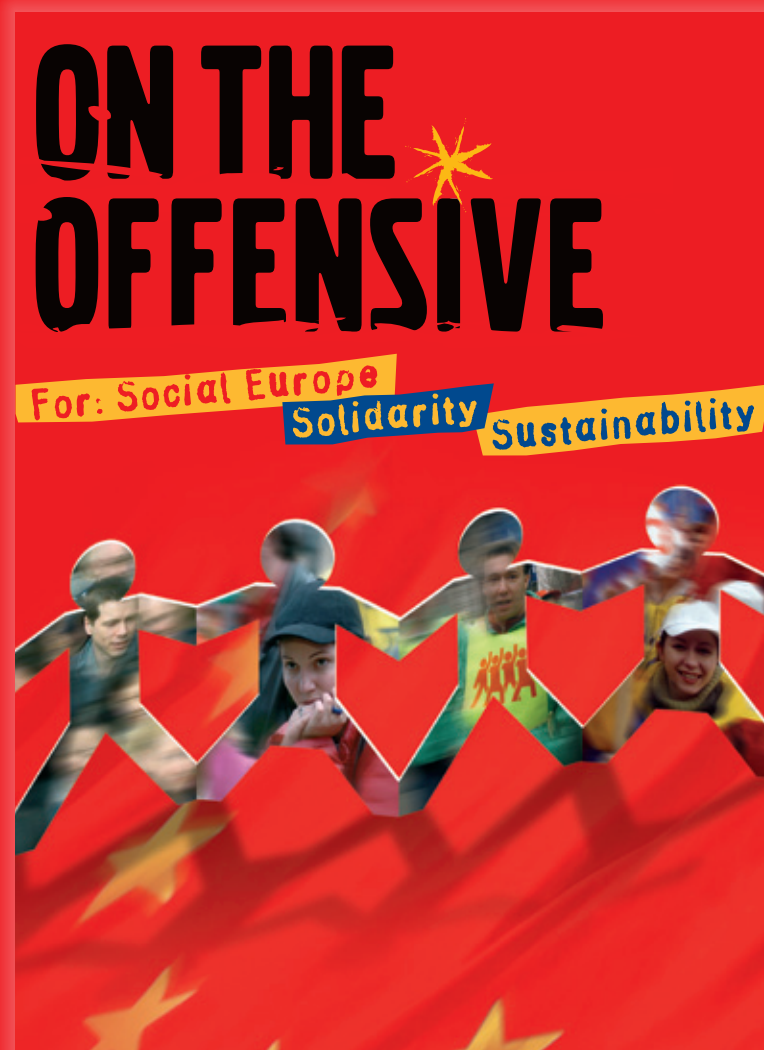


Industrial relations at the European level

2



This is one of a series of training modules produced as part of an ambitious European project, *Civil Society Dialogue: Bringing together workers from Turkey and the EU through a shared culture of work*, which aims to ensure better knowledge and understanding of one another and an awareness of the challenges and opportunities of future EU enlargement.

HOW TO USE THIS PUBLICATION

The training modules are intended to offer a short, clear introduction to the subject for a trade union audience, and each will have an educational activity that can be used in the classroom or with groups of members. A list of all the publications in this series can be found below, and copies can be downloaded from the ETUC website www.etuc.org/r/557

PUBLICATIONS IN THIS SERIES

1. Trade unions at the European level
2. Industrial relations at the European level
3. Turkish trade unions and industrial relations
4. Trade unions and industrial relations in EU countries
5. Trade unions and women
6. Trade unions and civil society
7. Trade unions and migration into the European Union
8. Trade unions and freedom of movement of workers in the European Union
9. Working together

ETUC MANIFESTO

At its 11th Congress in Seville, Spain, in May 2007, the European Trade Union Confederation (ETUC) adopted a Manifesto for Action for the next four years. This manifesto highlights five main areas where the ETUC is committed to going 'on the offensive' on behalf of European workers:

- **the European labour market**
- **social dialogue, collective bargaining and worker participation**
- **better European economic, social and environmental governance**
- **a stronger European Union**
- **stronger trade unions and a stronger ETUC.**

FOREWORD

The European Trade Union Confederation at its Congress in 2007 voted in favour of the accession of Turkey to the European Union, 'provided that it meets, in reality and not on paper, the requirements of membership and the provisions of the EU Charter of Fundamental Rights. A transformation of Turkish society with full rights and freedoms should be sought and completed during the challenging process of negotiations'.

