

Conclusions

The practitioners' perspective

Introduction

In the spirit of the various insights to be found, here, the concluding chapter seeks to reflect on these contributions from a ‘multi-levelled perspective’ – in that we are trade union officials working at both national and European levels. What we set out to do in this final chapter is to situate the findings in the context of current challenges facing organised (as well as un- or even dis-organised) labour based on our current work programmes. Central to these are the transformations of employment relations at every level whether driven by macro-economic decisions around investment and austerity or local decisions to outsource and fragment.

We have gathered our thoughts under three main headings. First Ben Egan situates the challenges of this book in an analysis of the challenges in European labour markets. David Wilson then reflects on the contributions to this volume in the context of fragmenting collective bargaining arrangements. He gives relevant and specific insight from the UK public sector where he is a senior officer in the National Union of Teachers. In the third and final section Wolfgang Kowalsky and Peter Scherrer offer a potential solution to the issue of worker marginalisation by mapping the ETUC position (and demands) on Workers’ Participation. While we have divided the analysis between these sections the point of convergence is fragmentation of order and the reduction of workers’ effective voice – in short, workers and their organisations are seeking ways to resolve the complexity in relations from the local to the European level.

Employment in Europe: mapping trade union challenges

Ben Egan

From the European perspective there are several long-standing labour market challenges that are raised in the contributions to this volume – some more directly while others implicit. Access to the labour markets in the first place remains a major issue for the more-than 20 million unemployed across EU Member States, particularly from marginalised groups, as does structural segmentation within labour markets limiting the potential of many more workers. The following is thus divided between a first section which relates to the main labour market challenges facing workers in Europe around finding adequate employment, before moving on to relate the challenges of precarious working lives to the contributions in this volume. Finally, there are sections on the importance of constructing persuasive narratives in enhancing workers' voice in and around the workplace.

1. The state of European labour market(s)

At the heart of the employment challenges across Europe are the very different regulatory environments in which labour markets function. A 'Europeanisation' of labour markets has never really happened – demonstrated starkly by the divergence in employment performance between Member States. This was highlighted by the leaders of the European Council, the European Commission, The Eurogroup and the European Central Bank in the 2012 *Four Presidents' Report*, yet was addressed so inconsequentially that it remained the focus of the *Five Presidents' Report* (2015) three years later (with the addition of the President of the European Parliament). It is fair to say that a recognition of divergence is one of the very few issues on which all European stakeholders fully agree. The failure of such high-profile interventions is itself a strong indication of the sheer complexities of multi-levelled governance that this volume speaks to.¹

1. Working on the presumption that some, if not all, political actors are genuine in seeking to address divergence.

Unemployment, for example, remains historically high despite modest improvements over recent reporting quarters. Furthermore, it is not only the headline figures, worrying enough as they are, that are the real story on unemployment. Once we break down the structure there are gravely concerning trends. Take youth unemployment which has been a problem for many years and – as with so many socio-economic problems in Europe – there is wide divergence in the situations between Member States, as well as in the policy responses to them by both the states themselves and those followed by the Commission and Council via economic governance procedures. Hence we see rates of youth unemployment in countries such as Spain and Greece that are more than seven times that in Germany². In other countries (un)employment challenges manifest very differently. Austria has one of the best rates on youth unemployment but real difficulties around the employment of older workers and notably women – with the latter being identified in a Country-Specific Recommendation in May 2016³. Other countries have major challenges relating to regional and demographic disparities.

In short, the available work is not being fairly distributed or, to put this another way, any economic recovery that is being experienced in Europe is not being enjoyed by all – in Euro-jargon it is not ‘inclusive growth’. And this is the key point because it is precisely in this context that employment policies have been conceived in recent years. The idea was that that *now* was always the time to get people into work to tackle the ballooning unemployment come-what-may. In particular, the ranks of the long-term unemployed were growing alarmingly – and when unemployment did start to fall it fell more slowly for the groups of workers that had been unemployed for more than a year. The inevitable result was that between 2007 and 2014 the number of people in the EU who had been unemployed for more than 12 months doubled from 6 to 12 million⁴.

There is now a Council Recommendation on long-term unemployment which highlights the recognition at the European level that this has to be a social priority. This is of course welcome from a trade union perspective and yet the fact remains that there is a long way to go to rectify the distorted labour markets of Europe. Some of these are undoubtedly the result of wrong-headed policy at Member State level but, more importantly

2. <http://ec.europa.eu/social/main.jsp?catId=1036>

3. http://ec.europa.eu/europe2020/pdf/csr2016/csr2016_austria_en.pdf

4. <http://ec.europa.eu/social/BlobServlet?docId=14443&langId=en>

for European economic governance, it is the EU itself which has been responsible for many of the disastrous interventions that have heaped misery on top of crisis.

There is however no sense of *mea culpa* from the European institutions. Despite the noticeably more inclusive approach of the Commission of late towards listening to ‘social partners’ (via DG Employment, Social Affairs and Inclusion) the analysis continues to treat the very serious employment challenges that we face as external or incidental, rather than created by the very policy prescriptions of deregulation that have been prescribed for the last decade and a half. For example, in its Winter 2016 Forecast⁵ the Commission claimed that employment gains have been broad-based across almost all Member States, ‘especially in those mostly affected by the recent crisis, such as Spain, Italy and Portugal.’ Yet this analysis overlooks their own role in decimating demand (and employment) earlier in the crisis, as well as their instrumental role in dismantling collective bargaining. For example, the labour market section of the 2016 Country Report for Portugal opens with the claim that ‘the overall employment rate made up about half of the ground lost since 2008’⁶. It took 8 years to achieve a limited recovery. For Spain it states that ‘after almost 6 years of predominant job destruction, employment growth turned positive at the beginning of 2014.’⁷

This very subject is addressed in this volume by Malo (chapter 6) who notes that all regulatory changes in Greece, Portugal and Spain have been designed with the very intention of promoting the decentralisation of collective bargaining as well as limiting certain institutions while expanding others with the result of greatly diminishing coverage. So labour markets in Europe are not incidental but shaped by the policies of the past. Of course we all want to see people in work, but not any work in any conditions. Employment quantity cannot be exchanged for quality. Especially when such a trade-off doesn’t even work.

