would be keen to initiate a formal dialogue process. However, the absence of a recognised social partner body on the part of the employers, and the lack of prospects for the setting up of such a body, makes this impossible at present. Nevertheless, EPSU is optimistic that a meaningful informal dialogue process can be maintained on an ongoing basis in the form of annual informal meetings with directors general in public administration in EU Member States, just prior to their own annual meetings.

It would certainly be a worthwhile exercise to try to create some kind of further momentum for social dialogue in the public sector as the sectoral dialogue process has up until now been largely - though not exclusively - confined to the private sector, even though the public sector as a whole is estimated to employ some 15% of the EU workforce. (Andrea Broughton, IRS).

EU9911212F (Related records: EU9903158F, EU9705131N, TN9903201S, EU9803190F)

19 November 1999

BELGIUM

Europeanisation of collective bargaining? The case of Belgian metalworking

The ''Europeanisation'' of collective bargaining is a key emerging issue in the field of industrial relations, and the way that the European Metalworkers' Federation (EMF) fosters coordination is widely seen as a significant step in exploring a more integrated bargaining policy. We analyse the outcomes of the 1999-2000 bargaining round in the Belgian metalworking sector, in the light of the bargaining guidelines and minimum standards formulated by EMF.

In December 1998, the European Metalworkers' Federation (EMF) adopted a ''European coordination rule'' for national collective bargaining (see box below), which is by far the most developed concept in the pursuit of a ''Europeanisation'' of bargaining (see *EIRObserver* 1/99 p.2). EMF's model of fostering coordination, which has also involved the conclusion of a Charter on Working Time (see box opposite), is often cited as a significant step in exploring the possibilities of a more integrated Europe-wide bargaining policy (see supplement to *EIRObserver* 4/99). Here we investigate the extent to which the Belgian metalworking industry - known as the FABRIMETAL sector, after the industry's employers' association - complies with the core elements of the EMF coordination approach, examining (1) whether the outcomes in terms of pay increases are in keeping with the EMF wage policy and (2) the relationship of the EMF Charter on Working Time with the Belgian situation.

Wage policy

Belgian metalworking unions' policy

Belgium's national intersectoral agreement for the period 1999-2000 (*EIRObserver* 1/99 p.4) provides for a wage norm that links wage movements in Belgium to those of its three main trading partners (France, Germany and the Netherlands). As a consequence, the maximum wage increase for 1999-2000, as calculated by the bipartite Central Economic Council, may not exceed 5.9%. All pay negotiations must take place within the framework of this wage norm.

As opposed to the bargaining tradition in neighbouring countries such as the Netherlands and Germany, the (joint) wage demands of the Belgian metalworking unions are not exclusively based on macroeconomic indicators. Instead, the actual power relations between trade unions and employers' organisations can influence quantitative and qualitative (eg training) aspects of bargaining. This specific feature of the bargaining culture may at times lead to unexpected results (such as wage increases during periods of economic slump).

Bargaining outcomes

The bargaining outcomes in 1999-2000 lead to the conclusion that recent agreements and developments in Belgian metalworking largely comply with the EMF coordination rule. Moreover, with an (estimated) labour cost progression of 5.89% over the two years, metalworking has clearly tended to stick to the negotiation margin of 5.9% as defined in the wage norm. These figures comprise seniority increases, inflation, nominal wage increases and the cost of ''qualitative'' elements.

The preservation of purchasing power through compensation for price increases is commonly achieved in the whole of Belgian industry by means of an indexation mechanism - ie the automatic linkage of wages to the price of goods and services (embedded in national agreements). Under this system of indexation, a pay rise of 2% - which also applies to most welfare benefits - is triggered each time the cost of living rises by 2%. In a number of sectors, there is a recent tendency to put into effect the indexation at fixed points in time. This is the case in the metalworking industry, amongst others. During the 1999-2000 bargaining round, it was concluded that indexation would be effected twice during the period covered by the agreement, each time on 1 July. As regards the first round of indexation (on 1 July 1999), the unions obtained a minimum indexation of 1.2%. Since real inflation turned out to be 0.9%, purchasing power rose by an additional 0.3%. The second round of indexation (on 1 July 2000) will tally with the current inflation rate on that date.

The total wage increase in metalworking amounts to 2.49% for the entire period (ie 2.19% as agreed, plus an additional 0.3% due to overrunning the inflation rate in 1999). This percentage is an estimate derived from calculations based on minimum wages - as a result, it underestimates the real cost of the agreement.

Finally, several elements of a more qualitative kind need to be taken in to account. First, the social partners agreed upon the creation of a sectoral pension fund, the cost of which is borne by the employers. The establishment of this supplementary pension on top of the legal provisions is illustrative of the unorthodox turn of pay negotiations in the metalworking sector. The creation of the fund was a way out for both social partners during bargaining. While it seemed highly unlikely that employers would fully meet the unions' demand for a further, unconditional pay rise of 1%, the creation of a sectoral pension fund at a cost of 1% of gross wages was more realistic. This has everything to do with the fact that the contributions to the fund are not subject to employers' social security contributions and are thus ''cheaper'' than a 1% pay rise (on which social security contributions are due). Aside from the 1% cost of the creation of this fund, an agreed prolongation of notice periods, at a cost of 0.2% of paybill, also needs to be included in the overall pay increase.

Working time

Working time in Belgian metalworking

Following the national intersectoral agreement of 1987, weekly working time in the FABRIMETAL sector was reduced from 40 to 38 hours. During the 1999-2000 bargaining round, the Belgian trade unions refrained from putting working time reduction on the agenda. From the very first contact with the employers' organisation it was clear that

EMF European coordination rule

The core of the EMF guidelines on wage policy lies in the ''European coordination rule'', which was adopted during the organisation's third collective bargaining conference held in Frankfurt in December 1998. The resolution states that: ''the key point of reference and criterion for trade union wage policy in all countries must be to offset the rate of inflation and to ensure that workers' income retains a balanced participation in productivity gains.''

However, this demand for a return to a productivity-oriented bargaining policy - in order to avoid a possible downward spiral of wage and working conditions - does not imply that all metalworking trade unions have to follow the same bargaining pattern. The unions keep full autonomy on how they use the total ''envelope'' for improvement of wages, employment-related measures relevant to training, or the reduction of working hours, modernisation of work organisation and special benefits such as early retirement.

demands for further hours reductions were deemed unacceptable. However, whereas the collectively agreed maximum working time in metalworking is 38 hours, the actual average working time is about 36.5 to 37 hours, pursuant to company agreements. If we take this sectoral mean as the basis for calculation, it can be stated that the EMF working time standard of 1,750 hours is easily met. With an average working time that ranges from 1,679 to 1,702 hours per year, Belgian metalworking is situated well below the EMF's maximum level. Company size is an important factor in this area: large companies (eg automotive assembly operations) are characterised by lower average working hours, whereas small and medium-sized companies tend to come closer to the collectively agreed 38 hour-week.

With regard to possible demands for an extension of contractual working time, the situation in Belgian metalworking is clear-cut. All existing schemes for flexible working arrangements are enshrined in a national collective agreement for the entire metalworking industry. However, the concrete implementation of (any one of) these flexible working arrangements requires an additional collective agreement at company level. During the last sectoral bargaining round, all demands, on behalf of employers, for increased flexibility were turned down by the unions.

Overtime

As regards the issue of overtime (ie extension of production hours) very few statistics are available for the Belgian metalworking sector. Along with overtime premia, which vary from 50% to 100% of the hourly wage, Belgian labour legislation provides that overtime should, under normal conditions, be compensated by time off (the so-called ''recuperation days''). The overtime is restricted to a quarterly amount of 65 hours (per person), which must be fully compensated in time off during the course of the following quarter. The restrictions on overtime were somewhat relaxed with the introduction of a Royal Decree on ''minor flexibility'', which allowed sectoral-level agreements to deviate from this regulation. The amount of overtime can be extended to a maximum of 130 hours over a period of six months accompanied by a full compensation in time off within the six following months. In this way, the demands of some companies that experience relatively long production peaks were met by providing leeway for certain derogations from normal regulations. The metalworking industry has systematically seized this opportunity and includes the ''minor flexibility'' regulations in its national agreements.

Despite the general philosophy of Belgian labour legislation, characterised by the desire to avoid ''real overtime'' (ie compensated by money alone) as much as possible, an exception was enacted in 1993. Provided that such an exception is included in a sectoral collective agreement, up to 65 hours overtime per year and per worker can be performed and compensated by money alone. The FABRIMETAL sector has adopted but also tightened the provisions of this exception. Deviations from the rule on compensation in time off for overtime are possible to the extent determined by law, but can be granted only through a collective agreement concluded at company level. Thus, theoretically, it was made possible for any company in the Belgian metalworking industry to effect a maximum of 65 hours overtime per year and per worker that are solely compensated by money. However, to date no such agreement has been concluded in any companies in the FABRIMETAL sector. In any case, the legal maximum of 65 hours is far below the EMF maximum of 100 hours.

In certain sectors of the metalworking industry, non-declared ''informal'' or ''clandestine'' overtime is widespread. Due to the highly sensitive nature of this issue, it is very difficult - if possible at all - to give a more or less accurate estimate of the magnitude of the phenomenon.

Commentary

The overall cost of the agreement covering 1999-2000 in the metalworking industry amounts to a 5.89% increase. With respect to the first provision of the EMF coordination rule, *offsetting the inflation rate*, the case is clear. The preservation of purchasing power in Belgian metalworking is - as in all Belgian sectors - achieved *de facto* through the indexation mechanism. The wording of the rule's second provision - *to ensure that workers' income retains a balanced participation in productivity gains* - is unambiguous but lacks accuracy. What should be understood by *balanced participation* is subject to heated discussions. However, with a mean yearly productivity growth of 3% in the metalworking industry in the 1990s and a labour cost progression of 3.69% (indexation not included), our conclusion is rather positive. With respect to the EMF Charter on Working Time, the above brief overview of the situation in the Belgian metalworking industry clearly shows that the sector easily falls within the standards set out by the Charter.

This leads us to the observation that, precisely because the Belgian metalworking sector is complying with the EMF standards, no explicit attention is paid to these standards as far as concrete negotiating practice is concerned. (Jürgen Oste, Jacques Vilrokx, TESA - Vrije Universiteit Brussel)

EMF Charter on Working Time

The core of the EMF policy on working time is to be found in its Charter on Working Time, which was endorsed in July 1998. The key elements of this charter are:

- the confirmation of the policy of a 35-hour working week with no loss of pay (an EMF objective that dates back to the early 1980s);
- rejecting all demands for an extension of (contractual) working time;
- the introduction of a European minimum standard of 1,750 hours maximum contractual working time per year; and
- restriction of overtime which can be compensated by money alone to 100 hours per year.

The EMF minimum standard of 1,750 hours, which was the result of two years of intensive discussion, corresponds to a 38-hour week. According to the results of a survey carried out by EMF amongst its affiliates in 1997, working time in more than half the EU Member States was still above the EMF minimum standard.

BE9912311F (Related records: DE9812283F, TN9907201S, BE9811252F)

16 December 1999

FINLAND

Action programme promotes ''ability to cope'' at work

The Finnish government has launched an action programme to promote employees' ''ability to cope'' at work. It seeks new practical solutions to prevent stress, among other measures, with the goal of raising average retirement age by two-three years. The social partners were involved in preparing the programme and will play a major role in its implementation.