It was on this basis that the ETUC, and its affiliated organisations in Turkey and in the European Union, agreed to step up their cooperation and launch this ambitious project *Civil Society Dialogue: Bringing together workers from Turkey and the EU through a shared culture of work*, which aims to ensure better knowledge and understanding of one another and an awareness of the challenges and opportunities of future EU enlargement.

The central elements of the project are:

- 12 exchange and mutual understanding seminars for trade unionists coming from different regions of Turkey on the one hand and from different Members States of the European Union on the other
- 9 training seminars, in cooperation with European Industry Federations.

The project has also produced this series of training modules which will provide an important tool for building capacity within the ETUC, by enabling other workers and trade unionists from both the EU and Turkey to understand the challenges ahead and to accept cultural, social and political differences more readily.



Thanks are due to:

- ETUC affiliated organisations – European Industry Federations and the national trade union confederations from the EU and Turkey that have carried this project forward
- workers and trade unionists from the national unions in Turkey and the EU who have taken part in the different training activities
- trainers from the national unions in Turkey and the EU, and Marcus Strohmeier (ÖGB) who coordinated the training activities and contributed to these booklets
- Nigel Rees (Trade Union European Information Project) who was responsible for editing the original texts for these educational booklets, and also Kazim Ates who was responsible for revising them
- Laura Fallavollita, Yücel Top and the other members of the project coordination committee (Osman Yıldız, Uğraş Gök and Kıvanç Eli Açıık), who, under the guidance of Joël Decaillon and Jeff Bridgford, have brought the project to a successful conclusion.

I commend these training modules to trade unionists from the affiliated organisations of the ETUC. I encourage you to use them, so that we are all in a better position to defend workers' interests throughout Turkey and the European Union.

John Monks
General Secretary
European Trade Union Confederation

CONTEXT

Trade unions have traditionally concentrated on defending their members' interests within a national context, and they have developed strategies and established instruments to do just this. With the increasing globalisation of the economy however, more and more decisions affecting industrial relations and workers' interests are being taken at a distance, beyond the national level. To defend their members effectively, trade unions need to coordinate policies and activities and to speak with a single voice and act collectively at the global and European levels. In recognition of this, they came together to establish the International Trade Union Confederation and the sectoral Global Union Federations, while at the European level they set up the European Trade Union Confederation and the sectoral European Industry Federations.

At the European level the European Trade Union Confederation is active in building a new form of industrial relations. The major pillars of this system are:

- engaging in cross-sectoral social dialogue with European employers' organisations, such as BUSINESS EUROPE, the European Association of Craft, Small and Medium-sized Enterprises (UEAPME) and the Centre of Employers and Enterprises providing Public Services (CEEP). In addition, European Industry Federations are engaged in social dialogue with the employers' organisations from their own particular sector. A further form of social dialogue may take place in multinational companies, within the framework of European Works Councils.
- influencing the decision-making process of the European Union (the European Commission, the European Council and the European Parliament), with more attention being paid to the European Court of Justice whose rulings are playing a significant role in the development of European industrial relations.

ENGAGING IN SOCIAL DIALOGUE

What is social dialogue? The International Labour Organisation, the tripartite UN agency that brings together governments, employers and workers in common action to promote decent work throughout the world, provides a very broad definition: 'all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy. It can exist as a tripartite process, with the government as an official party to the dialogue or it may consist of bipartite relations only between labour and management (or trade unions and employers' organisations), with or without indirect government involvement. Social dialogue processes can be informal or institutionalised, and often it is a combination of the two. It can take place at the national, regional or at enterprise level. It can be inter-professional, sectoral or a combination of these.'

Most Western European countries, including the original six Member States of the European Union, had some post-war experience of social dialogue between trade unions and employers' organisations at national level, but it was not until 1985 that the then European Commission President Jacques Delors launched the process at the EU level. The approach itself is significant, in that it involves a process whereby trade unions and employers' organisations acknowledge the existence of a problem in a broader European context and commit themselves to joint actions to deal with it. At the same time, it gives trade unions tools to influence social dialogue at the national level and in this way improve members' working conditions.

Cross-sectoral social dialogue consists of a series of meetings per year. The social partners discuss relevant topics, adopt joint texts and finalise future work programmes. They may also set up technical working groups to discuss particular issues and decide to negotiate.

These discussions have produced forty joint texts so far. Three of them have focused on significant issues, such as parental leave (1996), part-time work (1997) and fixed-term contracts (1999), all of which then became EU Directives, once they were ratified by the Council of Ministers. In this way they became part of European legislation and could be used directly by trade unions to protect workers' rights. The agreement on parental leave went through a further process of social dialogue when it was revised in 2009 – it increased, among other things, the length of parental leave from three to four months. The agreements on part-time work and fixed term contracts made significant advances. They have confirmed that part-time and fixed-term workers should not be treated in a less favourable manner than comparable full-time workers.

