

ETUI Policy Brief

European Economic, Employment and Social Policy

N° 2/2015

Transnational flexibility and 'shareholder capitalism': a case for extending EWC competences to cover flexibility

Valeria Pulignano

Valeria Pulignano is Professor of Labour Sociology and Industrial Relations at the CESO (Centre for Sociological Research) of the KU Leuven in Belgium.

Policy recommendations

Flexibility within multinational companies (MNCs) has become increasingly transnational in character. Strategies of inter-firm benchmarking, outsourcing and cross-national or internal 'coercive comparison' are increasingly used by MNCs to enhance local performance by placing plants in competition with each other, forcing subsidiaries to gradually raise their level of flexibility, and eroding employees' working conditions. This Policy Brief argues the need to extend the entitlement of employee participation bodies at the European level to cover corporate strategies of transnational flexibility. In particular,

it is argued that by monitoring the management of flexibility at the transnational level, EWCs could improve their capacity to act upon the causes – rather than being subsequently confronted with the effects – of company restructuring as it results principally from MNCs' strategies of increasing flexibilisation.

Introduction

This Policy Brief explains why it is important to extend EWC competences to include coverage of flexibility at the transnational level in Europe. To this end we begin by evaluating the benchmarking strategies of multinational companies (MNCs) and subsequently assess the impact of these strategies on the workforces and their working conditions. We look particularly closely at why and how flexibility – both internal (working time, wages and work organisation) and external (contractual and dismissals) – is enacted by MNCs, as well as at the resulting effects on the workforce and on job quality. Our argument will be that flexibility has acquired an increasingly transnational character, in keeping with the processes of financialisation and corporate shareholder systems typical of MNCs. Given a context within which corporate performance is strongly affected by overall share values and the profit targets of investment and hedge funds, MNCs push for better profits and performance across all their local – and geographically dispersed – subsidiaries; in particular, they make strategic use of flexibility to achieve higher profits and improved performance across borders. The resulting transnational character of flexibility requires trade unions to manage it at the cross-national level, in a process of closely articulated cooperation with national and local works councils. It might accordingly be argued that, given this transnational configuration, flexibility should fall within the competences of EWCs as recently redefined by the new recast Directive 2009/38/EC.

Our argument is based on an awareness that contemporary 'shareholder capitalism' has increasingly overstated the power of national and local institutions and organised interests to marshal or withstand global economic pressures. The pressures in question derive mainly from the development – as a means of responding to the logic of corporate shareholder systems – of corporate strategies for transnational flexibilisation not only *within* but also, and more importantly, *between* different local plants across (and within) different countries. Current firm-level structures, such as the global value chain, for example, are characterised by transnational processes of decentralisation, deverticalisation and subcontracting which guarantee external flexibility while eliciting increasing cross-border fragmentation of the workforce and its working conditions. The outcome is increasing pressure for low wages and deteriorating job quality across (and within) countries as well as across different groups of workers within (and across) different MNC subsidiaries (Doellgast *et al.* 2009; Lillie and Greer 2007; Pulignano and Keune 2014; Doerflinger and Pulignano 2014).

etui.

First of all, the origin of the process of incremental transnational flexibilisation in Europe since the 1980s and 1990s will be subjected to examination, after which its effects on workers and on the quality of their jobs will be illustrated by focusing on the fragmentation of the workforce within global value chains and the expansion of corporate benchmarking that has led to increasing adaptation of employment practices to changed external market conditions. In this light, the argument that EWCs should cover issues and specific instances of flexibility will be vindicated.

'Shareholder capitalism' and transnational flexibilisation in Europe

The process of transnational flexibilisation in Europe became established through the 1980s and 1990s as western European governments enacted financial liberalisation and abandoned capital controls on foreign exchange and derivatives trading, developments which marked the beginning of a new era of so-called 'shareholder capitalism'. In particular, national governments in Europe proceeded to loosen restrictions on the international buying and selling of domestic equity, in the hope that capital market and product market liberalisation would boost foreign borrowing and investment, thereby increasing profits and fostering employment growth (Pieters 2010).

