



Special article

Employee Rights and Labour Relations in Central and Eastern Europe

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1. Introduction

Transformation of economies in Central and Eastern Europe countries has not been accompanied by sufficient guarantees for social dimension. Following that, the economic recession has particularly badly affected these countries. However, well-functioning social dialogue and regulated labour relations with well developed employee rights are the very bases of social guarantees.

At the European level, it is the European Social Model (ESM) which implements the idea of joining the economic dynamics with social balance. The main aim of the model is to achieve high economic growth with statutory labour standards at the same time. The following characteristics of the European Social Model are identified:

- ❑ simultaneous and proportional economic and social development,
- ❑ emphasis on innovation and a knowledge based economy,
- ❑ active employment policy,

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- ❑ decent work and high living standards,
- ❑ common values: solidarity, equality,
- ❑ social dialogue and workers' participation,
- ❑ the significant role of the state social policy (Golinowska, Hengstenberg, Żukowski 2009, pp. 15-16).

However, comparing labour relations, social dialogue and employee rights in 15 old EU Member States with the same aspects of industrial relations in new Member States of Central and Eastern Europe, it is not difficult to detect significant structural and practical differences between these countries. The main aim of this paper is to present these differences which mainly refer to such factors as: the effectiveness of national works councils, collective bargaining coverage and level, trade union density, level of statutory minimum wage and proportion of minimum wage to the average wage.

2. Forms of workers representation at company level

Popularization of the concept of indirect participation faces difficulties in Central and Eastern Europe what is illustrated by small range of operation of employee councils established by the Directive of 11 March 2002. The Directive guarantees a general framework for informing and consulting employees at the company level in EU Member States. Implementation of the Directive transformed the usually existing in these countries sole trade union representation into dual representation (trade unions and works councils) or into monistic but "alternative" representation (either union representatives or works councils) (see more: Skorupińska 2009, pp. 31-32). However, employees in Central and Eastern Europe have not accepted the new workers representation institution yet. In many cases, employees prefer to rely on original and reliable employee representation in the form of trade unions. In the old EU Member States works councils have proven long-lived tradition and strong position in enterprises what is associated with a clear division of competence between these institutions and trade unions.

Dual representation exists in Slovenia, Hungary, Slovakia, Estonia, Latvia and Bulgaria. The 1992 Labour Code and 2005 Law amending the Labour Code introduced a system of statutory works councils in Hungary. However, there is a duplication of representation at workplaces, rather than dualism, because of overlapping of information and consultation rights between trade unions and works

councils (Neumann 2009, p 11). According to the Law on the Participation of Workers in Management, employees in Slovenia are represented by trade unions and works councils. The key task of unions is to protect the right and interest of workers as well as to negotiate collective agreements. The primary function of councils is to join consultation, information and cooperation in the decision-making process (Lužar 2009, p 7). The main employee representative bodies in Slovakia are trade unions in spite of the fact that the amendment of the 2003 Code established also works councils at companies where unions are present. These bodies, however, are not entitled to conduct collective agreement and this is why workers prefer trade unions.

The Employee Representative Act of December 2006 provides for a dual channel system of employee representation in Estonia. Collective bargaining and collective dispute resolution are the privilege of the trade unions while employee trustees mainly operate in area of information and consultation procedures. However, trade union representatives are also allowed to participate in this process (Nurmela 2009, p. 6). According to the Law of 13th of October 2005 amending the Labour Law, a dual channel system through works councils and trade unions was enforced also in Latvia but usually the unions are the only employee representation in this country. Similar situation is seen in Bulgaria – in spite of the Law of 1st of July 2006 which introduced works councils, trade unions have still been the main form of employee representation at workplaces. Only these organisations have collective bargaining power while the process of electing the councils has been developing slowly (Tomev, Daskalova, Mihaylova 2009, p. 9).

In July 2009 amendment to the Act on informing and consulting employees came into effect and changed the election procedures for works councils in Poland. Before, two election procedures were applied. The employer organized an election of council at the initiative of at least 10% of workforce at a workplace with no trade unions. If there were unions in a company, they appointed members of the councils or nominated candidates to be elected by the workforce. Consequently, these election procedures resulted in works councils which in practice were trade unions and employees (who were not trade union members) had a limited right to choose their representatives. Nowadays, the amendment of the Act provides all workers with election right regardless of their status as trade unions member.

