

Social Dialogue in the European construction industry.

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Introduction.

Compared to other industries it is relatively easy to define the social partners in the construction industry at European level. In general there is a relatively homogenous definition of what belongs to the sector all over Europe. The production-chain, based on site production combined with a triangle of subcontracting and supply, leads to certain problems of demarcation with for instance the chemical industry or with the wood industries, but this has not lead to great competition with other industry federations either on the employers' side or on the unions' side.

Industrial relations in construction can be characterised by certain mutually shared worries or concerns that serve as fields for cooperation as well as items for potential conflict. Compliance with agreements, liability in the social field in the production chain, coordination of health and safety on site, competition, quality and craftsmanship are all features in this sector. This has lead to an environment for industrial relations where discontinuity, the loss of skilled labour and of craftsmanship and a poor image of the industry are central worries to be dealt with - strategically as well as in day-to-day business and discussions - between the social partners.

Among the more peaceful items we can list health and safety, vocational training, the image of the industry, social provisions and social funds that guarantee allowances (such as holiday or bad weather payments) for workers and contribute to the necessary continuity on the labour market.

More controversial items are job security, the organisation of work, working time, social liability, subcontracting practices, wages and other primary labour conditions.

Relatively new on the scene are the introduction and use of new technologies, life long learning, environmental issues and the globalisation of the market. However, most construction companies are still working in regional domestic markets.

A characteristic of the social dialogue in construction.

The social partners in construction, the European Federation of Building and Woodworkers (EFBWW) on the trade union side, the European Construction Industry Federation (FIEC) on the employers' side, have worked closely together in the last fifteen years on influencing the European social policy. Social dialogue started in the early nineties with discussions on social matters that were to a great extent dictated by the European legislative agenda. Working groups were installed and joint statements prepared for health and safety issues, vocational training and the free movement of workers. The first experience was that the will to negotiate came about more rapidly if there was a threat of legislation. In 1999 I could already conclude¹, 'in the sphere of new initiatives for social legislation the European Commission has not exactly excelled.' Five years later this conclusion still stands upright.

If social dialogue does not take place in the shade of the law, partners themselves must have sufficient reasons for conducting discussions.

The dialogue in construction was from the very beginning focused on the promotion of the joint interests of management and labour in a Europe without borders. For construction this means first and foremost the free movement of workers and the liberalisation of the construction market. As early as 1993 the social partners came up with a joint statement on the free movement that directly intervened in the Council debates about the Posting of Workers Directive. Later on new statements in this field were formulated. After the Directive was concluded the social partners continued the work in this area.

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¹ Elaborated in Jan Cremers (1999), *Building blocks for europeanising our industrial relations*, in *Ways to social peace*, Arbeit und Leben, Osnabrück, page 177-186.

Based on a recent study, FIEC and EFBWW have again formulated a critical statement about the poor implementation of the Directive into national law.²

The outcome of this study also led to joint statements by the European Construction Industry's social partners on the European Commission's proposal for a Directive on services in the internal market. These statements contain a firm plea for adequate non-discriminatory control mechanisms in the host country and against unfair competition and social dumping (see elsewhere in this issue of CLR-News).

In the field of vocational training and health and safety the partners have also cooperated in research projects or formulated joint position papers.

A joint working party on training took the initiative in 2002 for a 'mentoring' project with assistance from the Leonardo da Vinci programme of the European Commission. The aim of the construction sector's European social partners was to encourage the development of tutorship in building and public works companies. The high number of young people leaving either during training or after just a few years working in the sector represents a serious waste of resources to the various vocational training systems. For the industry this implies and means that there is a correspondingly lower return on businesses' investments in human resources. The setting up of tutorship systems within businesses might offer a response to this concern. The results of the project were published by the end of 2003.³

A joint working party on health and safety prepared and completed a manual of best safety practices in cooperation with the Bilbao Agency in 2002. Furthermore this working party prepared joint positions linked to European legislation as the Directive on noise and the Directive on chromatised cement. The social partners submitted an application for the funding of a research project on work related stress in construction. This research was carried out by the European Institute for Construction Labour Research (CLR) and the outcome was discussed during a European conference in October 2004.⁴

A social dialogue that is not rooted in working industrial relations is meaningless as it cannot represent the essentially divergent interests in respective societies in collective bargaining and political decision-making or implement the results of these processes by the social partner organisations. The desired effect of both stimulating a policy process and consolidating its results, therefore, cannot be achieved by a dialogue that is disconnected from the continuous process of discussion, bargaining, and concluding agreements between collective bodies representing the two sides of the employment relationship characteristic of today's industrial societies.

FIEC and EFBWW started as well defined partners in their dialogue at a moment when construction was still dominated by national companies working for domestic markets, with the exception of a few giant transnationals. Both organisations were recognised by the main European institutions as the representative bodies and they were strongly backed up by all the important national organisations. At crucial moments the delegations on both sides have been composed of the heavyweights of national collective bargaining. As a consequence the outcome of these deliberations had to be taken serious; the negotiations were built up on the balance of power at national level and internal discipline was guaranteed. The dialogue started informal. The aim was to demonstrate the autonomy of the social partners, apart from the European Commission. The concrete work was however very much linked to the legislative agenda of the EU. The social partners of the construction industry always intended to seek joint positions on issues and developments that could affect the interests of the construction industry in Europe, where both companies and workers were involved.