In Europe, the launch of the European Economic and Monetary Union (EMU) in 1990 led the participating countries to abolish exchange controls; by 1999 national currencies were about to be jettisoned in favour of the euro and a single capital market. Governments also signed investment treaties to water down foreign direct investment (FDI) requirements in order to spur competition and inflows of FDI; at the same time restrictions were eased on the types of assets and equities in which pension fund managers could invest and, in addition to this, national governments passed new laws giving businesses the opportunity to package loans into bonds that were sold on capital markets to pension funds and mutual funds. Other reforms that served to accelerate this process included the lowering of bank liquidity ratios, the repeal of legislation on share buybacks, lower taxation on capital gains from equity sales, the legalisation of hedge funds, the removal of restrictions on foreign acquisition of financial firms, and the abolition of taxes on stock exchange transactions. In this context, in the wake of European Union (EU) directives, most governments repealed legislation that had formerly restricted the foreign ownership of stock and equity. Lobbying hard for deregulation of both public and private pensions, the financial sector was successful in getting governments to do away with regulations that had previously prevented them from investing in corporate equities and junk bonds rather than safe government bills. Across advanced industrial countries, the result was an explosion, over the 1980s and 1990s, in the trading, financing and purchasing of corporate equity and bonds. The deregulation of finance and pension funds alongside the opening up of stock markets led to massive new inflows of investment and equity financing.

The consequences on the corporate operations and strategies of MNCs of this internationalisation of stock markets and asset ownership were not only record levels of compensation for CEOs, bankers and traders, but also a huge shift in income towards the financial sector. Of equal magnitude was the impact of financial developments on corporate operation and management. Because of takeovers, MNCs rapidly found themselves under pressure to implement capitalisation and restructuring in order to grow and capture market shares through increasing flexibilisation strategies. In particular, increasing flexibility in this phase was essential for MNCs in order to achieve comparable rates of return for their shareholders. Likewise, the rapid growth of secondary money markets and new capital assets in real estate placed additional pressures on companies to enhance their flexibility.

Another significant change which contributed to raising the need for flexibility among MNCs was the rise of stock markets throughout north America and western Europe in the 1990s, and the rapid turnover of equity trading (as a percentage of share trading by value against market capitalisation). Throughout Europe, companies quickly drew on initial public share issues in order to raise capital; the expansion of foreign MNCs similarly led to massive inflows of investment into domestic stock markets; the privatisation of utility, financial and manufacturing companies likewise contributed to the boom in equity markets, and the rise of traded firms and foreign ownership of public sector corporations represented easy targets for cash-rich foreign firms (OECD 2003). All were helped by investment banks and hedge funds that allowed financial and manufacturing firms alike to increase to record levels their debt-to-equity leverage ratios (Gowan 2009: 10–15).

Finally, what also made MNCs adopt external (in the form of layoffs) and internal (particularly wage reduction) flexibility were stock and capital market pressures. With the takeoff of better financial results on many stock markets, large conglomerates especially found themselves penalised on stock markets due to their lower returns on investment and comparatively lower levels of stock market capitalisation. As illustrated by Pieters (2010), stock market pressures forced corporate giants such as Groupe Danone and Suez-Vivendi to sell off their cross-shareholdings, dismantle their conglomerate structures, and lay off thousands of workers, all in the effort to raise share prices and boost dividends. With increasingly integrated international capital markets, such developments have been widespread in Europe over the past years. Even where companies have retained insider or 'cascade' ownership structures and are still run by a few owners or managers, corporate performance has been strongly affected by share value and the profit targets of investment and hedge funds. All such demands have forced MNCs to push for even better profits and performance across their subsidiaries. Benchmarking measures became the preferred instrument for forcing developments in different plants by way of contribution to the increased performance that was necessary if the above-mentioned targets were to be reached.

What has the spread of 'shareholder capitalism' meant to workers and the quality of their jobs?

The maturation and spread of 'shareholder capitalism' has led to changes in labour management and industrial relations that have lowered wages and worsened job quality. In accordance with 'shareholder capitalism', competition amongst (and within) MNCs is regarded as the product of financial results, which are the outcomes of cross-border firms' activities rather than the consequence of processes and products within a single company. Flexibility is implemented gradually and strategically by MNCs in order to produce shareholder value. More specifically, in response to competitive pressure, many MNCs have sought to reduce wage and overhead costs at all production stages by introducing 'best practices' throughout their production and value chains and by using corporate restructuring to rationalise jobs and firm locations. This has meant, most commonly, that companies have introduced new technology, downsized firms, outsourced and intensified outputs through the introduction of flexible practices (such as lean production), as well as negotiating more flexibility through wage agreements, working time, and work organisation, especially in sectors with stagnating markets and large factories (Brewster *et al.* 2008). Other firms have simply failed to renew contracts, frozen new hiring, and rapidly expanded their part-time and temporary workforce in both home and subsidiary operations.