Monistic but “alternative” employee’s representation exists in the Czech Republic, Lithuania and Romania. Trade unions play by far the most significant role in worker representation in the Czech Republic by virtue of regulation in terms of competency,

but also in practice from the perspective of their presence, role in social dialogue and exclusive right to conduct collective agreements (Hála 2009, p. 9). Amendment of the Labour Code from 2001 introduced works councils in workplaces with no trade unions but the councils are treated as a kind of “prosthesis” of employee representation and they do not constitute alternative to unions. The core functions of trade unions in Lithuania include: negotiations of collective agreements, information and consultation with employers and representation of union members rights. According to Law of 11 November 2004, works councils have the same rights and obligations as trade unions in enterprises without unions (Blažiene 2009, p. 7). Also in Romania, the transposition of the 2002 Directive changed the sole trade union representation into monistic “alternative” representation. In companies with more than 20 employees without trade unions, workers’ interests may be represented by a body elected by all employees (Ciutacu 2009, p 8).

The legal requirement regarding minimum number of employees in a company to set up works council is a barrier in Central and Eastern Europe. The 2002 Directive applies to undertakings with at least 50 employees or establishments with at least 20 employees letting particular countries to choose the criterion. Three countries in Central and Eastern Europe (Hungary, Poland, and Slovakia) have set the threshold at 50 employees while three other (Romania, Slovenia, and Lithuania) – at 20 workers. Bulgaria applies this legislation both to undertakings with at least 50 employees and establishments with at least 20 employees. Legislation regarding operation of works councils in Latvia is practiced irrespectively of the size of the enterprises. The employment threshold limit for the creation of works councils in remaining countries is 30 employees (Estonia) and 25 workers (the Czech Republic) (“Impact of the information...” 2008, pp. 12-18).

Such relatively high employment threshold may discriminate the increasing number of workers in small and medium-size enterprises what in result may produce a lack of their representation in companies of Central and Eastern Europe. According to different data, the incidence of works councils and employees’ delegates in Slovenia’s companies with fewer than 50 employees is 20 percent. Only about 4 percent of companies in Lithuania have established works councils. High employment threshold for creation of works councils in Poland deprived almost half of all employees in this country of the possibility of representation (Blažiene 2009, p 7; Lužar 2009, p. 7).

In Western Europe works councils have been operating for some 40-60 years therefore in most cases the new labour laws were not needed in order to comply with

the EU Directive. Employment threshold – a key factor which influences the potential range of works councils was in accordance with the Directive requirements. In some countries the thresholds from the very beginning of works councils operation have been set at a very low level i.e. 5 employees in Germany and Austria. However, in Belgium and Luxemburg the thresholds were considerably higher (100 and 150 respectively) and consequently the legislation had to be amended.

The second important factor which differentiates works councils in Central and Eastern Europe from their counterparts in old EU Member States is a smaller range of rights granted to these institutions. According to the 2002 Directive, information and consultation should cover the following groups of matters: a) information on the recent and probable development of the undertaking's or the establishment's activities and the economic situation, b) information and consultation on the situation, structure and probable development of employment within the undertaking or establishment and on any anticipatory measures envisaged, c) information and consultation on decisions likely to lead to substantial changes in work organisation ("Directive 2002/14/EC...", p. 4). The entitlements of employees' councils in Central and Eastern Europe are in accordance with the European standard (i.e. embracing rights to information and consultation, but excluding codetermination right). Most participation acts establishing works councils in old EU Member States also guarantee right for codetermination.

