EUROPEAN INDUSTRIAL RELATIONS DICTIONARY

OVERVIEW

European Foundation for the Improvement of Living and Working Conditions

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The European Foundation for the Improvement of Living and Working Conditions is a tripartite EU body, whose role is to provide key actors in social policymaking with findings, knowledge and advice drawn from comparative research. The Foundation was established in 1975 by Council Regulation EEC No. 1365/75 of 26 May 1975.

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Overview

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FOREWORD

Designed in an easy-to-use, online format, the *European industrial relations dictionary* is a comprehensive collection of the most commonly used terms in employment and industrial relations in the European Union today. It contains almost 300 alphabetically listed entries, featuring precise definitions and relevant contextual information, with hyperlinks to EU legislation and case law. This booklet gives a broad overview and introduces the nine general themes of the dictionary. It presents a concise outline of the legal and institutional framework of the EU system of employment and industrial relations, charting its evolution from the Treaty of Paris in 1951 right up to the current predicament regarding the Treaty establishing a Constitution for Europe.

A unique feature of the dictionary is that the specifically European character of each concept is highlighted, particularly its potential impact on a gradual 'Europeanisation' of national systems of employment and industrial relations. The overall aim of the dictionary is to provide a useful resource for those are interested in the field of employment and industrial relations and who wish to obtain clear definitions of some of the key concepts. While most readers may be familiar with many of the terms contained in the glossary, they may be unaware of their precise meaning or unable to place the concept in the context of the wider field of EU employment and industrial relations policy. The dictionary aims to set each term in its political and legal context, with examples drawn from EU legislation and case law where relevant.

The CD-Rom attached to the inside cover of this booklet contains the full text of the dictionary, including a comprehensive bibliography. There are multiple cross-references within entries to other, related entries, as well as to EU legislation, and these appear in the form of hyperlinks which are directly accessible. An online version of the dictionary is also available for browsing on the Foundation's website at:

www.eurofound.eu.int/areas/industrialrelations/dictionary

Willy Buschak,
Acting Director

INTRODUCTION

The progress of European integration over half a century has produced a specific EU context for employment and industrial relations. This context includes at least four main elements: 1) supranational institutional structures; 2) a legal framework of supremacy of EC law, including fundamental rights; 3) transnational economic integration; and 4) an emerging EU social dimension, concerned with employment and industrial relations.

The legal and institutional structures of the EU have dominated whatever has emerged in EU employment and industrial relations: from the free movement of workers and social provisions for their families, to developments in equality between women and men at work, to promoting health and safety in the working environment, to determining the obligations of employers and the rights of employees in the enterprise, to transnational collective bargaining and social dialogue, and so on. This framework of EC labour law provides the dictionary with its defining structure.

In order to arrive at an understanding of the EU system of employment and industrial relations, it is necessary to have a sense of how it grew, how it is shaped and what its current and emerging structure looks like. The 'Context' section of the booklet describes the evolution of an economic and social model of EU employment and industrial relations. This model is reflected in the EU Charter of Fundamental Rights, adopted at Nice in December 2000 and proposed to become Part II of the Treaty establishing a Constitution for Europe, prepared by the Convention on the Future of Europe and approved by the Intergovernmental Conference of Member States meeting in Brussels on 17–18 June 2004.

The next section of the booklet – comprising the main part – presents in-depth information on the main areas in European industrial relations. The aim is to enhance the overall utility of the dictionary by giving relevant information about the stages in the evolution of the term, including the EU context, legal framework and implications for the individual citizen. The idea is to introduce the reader theme by theme to most of the terms in the dictionary. The section is divided into the following nine broad themes:

1. Institutional framework.
2. Legal framework.
3. Collective industrial relations.

4. Individual employment.
5. The enterprise.
6. Free movement of workers.
7. Anti-discrimination and equality in employment.
8. Health and safety.
9. Towards an EU system of industrial relations.

The institutional and legal framework of the EU system of employment and industrial relations reflects the experience of European integration over more than half a century, beginning with the Treaty of Paris 1951, which established the European Coal and Steel Community. This historical experience of European integration has produced a very specific set of EU institutions and principles of EU law, which have particular application in the field of employment and industrial relations. Themes 1 and 2 explore this vast area in detail.

As Member States' national traditions and experience have evolved in the field of individual employment and collective industrial relations, specific influences have had a defining impact on the emerging system of EU employment and industrial relations. Examples of such influences are the increasing diversity or fragmentation of the workforce and the roles of worker and employer organisations. Themes 3 and 4 examine the evolving nature of these relationships through the years.

EU employment and industrial relations have had a particularly significant impact in certain substantive areas: discrimination and equality at work, the role of labour in the management of the enterprise, health and safety in the working environment, and the free movement of workers among the Member States. Themes 5–8 focus on these substantive topics.

Finally, theme 9 describes the emerging constitutional framework of an EU system of industrial relations.

CONTEXT

European model of employment and industrial relations

The European model of employment and industrial relations brings together a number of issues of central importance to the 25 Member States of the European Union (EU). Indeed, the economic and political stature of the EU makes its employment and industrial relations model the subject of considerable attention elsewhere. In particular, at a moment of institutional changes and enlargement of the EU, there is a clear contrast between the American experience compared with the European model. It is not suggested that the European model can or should be exported, but certain features may provide a basis for reflection, if not emulation, in other parts of the world.

EU employment and industrial relations have slowly and incrementally developed within the institutional framework of European integration. In the early years of the EEC, the initiatives of the Community's institutions in the field of employment and industrial relations were relatively limited and focused on securing the objective of a common labour market. This is due to the fact that the founding Treaties (ECSC, EEC and Euratom) aimed at economic integration, i.e. the creation of a common market first, and the social questions were of subordinate priority. The mid-1980s saw the emergence of the European social dialogue as the result of the 'Val Duchesse' initiative taken by Jacques Delors, the incoming President of the Commission, in January 1985. Delors invited chairpersons and general secretaries of all the national organisations affiliated to the EU-level employer and worker organisations, UNICE, CEEP and ETUC, to an historic meeting in the castle of Val Duchesse, outside Brussels. Since then, European social dialogue has largely contributed to broadening and deepening the 'European social model'.

The Commission's 1994 White Paper on Social Policy described a European social model in terms of values which 'include democracy and individual rights, free collective bargaining, the market economy, equality of opportunity for all and social welfare and solidarity'. The model is based on the conviction that economic progress and social progress are inseparable: 'Competitiveness and solidarity have both been taken into account in building a successful Europe for the future.'

The European social model has a number of dimensions. For example, in a Communication on 'Employment and social policies: A framework for investing in quality' (COM (2001) 313), the Commission contrasts the European social model of public social spending with the US model, which relies on private expenditure, highlighting that 40% of the US population lacks access to primary healthcare even though per capita expenditure as a proportion of GDP is higher in the USA than in Europe. The Commission goes on to emphasise that it is not only the existence of jobs but also the nature of employment that is important in the European social model. This introduction focuses on the employment and industrial relations dimensions of the EU model.

The organisational forms of workers and employers at EU and national level determine the EU economic model of industrial relations – specifically by their interactions in a variety of ways and at different levels, often characterised as 'social partnership'. Perhaps the most familiar is collective bargaining between an employer and a union at sectoral level in most EU Member States. However, in the EU, this is only one of three institutional forms of interaction. The other two are processes at national level (macro-level) and at the workplace (micro-level). It is the existence of all three levels, and their interrelationship, that defines the specific character of the European model of employment and industrial relations.

EU social partnership model

At EU level, the creation of a European social dialogue beginning in 1985 has led to certain agreements being incorporated into legally binding directives on parental leave, part-time workers and fixed-term work. The social partners are also involved in institutional frameworks engaging both EU institutions and the Member States, including the 'macroeconomic dialogue' where the top-level organisations meet at regular intervals with the Member States, the Commission and the European Central Bank. These macro-level arrangements are a reflection of practices in most Member States, in a variety of forms of tripartite or bipartite 'Economic and Social Councils', dealing with a variety of social and economic matters of concern to the social partner organisations. The UK stands out as having few such institutional arrangements. In this, as in other features, it shares with the USA the absence of a tradition of bipartite or tripartite dialogue at national level.

Collective bargaining is the familiar process by which worker and employer organisations settle the central issues of pay, working hours and other elements of the terms on which work is to be performed. This has not yet developed at EU level. However, an EU-level coordination of collective bargaining in the Member States is beginning to emerge.

Looking at most of the EU Member States, collective bargaining is evident as the most important process regulating working life, and much besides. On the key issue of pay determination, the dominant level of bargaining is at the intersectoral level in four countries (Belgium, Finland, Ireland and Slovenia) and at the sectoral level in nine others (Austria, Germany, Greece, Italy, the Netherlands, Portugal, Slovakia, Spain and Sweden). The degree of centralisation of collective bargaining in most of the old Member States is, therefore, in striking contrast to the USA where, like the UK and France, the individual company level is predominant. The company level is also prevalent in eight of the 10 new Member States (Cyprus, Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta and Poland).