In November 1999, the Finnish government launched a research and action project to promote ''ability to cope'' at work, aimed at improving capacity for ''survival'' at work throughout a worker's career. The action programme was prepared in cooperation between ministries, social partners, sports organisations and the church. The government's goal is to postpone average retirement age by two to three years over the coming decade. Support may be allocated to development schemes from the programme's funds provided that employers, too, contribute some resources. Support will be directed especially at sectors where stress is highest, such as healthcare, teaching, social services, agriculture, banking, hotels/restaurants, and transport.

The project reflects the profound changes affecting Finnish working life, with the government seeking to increase employment rates in the face of an ageing population, at the same time as research indicates increasing intensification of work and levels of stress.

The ''ability to cope'' at work is defined broadly in the programme, including: physical and psychological ability and health, the functioning and development of the ''working community'', the working environment, working conditions, control of work, maintenance of professional skills, and organisation of working time and work tasks. A special need is identified for models showing how the problem areas - such as management or organisation of work - might be tackled. Research-based knowledge on the causes and consequences of stress is also needed, and research will be started to this end. Good practice and models for working life reform will be disseminated to the wider public with the help of videos and guidebooks. Entrepreneurs and those in positions of authority will be specially targeted, based on the reasoning that if this group can understand the importance of supportive activities, then the resulting well-being will spread to the whole working community.

Main areas of the programme

The programme involves four main levels of activity:

1) with the help of information and dissemination of practical solutions and models, the preconditions will be created for solving workplace-specific problems and deficiencies in coping ability. To this end, know-how on the development of working life will be disseminated more effectively to enable good practices to be applied at workplaces;
2) with the help of research, it may be possible to discover the factors influencing coping ability, and to create new solutions and development models. Further knowledge is needed on the causes and consequences of stress, on the differences between tiredness and stress and remedies for them, and on work organisation;
3) by means of practical development programmes at workplaces, real change and improvement will be achieved in respect not only of the working environment and community but also of the individual prerequisites for coping. The aim is to help workplaces introduce comprehensive, generally accepted methods for assessment of coping ability, as well as supportive measures. Particular attention will be given to entrepreneurs and managers; and
4) by developing legislation, a basis can be created for many measures which have clear links with coping ability and a longer career.

Cooperation with the social partners

Throughout the 1990s, the social partners have actively engaged in research and campaigns addressing the theme of coping at work. The social partners' work as mediators of best practice is seen as having central importance. In the central incomes policy agreement which expires in January 2000, the organisations agreed on an extensive workplace development programme, giving considerable attention to maintaining working ability and capacity. In the coping action programme, the partners will participate in the following projects:

- the coping ability of entrepreneurs and managers is seen as important, and supportive measures may be organised by sectoral or local organisations. Individual projects will utilise methods of risk-evaluation and control that have been developed in risk management projects for small and medium-sized enterprises. Use will be made of networking and cooperation between entrepreneurs;
- the number of hours worked influences a worker's health, welfare and coping ability in many ways, as does a succession of fixed-term employment contracts for the same job with lay-offs in between. However, there is no single general view as to how these factors affect health. Research will therefore be conducted on working time arrangements and on the effect of long and irregular working hours on an individual's ability to cope. The combined effect that work and longer periods of free time have on coping ability will be investigated; and
- to utilise the ''synergy'' benefits of employee healthcare and the work of occupational welfare officers, projects will focus on the improvement of employee healthcare and on developing the resources and expertise of occupational welfare officers with regard to maintenance of working capacity.

Coping ability at work will be further promoted through other programmes - such as the workplace development programme and the programme for older workers - and also through adult training. Legislation, too, will be improved in a way that promotes ability to cope at work.

Commentary

The ability to cope at work has been highlighted in Finland since the end of the economic depression of the early 1990s. Many studies indicate that the feeling of pressure and symptoms of stress have increased. Although the theme is well known and widely discussed, concrete measures at workplaces have remained scarce. The real problems are related to the radical increase in workload at most workplaces. The resulting stress cannot be removed by cosmetic measures. The ''coping at work'' programme aims to find new models to influence the situation in a more effective way. This burning ''qualitative'' problem could also have been handled in a new central incomes policy agreement, but this has failed to materialise for 2000-1. In the sector-level bargaining round which has replaced a possible central agreement, the greatest weight is clearly being given to wage issues. The increased tension in bargaining will have its own bearing on the programme's results. However, the programme is effectively bringing together the different actors, and so the results will also depend largely on the will to achieve progress toward the goal. (Juha Hietanen, Ministry of Labour)

FI9911127F (Related records: FI9904101F, FI9908114F, FI9811182F, FI9801145F, FI9707122F, FI9708125F, FI9910124N)

19 November 1999

Vodafone's hostile takeover bid for Mannesmann highlights debate on ''German model''

In November 1999, a hostile takeover bid from the British mobile phone group Vodafone AirTouch for Mannesmann led to a broad debate on the future of the German model of capitalism. German trade unions and the Mannesmann works councils - supported by most political parties - strongly rejected Vodafone's bid, in order to defend the German culture of corporate governance which is based on strong employee involvement and co-determination.

On 13 November 1999, the UK-based Vodafone AirTouch, the world's largest mobile phone group, announced a takeover bid for the German telecommunications and engineering group Mannesmann AG, on the basis of an exchange of shares between the two corporations. The Mannesmann executive board, however, immediately rejected the acquisition proposal, calling it an ''inferior offer'' which is ''extremely unattractive for Mannesmann shareholders''. According to Mannesmann management, a merger with Vodafone is not strategically reasonable since the two companies have very different structures and economic growth prospects. While Vodafone concentrates its business mainly on mobile phones, Mannesmann is much more diversified, with four main business divisions operating in engineering, automotive, telecommunications and tubes - see table below.

On 19 November, the Mannesmann supervisory board confirmed the management's position and officially rejected the Vodafone offer. At the same time, however, the British telecommunications group came forward with a new improved proposal, which appeals directly to the Mannesmann shareholders to exchange their shares in the ratio of 53.7 Vodafone AirTouch shares for one Mannesmann share. Since the Mannesmann management and supervisory board continued to argue against the takeover, the Vodafone offer represented the world's largest-ever unsolicited bid.

Reactions of Mannesmann employee representatives

After the public announcement of the takeover plans, representatives from the IG Metall metalworkers' union and the Mannesmann group works council immediately rejected Vodafone's bid as unacceptable. In an interview, the president of the Mannesmann group works council, Jürgen Ladberg, declared that the Mannesmann workforce ''would do everything to prevent a takeover''. On 18 November 1999, the works council organised 10-minute token strikes in several Mannesmann companies to protest against the takeover.

On 23 November, more than 1,000 German Mannesmann works councillors held a meeting under the slogan ''against hostile takeover - Mannesmann not for sale'' at the company's headquarters in Düsseldorf. In a speech at the meeting, the president of IG Metall and deputy chair of the Mannesmann supervisory board, Klaus Zwickel, sharply criticised Vodafone's ''brutal behaviour'' as an expression of a ''predator capitalism'' (Raubtier-Kapitalismus) which ''aims only at short-term profits for the shareholders''. Mr Zwickel said that Vodafone was interested only in cutting the ''best fillet'' out of Mannesmann - ie its extremely profitable mobile phones division (see table below). The other Mannesmann divisions would very likely be sold again and thereby the overall Mannesmann corporation would be dismantled. The IG Metall president announced strong resistance to this scenario, which would threaten thousands of jobs and undermine the particular co-determination culture at Mannesmann. In order to prevent such hostile takeovers, Mr. Zwickel demanded European regulation - for example, a European company law which is able to safeguard employees' co-determination rights.

At the end of the meeting, a so-called ''Declaration of Düsseldorf'' was adopted, in which the Mannesmann works councillors expressed their united resistance to a takeover by Vodafone - see the box on p. 8 for extracts.

US unions support Mannesmann employee representatives

On 22 November 1999, the Mannesmann employees' representatives received unexpected support from the US trade union confederation AFL-CIO, which has an influence on the company through collectively-bargained benefit funds that control about 13% of Mannesmann shares. In a press statement, the president of AFL-CIO, John Sweeney, stated that the investment managers of the fund had been asked to oppose Vodafone's hostile bid for Mannesmann, because: ''the managers of worker capital have a responsibility to invest those funds in the long-term interests of their beneficiaries. The AFL-CIO believes value is created over the long-term by partnerships among all a corporation's constituents - workers, investors, customers, suppliers and communities. Mannesmann, and the European model of corporate governance under which it is structured, has allowed just those kinds of value-creating partnerships to flourish. Worker capital, the savings of America's working families, should support value-creating partnerships like those at Mannesmann. Only then will the global economy be able to deliver sustainable, equitable prosperity.''

Political debates on Vodafone's bid

Besides the strong criticism from trade unions and works councillors at Mannesmann, Vodafone's attempted hostile takeover has also led to broad public debates in Germany and strong criticisms from German politicians. The Chancellor, Gerhard Schröder, for example, stated that a hostile takeover would ''damage the corporate culture'' and ''underestimates the virtue of co-determination''.

Other German politicians declared even more explicitly their rejection of Vodafone's ''unfriendly'' initiative. In his speech at the Mannesmann works councillors' meeting, the Social Democrat prime minister of the federal state of North Rhine Westphalia, Wolfgang Clement, accused Vodafone of ''playing monopoly with the Mannesmann company against the interests of the employees, the works councillors, the management and the supervisory board''. The leader of the opposition Christian Democratic Union in North Rhine Westphalia, Jürgen Rüttgers, argued in the same direction when he declared that ''hostile takeovers in the style of Manchester capitalism do not fit

Basic figures for Mannesmann AG (1998)

	Sales		Earnings		Employees	
Division	EUR million	%	EUR million	%	Number	%
Engineering	6,602	35	229	16	45,503	40
Automotive	5,482	29	216	15	42,849	37
Telecommunications	4,654	24	982	68	14,081	12
Tubes	2,338	12	26	2	12,192	11
In total	19,076	100	1,453	100	114,625*	100

** The total number of employees in 1998 was 116,247, including other companies and Mannesmann administrative headquarters.*

Source: Mannesmann AG annual report 1998.

into the concept of social market economy.'' Finally, the German Minister of Finance, Hans Eichel, called in an interview with the *Financial Times* for new takeover rules in Europe, in order to ''avoid a culture clash between Anglo-American capitalism and the consensual German model''.

The relatively unanimous reactions of German politicians have provoked strong counter-reactions, in particular in the British press which called the German debate ''nationalistic'' and ''hypocritical'', since German companies have long been active in acquiring foreign companies. For example, Mannesmann itself has very recently taken over the British mobile phone operator Orange. The British prime minister, Tony Blair, insisted that governments ought to respect the single European market, stating in an interview that: ''we live in a European market today where European companies are taking over other European companies, are taking over British companies, and vice versa.''

There were also some commentators within Germany who argued against the ''nationalistic'' and ''protectionist'' nature of the German debate on the Vodafone takeover bid. For example, the general secretary of the Confederation of German Industries (Bundesvereinigung der deutschen Industrie, BDI), Ludolf-Georg von Wartenberg, said that politicians should not influence the Vodafone-Mannesmann battle but leave it to the decisions of the economic actors. Even the Mannesmann group chair, Klaus Esser, has sharply rejected all arguments which try to defend Mannesmann's autonomy in the name of ''national interests''. According to Mr. Esser, this is ''the wrong way'' because the question whether or not Vodafone's takeover offer is acceptable is a purely ''economic decision'' in which ''the shareholders have to decide which way to go.'' The notion of a ''national question'' also ignores the fact that more than 60% of the Mannesmann shares are already held by non-German shareholders.