In addition, the social partners have signed three framework agreements on subjects such as telework (2002), work-related stress (2004) and harassment and violence at work (2007), as well as frameworks of action on the lifelong development of competencies and qualifications (2002) and gender equality (2005).

These framework agreements are implemented at the national level through a wide variety of social partner arrangements. Here are some examples of the ways in which the agreement on work-related stress was implemented at the national level. For example, in Sweden joint agreements were signed in the spring of 2005 and 2006 respectively for the whole private and public sector. In Austria joint guidelines were adopted

in May 2006 by the social partners to put the European agreement into practice at the workplace. As for France, the cross-sectoral social partners concluded on 2 July 2008 a collective agreement which transposed the European framework agreement and added provisions on issues, such as the definition of stress, work organisations, reconciliation of family, private and working life and the responsibility of the employers.

For more information about social partners' framework agreements, see www.etuc.org/r/615, and for frameworks of action, see www.etuc.org/r/654.

More recently the ETUC and the employers' organisations have agreed a work programme which currently covers a two-year period until the end of 2010. It includes the formulation of a joint recommendation for the general economic strategy to be followed by the EU when the Lisbon strategy ends; ideas to maximise job opportunities as a result of climate change policies; monitoring the implementation of 'flexicurity' policies; and addressing worker mobility issues and promoting the integration of migrant workers.

SECTORAL SOCIAL DIALOGUE

36 sectoral social dialogue committees have been set up in different industries. On the trade union side they are co-ordinated by the twelve European Industry Federations affiliated to the ETUC. They provide a significant tool for tackling industry-specific questions at the European level. Sectoral social dialogue deals, for example, with a variety of issues – training, working time and conditions, health and safety, sustainable development, and free movement of workers. Almost 500 joint texts, including joint opinions and agreements, guidelines and codes of conduct, have been agreed.

Some sectoral social dialogue committees join several industries together if dealing with a topic that affects several sectors e.g. the commerce,

Things to find out

What examples of social dialogue exist in your own country?

What benefits has social dialogue brought to trade union issues?

local government, hospitals and private security representatives met to come to an agreement on harassment and violence at work. Other subjects for recent agreements include corporate social responsibility in contract catering; liberalisation in the rail and electricity sectors; qualifications and skills in hotels, restaurants and cafés. The most active area for discussion in recent years has been health and safety at work.

For more information about the results of sectoral social dialogue, see <http://ec.europa.eu/social/main.jsp?catId=480&langId=en&intPagId=0>.

EUROPEAN WORKS COUNCILS

The European Works Councils (EWCs) EU Directive of 1994 initiated the right of employees and their representatives working in companies employing more than 1,000 people with at least 150 in two or more EU Member States (+ Norway, Iceland and Liechtenstein) to request that a works council be established. Numbers have grown steadily until today when there are just under 900.

However, despite further legislation on Information and Consultation (2002) and the setting up of European Companies (2001), even now they only represent a minority of the total number of firms thought to be eligible under the Directive. Worse, company restructuring, which often leads to redundancies when jobs are relocated, is often portrayed as a 'national issue' and therefore no concern of the EWC.

For details and texts of agreements that have established European Works Councils, as well as agreements negotiated by EWCs on specific topics (substantive agreements), see this database www.ewcdb.eu/.

Because of these various shortcomings, the ETUC had long favoured a revision of the Directive. Following

discussions with the ETUC and the employers' organisations, a 'recast' Directive was agreed in April 2009. Some of the changes to be introduced include:

- a clearer definition of just what information and consultation has to be provided by management
- a clearer definition of trans-nationality and clarification of the trans-national competence of EWCs
- an obligation on employers to provide EWC members with training.

It remains to be seen what impact the new 'recast' Directive will have in practical terms.

INFLUENCING THE EU DECISION-MAKING PROCESS

The European trade union movement pursues different means of influencing the EU's decision-making bodies. Some methods are enshrined in the formal treaties, such as the requirement for the European Commission to consult the social partners on all proposals in the field of employment and social affairs. Article 138 of the EC treaty binds the Commission to a two-stage consultation process, which is strengthened in article 154 of the Treaty of Lisbon.

Article 155 of the Treaty of Lisbon enables the implementation of social partners' agreements, as follows:

'Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements. Agreements concluded at Union level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or... at the joint request of the signatory parties, by a Council decision on a proposal from the Commission.'