Even the clear predominance of centralised bargaining on pay does not adequately convey the importance of collective bargaining. An even more powerful indicator of its role is its coverage: the proportion of workers whose pay is determined by collective agreements. Centralisation, intersectoral and sectoral, means that collective agreements will cover all employers in the sector or the country, even where workers are not members of trade unions and employers are not members of employer organisations and not parties to the collective agreement. Coverage ranges from 90–100% in Austria, Belgium and Slovenia, 80-90% in the Nordic countries, 70% in Germany, to less than 40% in the UK and most of the new Member States, and only 15% in the USA.

Macro-level consultation and dialogue influence major issues of social and economic policy, and collective bargaining determines pay and other terms and conditions of employment. However, the day-to-day working life of most people in the office, shop or factory is subject to a myriad of decisions concerning, for example, working practices (performance), conduct at work (disciplinary matters), health and safety, and many other aspects. Rather than these decisions being taken unilaterally by management, a mandatory system of worker participation has developed in the EU Member States. Workers are involved in such decisions through representative structures of works councils, enterprise committees, trade union bodies and similar forms. These exist in almost all of the EU15 (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal, Spain and Sweden). Only in Ireland and the UK as well as in most of the 10 new Member States is such a general and permanent system lacking.

The EU has now taken a decisive step towards establishing the practice of information and consultation of employee representatives as part of the European social model. On 18 February 2002, the Council of Ministers adopted Directive 2002/14, establishing a general framework for improving information and consultation rights of employees in the European Community which was supposed to be transposed into national legislation by end of March 2005. The objective was 'to make the essential changes to the existing legal framework ... appropriate for the new European context'.

Contrasting the presence and role of trade unions and worker representative organisations in the USA with European experience illustrates the singularity of the European model of employment and industrial relations. Its manifestation at EU and Member State levels – in the form of macro-level national dialogue, collective bargaining at intersectoral and sectoral levels, and collective participation in decision-making at the workplace – is the most salient quality distinguishing the European model of employment and industrial relations.

Role of trade unions and employer organisations

Critical to the success of this specific EU economic model of employment and industrial relations is collective organisation in the form of the social partners, the central actors in a 'social partnership' model. This defining feature of the European model may be more easily perceived by comparing it with the American model. The comparison of models can be illustrated by starting with trade union density, as substantial trade union membership is a pre-condition for the emergence of social partnership.

Looking at countries among the EU15, trade union density, i.e. union membership as a proportion of the working population, is extremely variable. However, despite the general downward trend of recent years, there is a pattern: a group of four countries with a high union membership density (ranging from 69% in Belgium to 88% in Denmark). A second larger group of countries has a medium union density, hovering around the 29-40% level and including the three big economies of Italy (35%), Germany (30%) and the UK (29%). In between, these are two small countries: Luxembourg with 50% and Ireland with 45%. Finally, two big countries have low levels of union density: Spain with 15% and France with only 9%. The combination of size and density means that, although the unweighted average union density of the 15 countries is 43% (in contrast to an average of 34% in the new Member States), the largest countries have considerably lower density so that the weighted EU average is only 30%. The median figure was Italy, at 35%. In contrast, trade union density in the USA in 2004 was 12.5%, lower than any EU country except France.

Union membership and density, though fundamental, is only part of the picture and, from the institutional point of view, arguably the less important part. The trade union membership figures have to be translated into institutional or organisational forms – trade unions – and the importance of these organisational forms depends on their regulatory functions, which in turn depend on their relations with employers, their organisations and the State – and the outcomes of these relationships in terms of regulatory instruments, such as collective agreements.

With regard to trade unions, there is a marked contrast between the unity of organisation at EU level and the diversity at national level. The strong centralisation and sectoral organisation at EU level are reflected in different combinations at national level: more or less centralisation and more or less sectoral organisation. The similarity (centralised, few, industrial) may be noted between the EU – level structures and those in Austria and Germany, while those of Ireland and the UK (centralised, many, mixed) are similar to the US model. Most continental EU Member States have multiple centres organised on sectoral lines.

Employer organisations at EU level reflect one of the dimensions distinguishing trade union organisation, being highly centralised. The Union of Industrial and Employers' Confederations of the European Communities (UNICE) engages in social dialogue and negotiations with the European Trade Union Confederation (ETUC) at EU level. However, the second dimension – sectoral organisation – is lacking on the employers' side. While there are many organisations representing business at EU level, they do not engage with their equivalent organisations, the European industry federations affiliated to ETUC. The European Commission has sought to promote such engagement by establishing sectoral social dialogue committees of which 31 exist up to date (applications for two more – gas and steel – are pending).

In summary, in understanding the EU employment and industrial relations model, it is impossible to ignore the predominance of certain actors and levels in most Member States. Employer and trade union organisations, at intersectoral and sectoral level, play a major role. This role can be further traced through the interaction of these actors at different levels and the institutional forms of this interaction. Their presence reveals the extent to which these organisations influence social life in general and working life in particular. These institutional forms determine the EU model of industrial relations.

An emerging constitution of EU employment and industrial relations

The EU social model of employment and industrial relations is exemplified by the EU Charter of Fundamental Rights, adopted at Nice in December 2000 and which has become Part II of the Treaty establishing a Constitution for Europe. The inclusion of social and economic rights in the EU Charter of Fundamental Rights has important implications for the European social model in general and for the concept of EU citizenship, particularly in the spheres of employment and industrial relations. A working group entitled the 'Convention', comprising representatives of the EU Member State Governments (15), the European Parliament (15), national parliaments (30) and the Commission (1), was appointed by the Cologne European

Council of June 1999 with the mandate to formulate an EU Charter of Fundamental Rights and Freedoms, to be presented to the European Council in December 2000.

The Convention which produced the EU Charter was established in the political context of the Member States preparing for an Intergovernmental Conference (IGC) in December 2000. A Charter of Fundamental Rights was not originally among the IGC 2000's main priorities. The IGC's priorities were enlargement (the procedures for application and accession of new Member States), institutional reform (reforms of voting in the Council, the number of members of the Commission, the case load of the European Court and the composition of the European Parliament) and common security and defence policy (aiming at management of military and non-military crises). The social agenda of the IGC 2000 was remarkable by its absence. The failure to incorporate a social policy dimension into the agenda was considered to possibly endanger enlargement of the EU and undermine institutional reforms. Therefore, the Cologne European Council of June 1999 appointed a Convention to formulate an EU Charter of Fundamental Rights and Freedoms.

The political initiative for an EU Charter of Fundamental Rights aimed at balancing the social policy vacuum in the agenda of the IGC. The debate over fundamental social rights brought two perspectives into conflict. On one side were those who wanted to exclude social rights entirely or minimise their content, marginalise them into a separate 'programmatic' section, make them purely declaratory or subject them to special 'horizontal' conditions to prevent the EU acquiring any further social competences. On the other side were those who wanted to include social rights, maximise their content, grant them the same status as civil and political rights, make them legally binding and not limit them by reference to existing EU competences. The European Council of Nice faced a choice. To reject the Charter would be regarded as a setback for 'Social Europe' and as confirmation of the primacy of the EU's economic profile in general and of deregulated markets in particular. It would send a negative message about social rights to candidate states in the context of enlargement. However, some Member States were unequivocal in their refusal to accept a legally binding Charter, let alone incorporating it into the Treaty.

The outcome gave something to each side. On the one hand, the Charter breaks new ground by including in a single list of fundamental rights not only traditional civil and political rights, but also a long list of social and economic rights. Of particular interest to employment and industrial relations are provisions on protection of personal data (Article 8), freedom of association (Article 12), freedom to choose an occupation and right to engage in work (Article 15), non-discrimination (Article 21), equality between women and men (Article 23), workers' right to information and consultation within the undertaking (Article 27), right of collective bargaining and collective action (Article 28), protection in the event of unjustified dismissal (Article 30), fair and just working conditions (Article 31), prohibition of child labour and protection of young people at work (Article 32) and reconciliation of family and professional

life (Article 33). On the other hand, although the European Council approved the EU Charter, it was limited to a political declaration and not given a formal legal status. However, the inclusion of social and economic rights in the EU Charter takes on greater significance due to the proposal of the Convention on the Future of Europe to incorporate the EU Charter as Part II of the Constitutional Treaty of the European Union.

Towards new forms of governance in European industrial relations

As part of the European social model, the EU-level social partners have been involved as 'co-legislators' in the formulation of EU social policy since the coming into effect of the Treaty of Maastricht on 1 November 1993.

Articles 138–139 of the EC Treaty provide a procedure that combines the consultation of the social partners by the Commission with the option to leave social regulation to bipartite agreement between management and labour organised at European level. The Commission indicated that 'management and labour' are to be understood as the European social partner organisations, organised on a cross-sectoral or sectoral basis. It has defined criteria of representativeness and has drawn up a list (subject to regular revision) of organisations it consults under Article 138 EC. In 2004, this list included 57 organisations.