Theoretically, the purpose of such actions was to make companies stronger and create jobs, allowing the 'parent' company to specialise in activities where its competitive advantages were strongest while relocating other activities to subsidiaries, taking advantage of the intra-firm trade in intermediary products or services. Apart from a few exceptional cases, however, the results for labour forces and jobs have, over the past few years, been much clammer than expected. Within global value chains, for example, the transfer of economic risk from contractors, or major corporations, to subcontractors has contributed, in turn, to increased pressure for higher flexibility along the nodes of the global value chain, as a means of helping companies to maximise their profits and reduce their risk of macroeconomic volatility. The result is the rapidly growing fragmentation of the workforce both outside and inside the firm with deleterious consequences for employee working conditions and job quality (Doellgast 2012). The corollary of this process is, of course, the loss of good jobs, often 'core' jobs in industry.

In the wake of financial pressures, the consequences of countries' attempting to preserve their strategic capacities was not companies becoming more 'socially responsible', but rather businesses becoming more profit-driven and efficient while labour became more precarious, low-paid on the one hand and subject to increased pressure of work intensification (i.e. through the development and implementation of the flexible methods characteristic of 'lean production' and 'high-performance work systems') on the other. MNCs' efforts to achieve competitiveness forced many national and local trade unions and works councils to shift their collective bargaining goals towards ensuring the success of the firm and its cash flows, rather than improving

wages and working conditions for all. Various studies illustrate that this was because many unions were forced locally to engage in 'concession bargaining' (Glassner *et al.* 2012), while others signed collective agreements that split the workforce between 'insiders' and 'outsiders' (that is, workers with full-time jobs, as well as bonuses and stock options, and those with precarious jobs, poorer wages and few benefits) (Pulignano and Doerflinger 2014; Benassi 2013). More specifically, concession bargaining resulted from the desperate attempt by unions to respond to corporate strategies of 'social dumping', benchmarking and growing company-level employment insecurity resulting from the prevalence of MNCs' use of benchmarking to enhance intra- and inter-subsidiary competition aimed at creating more profits and share value. Research often reports on the corporate social irresponsibility of MNCs that is associated with the use of 'regime shopping' and 'coercive comparison', particularly in relation to companies' preferences for more flexible and deregulated production locations (Marginson and Sisson 1996) and to the tax avoidance practices facilitated by capital outsourcing, transfer pricing and registration in 'tax havens' (Standing, 2009). Such preferences and practices usually represent the foundation for MNCs' decisions to downsize or close production sites.

Why should EWCs cover flexibility?

The analysis conducted so far shows how, within an economic context where long-term financial, employment and customer relationships are gradually declining, share values and profit maximisation provide the explanation for the increased prevalence of corporate benchmarking strategies. Moreover, MNCs are guilty of 'social dumping': because of their cross-national dimension, they are better placed to benchmark plants and working conditions across borders in order to enhance inter-firm competition and then force corporate restructuring. In this respect, restructuring represents the strategic 'dark' end-product of a process of transnational flexibilisation and financial liberalisation within MNCs. These companies prefer to decentralise decisions at the local and national levels where concessions on more flexible – and frequently worse – working conditions can be easily negotiated, using the threat of job losses, with the local works councils and trade unions. Local concessions are usually extracted in the wake of 'inter-plant coercive comparisons', the mechanism currently used by MNCs to maximise profit through restructuring in order to capture market gains.

Having kept track of the European trade unions' approach and responses to restructuring since the 2000s, we argue that restructuring demands a transnational response on the part of the trade unions in Europe. This must entail, however, not only a 'solidarity' response in terms of 'sharing the pain' caused by the social consequences of change but also, and more importantly, a strong commitment on the part of the existing employee representation structure at the European level – such as the EWCs – to deal in a proactive and timely manner with the factors that underlie corporate decision-making and prompt changes; it means observing and monitoring the features and stages

through which companies feed into the logic of 'shareholder capitalism', in other words, the whole process of transnational flexibilisation. As the previous section has shown, the causes of company change need to be understood as underlying the process of growing transnational flexibilisation that has become the preferred strategic response of MNCs in their efforts to boost share values.