5. http://ec.europa.eu/economy_finance/publications/eeip/pdf/ip020_en.pdf

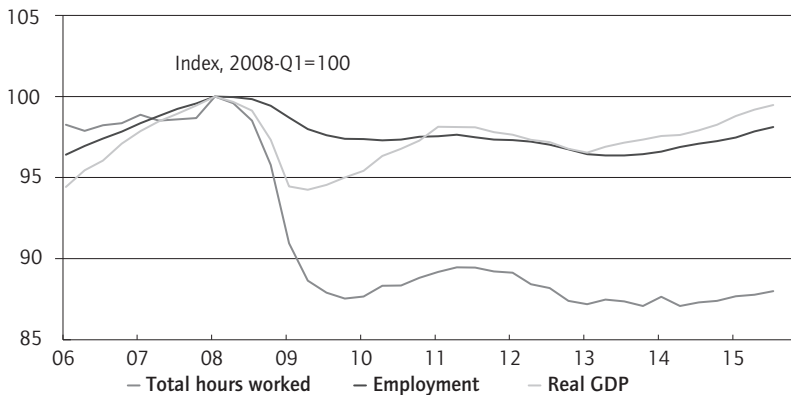
6. http://ec.europa.eu/europe2020/pdf/csr2016/cr2016_poland_en.pdf

7. http://ec.europa.eu/europe2020/pdf/csr2016/cr2016_spain_en.pdf

2. The growth of non-standard and precarious employment

By any measure non-standard employment has been mushrooming across Europe. In many Member States the growth of these more precarious forms of employment represent the sum total of employment growth over the course of a decade or more. This means that lower unemployment rates do not necessarily mean that there is sufficient employment shared in such a way as to provide for the ‘constant improvements in living and working conditions’ envisaged in the Treaties of the EU. It is into this environment that we must place the proliferation of precarious employment, which alone highlights the poor state of European labour markets. Poor quality, non-standard employment has been encouraged by European policy-makers in fire-fighting mode on the logic that ‘any job is better than no job’ yet at the same time unemployment levels (especially long-term) remain historically high. This is shown in Figure 1 which demonstrates that despite the economy as a whole and employment specifically recovering to some extent this is resolutely not the case for hours worked. It is worth pointing out here that were the debate about a fundamental rethink on European labour markets and varieties of capitalism to sustain living standards then less work would not necessarily be a bad thing. However, this is not the case.

Figure 1 Total available employment across the EU28



Source: European Commission, Winter 2016 Forecast.⁸

8. http://ec.europa.eu/economy_finance/publications/eqip/pdf/ip020_en.pdf

Furthermore, notions of ‘precariousness’ and the ‘standard/non-standard’ paradigm have an ambiguous relationship: employment being ‘standard’ by means of being full-time and permanent does not necessarily mean that it is not precarious. This is because the extension of non-standard employment forms has in many (but by no means all) Member States been pursued at the same time as the diminishment of protections associated with the standard full-time, open-ended contract. The result is that many Member States with the highest proportion of standard contracts counter-intuitively having the higher rates of risks of precariousness. For example, an August 2016 Briefing document of the European Parliament, *Precarious Employment in Europe: Patterns, Trends and Policy Strategies*⁹ found that of the eight Member States with more than 70% standard employment contracts, only Belgium was not a CEE country. Despite this, workers in CEE countries continue to endure some of the most precarious working lives.

At the European level there is a further challenge around definitions in pursuing a policy agenda to counter precariousness in work. Notwithstanding the innate linguistic difficulties in accurately translating ‘precarious’, ‘informal’, ‘flexibilisation’ and so on, the definitions are often linked to distinct heritages. Considerations on the desirable levels of employment protection to be provided by statutory or voluntarist methods, for example, will depend on the legacy of established industrial relations, industrial power and so on. Some trade unions see labour market flexibility as a threat, while others as an opportunity. This is shown in approaches to ‘flexicurity’ debates and so on where the experience of Nordic workers and their unions are very different to those in southern Europe. Decentralisation of bargaining has proven to be an effective way of providing flexibility for employers (as well as precariousness to workers) as Martínez Lucio reflects in Chapter 10. The use of outsourcing and the greater use of a more agency based and indirect labour force has been shown to be an effective way to ‘undermine the regulatory scope of trade unions, but also challenge the ability of management to coordinate the organization of work and employment’ (Martínez Lucio). Developing ways of confronting this at the European level remains a key challenge.

The decline of ‘standard contracts’ is an issue spoken to very clearly in the chapter by Doerflinger and Pulignano (Chapter 3) on works councils’

9. [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/587303/IPOL_BRI\(2016\)587303_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/587303/IPOL_BRI(2016)587303_EN.pdf)

approaches to flexibility in German workplaces. Of particular interest to a trade union labour market analysis is the observation of how inclusive labour markets are: ‘the extent to which legislation and collective bargaining cover the entire or parts of the workforce. Differences between standard and non-standard workers could thus result from varying levels of “inclusiveness”’ (Doerflinger and Pulignano). Though cited in the context of internal labour markets, the outcome is nevertheless true for the broader labour market. The decentralisation and casualisation of employment relations are results of the structure of labour markets. In short we need to regulate them in such a way as to facilitate a robust role for organised trade unions, whilst also ensuring that no worker is allowed to remain unprotected. Questions of what features ‘standard work’ should contain are therefore essential.

Our priority, therefore, at the European level is to ensure that the appropriate levels of protection are available at the lower levels – both as collective rights and individual protections. As Hoffmann notes in Chapter 9, the rudiments of the rights are ‘there at local level and are roughly comparable. The key is to apply them at the different levels intelligently, solidaristically, strategically and pragmatically.’

3. Union approaches and workers’ voice

As outlined above, many trade unions in Europe, as well as employers and governments, have clear historical roots which can put them at a relative advantage or disadvantage in terms of institutional power and legitimacy. Several of the chapters in this volume touch upon this. Such contributions can prove very insightful for trade unionists at the European level as they can furnish us with instructive examples – both good and bad. Clearly models and approaches can rarely be transposed wholesale into another country but lessons can be learned. This is also the case for sectoral unions in which shared notions of collective or professional identity can be powerful mobilising forces.

The Belgian model of industrial relations, for example, is raised in the chapter by Vermeerbergen, van Hootegem and Benders (Chapter 4) with the nice analogy of employers and employees either boxing or dancing in terms of the extent to which dialogue should be collaborative or confrontational. As far as trying to maintain strong institutional power for collective bargaining, while at the same time sustaining the levels of

militancy necessary to defend these in times of industrial conflict, Belgian unions and the system in which they operate is on the whole a good one from which many other Members States could learn.