According to Article 138 EC, the Commission, before submitting proposals in the social policy field, has to consult management and labour on the possible direction of that Community action. If, after such consultation, the Commission considers Community action advisable, it shall consult management and labour on the content of the envisaged proposal. In the course of the consultation, the social partners also address the question posed by Article 138(4) EC: whether they wish to initiate the process provided for in Article 139 EC – bipartite social dialogue, which may lead to contractual relations, including agreements. These so-called 'voluntary' or 'autonomous' agreements shall then be implemented 'in accordance with the procedures and practices specific to management and labour and the Member States'. Examples include the recent agreements on telework (2002) and work-related stress (2004).

In its latest Communication of 8 August 2004, the European Commission characterised European social dialogue as playing a pivotal role in society and in improving European governance. Since social dialogue is considered as an example of good practice for improved consultation in the application of the principle of horizontal subsidiarity, it is widely recognised as making an essential contribution to good governance, drawing on the proximity of the social partners to the realities of the workplace.

European social dialogue is a decision-making process at the crossroads between 'old' (regulatory) and 'new' (soft) governance, e.g. the open method of coordination (OMC). For the time being, these two mechanisms of the European industrial relations system seem to co-exist in a rather isolated manner. At present, the employment title (Articles 125–130 EC) and the social chapter (Articles 136–148 EC) are geared through two distinct processes: social policy through social dialogue and employment policy through the OMC. Nevertheless, complementarities between the European Employment Strategy (EES) and social dialogue have already become evident. Both the part-time and the fixed-term work agreements refer to the EES in their preamble. European social dialogue might play a more important role in the OMC in the near future, and vice versa.

The EU Charter of Fundamental Rights is an important milestone in the development of the EU model of employment and industrial relations. It sustains a model based on the distinctive role of the social partners at all levels of economy and society, from the level of macroeconomic policy-making to the day-to-day experience of the workplace.

The EU model of employment and industrial relations requires legitimate institutional governance structures. The EU Charter can play a major role in this regard. The Charter's fundamental rights ascribe legitimacy to collective bargaining and collective action, and information and consultation on a wide range of issues at enterprise level. Affirming rights to engage in work, vocational training, equal opportunities and other social and labour standards provides support for the distinctive EU model of individual employment relationships.

THEME 1
Institutional framework

European industrial relations have developed within the institutional framework of European integration. The creation of the European Coal and Steel Community (ECSC) was a first impulse following the devastation of Europe in two world wars during the first half of the twentieth century. Article 3 of the **Treaty of Paris**, which created the ECSC in 1951, stated that among the purposes of the institutions of the new Community were 'to promote improved working conditions and an improved standard of living for the workers in each of the industries for which it is responsible'. It was followed by the foundation of the European Economic Community (EEC, now the European Community (EC)) and the European Atomic Community (Euratom) in the **Treaties of Rome** in 1957. Again, Article 117 of the EEC Treaty stipulated that: 'Member States agree upon the need to promote improved working conditions and improved standards of living for workers ...' While maintaining these objectives, the institutional structures of the European Union have undergone further modifications in later treaties, with important consequences for employment and industrial relations in Europe.

The Treaties of Rome provided the EEC with a relatively wide range of **social objectives**, but the institutions of the EEC were given only a relatively narrow set of legal competences (**competences of the European Union**) to achieve these objectives. The EEC Treaty established a common market and anticipated that the successful achievement of economic objectives would enable the Community to attain its social objectives. The legal competences, which the Treaties of Rome granted to the EEC's institutions, limited them to proposing **harmonisation** of standards, where differences among Member States could lead to distortions in the functioning of the common market. For example, measures were necessary to secure the primary objective of a common labour market, which guaranteed the free movement of workers among the Member States. The other main instrument for achieving the social objectives of the common market was the provision for a **European Social Fund**, providing financial assistance to certain groups of people, in particular for vocational training, in the light of industrial change.

Since the beginnings of the European Community, the **European Commission** has had primary responsibility for shaping the EU's strategy for European integration. Its members and officials carry out tasks in the field of employment and industrial relations through the Commission's **Directorate-General for Employment, Social Affairs and Equal**

Opportunities. The Commission makes proposals for EU action in the field of employment and industrial relations, but it is the **Council of the European Union** (also referred to as the Council of Ministers) which makes decisions, particularly on legislation. A Committee of Permanent Representatives of the Member States, known by its French acronym **COREPER,** prepares the work of the Council. Legislative measures are adopted in collaboration with the European Parliament and in accordance with specific **Council voting procedures**. Delegation of powers is possible through the **Comitology** procedure. The **European Economic and Social Committee** (ECOSOC/EESC) and the Committee of the Regions provide assistance.

In the early years of the EEC, the initiatives of the Community's institutions in the field of employment and industrial relations were relatively limited and focused on securing the objective of a common labour market, for example, Regulation 1612/68 on the Free Movement of Workers. However, political events at the end of the 1960s and the economic shocks of the early 1970s coincided with the proposed expansion of the EEC to include three new Member States in 1973 (Denmark, UK and Ireland). These developments led to the decision to launch a **Social Action Programme** in 1974. The **European Foundation for the Improvement of Living and Working Conditions** was established in 1975.

Without changes in the Treaty, however, the competences of the institutions were still limited to dealing with distortions of competition in the common market. In the field of employment and industrial relations, these involved differences in labour standards, which could lead to **social dumping**. The Member States unanimously approved **directives** aimed at combating, in particular, the effects on employment and industrial relations of the economic dislocation following the two oil shocks of the 1970s. At about this time, other directives in the employment field were stimulated by decisions of the **European Court of Justice (ECJ)** concerning equality between women and men and based on Article 119 (now Article 141 EC), which guaranteed equal pay for equal work.

During the 1970s, the development of a legislative programme of EU directives, aimed at harmonising labour standards in the Member States, depended on unanimity in the Council of Ministers in adopting proposals of the Commission. In the 1980s, however, some Member States adopted policies which promoted **deregulation** of the labour market. Subsequently, EU activity in the employment and industrial relations field was given a new direction by the 1992 programme to establish a **Single European Market** (SEM) – aimed at completing the common market by 1992. The adoption of the **Single European Act** (SEA) in 1986, which launched this programme, allowed for **qualified majority voting** (QMV) in the Council of Ministers on matters concerned with the working environment to protect workers' health and safety. In 1989, a directive established an EU framework for protecting workers' health and safety.

This period saw the origins and emergence of the **European social dialogue**, launched by Jacques Delors, President of the European Commission. An initial meeting, held at **Val Duchesse** outside Brussels in January 1985, involved the **European social partners**, representatives of the European employer organisations (**UNICE**, later joined by **UEAPME** representing the **small and medium-sized enterprise** (SME), and **CEEP**, the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest) and the European Trade Union Confederation (**ETUC**). At this meeting, the organisations agreed to engage in furthering European social dialogue and meetings in subsequent years gradually gave their dialogue more and more substance.

The pressure for a social dimension in the Single European Market led to the adoption in December 1989, by 11 of the Community's 12 Member States, of the **Community Charter of the Fundamental Social Rights of Workers**. The political commitment of the 11 Member States took shape in subsequent years in their approval of a number of Commission proposals in the Workers' Action Programme of the Charter. Despite the Charter's legal status – apparently only a political declaration – the resulting legislative measures demonstrated that it had significant effects.

An intergovernmental conference, and the Maastricht summit of December 1991, extended the process of political integration by adopting the **Treaty of Maastricht** (Treaty on European Union). The parallel adoption of a programme for **Economic and Monetary Union** (EMU) reinforced the process of economic integration. The new Treaty also referred explicitly to the **European Convention for the Protection of Human Rights and Fundamental Freedoms** (Article 6(2) EU) and to the **European Social Charter** (Preamble EU Treaty) of the **Council of Europe**.

The EU Treaty included a **Social Policy Protocol** that finally granted extensive **social competences** to the EU in the area of employment and industrial relations. A striking exception, though disputed, of competences excluded from the scope of the new social competences in Article 137 EC was that: 'The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.' There was also provision for the UK to **opt out** of EC labour legislation adopted under the Protocol.

The EU Treaty provided a greater role for the **European Parliament** in exercising these new competences. Already, the legislative **cooperation procedure**, introduced by the Single European Act, had increased the legislative role of the European Parliament by enhancing its decision shaping role. The **co-decision procedure**, introduced by the EU Treaty (Article 251 EC), enables the European Parliament to share legislative authority with the Council.

The Social Policy Protocol included an **Agreement on Social Policy**, which the European social partners had concluded on 31 October 1991. The EU Treaty gave the social partners a

central role in formulating EU policy in the field of employment and industrial relations through social dialogue at EU level. The first European social dialogue agreement on parental leave was reached in 1996 and incorporated into a directive binding on all Member States (except the UK). This was the first of the European social dialogue intersectoral agreements, but there were also to be sectoral agreements at EU level. These raised important issues of implementation (**European social dialogue and implementation of agreements**).

The EU Treaty's principle of **subsidiarity**, including the specific principle of **horizontal subsidiarity**, governs the exercise of the new EU competences in the area of employment and industrial relations. European social dialogue, therefore, has an institutional position in the legislative framework of EU industrial relations alongside the legislative processes of the Commission and the Council (**European social dialogue via Articles 138-139 of the EC Treaty**). Its specific nature, however, is conditioned by the autonomy of the social partners in the sphere of industrial relations, which implies that **European collective agreements** can develop independently from regulatory initiatives by the Community institutions.