Another opportunity for influencing EU decision-making is provided by the Tripartite Social Summit, which, according to the Treaty of Lisbon, should

also contribute to social dialogue. It is attended by the ETUC and the employers' organisations, along with representatives of the incumbent Council presidency, the next two presidencies and the Commission. The setting up of the Tripartite Social Summit represented an important political step, for it recognises the role of tripartite consultation at the highest level of European decision-making and the role of trade unions in this process. The fields covered by tripartite consultation are macroeconomic dialogue, employment, social protection, education and training. In addition every six months the ETUC presents a list of priorities for action as a new Member State takes over the Presidency of the Council of Ministers.

The European Parliament (EP) provides another opportunity. With the approval of the Treaty of Lisbon, it has enhanced legislative powers – through the process of 'co-decision' when decisions are made by the Council of Ministers and the European Parliament together. The ETUC maintains a series of contacts with different political groups within the European Parliament, via the so-called Trade Union Intergroup. This provides an opportunity for sharing information and presenting trade union positions on issues on the parliamentary agenda. Before each European Parliamentary election the ETUC publishes a manifesto to demand action on urgent issues.

Through demonstrations, amendments and reports from committee the unions have, in recent years, influenced the passage of laws on services (Bolkestein), ports (no self-handling), chemical substances (REACH), working time and temporary agency workers. Protests were organised against the 'Bolkestein' Directive outside the EP in Strasbourg in 2006, and against the 'Ports package' in Brussels in 2005.

INDUSTRIAL RELATIONS CASE STUDY 1 – THE WORKING TIME DIRECTIVE

The European trade unions have long been concerned about excessive working hours and their effect on health through fatigue and accidents as well as their impact on productivity. The EU acted in a 1993 Directive to limit the working week to an average 48 hours but allowed an opt-out in a deal to encourage the United Kingdom government to sign up to it in 1998. Although initially only to be used in Great Britain, the opt-out spread to some of the new Member States who joined the EU in 2004 and was used by other countries in health and emergency services following a court judgement which prevented doctors' on-call hours being counted as rest.

Since 2003 the EU has been trying to find an acceptable compromise. The latest attempt by the Council of Ministers proposed keeping the opt-out, as well as treating on-call hours as working time, and lengthening the period over which the average was calculated to a year. This was condemned by the ETUC as 'disastrous', and it held a demonstration in Strasbourg in December 2008 to persuade the European Parliament to reject it. The 15,000 workers on the streets saw their hopes rewarded. The European Parliament succeeded in maintaining its position of scrapping the opt-out, counting on-call hours as working hours and tightening up on the definition of managers and executives who are excluded from the Directive. However by April 2009 it was clear that no

Things to find out

What is your union or confederation policy on working time?

How has the Working Time Directive affected the working conditions in your sector?

agreement was possible and the ETUC supported the parliamentary delegation's decision to end the talks.

The unamended Directive will continue in operation for the foreseeable future but the European trade union movement wants it to regain its key role in providing minimum standards on working time in Europe and will continue to fight for this with its members, both at national and European level.

INDUSTRIAL RELATIONS CASE STUDY 2 – THE TEMPORARY AGENCY WORK DIRECTIVE

Temporary agency work (TAW) is distinguished by the presence of a third party which acts as an intermediary between employer and employee. Although conditions vary between countries and occupations the ETUC has long been concerned that such workers have, in general, less control over their work, less training, less information about health and safety, a higher rate of accidents, less security and, on average, lower wages than employees on permanent contracts. Unions in Member States have also found it difficult to secure recognition to represent agency workers, although agreements have been made in the Netherlands, Sweden, Belgium, France and Spain.

In 2001 the talks between the European social partners, which the Commission had initiated to see if they could reach an agreement on a Directive, broke down. Although agreements on part-time work and fixed-term contracts had been successfully implemented as EU law in 1997 and 1999, TAW proved more contentious because of the triangular employment relationship. The European Commission proposed a Directive, which embodied the principle that there should be no discrimination between agency workers and those permanently employed alongside them in the companies that hire them from the agency. This Directive was to include working time, rest periods, night work, paid holidays and public holidays, pay, work by pregnant women and

discrimination on the grounds of sex, race or ethnic origin, religion or beliefs, disabilities, age or sexual orientation. However further obstacles emerged when the proposal reached the Council of Ministers. In 2003 the legislative process ground to a halt with the ETUC condemning the blockers as 'supporting an unjust two-tier workforce system in Europe', and, despite several attempts by various countries during their six months in the Presidency of the Council, no further progress was possible until 2008.