Works councils in Slovenia have rights to information and consultation on working conditions, dismissals, health and safety at work and the protection of young workers. Slovakia's works councils function as consultation-information-control institution on the following scope of issues: social policy, organisational changes, collective redundancies and business transfers. According to Employee Trustee Act, in all enterprises in Estonia with more than 30 employees, information has to be provided automatically. Based on the received information, workers have a right to demand consultation with the employer. Entitlements of works councils in the Czech Republic are restricted to information and consultation (giving opinion on group layoffs, takeover of a plant by another employer, health and safety issues). The range of matters which are a subject of information and consultation of works councils in Poland by and large covers entitlements resulting from the 2002 Directive. Only works councils in Hungary have three basic rights i.e.: to information, consultation and also codetermination on some limited social issues (Lužar 2009, p. 7; Nurmela, Kallaste 2009, p. 2; „Monitoring Ustawy..." 2007, pp. 12-13).

3. Trade unions and collective bargaining

From the mid-1970s, there has been a steady decline in union membership in 15 EU Member States, even in the classical trade union strongholds of Sweden and Finland. The main reasons of the decline involved changes in the structure of the economy (a drop in employment in traditionally high-unionized manufacturing industry), increased flexible working practices in the labour market and decentralization of collective bargaining. In Central and Eastern Europe trade union density² fell dramatically following the political transformations in these countries.

Data from report *Industrial Relations in Europe in 2008* indicates that the average trade union density in EU-27 Member States is about 33%. Poland ranks low with the result below 13%. The Scandinavian countries and Denmark are characterized by a very high union membership. At the lowest end of the union density spectrum is still France, where only about 9%³ of workers belong to trade unions. Comparing the average trade union densities in particular parts of EU it is easy to notice that in new EU countries, treated as a whole, union membership is lower than in EU-15 (see Table 1). The average trade union density in new EU countries is additionally increased by Cyprus and Malta – countries with long tradition of free market economy. Consequently the difference in union density between countries in Central and Eastern Europe, and old EU countries is considerably higher.

The European trade unions, in spite of efforts made in recent years to invert downward trend in unionization through use of diversified revitalization strategies, still have the strongest position in countries where the Ghent system⁴ is in force (Belgium and Scandinavian Countries). This is the system in which the main responsibility for welfare payments, especially unemployment benefits, is held by trade unions rather than government agency (Czarzasty 2009, pp. 70-71).

In EU-27 rights of trade unions to negotiate collective agreements constitute an essential element of European Social Model. However, this model is currently facing an acid test taking into account a conflict of priorities – on the one hand consistent with principles of economic freedoms and on the other hand – consistent with basic social standards. In all countries of Central and Eastern Europe wage-setting negotiations

² Trade union density is the proportion of workers belonging to trade union to all workers in the country (or enterprise).

³ All data from 2005.

⁴ The system is named after the city Ghent in Belgium where it was first implemented.

take place mainly at the company level. Even in Slovakia, Slovenia, Bulgaria and Romania where sectoral level negotiations dominate or are widespread – supplementary agreements usually take place in plants and enterprises. This is one of the main structural differences in comparison with old EU Member States where sectoral collective bargaining predominates. Negotiations at company level dominate only in the United Kingdom. The most centralized collective bargaining system (intersectoral level) is to be found in two EU-15 countries i.e. Finland and Ireland.

In general, countries where collective bargaining occurs mainly at company level demonstrate lower collective bargaining coverage⁵ than countries in which the bargaining is made at sectoral and intersectoral level (see Table 2). Collective bargaining coverage can be considerably extended by labour ministries declaring an applicable for all employees in that sector the generally binding rule. This is the common practice in the old EU Member States. However in Central and Eastern Europe such regulations are exceptional. The generally binding rule is applied in such countries as Romania, the Czech Republic and sometimes in Hungary (Kohl 2009, pp. 28-29).

In recent years the main distinction between two blocks in terms of approach towards negotiation of collective agreements has become visible. According to the first one, bargaining negotiation still plays a key role as a constitutive element of labour relations in spite of weak positions of two bargaining sides (i.e. trade unions and employers' organizations). Countries of the "coordinated market economies", including Austria, Germany, Benelux, and Scandinavian countries belong to the first block. Taking into account the new Member States only Slovenia shows such approach towards industrial relations. The second block is characterized by decreasing importance of collective bargaining (i.e. lower number and coverage) as well as cumulative decentralization. Countries of this block have economies close to "liberal markets" (like UK and Ireland). Many elements of such approach are seen in new Member States including Poland (Czarzasty 2009, p. 71).