Concern with rising unemployment in the 1990s stimulated proposals for a **European Employment Strategy** (EES) and, together with pressure for labour market reforms, prompted in December 1997 the adoption of a new **Employment Title** in the **Treaty of Amsterdam** 1997. The EES is based on the **open method of coordination** and leads to the annual adoption of non-binding recommendations. The social partners should be involved in this process.

The Amsterdam Treaty also saw the end of the UK opt-out and the incorporation into the EC Treaty of the Agreement on Social Policy, now part of the Treaty's Chapter on Social Policy. This Chapter includes European social dialogue. The **Treaty provisions** on social policy have allowed for adoption by the Council (by qualified majority voting) and by the European Parliament of legislative measures in areas of employment and industrial relations, such as information and consultation of employee representatives in the enterprise (2002).

The **Treaty of Nice** of December 2000 amended the EC Treaty's Chapter on Social Policy. It allowed for the possibility of qualified majority voting on proposals in areas of employment and industrial relations which had previously required unanimity. The European Council meeting in Nice also approved the **Social Policy Agenda** 2000–2005, which had been adopted by the Commission in June 2000. The Treaty of Nice envisages major changes in the judicial structure of the European courts, including the creation of European judicial panels (see **European Court of Justice**), allowing for the possibility of a specialised EU tribunal to deal with disputes in the field of employment and industrial relations, as is found in many Member States.

At the Nice summit, the Member States also unanimously adopted the **Charter of Fundamental Rights of the European Union**. Although, like the Charter of 1989, its legal

status was limited to a political declaration, it has now been integrated as Part II of the **Treaty establishing a Constitution for Europe**, as adopted by the Intergovernmental Conference and the European Council of 18 June 2004 and signed in Rome on 29 October 2004 by the Heads of State or Government of the 25 Member States and three candidate countries. If the Constitutional Treaty is ratified by the Member States, the Charter will acquire a legally binding character. The EU Charter includes a Solidarity Chapter (see **solidarity principle**) guaranteeing a series of rights in the field of employment and industrial relations.

Following negotiations with a number of acceding countries, 10 new Member States joined the EU on 1 May 2004. **Enlargement** raises complex and delicate political issues regarding, among others, increased numbers and the possibility of qualified majority voting in the Council of Ministers (evident in the past, for example, in the so-called **Luxembourg compromise** of 1966). Acceding countries undertake to incorporate into their national law all the Community law, or **acquis communautaire**, in the field of employment and industrial relations (**social acquis**).

The EC Treaty contains the institutional framework for EU social dialogue in the Social Chapter. The Employment Title embodies the institutional framework for the European Employment Strategy. Legislation of 2002 establishes a general framework for improving information and consultation rights in the workplace. Finally, the EU Charter of Fundamental Rights – by enshrining fundamental rights of association, information and consultation, and collective bargaining and action – anchors the role of the social partners in EU social policy and ascribes legitimacy to collective bargaining and collective action, and information and consultation at the level of the enterprise. The Charter established the foundation of legitimacy for the **European social model** of employment and industrial relations.

THEME 2
Legal framework

Employment and industrial relations in the EU are shaped by legal norms; they define the rights and obligations of employers and their organisations, and of employees and trade unions. The doctrine of **supremacy of EC law** means that **EC/EU law** prevails over national regulations governing employment and industrial relations in the Member States. This imposes an obligation on Member States to ensure that their national law on these matters is consistent with EU law. There are a number of legal mechanisms and processes to enforce the supremacy of EC law, including judicial or administrative means, or through industrial relations mechanisms engaging the social partners. All these aim at ensuring that national systems of employment and industrial relations comply with EU norms.

Enforcement of EC law on employment and industrial relations may be channelled through the judicial system (**judicial enforcement of EC law**). **Judicial cooperation in the EU** between national courts and the **European Court of Justice** in Luxembourg has produced an EU judicial system, with the ECJ at its apex, handing down decisions on the interpretation of EU law which bind the courts of all the Member States.

National labour courts may refer disputes involving employment and industrial relations to the European Court of Justice in Luxembourg, using the **preliminary reference procedure**. Article 234 of the EC Treaty allows for such references where the issue before the national court or tribunal raises a question of interpretation of European law, including provisions of the Treaty or labour law directives.

There is also the possibility of direct **complaints to the European Court of Justice** where EU institutions violate EC law (Article 230 EC). Where acts of the EU institutions concerning employment and industrial relations are alleged to be unlawful, they may be challenged in complaints to the European Court of Justice. Article 230 EC makes a distinction between complaints directly to the ECJ by 'privileged' and 'non-privileged' applicants. 'Privileged' applicants may include 'a Member State, the European Parliament, the Council or the Commission'. The Treaty of Amsterdam granted the Court of Auditors a right to bring action before the Court of Justice, but only for the purpose of protecting its prerogatives. 'Non-privileged' applicants who may make complaints could include employees, employers, trade

unions and so on, who complain to the ECJ concerning the legality of acts of these EU institutions.

The ECJ has been very strict in allowing individuals access to judicial review of acts of the EU institutions; specifically, the ECJ has refused to accept that collective organisations representing their members qualify as entitled to bring complaints directly to the ECJ. However, although direct complaints may not be possible, Article 37 of the Statute of the ECJ grants rights of third parties to intervene in proceedings where complaints have been brought by others, where they can show a justifiable interest. There is a debate over whether the European social partners should be treated as 'privileged' applicants, given their constitutional status in the European social dialogue, or whether they should have to establish an interest in each case in order to intervene, and thereby be treated like all other 'non-privileged' applicants.

Administrative **enforcement of EC law** is the responsibility of the European Commission. The Commission, as 'Guardian of the Treaties', may take action (Article 226 EC) against Member State **infringements of EC law** or in cases where Member States fail to take all appropriate measures to ensure fulfilment of their obligations under EC law (Article 10 EC), including those relating to employment and industrial relations. The Commission can initiate a procedure which may culminate in a decision of the European Court of Justice condemning the Member State, including financial penalties (Article 228 EC).

EC law on employment may also be implemented and enforced through industrial relations mechanisms (**collective agreements as a mechanism for enforcement of EC law**). Article 137(4) EC provides that a Member State may authorise management and labour to conclude **collective agreements implementing directives**. Further, many EC labour law directives allow the social partners to negotiate **derogation** to EU norms through collective agreements at different levels: national, regional or enterprise level. Not least, **European collective agreements**, negotiated through social dialogue at EU level, set out EU norms on employment and industrial relations.

Individual workers, their representatives or trade unions may rely on EC law to claim individual employment or collective labour rights before national labour courts or tribunals in a Member State. These rights may be contained in a variety of EU legal measures: **regulations**, **directives** and **decisions**. **Access to the judicial process** has been held to be a general principle of EC law.

The European Court of Justice has declared that claims made to national courts may be based on EC law, which has **direct effect**. Where there has been inadequate implementation of **directives** conferring rights on individuals, the European Court's doctrine of **vertical direct effect** means that complaints may be made against the Member State, public authorities or any

other **emanations of the state**, for example, public employers. This is because it is the responsibility of public authorities, even when employers, to ensure that EC law is complied with, not least by the state and its emanations when they employ people.

The ECJ has declared that **Treaty provisions** that confer clear, precise and unconditional rights on individuals have both vertical and **horizontal direct effect**. For example, individuals may enforce rights under Article 141 EC (the right to equal pay for equal work) or Article 39 EC (the right to free movement of workers) by complaining to their national courts, in cases where these rights are violated either by public authorities or even by private employers. However, the ECJ has been unwilling to attribute horizontal direct effect to directives.

Enforcement of EC labour law is promoted by the ECJ insisting that national labour laws must be consistent with EU laws on employment and industrial relations. The ECJ has developed a doctrine of the **indirect effect** of EU directives, which requires national courts, in cases involving rules of national law on employment and industrial relations, wherever possible, to interpret national rules consistently with EU law.

The failure by Member States to enforce the increasing number of EU measures in the field of employment and industrial relations meant that many individuals were unable to rely on national laws implementing EU norms. As a result, in the labour law decision in Cases C-6/90 and C-9/90, *Francovich*, the European Court of Justice created a rule of **state liability** to compensate individuals who suffered as a consequence of certain violations of EC law by Member States; for example, failing to implement a directive on time.

The role of **fundamental rights** in the EU legal order has been important; for example, the European Court has held equality between women and men to be a fundamental principle of EU law and upheld the justiciability of the principle of equal pay proclaimed in Article 141 EC, enabling this fundamental right to be enforced before national courts. The issue of **justiciability of EC law** remains an open question with regard to the much wider range of **fundamental rights** of labour in the Solidarity Chapter of the EU Charter of Fundamental Rights. Justiciability of the EU Charter's fundamental individual and collective rights is one option open to the European Court of Justice in order to strengthen enforcement of EU norms in the field of employment and industrial relations. It is part of the constant evolution of doctrine by the ECJ, faced with **Euro-litigation** strategies: the use of EC law in litigation in order to achieve objectives in the employment and industrial relations field.