Vodafone responds to its critics

Since the Mannesmann employees and the German public displayed strong reservations concerning the takeover bid, Vodafone started a campaign to obtain a more socially acceptable and employment-friendly image. On 24 November, the president of Vodafone, Chris Gent, inserted an ''open letter to the employees of Mannesmann'' into all leading German daily newspapers, saying that:

- a merger of Mannesmann and Vodafone AirTouch would not mean any additional job losses;
- the rights of the employees, trade unions and works councillors would be fully recognised. Mannesmann AG would continue to have a ''co-determined'' supervisory board with employee representatives;
- employment perspectives in telecommunications would be improved in favour of the Düsseldorf region;
- the traditional industry divisions of Mannesmann would become a separate stock company under the current management, as had already been decided by the Mannesmann executive and supervisory board; and
- the fixed-line division of Mannesmann telecommunications would become an independent company within the new Mannesmann-Vodafone corporation.

Commentary

The current Vodafone-Mannesmann battle is another classic example of the tense relationship between national systems of industrial relations on the one hand, and increasingly internationalised market relations on the other hand. The German system of industrial relations has always been seen as a core element of the German model of ''Rhenish capitalism'' which, according to the French inventor of the term, Michel Albert, is characterised by a ''social market economy'' in which strong social institutions provide an environment for market relations aimed at long-term oriented economic development with a balanced satisfaction of all stakeholders' interests, such as clients, employees, shareholders, towns and regions, as well as the social environment in general (*The future of continental socio-economic models*, Michel Albert, MPIfG Working Paper 97/6).

During the 1990s, however, the German model of ''Rhenish capitalism'' has come under increasing pressure from a rapidly changing international political and economic environment. There is an ongoing debate among business people and economists as to whether or not core elements of German industrial relations, such as co-determination or branch-level collective bargaining, correspond with the constraints of a globally deregulated market. Indeed, in the 1990s Germany has already seen some significant changes towards less formalisation and more flexibilisation and decentralisation of industrial relations.

Against this background, the current German debate on the Vodafone-Mannesmann battle is ambiguous. On the one hand, this debate is for many reasons hypocritical: first, it reproduces to a certain extent a kind of myth of ''Rhenish capitalism'' and ignores the changes in German industrial relations during the 1990s; second, it overemphasises the consensus aspect of German industrial relations and disregards the fact that mergers and acquisitions in Germany have often been accompanied by strong workplace conflicts; and third, it criticises the behaviour of a British company which is a not so different from the behaviour of German companies abroad.

On the other hand, the current debate on the Vodafone-Mannesmann battle and ''Rhenish capitalism'' might also be an expression of the fact that employees are becoming less willing to follow the simple neo-liberal doctrine which says that politics should keep out of economic decisions. On the contrary, there should be no doubt that employees have the right to defend their jobs and participation rights, which often fall by the wayside as a result of mergers and acquisitions. Therefore, the Vodafone-Mannesmann battle could also be seen as an opportunity to relaunch a broader debate on a social dimension to international economic relations, at least at European level. (Thorsten Schulten, Institute for Economic and Social Research (WSI))

DE9911220F (Related records: DE9903101F)

24 November 1999

''Declaration of Düsseldorf''

As elected representatives of about 75,000 employees in Germany and in the name of the secretariat of the European Works Council we declare the following: We are strongly against the previous and all possible future attempts for a hostile takeover of the Mannesmann corporation through Vodafone AirTouch or any other bidder. We see the attempt at a hostile takeover as a flagrant disregard of our company culture which is based on a broad participation of employees and their trade unions in all major company decisions.

The Vodafone bid seriously threatens the ongoing socially acceptable restructuring of the Mannesmann corporation towards a telecommunications and technology company. It calls into question the future of the Mannesmann concept for an integrated strategy to combine mobile, fixed-line, Internet and broadband communications (...)

Such a hostile takeover would seriously threaten the future of production locations, products and working places within the whole Mannesmann corporation. Therefore we demand that:

- the Mannesmann shareholders continue with a planned, long-term oriented, and socially acceptable - and for those reasons successful - company strategy (...);
- the politicians outlaw hostile takeovers; the internationalisation of competition and ownership needs clear rules, which give the interests of secure jobs and income the same position as the shareholders' interests in dividends;
- Vodafone give up its confrontational strategy against Mannesmann.

[EIRO translation]

Social partnership at a crucial juncture

Ireland's social partners have commenced talks on a new partnership agreement to replace the existing deal, Partnership 2000, which is due to expire early in 2000. The context of social partnership has changed from ''managing crisis'' to ''managing economic growth and rising expectations''. This fundamentally different context has generated a number of significant tensions, which revolve around two main related issues: income distribution and social equity.

On 9 November 1999, talks formally opened over a national agreement to succeed the current *Partnership 2000* (*EIRObserver* 1/97 p.6), which expires in early 2000. The negotiations were launched by Prime Minister Bertie Ahern, and involve employers, trade unions, farming interests and the voluntary and community sector.

The transformation in the fortunes of the Irish economy during the past decade or so has meant that the context in which national agreements have been negotiated has changed from one of ''managing crisis'' to one of ''managing growth and rising expectations''. During the 1980s, the Irish economy was in serious crisis, and burdened with mass unemployment, falling living standards and huge debt. Since then, Ireland has experienced exceptional growth and rising living standards, and the economy is gradually edging towards full employment. Successive national agreements based on ''negotiated consensus/social partnership'' have undoubtedly played a significant part in this success, culminating in *Partnership 2000*. However, the recent economic boom has arguably resulted in the ''old''-style national agreements effectively becoming obsolete. The most fundamental change is inextricably linked to the fact that strong growth, and the associated promotion of the image of a vibrant ''celtic tiger'' economy, has fuelled rising expectations, which, in turn, has generated a number of tensions.

Tensions

The tensions created by Ireland's economic success essentially revolve around two related themes: pay and social equity

Pay determination and overall pay settlements

1) **Pay determination**. The government and the social partners have recognised that new forms of pay determination will need to be introduced in both the private and public sectors. In the private sector, it has been generally accepted that a much greater emphasis than hitherto needs to be placed on promoting profit-sharing and gainsharing schemes. A perceived advantage of these schemes is that they allow employees to share in the fruits of economic success, while curbing inflation. Pay determination is a more complex issue in the public sector, however. The nine-day nurse's strike in October 1999 (see box on p. 10) starkly illustrated the tensions surrounding public service pay. Although the strike was resolved, this has by no means removed the possibility of other groups, such as teachers and the police, responding by pursuing ''knock-on'' pay claims in an attempt to bridge the relativity gap. The government has emphasised that the existing system of public service pay determination, based on pay relativities, is outdated and that new ways will have to be found to reform it.

2) **Overall pay settlements.** There are also tensions over the issue of overall pay settlements during the recent period of social partnership. Although national agreements have undoubtedly delivered significant pay increases to the majority of workers, at least when tax reforms and low inflation are taken into account, there is still a quite widespread perception amongst employees, particularly the low paid, that productivity and profit levels have far outstripped pay settlements. That is, employers have disproportionately benefited from economic expansion, while employees have been urged to show wage restraint. The latest quarterly economic figures from the independent Economic and Social Research Institute (ESRI) show that over the past three years, wages in the non-agricultural sectors have risen by 36%, while at the same time profits have gone up by 62%. Consequentially, in this context, it is highly likely that unions and employees will demand higher pay settlements as a precondition for entering any new national agreement. There have already been calls from individual union officials for substantial flat-rate pay increases to reward the high productivity of Irish workers.

3) **Other pay issues.** Another unresolved pay issue is the rate at which the new statutory national minimum wage is to be set, when introduced in April 2000.

Social equity

These tensions surrounding pay are closely linked to tensions surrounding the issue of social equity. There is a strong feeling amongst trade unionists and employees that the wealth that is being generated by rapid economic growth should be distributed more equitably and that substantial investment should be directed at improving infrastructural areas such as transport, housing and childcare. Moreover, these feelings have now been further inflamed by recent disclosures of widespread income tax evasion amongst a section of the ''corporate elite'' during the 1980s. The anger of employees who have tax deducted from their pay at source (through PAYE) has been exacerbated by the fact that the 1980s were a period of hardship for many people.

A recent *Irish Times*/MRBI survey indicates that, although most believe that Ireland is now undoubtedly a more prosperous country overall, only 19% of respondents felt that social partnership had reduced the gap between rich and poor, while 33% felt that partnership had increased the gap. The majority, 44%, believed that partnership had made no difference to the gap.

The importance of addressing social equity issues has been stressed in a recent report from the National Economic and Social Council (NESC) - a body that advises the government on the development of the economy and provides a forum for tripartite debate, whose reports have provided a framework for earlier national agreements. The report - *Opportunities, challenges and capacities for choice. Overview, conclusions and recommendations*, NESC, No. 104, November 1999 - suggests that a number of measures need to be implemented to tackle the inequalities associated with ''relative income poverty'', which is deemed to have increased in the second half of the 1990s, primarily, though not exclusively, because social welfare benefit rates have not matched increases in average earnings.

Attitudes towards social partnership

Despite these tensions, there is still a strong consensus in Ireland that social partnership is the most preferable model of regulating economic and social issues. The government, employers, trade unions and employees still generally have a positive attitude towards social partnership; although it has its opponents, such as the MANDATE retail workers' union and the Amalgamated Transport and General Workers' Union (ATGWU). The majority of trade unions believe that they can exert a real influence over important economic and social issues only through national agreements. Ireland's largest trade union, the Services Industrial Professional and Technical Union (SIPTU), recently voted overwhelmingly to enter talks on a new agreement, as did the Irish Congress of Trade Unions (ICTU).

There is certainly no great desire amongst the unions to return to the ''free-for-all'' system of local collective bargaining that characterised much of the 1980s. The Irish Business and Employers Confederation (IBEC) also has a positive attitude towards centralised agreements. Furthermore, the general public would appear to have quite a positive attitude to social partnership. The *Irish Times*/MRBI survey referred to above found that 50% of respondents thought that social partnership is ''very important'' to the country's economic development and 28% that it is ''quite important''. Only 8% felt that it is either ''not particularly important or not at all important''.

Recent and future developments

Other recent and future developments of relevance to the outcome of the talks over a new national agreement include the following.

1) **NESC report**. The recommendations contained in the recent NESC report referred to above are likely to have important implications for future developments. The recommendations include increases in personal tax allowances and the standard-rate tax band, and significant increases in child benefit, as well as other social welfare payments, as part of a package to tackle ''relative income inequality''.

2) **National Development Plan**. In November 1999, the government released a National Development Plan for the next seven years (2000-6). The plan is quite ambitious, and involves a total spending package of IEP 40.6 billion (EUR 51.6 billion). The main provisions include investing almost IEP 21 billion (EUR 27 billion) in much-needed economic and social infrastructural improvements. In addition, IEP 10 billion (EUR 13 billion) has been set aside for investment in employment and human resources.