The issue of union ‘strategy’ is prominent in another chapter. Adăscăliței and Guga (Chapter 2) show that of the two automotive plants in Romania that they compare it is, amongst other important factors it must be added, a lack of strategic thinking on labour markets that led to one union seeing a significant decline in prominence in relation to the other. A lack of strategic thinking is one issue that is regularly raised within the trade union movement and even more so in periods of crisis – the context in which most unions have been operating in recent years. This is not a criticism per se but an inevitable product of organisations in fire-fighting mode. Indeed, at the European level it can be ‘easier’ to be strategic when an organisation doesn’t have direct members with potential threats in terms of jobs and pay and conditions to contend with on a daily basis. Yet there often lies a fundamental question that goes without a clear and emphatic answer – what do we actually want and how much do we want it? Only from this can long-term objectives be attained.

The neoliberal turn of the last couple of decades has clearly presented major problems as power sources become more opaque and globalised. Union approaches must be adjusted to deliver an effective voice for workers in a very different market to those of the past. In the words of Martínez Lucio (Chapter 10): ‘employers have turned their gaze away from the national space towards a strategy of greater mobility between national spaces, thus questioning alliances made with organised labour in the past.’ The challenge then for unions, particularly (though not exclusively) at the European level, is to reform labour market regulation so as to preserve what remains of previous protection while reconfiguring for the challenges of the future. As Martínez Lucio goes on to highlight, trade unions have responded to these different changes and explored opportunities but the nature of ‘traditional’ social dialogue has greatly changed.

4. Importance of narratives

An important theme running throughout the chapters in this volume is the significance of narratives in promoting workers’ interests. As the following section of this concluding contribution on collective bargaining

by David Wilson argues, the political side of trade unionism has not always been sufficiently emphasised. This is for good reason in an era of widespread attacks on unions and their members but despite this it must be challenged. A trade union movement that doesn't have a broader story to tell and can't place struggles into a broader narrative is in a weaker position. At the European level, less directly linked to the specifics of workplace disputes, there is arguably an even greater duty in this regard.

In terms of developing persuasive narratives that are able to inspire the mobilisation of members and resources, unions have two key arenas in which they must be able to convince: in the workplace and in a broader political sense. In the case of the former, the chapter by Köhler and González Begega (Chapter 1) is instructive. Here we see an example of restructuring with a clear (though by no means logical) agenda: the entire process from relocation decision onwards is described, including the involvement of a consulting firm for the specific reason of developing a narrative to 'underpin the new strategy with pseudo-rational arguments.' Here the authors note the degree of involvement of regional headquarters differ and 'depends on the organization and power structures within the corporation, but there is a general trend towards concentrating power and decision-making in corporate headquarters without taking regional or local interests into account.' That the restructuring – i.e. the closure of the plant – never took place was almost certainly partially a result of the campaigning work taken up by organised workers, though there were certainly greater forces at play. The reason why narratives are important is to an extent shown by this case study and that is that when opportunities to win arise for workers under attack they are often not where they might be expected. Circumstance can throw up unlikely emblematic disputes and therefore it is crucial that trade unions are intellectually, as well as operationally, equipped. The surprising outcome of the case study was somewhat fortunate but should nonetheless be built on.

A second way in which workplace narratives are important relates to the expanding communicative spheres opened up by social media and instant information sharing. Namely, as Martínez Lucio puts it, the way management 'evokes the market and links workers' interests to those of the customer'. This is particularly problematic for workers in public services and other areas of the labour market where they have that most valuable commodity in industrial relations: leverage. This means not only being able to situate union approaches into a logical broader narrative but

being able to rebut the inevitable backlash that employers and their supporters are able to mobilise.

Perhaps the most significant aspect of narrative development that unions must be prepared to pursue is one of its own present and future rather than of a glorious past. As several chapters in this volume demonstrate, and as we see as active participants on a daily basis, there are many areas in which unions are doing innovative and effective things in the spirit of renewal. At the risk of sounding inconsistent given the challenges identified here, for many members a more uplifting tale needs to be told if gains are to be made and sustained.

5. Conclusion

The key questions then facing workers from a European perspective is what do we actually want? Clearly, multi-levelled governance is creating complex sets of relations but these are qualitatively different for diverse actors. Do we want a Nordic model with the higher living conditions that entails, or is that inappropriate to countries with very different varieties of capitalism and organisational infrastructure? One thing is certain and that is that more ambition is required to address the social crisis that has been borne of the economic crises in Europe. As Lafuente Hernández reminds us in this volume, the treaties' decrees were no impediment to EU economic governance regulations and Country Specific Recommendations which ruled against national labour market coordination arrangements in many countries. When an economic crisis was perceived policymakers did what they thought to be necessary – workers now need to see the same attitude to tackle the social crisis that threatens not only living standards but the EU itself. Within this we need a serious and honest analysis of what role there should be for unions in economic governance via the European Semester. How will the European Pillar of Social Rights which is currently being consulted on fit into this?

What is certainly required at the European level, and which the trade union movement continues to push for, is an end to what we might describe as 'all supply; no demand'. The incessant pursuit of labour market supply side reforms which presume that unemployment in Member States is a result of unemployable workers rather than a crisis of demand via disinvestment. This is not to say that such some supply-side reforms are not both necessary and welcome – particularly around skills

and education – but they are insufficient. Austerity is the cause of this malaise; investment in workers and their communities to create sustainable and high quality jobs is the cure.

A question that cannot be avoided

David Wilson

1. Introduction

The aim of this contribution is to reflect upon the research findings presented in the current volume, and to offer a perspective of the themes discussed based upon the recent experiences of a trade union operating in an area – both geographically and industrially – not covered in the book: namely the public sector in the UK; and, specifically, teachers in England and the experiences of the National Union of Teachers (NUT).

As an active trade union officer, intellectual analysis and reflection have one primary purpose: that is, to guide practice. Therefore, this contribution is, hopefully, in the words of Darlington and Dobson (2013), ‘objective but not detached’. Indeed, it is unashamedly partisan, based upon perhaps the most important issue highlighted – implicitly or explicitly – throughout this collection: namely, the continued re-balancing of power in favour of employers at the expense of workers across Europe, and how this situation is best slowed, halted, and reversed. In particular, it focuses its attention upon changing collective bargaining arrangements and, specifically, the increasing devolution of bargaining to the level of the workplace, and the possible options trade unions have in responding to this situation.

Whilst, given the limitations of space, this contribution is broad brushed, it hopefully contributes to an on-going dialogue by asking some strategic questions of the trade union movement.