Agreement on a twelve week qualifying period for agency workers in the UK between the TUC (unions), CBI (employers) and the British government led to the insertion of a 'derogation' into the EU proposal which allowed national social partners to modify the Directive in their country under certain conditions or unions and employers to come to their own agreements if these provide adequate protection for agency workers. ETUC General Secretary John Monks welcomed the new law, particularly its application to cross-border assignments: 'very important in the current times of increased mobility of workers and services' and the role given to the social partners 'which allows for flexibility while ensuring the protection of workers'.

Things to find out

What is the situation for agency workers in your country?

What is your unions' policy on agency workers?

EUROPEAN COURT OF JUSTICE RULINGS

The European Court of Justice (ECJ) has an important role to play in reviewing the legality of the acts of the institutions of the European Union, ensuring that Member States comply with obligations under the Treaties, and interpreting EU law. Recently it has made a series of rulings that have far-reaching implications for trade unions and workers in Europe, and for fundamental workers' rights, collective bargaining and industrial action in the Member States.

The first and best-known case is the Laval case (also known as the Vaxholm case). There are other cases, Ruffert, Viking and Luxembourg, which all go in a similar direction. More information on these cases can be found in training module 8 *Trade unions and the free movement of workers in the European Union*.

LAVAL or VAXHOLM A Latvian building firm Laval and Partneri won a contract to build a school at Vaxholm in Sweden, paying their workers at lower rates than those guaranteed to Swedish builders by collective agreement. Although, in discussion with the Swedish construction union Byggnads, they offered to increase the wages, the union organised a blockade of the site as the revised rates were not equal to those agreed locally. The Latvian firm brought an action against Byggnads which eventually reached the ECJ.

In its judgement the ECJ said that unions could take industrial action for 'overriding reasons of public interest', such as protecting local members from 'social dumping' where low wage workers are brought in from another Member State specifically to undercut them, but this did not apply if a foreign company observed the minimum standards for foreign workers embodied in the Posting of Workers Directive (covering workers that cross borders in the framework of services).

The ETUC believes that the core issues raised by these cases – the balance between the economic and the social aims of the European Union, and more specifically the balance between fundamental labour rights and the free movement provisions for the single market – have a significant impact on the future orientation of the European Union. The rulings by the European Court of Justice (ECJ) have been largely negative for trade unions. Therefore the ETUC is demanding a 'Social Progress Clause', firmly establishing that the Treaty and especially its fundamental freedoms are interpreted as respecting workers' rights and collective action.

Activity

EU Impact on Industrial Relations and Working Conditions

AIMS

This activity will enable you to:

- develop an understanding of the ways in which decisions taken at the European level have an impact on industrial relations and working conditions throughout the EU and therefore in your country

TASK

Choose an industrial relations issue and explain what impact decisions taken at the European level have had on your own working conditions. Use the website of the ETUC www.etuc.org and of your own union.

You may wish to consider:

- the Directives on parental leave, part-time work or fixed-term contracts
- the autonomous agreements on telework, work-related stress or harassment and violence at work
- the Working Time Directive

FURTHER INFORMATION

The European Trade Union Confederation (ETUC) was set up in 1973 to promote the interests of working people at European level and to represent them in the EU institutions. The ETUC's objective is an EU with a strong social dimension that safeguards the wellbeing of all its citizens. At present, the ETUC has in membership 82 national trade union confederations from 36 European countries, as well as 12 European Industry Federations, plus observer organisations in Macedonia, Serbia, and Bosnia and Herzegovina. Other trade union structures such as EUROCADRES (the Council of European Professional and Managerial Staff) and EFREP/FERPA (European Federation of Retired and Elderly Persons) operate under the auspices of the ETUC. In addition, the ETUC coordinates the activities of the 45 IRTUCs (Interregional Trade Union Councils), which organise trade union cooperation at a cross-border level.

The ETUC is one of the European social partners and is recognised by the European Union, by the Council of Europe and by EFTA as the only representative cross-sectoral trade union organisation at European level.

www.etuc.org

PROJECT PARTNERS

	Algemeen Belgisch Vakverbond – Fédération Générale du Travail de Belgique – ABVV-FGTB	www.fgtb.be/
	Algemene Centrale der Liberale Vakbonden van België – Centrale Générale des Syndicats Libéraux de Belgique – ACLVB-CGSLB	www.aclvb.be/
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	European Metalworkers' Federation – EMF	www.emf-fem.org/
	European Federation of Public Service Unions – EPSU	www.epsu.org/
	European Transport Workers' Federation – ETF	www.itfglobal.org/etf/
	European Trade Union Federation: Textile, Clothing and Leather – ETUF-TCL	www.etuf-tcl.org/
	UNI-Europa	www.uni-europa.org/



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Civil Society Dialogue – Bringing together workers from Turkey and the EU through a shared culture of work

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