Enforcement of EC rights in the employment and industrial relations field has also encountered procedural obstacles. These appear as obstacles to access to the judicial process itself. Procedural obstacles also reveal themselves in the course of judicial proceedings aimed at enforcing EC law. For example, the burden of proof in complaints of discrimination is

shifted from the complainant to the respondent, where facts indicate that the complainant has been subjected to less favourable treatment.

EC law on employment and industrial relations determines the framework of rights and obligations of employees and employers. However, the **remedies** available, when these EU rights and obligations are enforced, are those remedies which national courts apply when dealing with violations of national labour laws. To ensure that EC law is effectively enforced, however, the European Court of Justice requires that the **sanctions** for breach of EC labour law are no less severe than those applied to breaches of national laws.

If damage is suffered as a result of breaches of EC law, the **compensation** awarded must be adequate and be an effective deterrent of employer violations. Claims for compensation for damage sustained when individual rights guaranteed by EU law have been violated are most common in the case of discrimination and equal treatment. In such cases, the European Court of Justice has emphasised the need for adequate compensation so that the EU rights are effectively protected. The issue of the adequacy of compensation provided by national law for the enforcement of EC law arises also in the context of collective rights in the field of industrial relations. In claims for compensation when entitlements were lost due to discrimination in national social security provisions, the ECJ appears to retreat from the principle of adequate and effective compensation. Instead, the financial implications for the social security system and respect for national autonomy appear to take priority.

In all cases, the procedures available for claiming remedies should not impose time limits (see **infringements of EU law**) that render it impossible to secure effective enforcement.

Finally, in the areas of industrial relations where the EU has chosen measures of **soft law** to achieve its objectives, for example, **codes of conduct**, Member States still have to take account of requirements imposed on them. National authorities, including courts, must take account of and have regard to non-binding **recommendations**. In the specific case of the European Employment Strategy, the **open method of coordination**, elaborated in Article 128 of the EC Treaty, specifies the requirements on Member States with regard to forming their national employment and labour market policies.

THEME 3
Collective industrial relations

Collective industrial relations between employers and worker organisations are fundamental to the regulation of employment relations in all the Member States of the European Union. The system of industrial relations at EU level reflects many of the qualities of the national systems. For example, **employee representation** is rooted in the Member States' labour laws on trade unions and worker representation, in the form of associations based on the workplace or based on corporate structures. Promotion of collective employee representation is now a cornerstone of employment and industrial relations in the EU.

European industrial relations engage a variety of actors, processes and outcomes. The pre-condition for collective industrial relations is the existence of **collective organisation** and, in particular, representative organisations of workers. Consequently, the **right to constitute and freedom to join trade unions** is fundamental and recognised in the Community Charter of the Fundamental Social Rights of Workers of 1989. Article 11 provides that 'employers and workers of the European Community shall have the right of association in order to constitute professional organisations or trade unions of their choice for the defence of their economic and social interests'.

This fundamental pre-condition of collective industrial relations is also found in Article 12 of the EU Charter of Fundamental Rights 2000 on the right to freedom of association at all levels, including the right to form and to join **trade unions**. Trade union activities are to be protected at EU level as a vital element of the **solidarity principle** in EU industrial relations. These rights are to be found in the EU Charter's Solidarity Chapter, which includes rights concerned with solidarity and **social protection**, solidarity in individual employment and **solidarity in industrial relations**.

The principle of collective employee representation has become a pillar of collective industrial relations in the EU. For example, mandatory **employee representation** was said by the European Court of Justice to be a necessary condition for the obligations of employers to inform and consult employee representatives under Directives of 1975 and 1977 Cases C-382/92 and C-383/92.

The EU Charter of Fundamental Rights 2000 also includes, in Article 27, workers' information and consultation rights. Providing **information and consultation** to employee representatives

is now established as a general principle of European industrial relations by Directive 2002/14/EC and specifically in EU regulation of areas such as health and safety, **collective redundancy** and restructuring of enterprises. The concept underlying the EU's vision of collective industrial relations is expressed in the duty of cooperation contained in Article 1(3) of Directive 2002/14/EC. The success of this vision depends on a number of factors, such as whether information and consultation timing allows for employee representatives to influence management decision-making and whether management's information and consultation failures are effectively remedied (**consultation in the enterprise**).

The EU has adopted a strategy of enabling the representatives of the two sides of industry, employers and trade unions, to play an active role in EU labour regulation. **Collective agreements** between the social partners have an essential function in the regulation of employment. For example, according to Article 137(4) of the EC Treaty, Member States may entrust labour and management with the implementation of directives by collective agreement and many directives allow for **derogation** by collective agreement from the provisions of the directive.

The EU Charter of Fundamental Rights includes, in Article 28, the **right of collective bargaining**. The fundamental value of this right in EU industrial relations was recognised when, in a case involving collective agreements and competition law, the European Court of Justice upheld collective agreements as being exempt from EC competition law Case C-67/96; with Joined cases C-115/97, C-116/97 and C-117/97.

The concept of **collective agreements setting labour standards** is reflected in a number of EU directives. The relation of **collective agreements and terms of employment** is explicitly recognised in Council Directive 91/533/EEC of 14 October 1991, which requires employers to provide written information to individual employees about the terms and conditions of work, including those governed by collective agreements.

In collective industrial relations at EU level, the central actors are also **employer organisations** and **trade unions**: the European social partners. The most important organisation representing employees is the European Trade Union Confederation (**ETUC**), to which are affiliated most **national trade union confederations** in the Member States. Also affiliated to ETUC are **European industry federations**, which bring together, at EU level, national sectoral organisations of workers, for example, in construction and in metalworking. Organisations also exist for cross-border trade union cooperation on a regional basis and include trade union cooperation in non-EU Member States. Enterprise representation at transnational level is provided for in directives on **European works councils** and **European company** (Societas Europea/SE) representative bodies, allowing for transnational information and consultation.

The most important **employer organisations** at EU level are the Union of Industrial and Employers' Confederations of the European Communities (**UNICE**), the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (**CEEP**) and the European Union of Artisans and Small and Medium-sized Enterprises (**UEAPME**). Unlike ETUC, however, UNICE does not include **sectoral employers' federations**.

The processes of industrial relations at EU level also span a wide spectrum of activities. **Collective bargaining**, the most important process of industrial relations within the Member States, takes shape at EU level in the form of **European social dialogue** autonomy, as well as the institutionalised social dialogue process embedded in the formal procedure in Articles 138-139 EC. The EC Treaty imposes an obligation of mandatory consultation by the Commission of **management and labour** (the social partners) before submitting proposals in the social policy field, both on the possible direction of Community action and also on the content of any envisaged proposals (Article 138 EC). The social partners may undertake a dialogue at Community level, which may lead to contractual relations, including agreements. These agreements shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States, or may be made legally binding, at the joint request of the signatory parties, by a Council decision (Article 139 EC). The latter path of implementation of EU social dialogue agreements is a form of **extension of collective agreements** through EU legislation. A number of **framework agreements** have been concluded within the EU social dialogue at both sectoral and intersectoral levels and transformed into Council directives. There are also **voluntary agreements** on telework and on work-related stress, which have been concluded but not put to the Council for a decision.

The impact of change and restructuring of industries as a consequence of European **Economic and Monetary Union** has, not surprisingly, led on occasion to outbreaks of industrial conflict. Though such conflict is a familiar phenomenon in industrial relations in all Member States, resolution of these disputes through **conciliation, mediation and arbitration** is only beginning to be addressed at EU level. The attributes of industrial conflict, however – i.e. industrial action by trade unions and employers – are acknowledged at EU level. The EU Charter of Fundamental Rights 2000 includes, in Article 28, the **right to take collective action** by workers and employers, including strike action (**strike action at EU level**). The **right to strike** at national level also receives some protection from EU law in the **Monti Regulation**, though the legal status of **transnational industrial action** remains unclear.

The Commission's Social Policy Agenda for 2000–2005, produced after the report of the **High Level Group on Industrial Relations**, invited the European Foundation for the Improvement of Living and Working Conditions to 'put in place an adequate information mechanism on change, which could also serve as a forum of exchange'. The initiative was confirmed in the conclusions of the Nice European Council in December 2000 and, on 23 October 2001, the

European Monitoring Centre on Change (EMCC) was launched, becoming operational in 2002. It takes its place beside the Foundation's **European Industrial Relations Observatory** (EIRO), a leading source of information and expertise on collective industrial relations in Europe.

THEME 4
Individual employment

Individual employment has been a core interest of the European Community, initially in the context of creating a common labour market for all categories of **worker**, including the free movement of a **self-employed person**, and securing social security provisions (**free movement and social security**).

Another core objective of the EC that can be traced back to its origins is the improvement of living and working conditions (now Article 136 EC). This objective has evolved over time as the social dimension of the EU has developed and become more concerned with work and employment. EU competence in the sphere of employment and industrial relations was greatly enlarged in the new Social Protocol and Agreement inserted by the Treaty of Maastricht. Article 137 EC now includes legislative competence over **working conditions**, **social security** and **social protection** of workers and protection of workers where their employment contract is terminated (**dismissals**).