3) **December 1999 Budget**. The December Budget was due to have major implications for negotiating a successor to *Partnership 2000*. Employers favour significant tax cuts because this will reduce the pressure on them to deliver significant wage increases. In contrast, trade unions such as SIPTU favour tax cuts and flat-rate wage increases to compensate for the high productivity of employees and to improve the living standards of the low-paid. ICTU is calling for the first IEP 135 (EUR 171) of weekly income to be tax free, while also proposing a widening of the standard-rate band.

The NESC report, the National Development Plan and the December Budget are each likely to exert a significant influence on the contours of any new national agreement.

Commentary

Social partnership agreements based around a ''negotiated consensus'' have undoubtedly contributed to Ireland's current socio-economic context of strong growth, rising living standards, a budget surplus, and an unemployment rate that has fallen to nearly 5%. There is now an opportunity to build on the existing achievements of social partnership, in a context that has changed from ''managing crisis'' to ''managing growth and rising expectations'' in an economy that is gradually moving towards full employment. The Irish economy is now at a crucial juncture, and the government and the social partners have important choices to make. In particular, they will have to address the tensions associated with the related issues of pay and social equity, which are inextricably linked to the requirement to prioritise wealth redistribution.

A combination of measures could be used to help to resolve the tensions associated with pay. These could potentially incorporate: new forms of pay determination such as gainsharing; flat-rate pay settlements for PAYE workers; the national minimum wage; and tax reforms that involve increasing personal allowances and removing low-paid workers from the tax net. An important task facing the government and the social partners is to develop pay systems which reward local productivity gains and reduce the incentive for employees and their unions to use their ''muscle'' in the labour market.

With regard to social equity, it is apparent that the wealth that is being generated by strong economic growth could be distributed more equitably. Reducing inequality is not simply a matter of altruism, it is also a crucial means of boosting economic development. There is an opportunity to develop a national ''social contract'' to promote a reduction in inequality and substantial investment in the social and physical infrastructure. For instance, social welfare benefit rates, such as childcare benefit, could be increased in line with increases in average earnings in order to alleviate the worst effects of poverty. Measures such as this are all the more important given the recent revelations of tax evasion by sections of the ''corporate elite'' during the 1980s, when the Irish economy was in deep ''crisis''.

The context of continuing economic growth provides an opportunity to develop a new model of social partnership to address these issues. Moreover, there is a broad consensus in support of the continuation of centralised agreements. Although there are undoubtedly problems with social partnership, the concept itself provides opportunities for progress which, it is feared, are currently not being fully grasped. A reformulation of social partnership appears to be an eminently more preferable option than a return to a collective bargaining free-for-all reminiscent of the 1980s. There are fears that a free-for-all could generate sectionalism and benefit those with ''industrial muscle'', at the expense of weaker sections of society. (Tony Dobbins, UCD)

IE9911146F (Related records: IE9702103F, IE9904276N, IE9909292N, IE9910295F, IE9907140F, IE9906281N)

19 November 1999

Nurses' strike

The ICTU's decision to participate in talks over a successor to *Partnership 2000* was preceded by the resolution of a major nationwide strike by 27,000 nurses in state-funded hospitals, which began on 19 October 1999, and constituted a major test of strength between the government and the nursing unions, led by the largest of these, the Irish Nurses' Organisation (INO). The strike affected all hospital services, except for emergency procedures. The key issue for the nurses was their bid to enhance both their pay and professional status to a level which they feel is commensurate with their qualifications and the demands which their work places on them. The government feared that any concessions would lead to further ''special'' pay claims elsewhere in the public sector.

In the end, the strike was called off after nine days, with the nurses having secured some minor concessions above what they had already been offered. Overall, however, most observers agreed that the government held firm once the strike started. The government felt it had to ''face down'' the nurses in order to send a strong message to other public servants. Over a two-year period, the nurses secured - through various sets of negotiations - pay rises totaling 26% on top of agreed basic pay rises. This is well ahead of other public sector groups whose additional ''special'' local bargaining increases vary from 5.5% to 14% over the same period.

IE9910297N, IE9912202N

Consumer prices index to be reformed

In October 1999, the Luxembourg government approved a draft regulation that reforms the consumer prices index from 1 January 2000. This decision is of importance to Luxembourg's automatic pay indexation system.

Luxembourg is one of the few countries with an automatic pay indexation system. All salaries are automatically adjusted by 2.5% one month after the average cost-of-living index has risen by 2.5% in the previous six months. In June 1997, an OECD recommendation that Luxembourg abolish this indexation system prompted fierce debate among the social partners. The indexation debate has now been revived by reform of the consumer prices index (CPI).

The Prime Minister wrote to the Economic and Social Council (CES) on 12 October 1998 seeking an opinion on transposing into national law two EU Council Regulations amending a 1996 Commission Regulation which established a harmonised index of consumer prices (HICP) in the Member States (though they can retain their own indices for national purposes). The two Regulations in question are:

- Council Regulation (EC) No. 1687/98, which reviews the coverage of the goods and services included in the HICP, extending the issues covered under the headings of health, education, social protection, insurance and financial services; and
- Council Regulation (EC) No. 1688/98, which reviews the geographic and population coverage of the HICP, and will have the effect that, as from 1 January 2000, non-residents' expenditure on Luxembourg soil should be taken into account when weighting goods and services for the purposes of the index.

The government's October 1998 submission made it clear that the CES would be mainly responsible for determining, once the new HICP is introduced in line with national accounting systems, whether it could continue to be used as a reference for pay indexation, or whether it would be necessary to set up a parallel national index that excludes non-residents' expenditure.

The CES is a tripartite government consultative body with responsibility for examining economic, financial and social problems. It delivered its opinion on 7 July 1999, on the basis of which the government approved on 29 October a draft regulation designed to reform the CPI from 1 January 2000

CES opinion

Employers' and employees' representatives on the CES differ as to the usefulness of the ''sliding-scale'' pay indexation system.

The employers' group refuses to accept even the principle of statutory, automatic indexation of pay, arguing that:

- the payment of automatic index-linked increases takes no account of either the competitive situation or the individual financial situations of enterprises;
- automatic pay indexation has major secondary psychological effects. Many employees think that, since workers are all on an equal footing, an index-linked increase is not a real pay rise at all but an increase to which they have a right under the law; and
- Luxembourg seeks to attract foreign investors but is one of the few countries in the world with an automatic pay indexation system. Potential foreign investors have great difficulty in understanding the scheme, usually seeing it as rigid and complicated.

The employees' group has reiterated its full support for a sliding-scale indexation mechanism that is both general and automatic. They argue that, apart from a few adjustments at times of economic crisis, it has proved a reliable instrument in maintaining employees' purchasing power. It has promoted the training of workers, and helped considerably to maintain almost uninterrupted industrial peace since the mid-1970s.

In answer to the employers' key argument that automatic pay indexation generates costs that are both unexpected and unrelated to increased productivity, the workers' representatives argue that senior managers are generally well informed about movements in the CPI and their effects on pay. Most are able to forecast when index-linked payments will be made, and make appropriate allowances in their pay policy. The slight uncertainty about the date when an index-linked payment will be made is counter-balanced by the resulting good relations between the social partners and by industrial peace.

In general terms, say employee representatives, the impact of pay indexation on companies' competitiveness should be seen in the long term. In this area, Luxembourg firms are in a favourable position in comparison with companies in other countries. There has been very little uncontrolled pay growth in Luxembourg, as confirmed by recent publications that rank Luxembourg fourth in the world in terms of international competitiveness. Moderate pay rises have certainly contributed to this ranking - despite pay indexation.

Non-residents' expenditure

There are 71,000 cross-border workers working in Luxembourg, accounting for over 30% of the economically active population, and they wield considerable economic influence. Even if, as the CES says, ''it is not clear which way this trend may develop'', inclusion of non-residents' expenditure would have a considerable impact on the CPI.

The Council compared the current index with one that would take non-residents' expenditure into account; differences in weighting goods and services would include, for example, an increase of 928% on accommodation, 423% on tobacco, 323% on fuels and lubricants, and 254% on spirits.

The social partners used these figures to reach diametrically opposed positions, but an agreement was brokered which involves the setting up of two distinct consumer price indexes: the HICP established in line with the EU Regulations; and a ''national prices index'' running alongside it, which will be identical to the HICP from 2000 onwards, except in terms of geographical coverage. In other words, when the next reform is implemented on 1 January 2000, the expenditure of non-residents in Luxembourg will be included when weighting the basket of goods and services for the HICP, but not for the national index. Only the national index will trigger the indexation of pay and social security benefits.

For other aspects of the reform that will become effective on 1 January 2000, the CES advocates that the HICP and the new national index should be the same.

The CES has also asked the Centre for Statistical and Economic Studies to continue both its examination of the ''price-salary'' mechanism when the next index-linked payments are made, and the research it is already conducting in the indexation area. As for other problems arising in the context of pay indexation, particularly when Luxembourg's international competitiveness comes under scrutiny, consensual solutions are to be found through the ''Luxembourg model'' of politico-social dialogue

Commentary

It is comforting to note that, in a climate that has been far from cordial since the major rows that recently surrounded the National Action Plan on employment (*EIRObserver* 3/99 p.9), the social partners have been able to find a consensual solution to the delicate problem of modifying the consumer prices index. What is more, it is a solution that will satisfy all those concerned. (Marc Feyereisen)

LU9911115F (Related records: LU9909112N, LU9903195F)

19 November 1999

NETHERLANDS

Insolvency law and employees' interests

Dutch insolvency law emphasises the interests of creditors. Employee interests are subordinate, but not completely ignored. This is clear from a recent judicial decision and a new bill presented in October 1999.

Dutch insolvency law was created to protect creditors. Although employees can be deemed creditors, they hold no special position. A recent judicial decision makes it clear that both trade unions and works councils can make use of legal options if companies use insolvency legislation on inappropriate grounds, while a new bill seeks to take a more balanced approach to the various interests within companies experiencing difficulties.

The IJsselwerf case

In mid-1999, IJsselwerf, a company based in Schiedam, petitioned for a ''moratorium'' (ie suspension of payments), to general surprise. Both the unions and the works council objected, fearing that the company would be closed down without any economic or financial justification.

The unions filed a ''petition for inquiry'' with the Enterprise Section of the Amsterdam Court of Appeal. The right of inquiry dates from 1971 and gives shareholders and unions the right to ask the court to investigate mismanagement. Unions have had success in the past with inquiry petitions regarding intended company closures, such as Batco in 1979. On various occasions, courts have prohibited companies from closing, because they had not consulted the unions or works council.

The Enterprise Section granted the petition to conduct an inquiry at IJsselwerf on 21 October 1999, with the company bearing the costs. According to the Enterprise Section, there are clear indications that the petition for moratorium was filed on inappropriate grounds, and that the company has done little or nothing to acquire new orders. Furthermore, the company itself had indicated that a moratorium could be a cheap way to dispose of employees. The latter fact must be viewed against the background of a two-year job guarantee given for all employees in January 1999 on the unions' insistence.

The IJsselwerf works council commenced proceedings simultaneously with the unions. It argued that the company should have asked its advice over the moratorium petition, as the appointment of an administrator with far-reaching powers can be deemed a significant change in the company's powers and authority. Under the Works Council Act, the advice of the works council must be obtained regarding such changes. The Enterprise Section agreed with this standpoint and thus stated on 21 October that the company could not have reached its decision to seek a moratorium on reasonable grounds. The works council's petition for measures to be taken was not granted, as the court wished to await the inquiry's results.