4. Minimum wage and wage setting

⁵ Collective bargaining coverage – the proportion of workers that have their pay and working conditions set by collective agreements to all workers.

In general there are two basic mechanisms of wage setting: collective bargaining and legislation. First mechanism is institutionally strong in countries with a high coverage of collective agreements and powerful position actors of labour relations (trade unions and employers' organizations). In this case minimum wage is negotiated and defined by the social partner at sectoral level. However the majority of EU Member States possess statutory national minimum wage which is defined either by national legislation or by an inter-sectoral agreement at the national level ("Industrial Relations... 2009, p. 79).

Eurostat data from January 2010 indicates that 20⁶ countries of the EU-27 Member States have set statutory minimum wages i.e. Belgium, Bulgaria, the Czech Republic, Estonia, Ireland, Greece, Spain, France, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia and the UK. Monthly minimum wage varies considerably among the countries from EUR 123 in Bulgaria to EUR 1 683 in Luxembourg (range of one to 14). The countries with lower minimum wages (EUR 100 - EUR 400 a month) include 9 countries of Central and Eastern Europe while the second group with higher minimum wages comprises 10 countries of old EU Member States and Slovenia.

Table 1. Trade union density in the EU Member States (%)

Country	Trade union density	Country	Trade union density
France	8,6	Poland	12,7
Spain	15,0	Hungary	18,7
Portugal	17,0	Slovakia	20,6
Germany	21,5	Slovenia	37,2
Netherlands	21,9	Latvia	18,8
Greece	23,0	Estonia	15,9

⁶ Cyprus has a statutory minimum wage only for a few specific occupations in which trade union density is very low.

UK	28,8	Bulgaria	18,4
Austria	33,0	Czech Republic	21,0
Italy	33,8	Lithuania	13,2
Ireland	36,8	Romania	37,0
Luxembourg	41,8	Cyprus	62,6
Belgium	51,5	Malta	62,2
Denmark	71,7	EU-12 average	28,2
Finland	72,4	EU-27 average	33,0
Sweden	76,0		
EU-15 average	36,8		

Source: "Industrial Relation..." 2009, p 74. (all data from 2005)

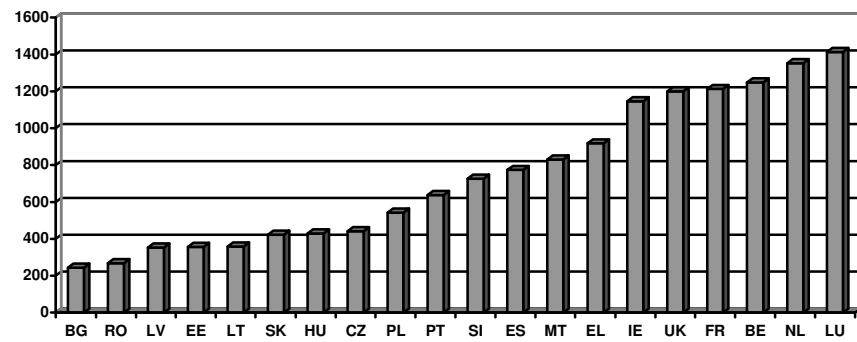
Table 2. Collective bargaining level and coverage in EU Member States (%)

Country	Dominant level of collective bargaining	Coverage of collective bargaining
Cyprus	Company	57
Malta	Company	62
UK	Company	33.5
Estonia	Company	16
Latvia	Company	16
Lithuania	Company	11
Poland	Company	40
Czech Republic	Company	49,6
Hungary	Company	35
Slovenia	Sectoral	95
Slovakia	Sectoral	48
Bulgaria	Sectoral	38

Belgium	Sectoral	96
Austria	Sectoral	99
Denmark	Sectoral	80
Greece	Sectoral	70
Germany	Sectoral	63
Italy	Sectoral	60
Netherlands	Sectoral	81.4
Portugal	Sectoral	70
Spain	Sectoral	83
Sweden	Sectoral	92
France	Sectoral and company (important but not dominant)	95
Luxembourg	Sectoral and company (important but not dominant)	60
Ireland	Intersectoral	
Finland	Intersectoral	90
Romania	Intersectoral	60

Source: “Industrial Relation...” 2009, p.78; Kohl 2009, pp. 29, and 96 (data regarding coverage of collective bargaining from 2006)

Figure 1. EU statutory minimum wage (PPS)



Source: Eurostat (data from January 2010)

Table 3. Minimum wage as a proportion of average earnings.