Individual employment has also been of concern to the European Community due to labour's role as a factor of production in European economic integration. **Labour costs**, particularly indirect labour costs, can be an element in competition between enterprises in different Member States. As a result, to prevent unfair competition, the indirect costs to employers of complying with social and labour regulations governing individual employment are relevant to the establishment of a common market.

Individual employment in the EU is undertaken within a collective regulatory framework, comprising legislation and framework agreements reached through EU social dialogue. This framework applies to different individual employment relationships, including the **employee** with a **contract of employment**, as well as other types of **employment relationship**, such as a **worker** without a contract of employment, an **economically dependent worker** or a **self-employed person**. The regulatory framework has focused on the increasing **fragmentation of the labour force**, which relates to the emergence of a variety of so-called **atypical work**, such as **seasonal work** and **homeworking**. A **casual worker** would also be included in this category. In addressing the problem of atypical work, the EU has encountered the problems, often found in national labour regulation, of defining the scope and coverage of regulation. On

the side of the **employer**, the EU's regulation of individual employment has had to adapt to employers with complex structures (**corporate structures**).

An important step was taken by Council Directive 91/533/EEC, which requires the employer to provide written **proof of employment** as a means of combating **undeclared work**. This documentation must include information on employment status and conditions (see **contract of employment**), including all essential **terms and conditions of employment**, such as the place of work, description of the work, working time, leave and notice entitlements, and so on. The written information must include the collective agreements governing the employee's conditions of work (**collective agreements and working conditions**). The individual worker must also be notified of any changes in **working conditions** specified in the written document.

EU legislation regulating the substantive conditions of work in individual employment includes wide-ranging provisions in two particular areas: discrimination and equal treatment, and health and safety in the working environment.

EU laws prohibiting discrimination on grounds of sex, race or ethnic origin, age, disability, religion or belief, and sexual orientation (Council Directive 2000/78/EC and Council Directive 76/207/EEC of 9 February 1976 as revised by Council Directive 2002/73/EC) are concerned with less favourable treatment with regard to **pay** and working conditions, but also with regard to **access to employment**, **dismissals** and **vocational training**. For example, the matter of discrimination is particularly evident in EU regulation of **part-time work** since, in all Member States, the majority of part-time workers are female. Consequently, less favourable treatment of part-time workers may be indirect sex discrimination. This was a major influence on the application of the principle of non-discrimination to part-time workers in general, regardless of sex.

EU regulation of health and safety has had a considerable impact on individual employment. For example, the particular risks to the health and safety of temporary workers (i.e. those on **fixed-term work** or **temporary agency work**) led to a specific Council Directive 91/383/EEC, which also covered agency workers provided by temporary employment businesses. Health and safety regulation at EU level has important consequences for the organisation of **working time**, for example, on **overtime** work.

Regulation of individual employment is achieved through a combination of legislation and collective bargaining. For example, the policy of promoting **flexibility** in the organisation of work has been mainly based on legislative standards, but allows for adaptation to patterns of flexible working time through collective agreements. The Framework Agreement on **part-time work** (annexed to Council Directive 97/81/EC) also combines these approaches by laying down a principle of non-discrimination against part-time workers and aiming to improve the

quality of part-time work, including the promotion of part-time working opportunities as a contribution to flexible organisation of working time.

Social dialogue at EU level has led to framework agreements between the EU social partners on part-time work and on fixed-term work. However, the Framework Agreement on **fixed-term work** (annexed to Council Directive 1999/70/EC) does not apply to temporary agency workers placed by a temporary work agency at the disposition of a user enterprise. It aims to achieve **flexicurity**, a better balance between 'flexibility in working time and security for workers'. The fixed-term work agreement lays down the principle of non-discrimination in respect of employment conditions. In contrast to the agreement on part-time work, however, rather than facilitating fixed-term work, the agreement instead prescribes measures to prevent abuse of fixed-term work arising from the use of successive fixed-term employment contracts.

The social dialogue route to EU regulation on individual employment has not always been successful. An agreement concerning **telework** was concluded through social dialogue at EU level, but it is not being transformed into a directive. The negotiations over a framework agreement on **temporary agency work** did not succeed; instead, the Commission proposed a draft directive on agency work. However, in June 2003, the Council of Ministers failed to agree on a common position on the draft directive on temporary agency work tabled by the European Commission. In October 2004 the Council held a policy debate on the draft directive which focused on the still unresolved issues.

Security of individual employment is within the competence of EU regulation. Although there is legal competence to adopt general directives on termination of contracts of employment, none has yet been achieved, perhaps because regulation of **dismissals** presents problems well-known in national laws. However, EU law does lay down a general prohibition of discrimination in dismissals and regulates specific cases, such as for fixed-term contracts and victimisation. This last is just one aspect of protection against the **victimisation** of workers who claim their individual employment as well as collective labour rights.

The European Employment Strategy (EES) also addresses the matter of security of employment. The demographic changes in the Member States raised concerns about the **employment rate** and **labour force participation** of different categories of workers (e.g. older workers). The EES, given Treaty recognition in the Employment Title of the EC Treaty, comprises four pillars: **employability**, promoted through the **European Centre for the Development of Vocational Training** (CEDEFOP) and the encouragement of **lifelong learning**, with the social partners playing a role in terms of a framework of actions; **adaptability** (with emphasis on the role of the social partners); **entrepreneurship**; and **equal opportunities**. Although driven by the demographic needs to increase employment, the EES emphasises not just quantity, but also **quality of work**.

Finally, the **Charter of Fundamental Rights of the European Union**, proclaimed at the Nice summit on 7 December 2000, includes a number of fundamental individual employment rights, including protection of personal data (Article 8), freedom to choose an occupation and right to engage in work (Article 15), non-discrimination (Article 21), equality between women and men (Article 23), protection in the event of unjustified dismissal (Article 30), fair and just working conditions (Article 31), and prohibition of child labour and protection of young people at work (Article 32). The 1989 **Community Charter of the Fundamental Social Rights of Workers** also includes a long list of fundamental rights concerning individual employment. These are among the potential sources of fundamental rights of individual employment.

Two specific areas of uncertainty exist about EU competences with regard to individual employment. First, despite the extensive regulation of forms of individual employment and terms and conditions of employment, doubts remain about the general competence of the EU to regulate pay issues. Article 31 of the EU Charter of Fundamental Rights refers to 'fair and just working conditions', but does not specify pay. Yet, the specific reference to fairness in working conditions leaves the matter open to a certain element of doubt (see **pay**). Second, Article 15(1) of the EU Charter reads: 'Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation' (**right to work**). The significance of this should be clarified, particularly as high levels of unemployment persist in some parts of the EU.

THEME 5
The enterprise

During the first 15 years of its existence, the EU was concerned mainly with the external relations of enterprises as part of the common market project, to secure free movement of goods, services, capital and labour. As regards employment and industrial relations within the enterprise, the EU's concern was to ensure harmonisation of labour standards throughout the Member States in order to guarantee fair competition among all enterprises in a common market.

The transformation of the common market project of the European Community into the wider project of the European Union meant a transformation also in the EU's engagement with labour in the enterprise, particularly with respect to industrial relations (**information and consultation**). The result is a European regulatory regime comprising a number of directives characterised by a specific strategy: the engagement and **participation** of workers and their representatives, through enterprise representation, in decision-making in the enterprise.

This was initially introduced only for crisis situations: **collective redundancy** (1975) and enterprise restructuring exercises (1977). It was extended to the transnational dimension of multinational enterprises with the introduction of European works councils (1994). The project for the creation of a European company statute was made conditional on arrangements for engagement of workers and their representatives in the company's decision-making organs (2001). A general framework directive was adopted for the **information and consultation** of employees (2002). In addition, the EU Charter of Fundamental Rights (2000) confirms workers' right to information and consultation within the undertaking as a fundamental human right (Article 27).

Employment and industrial relations in the enterprise were initially addressed by the European Community following the political upheavals of the late 1960s and the economic dislocation caused by the oil shocks of the 1970s, leading to mass dismissals and widespread industrial restructuring. The first initiative was Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective dismissals as amended by Directive 92/56/EEC of 24 June 1992, consolidated in Council Directive 98/59/EC of 20 July 1998). As its title indicates, this was concerned with the protection of workers in the event of **dismissals** for economic rather than individual reasons. It introduced

the principle that information and consultation of employee representatives was mandatory when decisions were made on dismissals in the enterprise.
For example, the possibility of alternatives to dismissal had to be explored. The directive also imposed obligations concerning notification of public authorities. The specific problems posed by dismissals in transnational enterprises were dealt with in amendments to the directive in 1992, which attempted to ensure that management of multinational enterprises was responsible for the obligation to inform and consult employee representatives.