2. Context and challenges

The day after the UK voted to leave the European Union, the *Financial Times* ran an article, using research by the labour market economist Professor Stephen Machin, showing that between 1997 and 2015 the

median wage in the UK rose from £269 a week to £426 a week. Prices rose 43 per cent over the same period, leaving a real median gain of just 15 per cent, or less than 1 per cent a year. The aggregate data masks a more nuanced and troubling situation in which whole areas of the country didn't even see this modest gain: 62 out of 370 local authorities actually saw median wages fall in the period measured – in some areas this decline was recorded in double digits. As the article concludes: the campaign for Britain to remain in the EU faltered in these areas.

The irony within these findings is many of the areas where wage stagnation is greatest are also the areas where EU immigration – a key factor in the referendum debate – is below the national average, and are also amongst the biggest beneficiaries in terms of EU funding. They are, however, often also the areas that have witnessed the most severe form of de-industrialisation and the starkest retreat from skilled and secure work to more precarious and unskilled jobs.

Whilst this is not the place to discuss the varied and complex reasons why a majority of UK voters chose to leave the EU, any discussion concerned with the contemporary position of labour, and their collective organisations in the UK has to view the state of affairs described above as a touchstone to encourage and re-evaluate our collective understanding of the size of the challenge confronting labour, and the possible strategic options available in addressing these challenges. Whilst the UK is at the extreme if European industrial frameworks are viewed as a spectrum, it is the case that in many ways the uneven balance of power between employers and labour is the benchmark that informs the trajectory within many countries.

In the UK, over the timeframe measured by Professor Machin above, despite the New Labour government (1997-2010) opting into the Social Chapter, introducing a statutory process by which trade unions can gain recognition, as well as a minimum wage, the fortunes of British trade unions, with the occasional exception, did not qualitatively improve during the years of New Labour government. Indeed, the strength of British trade unions measured by membership numbers, union density, days of strike action, or any other measure or proxy, shows a situation that, at best, could be described as stable decline during this period.

The election of the coalition government in 2010 and the subsequent return of a Tory majority government in 2015 poses some new – and in

some cases fundamental – challenges to the future trade unions and their functioning and potential power resources in the UK.

One key measure to current union strength is the number of workers covered by collective bargaining and collective agreements. Currently this figure stands at around 16% in the private sector and 63% in the public sector in the UK. Further, unlike some European neighbours, collective bargaining in the UK generally occurs at the level of individual employers. Even in the public sector we are seeing the devolution of decisions around pay and terms and conditions to individual workplaces. In the education sector, this means that each of the twenty-thousand or so schools in England are now, in essence, individual bargaining units. Whilst an extreme example of fragmentation, this volume demonstrates the general trend towards the breaking up, or weakening, of higher level and more coherent bargaining arrangements, even within countries where there still exist tripartite or sectorial negotiations.

The lack of trade union coverage, strength and impact in terms of collective bargaining has clearly contributed to the stagnation and decline in living standards for many workers in the UK, as well as the growing inequality within society. Recent popular studies (for example Dorling (2015); Wilkinson and Pickett (2010)) have shown why this situation is bad for not only individuals in terms of life prospects, but society as a whole. If one still accepts as valid the description that trade unions have two interrelated faces, namely, vested interest (of members) and a broader ‘sword of justice’ role within society, this situation is surely intolerable.

3. Strategic options: rapprochement, resistance, renewal

As Flocco outlines elsewhere in this volume, a fundamental starting point if this situation is to be addressed, is to have a clear understanding of political and economic context within which we find ourselves. Academics and practitioners within the labour movement have, over a number of years, successfully theorised the economic and political changes that have occurred across the globe over the past 35 years or so. Whether we describe these changes as ‘globalisation’, ‘neoliberalism’ (my preferred description) or ‘new capitalism’, what is apparent, and what is highlighted in these chapters, is the increasing convergence of key economic and

political practices across Europe (and beyond), and the common challenges these practices present to labour. What is perhaps less clear is the question of whether there is also a convergence of responses to this situation on behalf of organised labour.

The drive towards greater decentralisation and liberalisation, as a means by which to create or increase a competitive market environment, are amongst the most important points of convergence that have impacted upon established industrial relations and labour processes. This specific impact of decentralisation and liberalisation can be seen in the reformulation of collective bargaining across industries and countries, and in particular the weakening of national or sectorial collective agreements, in favour of devolution of decision making power to the level of the workplace.

This process does not happen uniformly, either in terms of breadth or depth, as shown in this volume. In some instances, the weakening of national or sectorial bargaining is sudden as in the case of Romania (Adăscăliței and Guga, Chapter 2); in other instances it is more gradual and contested, as in the case of Germany (Doerflinger and Pulignano, Chapter 3); and in other instances the change is not only sudden, but is, as seen across Southern Europe in the wake of the 2008 crisis, also brutal (Malo, Chapter 6).

Understanding how and why these changes have happened is important to understand the potentiality of halting and reversing the process. The process of change reflects the interrelated issues concerning the relative strength of labour vis-à-vis employers; the role and political direction of government and state; as well as the durability of established industrial relation frameworks.

One clear practical outcome of the devolution and liberalisation of bargaining for trade unions is the need to (re)build strength at the level of where bargaining takes place. The chapters of this book demonstrate that, where strong workplace union organisation exists, the more successful workers are in defending or advancing their interests. This is a model recognised and discussed by Fairbrother (1996) in relation to restructuring in the public sector in the UK in the 1990s. Fairbrother recognised the devolution of power to the level of workplaces as representing not necessarily a step back, but an opportunity within the new devolved collective bargaining framework for unions to rebuild

strength on a more participative basis, hopefully delivering favourable bargaining outcomes.

Theoretically coherent as this position is, questions concerning the effort and resources needed by unions to make the transition and sustain a model based upon multiple fragmented bargaining units needs to be investigated. This is the situation the NUT has been confronted with over its recent history, where practice has concluded that whilst rebuilding at workplace level to sustain collective bargaining may be possible, there is a question of whether, as Martínez Lucio comments in this volume, 'defending extant collective bargaining and its economic contribution may not be enough.' This then surely begs the question of what would be enough to redress the situation.

One way in which the NUT has attempted to address these questions is to use the framework presented by Carter *et al.* (2010), which can be seen to build upon the work of Fairbrother. Carter *et al.* offer three major strategic options for trade unions confronted with devolved and fragmented bargaining arrangements and broader threats around labour processes resulting from neoliberal reforms. These are: *rapprochement*, *resistance* and *renewal*.