² Published in: Jan Cremers, Peter Donders (2004), *The free movement of workers in the European Union*, CLR Studies 4, Reed Business Information, The Hague.

³ FIEC and EFBWW (2003), *A Challenge: integrating young people in the company - A Solution: Tutorship*, in the frame of the Leonardo programme.

⁴ Later on published in: Jan Cremers (2004), *Stress in the European construction sector: up-to-the-minute?* CLR Studies 3, Reed Business Information, The Hague.

The partners confirmed the importance of a strong and autonomous European social dialogue for the construction industry in a new action programme in 2004.⁵ This was in fact a direct response to the Commission Communication on the future of the social dialogue (June 2002).

What is striking in this programme is the character of the items listed: FIEC and EFBWW always have had a very pragmatic approach with regard to their dialogue. From the very beginning collective bargaining on primary working conditions or working time was not envisaged, but also items linked to information/consultation and European works councils never figured on their agenda. The joint work programme sets out a range of actions, agreed upon by the European social partners of the construction industry and focusing on the following five policy areas: employment, EU enlargement, health and safety, vocational training and pensions. Relatively new and dictated by the ongoing opening up of the European market and the further enlargement, both organisations have identified several employment issues that will require joint actions, at European and national levels. These are: undeclared labour; the impact of migration and cross-border working; and the impact and consequences of 'self employed' status in the construction industry.

The impact of EU Enlargement.

The European building unions studied explicitly the impact of the EU enlargement in an earlier CLR Study.⁶ The conclusions with regard to the labour relations in the new Member States and acceding countries are worthwhile summarising here because of the effect on the European dialogue:

- Autonomy of the social partners is not only weak, it is completely at stake. Even in situations where there is a national collective agreement, the role of the state is predominant. The impact and coverage of labour contracts falling under agreed labour conditions is decreasing.
- We have not found serious political backing for more partnership in the sectors. In contradiction to earlier studies, we have chiefly found lip service; and for the rest ignorance and lack of concern. One could have expected an action programme for the implementation of the Social Dialogue in the sectors or, as we have called it, 'an invitation to dance'. But with a few exceptions there is mainly inertia.
- Industrial relations in construction are fragmented to the lowest level. And even at company level the role of collective instruments, company agreements, is declining. It is hard for employers to see the added value of joint agreements above the level of the individual company; a high level of unemployment provides opportunities to 'negotiate' with every individual worker.
- National sector unions and employer's organisations do not have the mandate to enter into plant level negotiations. The autonomous position of company unions in several countries undermines the possible mandate for negotiations above plant level. But what is more, the organisations also lack expertise and know-how to coordinate above that level. In such a situation it is almost impossible for national unions and employer's organisations to demonstrate what is the advantage of sectoral arrangements. It is difficult to restore credibility.
- As a consequence the position of sectoral organisations with regard to items such as vocational training, health and safety or labour market issues, although required, is usually non-existent. Important sectoral social and economic 'know-how' and input have been destroyed and intermediate structures have virtually disappeared.
- In the socio-economic field the law of the jungle is applied. Competition is highly distorted with abnormally low pricing on the one hand and a lack of transparency coupled with corruption on the other. The result of rapid privatisation has been that the bigger entities have disappeared. What is left can be characterised as low capital-intensive, basic and small production units with weak investment and technology capacity. With few exceptions GDP and public purchasing power have hardly improved in the last decade.
- The duplication of trade unions, sometimes also employers' organisations, by a Western sponsored opposition to the communist successor federations, has not contributed to a more

⁵ The future activities were listed in the *Joint work programme of the European social partners of the construction industry*, and adopted in the plenary meeting of FIEC and EFBWW, on 29 June 2004.

⁶ Elaborated further in: L. Clark, J. Cremers, J. Janssen (2003), *EU Enlargement, construction labour relations as a pilot*, CLR Studies 1, Reed Business Information, The Hague.

effective representation of the social partners. Their political preoccupations tend to divert energies away from the economic representation of membership.

If the autonomy of the social partners at national level is at stake, this will directly affect the development of the social dialogue in construction at EU level. This dialogue has to be based on effective national organisations that have the mandate and capacity to talk to and negotiate with each other at supranational level. Moreover, the lack of autonomous social partnership in the new Member States and the erosion of the industrial relations in the 'old' countries might also frustrate the bilateral and transnational cooperation that has been built up in recent years.

A social dialogue without fundamentals in industrial relations at company and sectoral level is built on quicksand. Combined with the tendencies towards centralisation inside the institutions (at European and national levels, in the form of interprofessional agreements) and strong decentralisation at company level the strain on the sectoral approach will grow. In such a situation it is up to the social partners to demonstrate the added value of their activity.