The requirements of information and consultation of employee representatives also applied to cases of dismissals and restructuring. The **Acquired Rights Directive** of 1977 imposed procedural requirements on management decision-making in enterprises in the case of **transfer of an undertaking**. (This was Council Directive 77/187/EEC of 14 February 1977 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses, as amended by Directive 98/50/EC of 29 June 1998, consolidated in Directive 2001/23/EC of 12 March 2001). The transfers of undertakings, which determined the scope of restructuring exercises covered by the directive, was the subject of much contention. Transfers of undertakings and dismissals were often closely associated since restructuring often entailed reduction of the workforce.

However, **restructuring** of enterprises affected not only potentially redundant employees: it also had an impact on the terms and conditions of employees who remained at work. As well as mandatory information and consultation of employee representatives, the 1977 Directive imposed continuity of terms of employment of employees transferred. These provisions were unexpectedly important as they applied to privatisation policies of the 1980s, when parts of the public sector were transformed into private enterprises and public employees transferred to them. The continuity of terms and conditions of employment guaranteed by the 1977 Directive was particularly important in the case of contracting-out of public services to private enterprise, as the transfer of public employees to work for private contractors often led to attempts to cut labour costs by reductions in terms and conditions of employment. Similarly, the 1977 Directive also applied when management strategy in the 1980s and 1990s turned to outsourcing of non-core activities (**outsourcing**). In the specific case of **insolvency**, a separate directive of 1980 specified obligations concerning employees for those engaged in salvaging bankrupt enterprises.

These EU measures were adopted to deal with extreme crisis situations of enterprises faced with collective dismissals, major restructuring and insolvency. The EU's legislative competence to deal with more general issues of decision-making in the enterprise was first tested at the level of **transnational enterprises** with the directive on **European works councils** (Council Directive 94/45/EC of 22 September 1994 on the establishment of a

European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees. This directive required the **central management of the enterprise** to negotiate with a specially established Special Negotiating Body comprising employee representatives in order to reach an agreement creating a European works council (EWC) or an information and consultation procedure. Failure to reach agreement led to the imposition of minimum standards for a mandatory EWC contained in subsidiary requirements annexed to the directive.

Consistent with its objective of European integration, the EU had made a number of unsuccessful attempts to engage with the issue of worker participation in **corporate governance** (e.g. with the **Davignon Group**). These were finally successful with the adoption in 2001 of the European Company Statute (ECS) Regulation. This enables national companies, above a specified threshold, to become a **European Company** (Societas Europea/SE), operating on a Europe-wide basis and governed by EC law directly applicable in the Member States, rather than by national law (Council Regulation (EC) 2157/2001/EC on the Statute for a European Company (SE). The integration of employee representation into **corporate structures** is achieved by Council Directive 2001/86/EC supplementing the ECS. It prescribes employee involvement in SEs in the form of European company (Societas Europea) representative bodies. Similar structures have been provided for in an alternative form of the enterprise, the **European Cooperative Society**.

Other EU initiatives addressed specifically at enterprises which have adopted the corporate form include a number of **'soft law'** measures. For example, the Commission launched a new European Multi-Stakeholder Forum on **corporate social responsibility** on 16 October 2002, comprising some 20 representatives of enterprises, business networks, employer and employee organisations, consumers and civil society. EU interest in employee **financial participation** was evident in Council Recommendation 92/443/EEC of 27 July 1992, concerning the promotion of employee participation in profits and enterprise results, including equity participation. The Commission's Communication on the promotion of financial participation schemes of 5 July 2002 reported on the main forms of financial participation and explored obstacles to their expansion.

The extension of EU regulation of the role of labour in decision in the enterprise was finally applied at national level in Council Directive, 2002/14/EC establishing a framework for informing and consulting employees in the European Community. This is the most elaborate expression of EU policy on **consultation in the enterprise**, a process reflected in national experience of workers' engagement in enterprise decision-making, from cooperation in the enterprise up to and including **co-determination**. The outcome is that the exercise of **management prerogative** is subject to procedural requirements of information and consultation of employee representatives. This directive establishes requirements concerning

the availability of information to employees and their representatives (**information in the enterprise**), including the delicate question of confidentiality. The directive outlines the principles that govern the requirement of consultation in the enterprise, including provisions with regard to the relevant level of consultation, its timing, content and the use of experts.

The recognition of fundamental rights of workers in the enterprise has largely been limited to protection of traditional civil rights, such as the right to privacy (**data protection**). The consequence of the EU's cumulative and multi-faceted strategy of promotion of the engagement of workers and their representatives in decision-making in the enterprise is the recognition of the right to information and consultation in the undertaking as a fundamental right (Article 27 of the EU Charter of 2000). The importance of this recognition can be illustrated by the case of the external relations of enterprises engaging with collective organisations of workers in a process of collective bargaining. The resulting collective agreements fixed the price of labour and, formally, such collective agreements appeared to violate EC competition law. It was the recognition by the European Court of Justice of the fundamental importance of collective organisation of workers and their activities which led the ECJ to reject the application of competition law to the industrial relations activities of the enterprise (**collective agreements**). Employee representatives may also take part in the consultations that the Commission carries out in the framework of **merger-control** procedures.

Finally, EU policy towards the enterprise is particularly concerned with competitiveness, **flexibility** and **adaptability**, and the contribution of the social partners to that end. This includes issues relevant to **working conditions**, **collective agreements and working conditions,** and changes in working conditions; the 'humanisation of work' and **quality of work**; as well as **employee representation** and agreements covering **flexicurity** or **pacts for employment and competitiveness** (PECs). The EU's strategy to promote the engagement of workers and their representatives in decision-making in the enterprise must, therefore, be seen in the light of its goals of improving both working conditions and also economic performance.

THEME 6
Free movement of workers

The concept of a **European labour market** implies complete **mobility of workers** and, in the Economic Community, mobility of workers between Member States. **Free movement of workers** was guaranteed to EU nationals by the Treaties of Rome and regulated by Regulation 1612/68/EEC. A wide scope was given to the definition of persons covered by the term '**worker**' to cover all those engaged in economic activity, but also to include students engaged in vocational training and unemployed persons looking for work. Free movement of self-employed workers was also guaranteed through Treaty provisions on freedom of establishment and freedom to provide services. Protection of migrant workers extends to their family members (spouses, registered partners, children, relatives and dependants) and includes social advantages, such as entitlement to housing and education.

Barriers to the **mobility of workers** must be removed. Particular attention is paid to **frontier workers**, who live in one Member State and work in another. **Occupational mobility** is an important element in achieving this objective. The importance of skills and competences in new technology to participation in new labour markets is regarded as paramount in securing the employability of workers (**EURES** – European Employment Services). The task is to identify the main barriers to the development of these labour markets, particularly in the area of skills and mobility.

The scope of this fundamental freedom was extended by Treaty amendments to the **free movement of citizens** of the EU. Free movement rights may also carry rights to remain (**worker's right to remain**) and a **residence right**, provided that EU citizens do not become a burden on the finances of the host Member State. Member States are entitled under the Treaty to impose public policy limitations on free movement of workers, for example, on specified grounds of public security and public health. However, procedural requirements (Directive 64/221/EEC) must be observed when such restrictions are imposed.

The protection of migrant workers prohibits discrimination based on nationality. This includes direct and indirect discrimination, unless there is objective justification for the latter (for example, **language requirements for employment**). There is equal entitlement to social security benefits (**free movement and social security**) and pensions, as well as to working conditions and terms of employment, including trade union rights. However, important

obstacles remain in the area of portability of some of these rights (**portability of social security rights**, **portability of supplementary pensions**).

Provisions were adopted to facilitate free movement of workers with **professional qualifications** through a general principle of mutual recognition by Member States of professional qualifications, including higher educational diplomas. Specific provisions were adopted to facilitate free movement of doctors and general practitioners, nurses, dentists, midwives, pharmacists, veterinarians, architects and lawyers.

EC law has been supplemented by other measures concerned with regulating movement across internal and external borders. Initially, five Member States agreed to cooperate on abolishing checks at shared borders and visa policy by signing the **Schengen Agreement/Convention** of 1985. As of March 2001, 13 of 15 Member States, excluding the UK and Ireland, were signatories.

Following the Treaty on European Union of 1992, **immigration** from outside the EC was dealt with on an intergovernmental basis under the third pillar (Justice and Home Affairs). However, visa policy for non-EC nationals (**third-country nationals**) fell under EC law. The new Article 61 EC aims at the progressive establishment of 'an area of freedom, justice and security'. This provides for judicial and administrative cooperation in civil matters and refers to police and judicial cooperation in criminal matters. The new provisions deal with border controls, internal and external, and rights of third-country nationals, including freedom to travel within the EU, visa policy and refugees and asylum. Once within the EU, however, there are protections with regard to conditions of work and social security.

Workers may move across national borders within the EU as a consequence of their employment with an employer, carrying out transnational economic activities in more than one Member State. In the case of such **posted workers**, Community law imposes an obligation on the employer to respect labour standards of the host country. A 1996 directive, on the posting of workers in the framework of provision of services, guarantees respect for the rights of posted workers to certain terms and conditions of employment. In the case of posted workers in the construction industry, standards laid down in collective agreements, which are universally applicable, must be observed.

THEME 7
Discrimination and equality in employment

The EU has been a powerful force in combating **discrimination** and promoting the **equal treatment** principle in employment and industrial relations.