Rapprochement is best described as a 'pragmatic' coming to terms with neo-liberal reforms, whilst not necessarily accepting the logic of neoliberalism. This position accepts the parameters of neoliberalism and seeks to develop the best possible outcomes for union members within these parameters. Clearly, this is perhaps the function of most trade unions most of the time. Dörflinger and Pulignano in this volume perhaps show in clearest terms how it is possible for strong workplace unions, in certain contexts, to successfully agree pragmatic settlements. Although clearly, even in situations such as those described, labour organisations will be confronted with many difficult questions such as striking the balance between protecting core workers at the expense of those in more insecure and precarious roles, and so on.

Resistance describes the situation of unions actively seeking to challenge the trajectory of neoliberal reforms, often through collective action. However, 'resistance' is often based upon a small number of activists calling action 'from above', and does not necessarily reflect the fact the 'frontier of control' increasingly exists at the level of the workplace and consequently any mobilisation needs to be rooted here.

Renewal rejects the trajectory of neoliberal reforms, but recognises the changed environment within which unions operate, and the consequential need to organisationally re-focus but, crucially, renewal also seeks to deal with the *causes* and not just the *consequences* of neoliberal reform. This accepts the need to address issues ideologically, politically, as well as economically, which consequentially means increasing political, social and industrial leverage by working with a range of allies. A clear part of this perspective - explicit or not - is the need to pose an alternative to neoliberal policies. It could be suggested that the case study presented by Kohler and Begega (Chapter 1) is illustrative of a form of this strategic orientation.

The NUT has decided - in theory if not quite uniformly in practice - upon a renewal strategy (Little 2015). The factors behind opting for this strategic orientation result from: a combination of objective conditions within the education sector; broader industrial relations in the UK generally; and the subjective political factor of the union's history, ideological belief and current elected leadership.

4. Does a convergence of threat necessitate a convergence of response?

Whilst there is undoubtedly a convergence around fragmentation and liberalisation within industrial relations across Europe, it is also true that there is continuing differentiation between some key characteristics of industrial relations frameworks. Hyman (2001) notes that trade unions operate along a class-market-society axis. Where a union positions itself on this axis is influenced and shaped by - and in turn helps reinforce - established industrial relations framework. Whilst such a situation can, in certain contexts, give the impression of stability and permanence, the chapters of this book show that this stability is not a given, but dependent upon the inter-relationship of objective political contexts and the balance of forces between employers (and the State) and labour, as well as the ideological viewpoint of individual labour organisations.

The question confronting trade unions across Europe, therefore, is if the political context within which any given industrial relations framework has developed qualitatively changes, is there then not a need for unions to reassess their position on the class-market-society axis? Further, if there is a convergence of pressures bearing down upon workers and their

collective organisations, is there a need for a convergence around a common response?

Whilst this is not a new question (Ferner and Hyman 1998; Bieler *et al.* 2008 for example), the context within which it is posed gives it a new meaning. The answer to the question does not exist at the level of academic contemplation; the issue of not only combatting neoliberal reform in individual countries, but also of developing and deepening genuine solidarity in practice across Europe, is potentially at stake.

As noted at the outset, these lines are written from a partisan position. A position that posits the need for trade unions to consciously embark upon a renewal strategy that attempts to deal with both the consequences and causes of neoliberal reform. The NUT has attempted, by adopting a 'renewal' strategy, to develop a clear understanding that, whilst dealing with the day to day consequences of neo-liberal reforms is clearly a necessity, this cannot, in itself, halt and reverse the neo-liberal framework that so detrimentally shapes policy, industrial relations, and labour processes within education. The response framework developed by Carter *et al.* (2010) that informs this approach can possibly offer a more general framework for helping decide upon the best possible strategic response to the situation the trade union movement across Europe finds itself in.

The difficulties in theorising the consequences of adapting a 'renewal' approach as described – let alone attempting to implement it – are undoubtedly very real and deep rooted. This is a reflection that such an approach represents a decisive shift in the way in which many trade unions operate most of the time (across various industrial relations frameworks). It necessitates an understanding of trade unionism that is undoubtedly highly politicised, and accepts – even where broader social dialogue continues – that there are increasing antagonisms between 'social partners'.

The re-founding of an industrial relations landscape more favourable to labour, as well as genuine social dialogue, necessitates the radical redressing of the balance of forces between employers and labour. For genuine dialogue to take place, there has to be an equivalence of power within the relationship. Anything else is not a partnership, but a lopsided relationship that, in consequence, will benefit one side at the expense of the other. Addressing this situation is becoming more acute, and addressed it must be.

This is a question that cannot be avoided.

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Democracy at the workplace in the 21st century

Wolfgang Kowalsky and Peter Scherrer

1. Introduction

The debate on industrial democracy in Europe goes up and down in waves, partly influenced by the political agenda, partly influenced by economic development. After World War II industrial democracy was regarded as a tool limiting the power of big companies in particular in the iron, steel and chemical industry, some of them being quite militaristic. The next wave towards more democracy at the workplace arrived at the end of the so called 'trente glorieuses' (from 1945 to 1975), the three decades of nearly uninterrupted growth in Western Europe. In 1969 German chancellor Willy Brandt had won the election with the slogan 'Let's dare more democracy', initially limiting democracy to the political area but incorporating a civil rights agenda. In the 70s the debate on democratisation of the economy intensified and in 1972 the 'works constitution act' granted substantial rights to German Works Councils. When the growth era turned into an era of anaemic growth, Keynesianism seemed to perish and neoliberal ideology became the mainstream. From the mid-70s through the 80s, the economic and political debate became increasingly dominated by monetarists and free marketeers. Democracy at the workplace was seen by mainstream politics as superfluous, an additional burden on free enterprise, a factor reducing a company's share price¹⁰ and contrary to the image of free and independent entrepreneurs making the economy prosperous.