Accordingly, extending EWC competences to include flexibility is important for employee representatives as a way of building up capacity at both European and national level in order to respond proactively to management strategies aimed at eliciting local concessions through benchmarking and threat of restructuring (Benassi 2014; Doerflinger and Pulignano 2014). Because of their cross-border dimension, EWCs occupy a privileged position from which they can monitor how MNCs make the strategic moves in their game of cross-border flexibility. Recently, the new Recast Directive 2009/38/EC moved in to amend the definition of EWC competences not only by extending their scope to include the area of collective representation of employees' interests but also, and more importantly, by providing timely provision and better definition of information and consultation at both European and national level. In addition, the new Directive extends the scope of transnationality with regard to the competence of EWCs. It states that transnational character should be determined by taking into account the scope of all potential effects of the matter for the European workforce. This Policy Brief has described how flexibility has, under 'shareholder capitalism', taken on an increasingly transnational dimension that engenders gradual deterioration of the working conditions and job quality of the European workforce. Accordingly, within the scope of the new Directive it could be possible to use transnational flexibility as a criterion for the specification of EWCs' transnational competence. In other words, because of the significant effects produced by the process of transnational flexibility on the working conditions and job quality of the European workforce, EWCs could be guaranteed competence to deal with flexibility at the transnational level of MNCs. It appears, moreover, appropriate that trade unions and works councils should deal with flexibility at the level at which it is currently shaped, and this is the transnational level. Dealing with flexibility at this level could, furthermore, help employee representatives and trade unions to find sustainable solutions for employment, such as investment in training and career development for employees. In a period of crisis local trade unions and works councils often engage in negotiation with management on how to save jobs. Although concessions on flexibility in return for job security can help to save jobs, we are well aware that single and isolated instances of local negotiations provide only temporary solutions for workers, generally failing to contribute sustainable answers for workforces and working conditions in the longer term. This is simply because, as explained above, MNCs increasingly make strategic use of local concessions to reduce wages and working conditions through cross-plant benchmarking. For this reason, a frame of transnational coordination and action is required through which to respond efficiently to current MNC strategies of cross-border flexibilisation. The European level can offer the appropriate structural frame to this end.

References

- Benassi C. (2013) Political economy of labour market segmentation: agency work in the automotive industry, Working Paper 2013.06, Brussels, ETUI.
- Benassi C. (2014) Labour's answers to international competition: from concession bargaining to broad workplace solidarities in the metal sector, Paper presented at the ETUI conference 'Outsourcing across borders: working conditions and organizing strategies in highly fragmented production networks', Brussels, 6-7 November 2014.
- Doellgast V., Batt R. and Sørensen O.H. (2009) Introduction: institutional change and labour market segmentation in European call centres, *European Journal of Industrial Relations*, 15 (4), 349-371.
- Doerflinger N. and Pulignano V. (2014) Crisis-related collective bargaining and its long-term effects on different contractual groups of workers across multinationals' subsidiaries in Germany and Belgium, Paper presented at the ETUI conference 'Outsourcing across borders: working conditions and organizing strategies in highly fragmented production networks', Brussels, 6-7 November 2014.
- Glassner V., Keune M., and Marginson P. (2011) Collective bargaining in a time of crisis: developments in the private sector in Europe, *Transfer: European Review of Labour and Research*, 17 (3), 303-322.
- Gowan P. (2009) Crisis in the Heartland: consequences of the New Wall Street System, *New Left Review*, 55 (January-February), 5-29.
- Lillie N. and Greer I. (2007) Industrial relations, migration and neo-liberal politics: the case of the European construction sector, *Politics & Society*, 35 (4), 551-581.
- Marginson P. and Sisson K. (1996) European works councils - opening the door to European bargaining?, *Industrielle Beziehungen*, 3 (3), 229-236.
- Pieters J. (2010) The rise of finance and the decline of organised labour in the advanced capitalist countries, *New Political Economy*, 16 (1), 73-99.
- Pulignano V. and Keune M. (2014) Understanding varieties of flexibility and security in multinationals: product markets, institutions variation and local bargaining, *European Journal of Industrial Relations*. doi: 10.1177/0959680114527880
- Pulignano V. and Doerflinger N. (2013) A head with two tales: trade unions' influence on temporary agency work in Belgian and German workplaces, *The International Journal of Human Resource Management*, 24 (22), 4149-4165.
- Standing G. (2009) *Work after globalization: building occupational citizenship*, Cheltenham, Edward Elgar.

The views expressed in *ETUI Policy Briefs* are those of the respective author(s) and do not necessarily reflect the views of the ETUI.

The *ETUI Policy Brief* series is edited jointly by Jan Drahokoupil, Philippe Pochet, Aída Ponce Del Castillo, Sotiria Theodoropoulou and Kurt Vandaele.

The editor responsible for this issue is Jan Drahokoupil, jdrahokoupil@etui.org

This electronic publication, as well as previous issues of the *ETUI Policy Briefs*, is available at www.etui.org/publications. You may find further information on the ETUI at www.etui.org.

© ETUI aisbl, Brussels, January 2015

All rights reserved. ISSN 2031-8782

The ETUI is financially supported by the European Union. The European Union is not responsible for any use made of the information contained in this publication.