Insolvency legislation

Dutch insolvency law consists of chapters on moratoriums (suspension of payments) and on bankruptcy. Originally the moratorium was intended to give companies breathing space, so that temporary financial problems could be resolved, while bankruptcy is geared towards liquidation. In practice, in over 95% of cases a moratorium is the forerunner of bankruptcy, even if the intention is to continue a company in a pared-down form after the declaration of bankruptcy. An important reason is that the EU Directive on the transfer of undertakings does not apply to bankruptcy proceedings (it does apply to moratoriums), and that in the event of bankruptcy employees can be dismissed fairly easily.

The latter point could be a reason to use bankruptcy for inappropriate purposes. A few years ago, a case occurred in which bankruptcy legislation was abused to dismiss employees. The underlying intention was to avoid paying the redundancy compensation that had been set by the court. After a number of court cases, the employees obtained compensation, but their demand for reinstatement was dismissed, because measures taken by the trustee in bankruptcy cases need not be reversed, even if it transpires that the petition for bankruptcy was based on wrongful grounds.

These and other matters gave rise to questions in parliament's Lower House and further investigation, which showed that one in five companies is ''resurrected'' after a bankruptcy, continuing in a pared-down version run by the same parties who played an important role, directly or indirectly, prior to bankruptcy. A second finding was that in one in five such situations, dismissals or conflicts with staff are an important motive.

Proposals for change

For some time, discussion has been underway over amending the Bankruptcy Act, which dates from the 19th century. A more balanced approach is desired, whereby continuation of the company is given greater emphasis. Reference is often made to the USA's insolvency legislation. At the beginning of the 1990s, a few minor changes were implemented, but more far-reaching changes have so far met with substantial opposition from those creditors who have a priority position, specifically the larger banks.

On 22 October 1999, the Minister of Justice presented a new proposal to the cabinet. The gist is that during the moratorium, the creditors who now have a priority position - banks, but also the tax authorities and the institutions that collect social security premia - have to wait until the moratorium has been wound up before they can collect their claims. Furthermore, the court is to be given greater powers to reach an agreement between the company and the creditors, even if not all creditors agree.

Large credit providers have strongly criticised the proposal, suggesting that it would reduce the willingness to provide credit.

Commentary

In the current legal system of moratorium and bankruptcy, the focus is on the interests of creditors. Proposals for change - both now and in the past - share the common aim that account must be taken of the wide range of interests which can play a role in companies in difficulty, including the interests of continuity and job security. Employee interests are not completely neglected in the current situation - certainly in the bankruptcies in recent years of big companies like Fokker and DAF - but these interests are nevertheless subordinate to those of the creditors.

That another approach is not impossible is evidenced by the fairly drastic recent changes in the insolvency legislation relating to natural persons. However, to date the changes for legal persons have been relatively marginal. The new proposals go somewhat further because they attempt to alter the priority position of the most important credit providers. The real question is, however, how many more companies than has been the case hitherto will be saved as a result of the new rules. As soon as the bankruptcy has been pronounced, the priority position is re-established. (Robbert van het Kaar, HSI)

NL9911171F

19 November 1999

Cross-border mobility of workers increases union cooperation

Late 1999 saw a number of examples of increased cooperation of various kinds between trade unions in Portugal and their counterparts in other EU Member States, often reflecting increased cross-border mobility of workers.

Events in October and November 1999 indicate that cross-border cooperation involving Portuguese trade unions has increased. Portuguese unions in some sectors have been intensifying their efforts to establish contacts with their counterparts from nearby Member States, such as Spain and France.

Textiles

Textile workers' unions in northern Portugal and Galicia in Spain are together pushing for tax measures to control the practice of Spanish firms contracting Portuguese workers under illegal conditions, whereby they are paid by the piece or by the metre. The widespread use of this practice makes for less secure working conditions in Spanish enterprises in the border regions, and may involve home working. The wages these Portuguese workers earn are much higher than usual - double the normal, according to the unions - but the employers do not have to pay taxes or social security contributions that would normally be due under Spanish law.

Cooperation between the Portuguese and Spanish unions has also included presenting joint projects to the European Union that are geared toward keeping the textiles industry in the region viable and modernising production units. They also demand financial support in areas such as design. The goal is to boost the national textile industries, which have been losing ground in terms of competitiveness and market penetration of clothing products, and in terms of the skill level and productivity of the workforce. The unions recognise that the textiles industry cannot survive solely on the basis of cheap labour.

The cooperation between unions occurs through Uniões, a geographical-based organisation of workers bringing together unions affiliated to Spain's Comisiones Obreras (CC.OO) and Portugal's Confederação Geral dos Trabalhadores Portugueses (CGTP). There is also a Galicia/Northern Portugal Interregional Trade Union Council that collaborates with the EU's European Employment Services (EURES).

Spanish unions state that the current situation of illegal mobility makes collective bargaining difficult in Spain, and that job insecurity has increased due to the rise in the level of temporary employment in the region from 32.8% to 48%.

Nurses

Nurses are another group that has been involved in cross-border cooperation. Spanish nurses have been coming to work in Portugal for some time now. The central region section of the Portuguese Nurses' Association (Ordem dos Enfermeiros) has met with the Cáceres branch of the Colégio Oficial de Enfermaria, a Spanish nurses' organisation, to improve cooperation and broaden the geographical area it currently covers. This regional cooperation will be expanded to include nurses' trade unions and regional organisations. Several dozen Spanish nurses are already members of the Portuguese Nurses' Association. A protocol is due to be signed, covering:

- developing joint initiatives in the healthcare field;
- making more efficient use of available resources;
- promoting institutional and cultural exchange; and
- contributing to the professional development of the partners involved, making it possible for Portuguese nurses to pursue master's and doctoral degrees in Spain.

Fishing

There are currently a large number of Portuguese fishing industry workers who have gone to work in northern Spain and in France, receiving three to four times the salary they would receive in Portugal, where the fixed element of pay has not been updated in the past 30 years, according to the unions. The workers also enjoy other perks, such as more holidays. On the negative side, these workers often find themselves employed under illegal conditions, with no job security and no social security protection. These workers are typically unaware of the labour rights. Therefore, the Union of Northern Fishery Workers (Sindicato dos Trabalhadores da Pesca do Norte) has signed a protocol with Spain's CC.OO to provide legal advice to the workers, and also maintains increasingly close contact with workers and unions in France.

Banking

The United Union Front of Iberian Banks (Frente Sindical Unida dos Bancos Ibéricos), is a group made up of unions operating in Spanish and Portuguese banks operating in France, bringing together Portuguese and Spanish representatives of the French union organisations CFTC, CGT and FO. The banks involved are Caixa Geral de Depósitos, Banque Franco-Portugaise, Banco Pinto e Sotto Mayor, Banco Portugus de Investimentos, Banco Popular Comercial, Banco Mello, Banco Bilbao e Viscaya and Banco Santander Central Hispanno. The group met at the beginning of November 1999 to discuss:

- plans for the new collective agreement for the French banking sector. The Association of French Banks (Association Française des Banques, AFB) has given notice of termination of the agreement currently in effect from the end of 1999; and
- the increase in mergers involving Iberian banks, where this trend is considered to be particularly marked in EU terms, with the loss of at least 1,000 jobs in Portuguese banks in France.

The organisation met recently with AFB in France to discuss the current collective bargaining situation. A study comparing occupational categories between the Spanish and Portuguese systems prompted meetings early in November to discuss this issue.

Commentary

Mobility of Portuguese workers to other Member States is becoming more apparent in terms of union activity. Cooperation between unions centres around competition between labour markets. Interventions focus on defending new interests in a labour market that is increasingly widely based, seeking to bring about adjustments through cooperation between workers in different areas. Cooperation is designed to increase solidarity, which simultaneously allows for improved efficiency of the Member States and their economies through better use of available labour, while at the same time providing better conditions for workers in terms of social security and equal employment opportunities, and contributing toward improving skill levels. Thus, through more egalitarian measures, imbalances can be avoided, facilitating the opening up of a broader and more diversified labour market. Furthermore, the different national systems of industrial relations can be brought closer together through discussion of new institutional arrangements. (Maria Luisa Cristovam, UAL)

PT9911169F (Related records: PT9802167N, PT9706122F, FR9907102N)

19 November 1999

SPAIN

Agreement at Daewoo signed after two-month strike

An agreement was signed in October 1999, bringing to an end a lengthy strike by workers at the new Daewoo refrigerator factory in Álava, Spain, seeking a substantial improvement in working conditions. However, the agreement did not receive the support of all the trade unions represented on the Daewoo workers' committee.

In late 1997, the Korean multinational Daewoo opened a refrigerator assembly plant in Álava in the Basque Country. The selection and recruitment of workers began soon after, following very clear criteria: young persons with a vocational training level of FP2 and without previous work experience. This created a workforce of quite unusual characteristics: for most of the 160 workers, the Daewoo job was their first employment; their average age was 21; and they were all recruited on work-experience contracts with net wages of approximately ESP 60,000 (EUR 360) a month - 60% of the minimum wage for the metalworking sector. Since the plant opened, the workers have been demanding wage increases and permanent contracts, but an agreement was reached only in October 1999, after two years of conflicts and a strike of over two months.

Background

The holding of trade union elections of workers' representatives in March 1998 was the first sign that the situation could change at the Álava plant. Participation by workers was high, despite the fact that they had little experience of industrial relations and union organisation. The resulting workers' committee was composed of three members of the UGT union, three members of the Basque nationalist union ELA-STV and one member of LAB, another Basque union. Despite its varied composition, there was considerable unity in the committee on three basic demands: higher wages; conversion of temporary contracts into permanent ones; and better working hours. The unions felt that the wage conditions and recruitment system were totally unfair and unjustified. Working hours were also very controversial, not only because they were at the maximum level for the metalworking sector, but also because a split-shift system allegedly meant that the workers had to eat in the company canteen and to pay almost half their salary for it. It was therefore proposed to reduce working hours and move to continuous shifts.

The unions' demands initially met with a positive response from the management, which agreed to raise wages to the metalworking sector minimum. At the end of 1998, after a one-day strike, the company also agreed to give all the workers permanent contracts when they had been employed for 18 months.

The conflict seemed to be on the way to being solved, but problems soon reappeared. After a change in the human resources management, the company began not to renew some temporary contracts, including the contracts of three members of the workers' committee. This was highly unpopular among the workforce and mobilisations began. One of the members of the committee was subsequently reinstated through agreement with the company, another had to take his case to the labour court before he was reinstated, and the third preferred to leave the company.

Indefinite strike

After this conflict, the workers' committee hardened its position, demanding: the same wages as the electrical appliances sector, which meant increasing the gross annual salary from ESP 1.8 million (EUR 10,820) to ESP 2.5 million (EUR 15,025); immediate conversion of temporary contracts into permanent ones; and a working week of 35 hours in continuous shifts. The company's refusal to negotiate led to the start of an indefinite strike that lasted over two months, from 19 July to 22 October 1999, not counting the August holidays. During this time, the workers went to work only on the last day before the August holidays and on the first day after, when they decided to continue the strike until an agreement was reached.

The poor working conditions at Daewoo and the strike's unusual duration had a strong impact on public opinion. The strike received support and solidarity from union federations, left-wing political parties and many associations. Neither the government nor employers' organisations sought to deal with the conflict, which went almost unnoticed in the national media. The unions had to set up special ''resistance funds'' so that the Daewoo workforce could maintain such a long strike. Even so, of the 160 workers that began the strike, 20 decided to leave the company and look for other jobs.