< 35%	35% - 40%	41% - 45%	< 46%
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Romania	Lithuania	Portugal	Malta
Estonia	Hungary	The Netherlands	Luxembourg
UK	Poland	Spain	France
	Czech Republic	Slovenia	Greece
	Latvia		Belgium
	Slovakia		Ireland
			Bulgaria

Source: Eurostat (data from 2008 and 2009)

The disparities between EU-27 Member States are reduced to a range of one to six when these results are measured in purchasing power standard (PPS) (see Figure 1). The difference can be explained by the fact that countries with relatively lower minimum wages in EUR have usually lower level of prices. Therefore, their minimum wages expressed in PPS are higher. Moreover, minimum wages in countries with the lowest level such as Romania, Estonia and Slovakia have significantly increased over the last 10 years (“Minimum wage...” 2010).

Minimum wages in EU also vary considerably taking into account the Kaitz-Index which measures monthly minimum wages as a share of average monthly gross earnings in industry and services. On the average the minimum wage in old EU Member States accounts for more than 41 percent of the national average wage. In Central and Eastern Europe it is usually well below this level (see Table 3). Countries with relatively high minimum wage (almost 50 percent) involve Luxembourg, Malta and France. At the lowest end of the scale are Romania, Estonia and UK with a minimum wage below 35 percent of the average monthly earnings.

5. Conclusion

The analysis carried out in this paper leads to a conclusion that employee representation in workplaces in Central and Eastern Europe is still trade unions’ domain, in spite of the 2002 Directive’s implementation and (in general) dual system of worker representation in these countries. Initially, trade unions were afraid of the competition from works councils. With the passing of time, they toned down their

inimical attitude towards these institutions. However, employees have not completely accepted the new form of worker participation yet and the number of works councils in these countries is still relatively small.

In old EU Member States works councils have a long tradition and strong position as institutionalized employee representations at workplaces which at least partially offsets low trade union density in these countries. Works councils (though to a different extent) are supported by trade unions (apart from Greece). The efficient cooperation between trade unions and works councils is based on diverse functions of these bodies. Furthermore, trade unions operate outside workplaces negotiating collective agreements at the sectoral and intersectoral levels and this beneficially affects this cooperation.

Both trade union density and collective bargaining coverage are lower in Central and Eastern Europe than in Western Europe. In new Member States collective agreements are conducted mainly at company level. Minimal wages in old EU Member States whose level is significantly higher than in Central and Eastern Europe are set in two ways: by social partners at sectoral level (e.g. in Scandinavian countries) and by national legislation (statutory minimum wage). In Western Europe the state refrains from far-reaching interference in social dialogue, leaving social actors (trade unions and employers organizations) large freedom of creation legal framework of the dialogue.

Aspiring to convergence in EU industrial relations it is necessary to extend collective bargaining policy in Central and Eastern Europe to as many groups of workers as possible. Moreover, the particular emphasis should be placed on sectoral collective agreements. Nowadays, statutory minimum wage in these countries is treated as a substitute for these sectoral agreements which dominate in Western Europe. The current state of industrial relations in Central and Eastern Europe adversely affects the situation of workers in these countries causing that their earnings very often only slightly exceed modest minimal wage. The present problem which threatens the future of both European Social Model and the prospects of EU convergence is social discontent, even strengthened by the economic crisis. The economic recession results in increased unemployment rate, decline in real wages and poverty in society. There is a risk that it will slow down development of social dialogue. On the other hand, the effectiveness of the dialogue is decisive for overcoming the results of such social discontent.

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