It was more than a symbol that in the aftermath of the crisis of 2008/9 Thomas Piketty's *Capital in the Twenty-First Century* became a bestseller in the US. In the US, the bottom 90% has endured income stagnation for

10. A study by Schmid and Seger (1998) claimed that parity codetermination caused a 21-24 percent decrease in share price relative to companies with 'one-third' codetermination; Sigurt Vitols, Prospects for Trade Unions in the Evolving European System of Corporate Governance, 2005, p. 21. (http://www.boeckler.de/pdf_fof/S-2003-562-2-1.pdf)

a third of a century.¹¹ Between 65 and 70% of households in 25 high-income economies experienced stagnant or falling real incomes between 2005 and 2014¹². The economic profession hadn't seen the crisis coming, moreover: any reflection on the crisis' origin was short-lived. The economists were locked into monocultural mind-sets making them blind to new challenges. The western economies continue to stagnate, approaching a lost decade (2008-2018), with generally high and sometimes extremely high unemployment. The political elites were reaping the consequences of the financial crisis, a political whirlwind, turning public opinion against banks, bankers and business leaders, and undermining faith and trust in the competence of the political establishment. New social movements such as the Indignados (Movimiento 15-M), 'We are the 99%', the Occupy movement and 'Nuit debout' emerged. Opposition to TTIP and CETA flourished and withered again. This and other popular revolts are often described, in a somewhat dismissive fashion, as populism, which has become a label that political elites attach to policies supported by ordinary citizens that they don't like¹³. Prospects for Trade Unions in the Evolving European System of Corporate Governance remain ambiguous.

After decades of Anglo-Saxon addiction to the shareholder approach, neglecting stakeholders, aiming at maximising economic efficiency and competitiveness, the question of effective democracy inside corporations is back on the political agenda. The question of industrial democracy returned in France with the introduction of workers' board-level representation (WBLR) to the political stage, in Germany with the DGB celebrating 40 years of the German law on codetermination which had brought parity in the supervisory boards of big companies, and in the United Kingdom with Prime Minister May announcing to take some inspiration from the German workers' participation system. Jean-Claude Juncker and Martin Schulz, as candidates for the Commission presidency in 2014, took a stance in favour of setting a European minimum standard on workers' board-level representation¹⁴, but unfortunately they never returned to their campaign pledge.

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11. Joseph E. Stiglitz, Globalisation and its New Discontents, August 5, 2016. (www.project-syndicate.org/commentary/globalization-new-discontents-by-joseph-e--stiglitz-2016-08)
 12. Larry Elliott, The Guardian, 14 July 2016. (<https://www.theguardian.com/business/2016/jul/14/up-to-70-per-cent-people-developed-countries-seen-income-stagnate>)
 13. Martin Jacques, The death of neoliberalism, The Guardian 21 August 2016. (<https://www.theguardian.com/commentisfree/2016/aug/21/death-of-neoliberalism-crisis-in-western-politics>)
 14. Für dieses Europa streiten die Kandidaten, Mitbestimmung, 2014 (5) 16-21.

2. The European dimension of industrial democracy

This chapter deals with the need to Europeanise and modernise workers' involvement which at European level looks like a highly rugged landscape. Significant achievements at European level have been made with the 1994 Directive on European Works Councils (EWCs), the 2001 Directive and Regulation on the European Company Statute (SE), the 2002 Directive on a general framework for information and consultation. Each time, the European debate focused mainly on the question of how to find a European minimum standard, either for information, consultation at national or at European level or for workers' board-level representation in European companies. However, progress towards a joint vision of industrial democracy was never guaranteed and, once achieved, compromises on minimum standards cannot be taken for granted. In spite of the piecemeal approach, neither the European Commission nor the European Parliament ever developed a coherent proactive policy agenda on the topic including the three dimension of the triangle: information, consultation and workers' board-level representation.

So in reality, regime competition put national legislation under pressure by facilitating regime shopping from companies. At European level the opening and downsizing of once achieved and agreed compromises on minimum standards as in the SE led to several backlashes such as the rules on board-level representation in the Cross-Border Merger Directive (which does not refer to information and consultation rights and undermines the provision on board-level representation of the SE). Adding several attempts by the European Commission to curtail workers' involvement such as the proposal for a European Private Company or for the Single Member limited liability company (SUP) which generates serious concerns with regard to fiscal evasion, bogus self-employment, letter box companies, workers' rights and sustainable corporate governance in general is still on the table.

European Works Councils, information and consultation, workers' board-level representation are like pieces of a jigsaw which function well once they work as a triangle and as interconnected and do not stand-alone. In 1994, the European Works Councils Directive (94/45/EC) was adopted, inspired by the German Works Councils system. The EWC Directive is applicable to transnational undertakings and groups of undertakings employing more than 1 000 employees, and at least 150 in two Member States. The European Parliament reacted quite often and loudly to public

discussions such as the *Renault-Vilvoorde case*: In February 1997, Renault had announced the closure of its Belgian plant, but did not see the need to consult the EWC prior to the ultimate decision. In the following months Belgian and French courts clearly established that the company could not proceed in implementing its restructuring measures until it had adequately consulted the EWC. The judges made clear that Renault had not fulfilled its obligations on information and consultation under national and European law. This case represented a milestone in clarifying the meaning and scope of European information and consultation rights. A similar event occurred in Greece in 2013 when the government closed down the public television and radio broadcaster ERT, ignoring the information, consultation and participation rights of the staff, workers and journalists.

In May 2009 a recast EWC directive was adopted (2009/38/EC). In 2016 it was 20 years since the first EWC directive came into force in the EU. Right now in 2016 the European Commission is assessing the functioning of the EWC recast directive. The Commission's view as well as some other studies¹⁵ will fuel the debate on the need for further improvements to European regulation of EWCs. It has become clear that EWC in cases of restructuring have a structural difficulty: in companies without workers' board-level representation a discussion on the actual company strategy is usually lacking sufficient information. There is no possibility to directly influence a company's decision making and so the institution of information and consultation functions only *post festum*, even in cases where the information arrives on time and the consultation process is accomplished in due form. Generally, the information-consultation is 'too little, too late' – this dilemma can't be solved within the formal structure of the EWC Directive and therefore no revision and no recast will really help. EWCs can fully function only when embedded in a triangular system of workers' involvement, when workers' representatives can have a say and vote in the boardrooms and influence company decision making and anticipate change. Other promises can only deceive expectations and create frustrations as can be concluded from a recent report on restructuring¹⁶.

15. Eckhard Voss, European Works Councils Assessments and requirements. Report to the ETUC, 2016; European Works Councils on the Move: Management Perspectives on the Development of a Transnational Institution for Social Dialogue, 2016; Jeremy Waddington *et al.*, Managers, BusinessEurope and the development of European Works Councils, 2016; Stan De Spiegelaere, Too little, too late? Evaluating the European Works Councils Recast Directive, 2016.

16. Eckhard Voss, Revisiting Restructuring, Anticipation of Change and Workers Participation in a Digitalised World. Report to the ETUC, 2016.