A controversial agreement

Negotiations between the company and the workers' committee led to a preliminary agreement supported by UGT and LAB, but not by ELA-STV, which was approved by a mass workforce meeting and signed on 22 October 1999. Its basic points are:

- reinstatement of the 160 workers who began the strike and conversion of their temporary contracts into permanent ones in December 1999;
- a wage rise equal to the increase in the retail prices index plus 4% over the next three years, plus a non-consolidated special payment of ESP 30,000 (EUR 180) in the first year, ESP 40,000 (EUR 240) in the second year and ESP 60,000 (EUR 360) in the third year; and
- an annual 12-hour reduction in working time and a switch to continuous shifts.

UGT and LAB feel that this agreement is fairly positive: all demands have not been achieved, but there is a great improvement in working conditions and it is the first step towards a change in the company's industrial relations model. ELA-STV does not deny the improvements, but believes that the fatigue caused by such a long strike played an important role in the final phase of negotiations. In its opinion, non-consolidated wage increases should not have been accepted and the working time reduction should have been greater.

Commentary

The case of Daewoo may not be very representative of industrial relations in Spain, due to the extremely low level of the working conditions and the company's refusal to negotiate, which made it necessary for the employees to maintain such a long strike in order to achieve what are seen as minimally decent working conditions. However, there are many more ''Daewoos'' in Spain which are not so evident. They are found at the periphery of the labour market, among temporary workers, the ''false self-employed'', and subcontracted workers. These workers' representation is fairly diluted because they are not part of the nucleus of the workforce, and sometimes not even part of the workforce as such. At Daewoo, the homogeneity of working conditions allowed the workers to organise and make demands, but when the conditions are clearly unequal it is far more difficult (María Caprile, CIREM Foundation).

ES9911164F

19 November 1999

EIROnline - the Observatory's database on the Web

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

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

Getting started

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

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

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

The home page indicates the last time that *EIROnline* was updated and provides direct links to the most recently added records. These are designated as either features, in briefs or studies, with the titles in blue lettering, underlined. Whenever you see such blue (or green) underlined text in *EIROnline*, this indicates that clicking on the text will link you to further information.

In the top left-hand corner of the home page, and of every page of *EIROnline*, there is a blue and black **EIROnline** logo. Clicking on this will always return you to the home page.

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

Along the top of the home page there is the **EIROnline navigation bar** containing four links: **in brief** connects to a list of the in brief items for the current month, and **features** to a list of that month's feature items; **site map** connects to a variety of ways of browsing *EIROnline* records; and **search** connects to an *EIROnline* search engine.

In briefs and features

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

Site map

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

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

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

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

Searching

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

Feedback

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

EIRObserver online

Readers are reminded that, as well as this printed version, *EIRObserver* is also available from the *EIROnline* website. From the *EIROnline* home page, clicking on **EIRObserver** in the left-hand side-bar leads you to a list of every issue of *EIRObserver* since March 1997, all of which are available for either viewing online or downloading.

Adobe Acrobat Reader is required. One of the advantages of registering with *EIROnline* (see the **register** page) you can have the electronic edition of *EIRObserver* sent to you automatically by e-mail, as soon as it is available.

EIRObserver

ISSN 1028 0588, Issue 1/00

EIRObserver is published by the European Foundation for the Improvement of Living and Working Conditions. It is the regular information newsletter of the European Industrial Relations Observatory (EIRO). Enquiries about EIRO should be made to the EIRO Unit, tel: +353 1 204 3100, fax: +353 1 282 6545, e-mail: eiroinfo@eiro.eurofound.ie

Editor: Mark Carley

Production: Shivaun Brett, Eoin Campbell

Typeset and printed by Printset and Design Ltd, Dublin

The European Foundation for the Improvement of Living and Working Conditions is an autonomous body of the European Union. It was established by a regulation of the EC Council of Ministers of 26 May 1975. This regulation was the result of joint deliberations between the social partners, national governments and Community institutions on the ways and means of solving the ever-growing problems associated with improving living and working conditions.

Acting Director: Eric Verborgh

EIRO steering committee: Eric Verborgh, Willy Buschak and Penny Clarke (ETUC), Fritz-Jürgen Kador and Olivier Richard (UNICE), Nunzia Gava (CEEP), José Brito Xavier (IDICT, Portugal), Cees J Vos (Ministerie van Soziale Zaken, the Netherlands), Jean-François Lebrun (Employment and Social Affairs DG, European Commission)

Initial enquiries about other Foundation work should be made to the Information Centre.

European Foundation for the Improvement of Living and Working Conditions, Wyattville Road, Loughlinstown, Co. Dublin, Ireland, tel: +353 1 204 3100, fax: +353 1 282 6456, e-mail: postmaster@eurofound.ie.

Printed in Ireland

Cat. No TJ-AB-00-001-EN-C

Foundation No. EF/00/03/EN

THE NATIONAL CENTRES OF EIRO

European Union Level
Industrial Relations Services, 60 Boulevard de la Woluwe, 1200 Brussels and 18-20 Highbury Place, London N5 1QP.
Contact: Andrea Broughton, tel: + 44 171 354 6714, fax: + 44 171 359 4000, e-mail: andrea.broughton@irseclipse.co.uk

Austria
Institute of Sociology, Center for Business Administration, University of Vienna, Bruenner Strasse 72, A-1210 Wien.
Contact: Angelika Stueckler , tel: + 43 1 4277 377 81, fax: 43 1 4277 37788 e-mail: Angelika.Stueckler@mailbox.univie.ac.at

Belgium
Institut des Sciences du Travail, Place des Doyens 1, 1348 Louvain-La-Neuve.
Contact: Catherine Delbar , tel: +32 10 474802 , fax: +32 10 473914, e-mail: delbar@trav.ucl.ac.be

Denmark
FAOS, Dept of Sociology, University of Copenhagen, Linnesgade 22, 1361 K Copenhagen.
Contact: Carsten Jørgensen, tel: +45 35 32 32 99, fax: +45 35 32 39 40, e-mail: Carsten.Jorgensen@sociology.ku.dk

Finland
Ministry of Labour, Mikonkatu 4, FIN 00100 Helsinki.
Contact: Juha Hietanen, tel: +358-9-1856 9260, fax: +358-9-1856 9227, e-mail: juha.hietanen@mol.fi

France
IRES, 16 boulevard du Mont-d'Est, 93192 Noisy le Grand Cedex.
Contact: Alexandre Bilous/Maurice Braud, tel: +33 1 48 15 19 02, fax: +33 1 48 15 19 18,
e-mail: bilous1@msh-paris.fr/Maurice.BRAUD@descartes.enpc.fr

Germany
WSI in der HBS, Bertha-von-Suttner-Platz 1, D-40227 Düsseldorf.
Contact: Thorsten Schulten, tel: +49 211 77 78 239, fax: +49 211 77 78 250, e-mail: Thorsten-Schulten@boeckler.de

Greece
INE-GSEE, Emm. Benaki 71A, 10681 Athens.
Contact: Eva Soumeli, tel: +30 1 33 03 718, fax: +30 1 33 04 452, e-mail: ineobser@otenet.gr

Ireland
CEROP, Graduate School of Business, University College Dublin, Carysfort Avenue, Blackrock, Co. Dublin.
Contact: John Geary, tel: +353 1 706 8974, fax: +353 1 706 8007, e-mail: geary_j@blackrock.ucd.ie

Industrial Relations News, 121-123 Ranelagh, Dublin 6.
Contact: Brian Sheehan, tel: +353 1 497 2711, fax: +353 1 497 2779, e-mail: irn@iol.ie

Italy
IRES Lombardia, Via Pompeo Litta 7, I-20122 Milano.
Contact: Marco Trentini, tel: +39 02 5411 8860 / 5412 0564, fax: +39 02 54120780, e-mail: ireseiro@galactica.it

Fondazione Regionale Pietro Seveso, Viale Vittorio Veneto, 24, I-20124 Milano.
Contact: Roberto Pedersini, tel: +39 02 290 13 198, fax: +39 02 290 13 262, e-mail: eirofrps@tin.it

CESOS, Via Po, 102 - 00198 Roma.
Contact: Marta Santi, tel: +39-06-84242070, fax: +39-06-85355360, e-mail: cesos@mclink.it

Luxembourg
Marc Feyereisen, Cour administrative, 1, rue du Fort Thuengen, L-1499 Luxembourg.
Contact: Marc Feyereisen, tel: +352 42105 7860, fax: +352 42105 7888, e-mail: marc.feyereisen@ja.smtp.etat.lu

Netherlands
HSI, Faculty of Law, University of Amsterdam, Rokin 84,1012 KX Amsterdam.
Contact: Robbert van het Kaar, tel: +31 20 525 3962 / 3560, fax: +31 20 525 3648, e-mail: kaar@jur.uva.nl

Norway
FAFO Institute for Applied Social Science, PO Box 2947 Toyen, N-0608 Oslo.
Contact: Kristine Nergaard, tel: +47 226 760 00, fax: +47 226 760 22, e-mail: kristine.nergaard@fafo.no

Portugal
UAL, Palácio dos Condes de Redondo, R De Santa Marta 47, 1150 Lisboa.
Contact: Maria Luisa Cristovam, tel: +351 21 317 76 73, fax: +351 21 317 76 73, e-mail: mlc@universidade-autonoma.pt

Spain
CIREM, Travessera de les Corts 39-43, lateral 2a planta, E-08028 Barcelona.
Contact: Maria Caprile, tel: +34 93 4401000, fax: +34 93 4404560, e-mail: maria.caprile@cirem.es

QUIT (Grup d'Estudis Sociologics sobre la Vida Quotidiana i el Treball), Departament de Sociologica, Edifici B, Campus Universitat Autònoma de Barcelona, Bellaterra 08193, Barcelona.
Contact: Clara Llorens, tel: +34 93 581 2405, fax: +34 93 581 24 37, e-mail: eiro.esp@uab.es

Sweden
Arbetslivsinstitutet
Postal address: 11279 Stockholm.
Visiting address: Warfvingesväg 25, 11279 Stockholm.
Contact: Annika Berg, tel: +46 8 619 67 00 / 619 67 99 , fax: +46 8 656 30 25 , e-mail: annika.berg@niwl.se

United Kingdom
IRRU, Warwick Business School, University of Warwick, Coventry CV4 7AL.
Contact: Mark Hall, tel: +44 1203 524273, fax: +44 1203 524184, e-mail: irrumha@razor.wbs.warwick.ac.uk

Other Relevant European Commission Observatories
Employment Observatory
Contact: IAS, Novalisstraße 10, D-10115 Berlin, Germany, tel: +49 302 80 08 50, fax: +49 302 82 63 78,
e-mail: eurocontact@ias-berlin.de, web: http://www.ias-berlin.de

Community information system on social protection (MISSOC)
Contact: ISG, Barbarossaplatz 2, D-50674 Cologne, Germany, tel: +49 221 235473, fax: +49 221 215267,
web: http://europa.eu.int/comm/dg05/soc-prot/missoc98/

eiro observer

Temporary agency work in Europe

Temporary agency work (TAW) is a ''three-way'' or ''triangular'' relationship involving a worker, a company acting as a temporary work agency and a user company, whereby the agency employs the worker and places him or her at the disposition of the user company. Beyond this basic definition, the situation varies greatly from country to country, with this relationship not ''officially'' recognised, as such, in all the EU Member States (though progress is apparently being made toward such formal recognition). Despite the shared terminology of ''temporary work'' and'' temporary agency work'' (the terms are often used imprecisely), the reality differs in many respects in the various countries. It is also the case that TAW, which is our focus here, is not the only type of three-way relationship between an employee, an employer who has signed the employee's employment contract and another employer for whom the employee works. There are a number of other less well-known and recognised three-way employment relationships on the periphery of paid employment. These relationships sometimes have no legal expression or definition, even if they are often less in breach of regulations than simply outside them.