The year 2016 marks the fifteenth anniversary of adoption of the EU directive on workers' involvement in the European Company. An agreement on the European company statute (SE) was reached after several decades of discussion in 2001, the original proposal being published in 1970 after a first informal proposal by Professor Sanders in December 1966. The challenge was to avoid the lowest common denominator and to find an ambitious European standard. Whereas in 18 out of the 28 Member States national systems of workers' representation in company boardrooms existed beforehand, up from 2004 it became possible to establish a European Company. The main purpose of the statute was to enable companies to operate cross-border businesses in Europe under one and the same roof of a European corporate regime.

From the perspective of workers' involvement, the most interesting feature of this new company form was the obligation to negotiate on worker involvement in SEs including the representation of the workforce at company board level which was welcomed by the trade union movement as a step forward. However, in hindsight it became clear that the SE did not even establish a European minimum standard as a common denominator. It is built on the 'before-after' principle which means that only in Member States where board-level representation existed beforehand, a newly established European Company can have board-level representation. In the Member States without there is nil. This situation has proved unsatisfactory. There are at least two major shortcomings. First, a company can convert to being a European company just before reaching the national thresholds and thereby avoiding stronger national forms of workers' involvement¹⁷. A dynamic adaptation clause would be needed in order to adapt the form of workers' participation to the size of the company, reflected in the number of workers. Second, the before-after principle does not set a European minimum standard as it provides different forms of workers' participation depending on to the pre-existing situation in the Member State in which the company takes its seat. The freedom of establishment makes it possible to establish a company, for instance a British Limited company in Germany, allowing it to circumvent workers' representation on the boards.

17. Sebastian Sick counted 50 companies which converted into an SE to avoid parity in the boardrooms, but only 14 SEs which have parity; Zukunft Mitbestimmung, *FAZ* 30 June 2016, p. V4.

2.1 The ETUC on the move towards industrial democracy

A key European player on workers' participation is the ETUC which, since its foundation, has promoted it¹⁸. Workers' involvement is one of the cornerstones of the Sustainable Company concept, since it enables the exercise of 'workers voice' in corporate governance and company affairs¹⁹. More democracy at the workplace is what workers and society want. Information, consultation and WBLR function as communicating triangle. When WBLR is a source of reliable and early information, it can become an additional source of influence at the heart of company decision making and a tool for better access to and anticipation of management decisions at an early stage. This means that WBLR has to become an integral component of an overall workers' involvement triangle. It is essential to ensure smooth articulation between all levels of workers' and trade union representation. A common level playing field would address the gaps and inconsistencies in the current and upcoming EU acquis, reducing incentives for abuses and circumvention of national standards. 36% of the European workforce already benefit from participation on the boards.

It is therefore important to take a closer look at the evolution of the ETUC positioning. In April-June 2016 the ETUC adopted a far reaching position²⁰ on the triangle asking for a coherent approach and a horizontal EU framework for democracy in the workplace. It is necessary to deliver some benchmarks to give the background to this step: The 2011 Athens ETUC Congress mandated the ETUC Secretariat to start some in-depth work on board-level representation. Several expert groups dealt in particular with the opportunities to draft cornerstones for the directive on European Company Statute to ensure that the directive fulfils its purpose and discussed different options to broaden the scope of board-level representation in Europe. On the basis of a new consensus in

18. Trade unions for a change of course in Europe, Edited by Wolfgang Kowalsky and Peter Scherrer; Brussels 2011.

19. Wolfgang Kowalsky and Claudia Menne, ETUC for strengthening employee involvement, in: European company law and the Sustainable Company: a stakeholder approach, Vol. II, Edited by Sigurt Vitols and Johannes Heuschmid; Brussels 2012.

20. ETUC position paper - Orientation for a new EU framework on information, consultation and board-level representation rights. Adopted at the extraordinary ETUC Executive Committee on 13 April 2016 in The Hague and the ETUC Executive Committee on 9 June 2016 in Brussels. <https://www.etuc.org/documents/etuc-position-paper-orientation-new-eu-framework-information-consultation-and-board-level#>

October 2014, the ETUC Executive Committee adopted a resolution²¹ calling for a Directive introducing a new and integrated architecture for workers' involvement in European company forms. The new Directive should set high standards on information and consultation, and introduce ambitious minimum standards on workers' board level representation.

The ETUC gives clear indications how this Directive should be designed and drafted. First of all, the ETUC made a call for a common level playing field on workers' rights to board-level representation. The idea is to propose a coherent sustainable vision for EU company law. Whenever a business wishes to use the opportunities offered by European company law, it must at the same time adhere to shared European values such as sustainability and workers' involvement. The new framework proposed by the ETUC would become the single reference on information, consultation and board-level representation for all European company forms (such as SE, SCE). It would also apply to companies wishing to rely on EU company law instruments enabling company mobility, such as cross-border mergers or cross-border transfers of registered offices.

Furthermore, a dialectic of negotiations in the shadow of the law would apply. The proposed Directive should leave as much space as possible to negotiate at transnational company level with a view to enabling the parties to design an information, consultation and WBLR procedure that best fits their needs and traditions. Key principles should thus be laid down in binding standards, and ambitious subsidiary requirements should be designed. These requirements would apply as fall-back provisions in the absence of an agreement or if the parties wish to do so.

Above all, there is the delicate question of enforcement. Information and consultation is an integral part of company decision-making at all levels: local, national and transnational. Before management takes a final decision, the transnational information and consultation process must be properly conducted and completed. At the same time, it can be anticipated that the introduction of WBLR standards will considerably help works councils to receive timely and quality information.

21. Towards a new framework for more democracy at work: ETUC resolution.
<https://www.etuc.org/documents/towards-new-framework-more-democracy-work-etuc-resolution>

The EWC would play a stronger role as the Directive should strengthen the existing minimum standards for the creation and functioning of an EWC, which will serve as the discussion partner of management for employees' involvement in the company. Building on the existing acquis (e.g.: EWC Recast Directive, SE Directive), the Directive should provide solutions for the composition of European works councils, its competence and functioning rules. The competence of EWCs can be usefully extended to include decisions on recourse to external labour (subcontracting, temporary work agencies), data protection, environmental issues and the introduction of new technologies, large loans, etc. The functioning of the works council can be improved by requiring more than one meeting a year and the creation of specialist committees with the assistance of experts (e.g. economic, social and education committees).

As the third dimension of the triangle, the Directive should introduce an obligation to put in place a system for workers' representation on the board. This can either be the board of directors (for one-tier systems) or supervisory boards (for two-tier systems). This Directive has no vocation to regulate companies' board structure. Every workers' representative on the board should be a full member with the same rights and duties as the members representing shareholders, including the right to vote. This means that workers' representatives should receive an invitation to the board meetings in time and with sufficient documents. They should have the right to discuss and ask questions individually. They should have an individual right to convene extraordinary meetings and to request that a topic is included on the agenda.

In full respect to different corporate structures, the Directive should contain a non-exhaustive list of the topics that should appear on the agenda of the board. It will be of utmost importance that in accompanying European company law instruments sufficient provisions are inserted to compel all board members to act in the long-term interests of the company. Workers' representatives, both on the board and in the works council, must enjoy protection against dismissal and discriminatory treatment. Sufficient time off and training must also be secured.

Some topics need further development such as confidentiality and election methods. It is essential that the Directive tries to define sensibly what the notion of confidentiality entails. Too many topics are often qualified as 'confidential' by management. This leads to poor or absent information to works councils. The rules on confidentiality must enable

the necessary flow of information with due respect to confidentiality obligations. The same rules on confidentiality shall apply to workers' board-level representatives and shareholders' representatives alike. There shall be no specific provisions on restricting confidentiality which apply solely to workers' representatives. Workers' board-level representatives should have the right to regularly communicate with national and European worker representation bodies.

There are different methods and traditions available to elect or appoint WBLR. Regardless of which method is applied, it must secure a genuinely European mandate by ensuring that the nomination and selection procedures cover the entire European workforce, include a prerogative for trade unions supported by the European Trade Union Federations, and precludes any management role in the selection of WBLR. The mandate of the WBLR is to defend the long-term interests of the company as a whole, in particular the interests of the workforce.

The ETUC proposes an escalator approach with a lower proportion of WBLR for small enterprises and increasing to higher proportions depending on the size of the company (in the single-tier as well as the dual system):

- small companies with 50 to 250 employees (within the company and its direct or indirect subsidiaries) should have a low proportion of WBLR (2 or 3 representatives);
- companies with 250 to 1 000 employees (within the company and its direct or indirect subsidiaries) one third participation;
- big companies with more than 1 000 employees (within the company and its direct or indirect subsidiaries) should have parity (half of the seats).

The Directive should not lead to a situation where workers' board-level representatives have no works councils to report to.

For the ETUC gender equality and diversity in the boardroom of companies are key democratic principles with positive societal and economic side-effects. The principle of gender equality should however be kept separate from that of diversity: women are neither a group nor a minority, but more than half of the world's population not to mention 45% of the European workforce. Therefore, the balanced participation of women and men in decision making bodies is not merely a question of

diversity, but an essential imperative of the fundamental principles of democracy and human rights, as enshrined in the EU Treaties and the Charter of Fundamental Rights. Each gender should be represented at a level of between 40% and 60% in decision-making structures. This principle should apply to publicly-listed and non-listed companies and to both executive and non-executive board members.

These cornerstones would lay the foundations of an ambitious integrated European architecture of industrial democracy in the medium- and long-term. In the short term, this proposal can be an inspiring source for all attempts to improve existing directives on workers' involvement.

2.2 Conclusions

At the beginning of the 21st century, European company law continues to look like an arbitrary patchwork, resembling an incomplete mosaic. The European architecture of corporate governance is fragmented and incomplete²². Information and consultation are individual fundamental rights permitting no thresholds, and at the same time there are collective rights for European works councils, works councils and workers' representation in general. A holistic approach to this triangle is still missing. Therefore, the European Commission is asked and challenged by the European Trade Union movement to make visible steps forward, away from the better regulation agenda, beyond the shareholder value approach. Neither better regulation nor shareholder value orientation have improved corporate governance - on the contrary.

The financial, economic, monetary and corporate governance crisis has not yet been adequately addressed. It is urgent to promote sustainable companies with a strong workers' involvement dimension. In a company, a balanced and fair decision-making process should reflect a plurality of interests including all major stakeholders, and amongst them, workers in particular, in a gender balanced fashion.

The ETUC is pushing hard and consistently for political and in particular for industrial democracy. In other words: for more and better democracy

22. Wolfgang Kowalsky, *The ETUC on the way towards sustainable European employee involvement*, in Vitols S. (ed.) *Long-term investment and the Sustainable Company: a stakeholder perspective*, Vol. III, Brussels, ETUI 2015.

at the workplace. The ETUC demand for a horizontal EU framework on information, consultation and board-level representation means introducing a new and integrated architecture for workers' involvement in all European company forms. Information, consultation and board-level representation are a triangle functioning together and are not stand alone features. ETUC has developed quite clear views based on normative values, institutional arrangements in particular the embedding in a triangular structure and benchmarks (% of workers covered by EWCs, by WBLR etc.). This directive would propose a new differentiated approach, an 'escalator' with a low proportion of board-level representation for small companies and increasing to higher proportions depending on the size of the company.

From an ETUC perspective, workers' board-level representation is not about extending or transposing national models to the EU; it is different as it would be genuinely European, covering European company forms in a first step and transnational companies in a second step. The logic is to strengthen and broaden the right to workers' representation in order to broaden workers' strategic influence in company decision making. It is not about introducing any form of co-management or collaboration but of strengthening workers' influence, in particular the possibilities for the control and supervision of important company decisions affecting the workforce.

Better workers' involvement is a key question of the 21st century. A rapid Europeanisation of business opportunities and a delayed Europeanisation of the right to workplace democracy do not fit together. The Europeanisation of effective workers' participation rights would accelerate the process of the Europeanisation of the Trade Union movement, too. EWCs have existed for more than 20 years. Investing in the work of the EWC is an investment in the future of the democracy at the workplace. In supporting and enabling workers' representatives - in Works Councils but also in company boardrooms - to play an active role in a participative society the European Trade Unions can sustainably contribute to the European project.

The general lack of coherence on workers' involvement in the digital era has to be addressed. It is not yet clear if the European Pillar of Social Rights is purely symbolic to show that the interests of the working class have not been sacrificed in favour of the big corporations or whether it will bring some steps forward for real and efficient workers' involvement.

The European Commission has to be challenged to show that fundamental rights are at the core of the European project and not only competitiveness and the interests of big corporations. In a time where European institutions are suffering a substantial crisis of legitimacy and credibility, a visible and tangible signal towards strengthening rights of participation for workers would certainly help to change the image of an EU which serves the business interests only. The topic of industrial democracy in the 21st century is therefore crucial²³.

23. For the first time since the first general elections to the European Parliament, a discussion on workers' board-level representation started in this institution launched by the chair of the Employment Committee. At the time of drafting this article (September 2016) the discussion was still ongoing.