Despite these differences in definition, legal position and practice, it is clear that TAW is currently increasing rapidly in almost all European countries, as part of the general movement towards increased flexibility in employment. With this growth has come a concern to regulate this form of employment relationship at the European level. The European Commission issued a draft Directive on temporary work as long ago as 1982 which, as amended in 1984, covered both TAW and and fixed-term contracts. It would have regulated temporary work agencies and the use of agency workers, and provided protection and equal treatment for the workers concerned. The proposal was never adopted and the next move in this area came in 1990, after the 1989 Community Charter of the Fundamental Social Rights of Workers had stated that the ''upward harmonisation'' of the living and working conditions should cover, inter alia, temporary work. The Commission proposed three Directives on ''atypical work'', which covered, among other forms of employment, fixed-term contracts and TAW. Two of the draft Directives would have laid down a wide range of rights to equal treatment and special protection for the workers concerned, while the third, relating particularly to temporary workers, aimed to ensure them the same health and safety conditions as other workers.

The Directive on the health and safety of temporary workers was adopted in 1991, but the two more general atypical work proposals failed to gain legislative approval, and attempts to revive them in 1993-4 failed. However, in 1995, the Commission launched broad consultations of the EU-level social partners on atypical work issues (''flexibility in working time and security for workers'') under the social policy Agreement annexed to the Maastricht Treaty. The social partners - the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP) the Union of Industrial and Employers' Confederations of Europe (UNICE) and the European Trade Union Confederation (ETUC) - decided to negotiate, but initially on part-time work only, as UNICE perceived the issues involved to be too dissimilar to deal with all forms of atypical work at the same time. The negotiations on part-time work led to the conclusion of a European framework agreement in June 1997 and a Directive implementing the social partners' agreement was adopted by the Council of Ministers in December 1997. Negotiations on fixed-term contracts followed in March 1998 leading to an agreement reached in January 1999, formally signed in March and implemented by a Directive in June 1999. The agreement states that it ''applies to fixed-term workers with the exception of those placed by a temporary work agency at the disposition of a user enterprise''. However, ''it is the intention of the parties to consider the need for a similar agreement relating to TAW''. Negotiations over such an agreement are under consideration for 2000.

With TAW so topical at national and EU level, this comparative supplement - based on the contributions of the national centres of EIRO - seeks to: provide brief information on the extent of TAW; examine the extent to which TAW is regulated by law and/or collective bargaining; outline the key points of regulation; and look at the views of the social partners. The supplement is an edited version of a comparative study to appear on the *EIROnline* database (see p.15 for access details).

The growth of temporary agency work

Information on the extent, growth and characteristics of TAW is not available from all countries, and the data that are available are not always comparable. However - taking into account these caveats - in order to provide a general picture, table 1 on p. ii sets out information on the share of total employment made up by TAW, the extent of its growth and the main economic sector in which it is used. For comparison, information is also provided on the share of employment of the other main form of temporary work - fixed-term contracts. Three main conclusions may be drawn:

1) the growth of TAW is a widespread phenomenon and has often taken place rapidly over the past few years. For some countries, this occurred from the mid-1990s (or earlier in some cases), and in others even more recently - as in *Italy*, where temporary agency work was officially permitted in January 1998;

2) this type of work still makes up a quite small proportion of total employment, rarely exceeding 2%. Data is not generally available on the importance of agency work in the flow of people into employment - where it may play a greater role - but in the admittedly unusual case of *Spain* it accounts for 12.5% of all new employment contracts; and

3) in each country, this type of employment seems largely concentrated in certain sectors, occupations and (generally low) levels of qualification. Two scenarios are clearly identifiable. One is of industrial temporary agency work, consisting of mainly manual labour and often a male workforce, as in *Austria*, *Belgium*, *France*, *Germany* and *Spain*, The second consists of tertiary sector TAW (services, public services, and retail) with a mainly female workforce, which is the case in *Denmark*, *Finland*, *Ireland*, *Luxembourg*, the *Netherlands*, *Norway*, *Portugal*, *Sweden* and the *UK*. However, these concentrations of agency work in particular sectors and among particular groups should be seen in the overall context of all forms of temporary work and specific national characteristics - eg in *France*, the predominantly industrial and male phenomenon of temporary agency work exists alongside the use of fixed-term contracts predominantly in the tertiary sector.

The regulatory framework: law and/or collective bargaining

The majority of countries now have at least relatively comprehensive specific legislation governing all or some of the following issues: the activities of temporary agencies (often including their licencing); the conditions of use of TAW; the contractual arrangements and responsibilities between the agency, the worker and the user company; the contents of the contract between the agency and the worker; the pay and employment conditions of temporary agency workers; and the rights of agency workers. Further details of these regulations are provided in the next section. This is the case in *Austria*,

Table 1. Temporary work in Europe

Country	Temporary agency work/ total employment (%)	Growth	Main sector where temporary agency work is used	Fixed-term contracts/total employment (%) (1997)*
Austria	1.0	+ + (since 1993)	Industrial	7.8
Belgium	1.4	+ +	Industrial	6.3
Denmark	0.2	+	Tertiary	11.1
Finland	0.4	+ + (15 % pa)	Tertiary	17.1
France	1.9 (full-time equivalent)	+ + (35.7 %, 1997-8)	Industrial	13.1
Germany	0.6	+	Industrial	11.7
Greece	nd	nd	nd	10.9
Ireland	nd	nd	nd	9.4
Italy	nd	+ + (since 1998)	Industrial and tertiary	8.2
Luxembourg	3.0	nd	nd	2.1
Netherlands	2.5	+ + (20% pa 1993-7)	Tertiary	11.4
Norway	0.5	+	Tertiary	11.0
Portugal	0.5	+	Industrial and tertiary	12.2
Spain	0.56	+ + (1994-July 1999, nd since new law in August 1999)	Industrial	33.6
Sweden	0.44	+ + (50% pa)	Tertiary	12.1
UK	1	+ +	Tertiary	7.4

*nd - no data; * source: ''Employment in Europe 1998'', European Commission (1999).*
Source: EIRO.

Belgium, *France*, *Germany*, *Italy*, *Luxembourg*, the *Netherlands*, *Norway*, *Portugal* and *Spain*. In *Sweden*, specific legislation exists but lays down only a few basic rules on the conditions of use of TAW. In *Denmark*, *Finland*, *Ireland* and the *UK*, there is little or no specific legislation regulating TAW - with the exception of laws on the activities of agencies in Ireland and the UK, and some specific provisions covering aspects of agency work in other employment legislation (as in Finland and Ireland). TAW exists in *Greece*, but remains practically unregulated. Agencies exist and operate without a licence, but are not prohibited by law. There is almost no specific information about this form of employment.

The principal legislation regulating TAW dates back as far as the early 1970s in some cases (such as *France* and *Germany*) - though amended since - but in most cases the current legislation is of more recent vintage: late 1980s in *Austria*, *Belgium* and *Portugal*, early and mid-1990s in *Luxembourg*, *Spain* and *Sweden* and in the past few years in *Italy*, the *Netherlands* and *Norway*. The area of TAW has undergone significant deregulation in recent years, being officially permitted for the first time in *Italy* in 1998, in *Norway* in 1999 (in general terms) and in *Sweden* in 1991. Existing provisions (usually relating to the activities of agencies) were deregulated to varying extents in *Denmark* in 1990, *Finland* in 1994, the *Netherlands* in 1999, *Sweden* in 1993 and the *UK* in 1994. Recent years have seen the introduction of greater flexibility in the use of TAW in countries such as *Belgium*, *Germany* and the *Netherlands*. However, countries such as the *Netherlands* (alongside deregulation of other matters), *Portugal* and *Spain* have seen tighter rules on agency work or the introduction of more rights for agency workers in recent times, while the *UK* government intends to expand employment protection rights to agency workers, launching consultation on the issue in 1999. The flurry of legislative change in the 1990s has gone hand-in-hand with the growth of TAW referred to above.

Collective bargaining at national intersectoral level plays a role in the overall regulation of TAW in some countries, often in a complex relationship with legislation. In *Belgium*, national intersectoral collective agreements on issues such as procedures for and duration of temporary employment sit alongside legislation on the issue. In *France*, bargaining outcomes have been behind much of the legislation on TAW, and a 1990 intersectoral agreement on the subject was subsequently implemented by legislation. In *Italy*, an intersectoral agreement in 1998 regulated some aspects of TAW not covered by the law (eg duration and renewal of TAW contracts). In *Finland*, there is a general agreement between the TT employers' confederation and *SAK* trade union confederation concerning information and the use of ''external personnel''.

At sectoral level, collective bargaining plays a variety of roles, depending on the particular national system and situation. There is specific sectoral bargaining involving trade unions and employers' associations of TAW agencies in *Belgium* (where TAW is recognised as an ''official'' sector with a joint committee), *France*, *Italy*, *Luxembourg*, the *Netherlands* and *Spain*, often building on the extensive legislative provisions in these countries (or, in the case of a 1999 agreement in Italy, successfully proposing amendments to these provisions). In *Norway*, there are prospects of a TAW sector agreement being concluded in the future.

The existence of sector-specific bargaining for TAW is clearly dependent on the existence of specific employers' associations for the industry, with a bargaining mandate. This is indeed the case in *Belgium*, *France*, *Italy*, *Luxembourg*, the *Netherlands* (two organisations) and *Spain*. In the other countries, separate organisations are absent or, more frequently, have no bargaining role at present - as in *Finland*, *Germany*, *Norway*, *Portugal*, *Sweden* and the *UK*. On the trade union side, specific organisations for TAW workers are rare - with some moves in this direction reported only from *Italy*, where organisations have been created for ''atypical'' workers in general - and sector-specific bargaining, where it occurs, is conducted by ''normal'' unions.

In a number of countries, issues relating to TAW are dealt with in sectoral collective agreements between trade unions and employers' organisations in sectors which use agency workers. For example, in *Denmark*, where there is little other regulation of TAW, there are a number of agreements - eg in the commercial and clerical sector, health and social services and industry - providing essentially that TAW work is covered by the existing collective agreements for these sectors in terms of pay. Similarly, agreements on TAW in user sectors are increasingly important in *Sweden* - eg in services, transport and nursing - and there are some examples in *Finland*. Furthermore, even in countries with extensive legislation, intersectoral agreements (in some cases) and specific sectoral bargaining, collective agreements in other sectors also cover aspects of TAW - as in *France*, *Italy* (to an increasing extent) and *Spain*.

Interestingly, in *Austria* and *Germany*, where sectoral bargaining is the norm, the TAW sector has not yet been covered (or not fully, in the case of Austria). In Austria, white-collar agency workers, when not employed by a user company (during which time they are covered by the collective agreement applying to that company) are paid under the terms of an agreement for white-collar workers in crafts and trades enterprises. Negotiations over a similar agreement for blue-collar workers - who make up the great majority of TAW workers - have not yet resulted in a deal. In Germany, there is no sectoral agreement for the TAW industry (a former agreement covering

Table 2. Regulation of key aspects of temporary agency work

Country	Regulation of maximum length of TAW contract	Restrictions on use of TAW (permitted uses)	Parity with permanent workers	Exercise of union/representation rights for TAW workers
Austria	None	Very few	Yes	No special provisions
Belgium	15 days - 12 months (including renewal), depending on circumstances	Significant (replacement of employee, temporary increase in workload and special work)	Yes	Mainly in agency
Denmark	None	None	No (only by CB in some sectors)	No special provisions
Finland	None	None	No	No special provisions
France	Usually 18 months (including renewal), but 9 or 24 months in some circumstances	Significant (replacement of employee, temporary increase in workload and inherently temporary work)	Yes	Mainly in agency
Germany	12 months	Some restrictions	No	Divided, but mainly in agency
Greece	None	None	No	No special provisions
Ireland	None	None	No	No special provisions
Italy	24 months (including 4 renewals) by CB	Significant (replacement, special skills, or - by CB - for workload peaks, specific tasks/skills)	Yes	Divided, but mainly in agency
Luxembourg	12 months (including 2 renewals)	Significant (specific, non-permanent jobs, not part of enterprise's normal activity)	Yes	Divided, but mainly in agency.
Netherlands	None	Very few	Yes	No special provisions
Norway	None	Significant (replacement, seasonal work and unpredictable, short-term changes in activity - exceptions by CB)	No	In agency
Portugal	6-12 months	Significant (replacement, temporary increases in workload, and short-lived/seasonal tasks)	Yes	In agency (user company after 2 years)
Spain	No maximum in some cases, 6 months in others (up to 18 months by CB)	As for other temporary work (replacement, specific work, market circumstances, temporary increases in workload)	Yes	Mainly in user company
Sweden	None	None	No	In agency
UK	None	Very few	No	No special provisions

Source: EIRO. CB = collective bargaining.

clerical workers belonging to the DAG union was terminated in 1989). Similarly, *Portugal*'s only agreement for TAW workers never came into force, due to the adoption of legislation in 1989.

Company-level bargaining on TAW also takes the form of both agreements with agencies themselves and agreements on the use of TAW in other firms. In the *UK*, a number of union recognition agreements have been concluded with TAW agencies, typically with large agencies that regularly supply temporary workers to organisations with high levels of union membership amongst their ''permanent'' staff (eg an agreement between Adecco Alfred Marks and the Communication Workers' Union, whose members work mainly in BT and the Post Office). Agreements between unions and works councils with individual agencies are also reported from *Denmark*, *Germany* and the *Netherlands*. For instance, 1999 saw a particularly innovative agreement between a bargaining cartel of six trade unions and the Adecco temporary employment agency to cover the agency employees who will be working at the EXPO 2000 world exhibition (a deal that the parties believe might point way to a multi-employer agreement for TAW). Company-level agreements of various kinds dealing with the use of TAW are reported from countries such as *Austria*, *Italy* and *Spain*.

Specific rules on TAW

In terms of the regulation of the use of TAW in legislation (or in collective agreements with a wide-ranging effect), a deep gulf separates two distinct groups of countries. First, there are those countries with more or less extensive regulation of many aspects of TAW - *Austria*, *Belgium*, *France*, *Germany*, *Italy*, *Luxembourg*, the *Netherlands*, *Norway*, *Portugal* and *Spain*. Second, there are those countries where regulation is minimal or non-existent, sometimes as a result of recent deregulation - *Denmark*, *Finland*, *Ireland*, *Sweden* and the *UK*. As previously mentioned, the whole area of TAW is unregulated in *Greece*. Within the first group of countries, Austria, the Netherlands and Norway are markedly less regulated than the other seven countries.

Table 2 gives brief details of national regulations on four key points: rules on the duration and renewal of TAW contracts; rules on the circumstances in which user companies may utilise TAW; rules ensuring parity between TAW workers and similar permanent workers in user companies in terms of pay and/or some or all employment conditions; and the rules governing the trade union rights or representation of TAW workers.

Rules on the duration and renewals of TAW contracts are found in seven of the 10 ''regulated'' countries, *Austria*, the *Netherlands* and *Norway* being the exceptions. These rules often vary according to the circumstances in which the TAW contract is used. The time limits imposed vary from 15 days in *Belgium*, in cases where a permanent worker is temporarily replaced without trade union agreement, to 24 months (including renewals) in some circumstances in *France* and *Italy*.

With regard to the circumstances in which companies may use TAW, seven of the 10 ''regulated'' countries (*Austria*, *Germany* and the *Netherlands* being the exceptions) lay down a set of cases, usually involving: temporary replacement of a permanent employee who is absent for some reason, or filling in until a permanent post is filled; meeting a temporary increase in workload/production; carrying out special tasks; or performing work that is inherently temporary (eg seasonal work). In the remaining countries. A number of countries - notably *Belgium*, *France*, *Italy* and *Spain*, also lay down a list of circumstances in which TAW may not be used, such as: to replace striking workers; where there have been recent redundancies in the user company; or for particularly dangerous work. The ban on using TAW workers in the event of strikes is the only restriction *Austria*, the *Netherlands* and the ''unregulated'' *UK*.

Parity between TAW workers and similar permanent workers in user companies in terms of pay and/or some or all employment conditions is guaranteed by law (and/or collective agreement) in eight of the regulated countries (*Ger-*

many and *Norway* being the exceptions on this occasion). Such rules may be found in individual sectoral collective agreements in other countries - as in *Denmark*.

On the question of the trade union rights and rights to representation (eg through works councils) for TAW workers, and the extent to which these workers are counted towards workforce-size thresholds for issues such as the establishment of works councils, there is a very varied picture. There are no special or specific rules on the subject in *Austria*, *Denmark*, *Finland*, *Ireland*, *Portugal*, *Sweden* and the *UK*. In *Belgium* and *France*, TAW workers exercise their union and representation rights in the temporary work agency, though they may be counted in workforce-size calculations in the user company in some cases. In *Germany*, *Italy* and *Luxembourg*, the workers' rights are exercised mainly in the agency, but they have some entitlements in the user company, for example: in Germany, TAW workers may not vote or stand in works council elections at the user company, but they can use works council consultation hours, attend staff meetings and exercise individual rights; in Italy, they may engage in trade union activity and attend workplace meetings at the user company, and are counted in workforce-size calculations for health and safety representation (though not for works council-type bodies); and in Luxembourg, they may not vote or stand in workforce elections, but may consult workforce delegates and see their personal files. In the *Netherlands*, while rights are exercised in the agency, TAW workers who have been employed in the same user company for two years are also considered as employees of the user company for representative purposes. In *Spain*, while working in a user company, TAW workers are represented by the workers' committee or workers' delegates in that company.

Employee or union representatives have information and consultation rights relating to the use of TAW in *France*, *Germany*, *Italy*, *Luxembourg*, the *Netherlands* (some circumstances only), *Portugal* and *Spain*. Furthermore, employee/union representatives have some control over the use of TAW in some cases in *Belgium* and *Sweden*.

The views of the social partners

The views and positions of the social partners, and the extent to which these are opposed or share common ground, vary to some extent between countries, reflecting different national situations.

Employers generally see TAW as a necessary element in labour flexibility and as a good means of promoting employment, though in some cases they are more agnostic - for example the *Danish* industry employers' association, Dansk Industri, neither promotes nor discourages the use of TAW. While in some countries - such as *Germany*, *Norway* and *Portugal* - employers are calling for further deregulation, in others - such as *France* - they have been prominent in seeking better regulation of the TAW sector.

In general, trade unions have traditionally seen TAW as a threat to minimum employment standards and as open to abuse, and have questioned its positive effects on employment levels. They have pointed to poor pay and conditions and job insecurity, or exclusion from occupational benefits, training and career development. While many unions continue to criticise aspects of TAW, they now often (though not in all cases) tend to accept it as a fait accompli, and concentrate on pressing for better regulation and/or coverage by collective agreements. A somewhat more positive approach is taken by *Italian* and *Dutch* unions, which - while also acknowledging a negative aspect and seeking further improvement in regulation - see TAW as potentially offering opportunities for both workers (especially in terms of facilitating labour market entry) and firms. Recent ''employee-friendly'' legislation seems to have softened the unions' former opposition in *Luxembourg*. *Swedish* unions seem divided on the extent to which they accept TAW. Despite this generally greater acceptance of the phenomenon, there are widespread concerns among trade unions - eg in *Denmark*, *Germany*, *Ireland*, the *Netherlands* and *Norway* - about the problems of organising TAW workers. There is evidence that unions in some countries are now paying greater attention to TAW and the protection of the workers involved - this is reported from countries such as *Belgium*, the *Netherlands*, *Norway*, *Spain* and the *UK*.

In some countries, a considerable and arguably increasing degree of common ground has been found between unions and employers. In *Belgium*, notably, the social partners are agreed: on the role played by temporary agency work in the reintegration of jobseekers on the labour market; that in the event of an increase of workload, TAW is preferable to other types of labour flexibility; and generally that TAW is a valid mode of entry into enterprises. In *France*, the social partners succeeded in concluding an intersectoral agreement in 1990, subsequently implemented by legislation, dealing with most aspects of the relationship between employer and employee - and there have been similar recent developments in *Italy*. In the *Netherlands*, the social partners within the bipartite Labour Foundation have accepted that TAW plays a legitimate role. In *Norway*, employer and employee representatives on a public committee approved recent new legislation on TAW. In *Spain*, a certain consensus between the social partners (alongside disagreement on specific issues) is reported on the abuse of temporary recruitment and its negative consequences, and that temporary recruitment should be limited to genuinely temporary tasks and not be used to cover companies' normal activities. This was reflected in 1997 intersectoral agreements. However, there was significant disagreement on new 1999 legislation on TAW.

Commentary

The greatest care should be taken in attempting to outline a clear and comprehensive picture of the state of TAW in Europe on information from a wide variety of sources. The reports from the national centres often reflect the problems of definition and vagueness found in national regulations. Nevertheless, it can be said that:

- the situations in the countries covered are still very diverse, and are often scarcely comparable, as the definitions of the type of employment concerned are far from identical;
- however, some common trends can be detected, even if a number of countries are still unaffected by them;
- despite rapid growth, the extent to which TAW has spread is still generally modest, though here are clear differences between countries in the level of its use;
- TAW is concentrated in industry in some countries and in the service sector in others;
- the way in which TAW is regulated, either by legislation or collective bargaining, varies between countries and diverges quite distinctly from traditional national industrial relations practices in some cases; and
- the regulatory constraints on companies and the protection to which employees are entitled, as well as the strategies and forms of organisation adopted by the social partners, are also widely divergent.

To conclude this rapid review of the points of similarity and difference between the European countries, the main impression is one of a clearly heterogeneous situation, too much so for typical patterns to emerge. TAW is perhaps in many cases too small a field, or even too young, for matters to have been established. The current period is one in which many countries are feeling their way, implementing a new type of relationship between employers and employees, one which may remain marginal or become central. In any case it is clear that TAW is a ''laboratory'', and in all probability an issue that will be at the heart of collective bargaining in Europe over the next few years. (François Michon, IRES)