Discrimination was, at first, the subject of EU attention in two respects. The economic objective of a common labour market in terms of free movement of workers requires the prohibition of discrimination on grounds of nationality. Different treatment of workers who are nationals of an EU Member State is prohibited if based on grounds of their nationality. The zeal with which discrimination on this ground was pursued by the EU institutions established important principles when the same issues arose in the second context: **gender equality**, or discrimination based on sex.

In the context of gender and work, there has been much debate over whether the EU has limited itself to formal equality or has also sought to tackle substantive equality (**equal opportunities**). The difference is of critical importance to **equality between women and men** in the labour market (**women in the labour market**).

From the beginnings of the EEC, again by reasons of the common market objective of fair competition among employers, the principle of non-discrimination and equality in employment was applied to **equal pay** for women and men (Article 119 EC, now Article 141 EC). The concept of 'pay' was given a particularly wide definition so as to include fringe benefits and, eventually also, occupational pensions. Occupational sex segregation, whereby certain occupations in many workplaces were predominantly or exclusively female, made it very difficult in practice to identify a comparative colleague of the opposite sex needed to demonstrate different treatment based on sex. In the case of equal pay, this was ameliorated when the principle was later extended to require equal pay for work of equal value in Directive 75/117/EEC. This led to the development of systems of job evaluation aimed at eliminating discrimination on grounds of sex.

With regard to the general problem of proving discrimination, the situation was improved first in the case of sex discrimination; Directive 97/80/EC reversed the **burden of proof**.

The equality principle was expanded in a 1976 Directive to include equal treatment in employment for female and male workers (**employment protection**). This brought the law into

many areas previously unregulated: access to employment (**equal opportunities**), including recruitment, **promotion**, **dismissals**, vocational training, working conditions, pensions and social welfare (**management prerogative**). The directive prohibited discrimination on grounds of sex, either directly or indirectly, by reference in particular to marital or family status. Specific directives required equal treatment in social security (Directive 79/7/EEC), in occupational social security (Directives 86/378/EEC and 96/97/EC; **equal treatment in social security**) and with regard to the **self-employed person** (Directive 86/613/EEC).

Through the case law of the European Court of Justice, the principle of equal treatment for women and men was declared to be primarily a social rather than an economic objective of the Community and it acquired the status of fundamental principle of Community law (**non-discrimination principle**). However, the prohibition on discrimination on grounds of sex was not interpreted to cover discrimination on grounds of gender. Hence, while the European Court held it to cover transsexuals, it did not extend to discrimination based on sexual orientation. This was only to be achieved through Treaty amendment and a later directive.

The principle prohibiting direct discrimination and requiring equal treatment developed further, through legislation and the jurisprudence of the European Court, to include the concept of indirect discrimination to deal with apparently neutral policies which put a category of persons at a particular advantage, for example, by having a disproportionate impact to the disadvantage of one sex. These policies could be challenged on grounds of their discriminatory effects and declared unlawful unless justified. Justification of indirect discrimination required the employer to provide objective grounds for it and to satisfy the requirements of proportionality of the indirect discrimination and the necessity for it (see **discrimination**). The prohibition of direct and indirect discrimination, and justification of the latter, raised complex questions in the case of employer practices, but also in the case of discriminatory collective agreements (**equal treatment in collective bargaining**).

Strictly limited forms of discrimination were allowed: sex as a determining factor, a genuine occupational qualification or where the provisions concerned the protection of women, particularly with regard to **pregnancy and maternity**. This led to close scrutiny of ostensibly protective legislation in a number of Member States which had legislation restricting hours of work and night work for women. The European Court declared different treatment of women on grounds of pregnancy as direct discrimination. Community provisions were enacted for pregnant workers and working mothers (Directive 92/85/EEC), including **maternity leave**. However, those related to **childcare** mainly took the form of soft law (Recommendation 92/241/EEC on childcare services), with the exception of a directive on **parental leave** (Directive 96/34/EC), which allowed for paternity leave and time off for caring responsibilities.

Although the sexual division of labour in the household is a key factor determining women's position in the labour market, the Community, and notably the Court of Justice, was for a long time reluctant to consider questions of family organisation or the division of parental responsibilities. However, demographic changes and an employment strategy aimed at increasing female labour force participation have led to initiatives on **work–life balance**. These have given rise to widespread practices including job-sharing, career breaks and flexible working-time patterns.

The limitations of the principles of non-discrimination and equal treatment in achieving equality were recognised in provisions, first in the Directive of 1976 and then in Article 141(4) of the EC Treaty, accepting practices of **positive action**, albeit of limited scope. The European Court has been particularly sensitive to the use of quotas as a form of positive action. The Commission has sought to promote equal treatment (**Gender Equality** Action Programme) and to combat discrimination in many initiatives.

The most comprehensive of such initiatives has been the adoption of the principle of mainstreaming gender equality (**gender mainstreaming**). 'Mainstreaming' has been defined as the principle integrating equal opportunities for women and men 'in the process of preparing, implementing and monitoring all policies and activities of the EU and the Member States, having regard to their respective powers' (COM (95) 381 and Decision 95/593/EC). A Commission Communication of 21 February 1996, on 'Incorporating equal opportunities into all Community policies and activities', emphasised taking systematic account of gender differences in the context of all policies including, but not restricted to, employment and the labour market. The wide scope of the requirement to integrate gender equality into Community action was indicated by the Treaty of Amsterdam inserting, after the long list of activities of the Community in Article 3(1) EC, a new Article 3(2) EC stating: 'In all the activities referred to in this Article, the Community shall aim to eliminate inequalities, and to promote equality, between women and men.' The significance of this provision is that it expands the principle beyond the employment and industrial relations field.

The scope of prohibited discrimination in employment and occupation has been extended beyond sex to encompass at least 13 other grounds. Directive 2000/43/EC prohibits discrimination on grounds of racial or ethnic origin (**racism and xenophobia**). Directive 2000/78/EC prohibits various forms of discrimination: **discrimination on the grounds of religion or belief**, discrimination on the grounds of disability, **discrimination on the grounds of age** and **discrimination on the grounds of sexual orientation**. Similar provisions were made regarding difficulties with the **burden of proof** and condemnation of **harassment in the workplace** as a form of discrimination. The role of specialist equality bodies in the enforcement of discrimination law was enhanced, for example, the **European Monitoring Centre on Racism and Xenophobia**.

The implementation of this principle is illustrated, for example, by **Equal**, a Community initiative aimed at combating social exclusion and discrimination (on grounds of sex or sexual orientation, race or ethnic origin, religion or beliefs disability or age) in the labour market and linked specifically to the European Employment Strategy's four pillars of employability, entrepreneurship, adaptability and equal opportunities.

Thus, the non-discrimination principle has come to play a role in the more general field of **social exclusion** and employment policy (**atypical work**). A salient example of how the principle came to be extended to employment policy is its extension to **part-time work**. The fact that, in all EU Member States, the majority of employees on part-time work are women meant that less favourable treatment of part-time workers was likely to constitute indirect discrimination on grounds of sex. This raised considerable difficulties in finding a term of reference to measure part-time work, due to the prevalence of occupational sex discrimination, particularly in the area of pay. The objective of the framework agreement was, however, not limited to combating discrimination. With a view to increasing female labour force participation, as well as extending the benefits of the non-discrimination principle to include male part-time workers, the framework agreement also aimed at promoting part-time work opportunities.

Finally, the significance of the principles of non-discrimination and equal treatment are evident in their application in the EU's external relations policy.

THEME 8
Health and safety

Improvement of working conditions was an EC objective from the outset. Article 140 of the EC Treaty provides for the Commission to encourage cooperation between Member States and to facilitate the coordination of their action in matters relating to prevention of **occupational accidents and diseases** and to occupational hygiene.

However, Community policy on **health and safety** and, in particular, EC health and safety law only developed substantially after the **Single European Act** (SEA) of 1986. Before then, there was no explicit Treaty basis granting the Community competence to protect workers' health and safety. Despite the absence of an explicit Treaty basis, Community regulation to build the common market allowed for the adoption of European standards protecting occupational health and safety using two rationales.

First, European health and safety standards could be related to specifications and standards for work equipment and machinery. Work equipment and machinery are not only tools for workers. As goods to be produced and sold, they are subject to the Treaty provisions on the free movement of goods. In order to prevent the free movement of goods in the single market leading to a race to the bottom – the lowest common denominator of standards for safe machinery – adoption of health and safety requirements for machinery was desirable at EU level.

Secondly, European health and safety standards could be justified to avoid unfair competition (social dumping). Increased competition within the single market could result in '**social dumping**' as a race to lower costs led to lower standards, including standards upholding health and safety in the working environment.

As a consequence, even before the SEA, the Community adopted regulations protecting occupational health and safety, through both product and process regulation. These were based on the general provisions of the Treaty allowing directives 'for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the common market' (Article 100 EEC Treaty, now Article 94 EC).

The SEA improved on this method of protecting workers from accidents and diseases by introducing Article 100a (now Article 95 EC). This allowed the adoption, by qualified majority voting, of harmonisation measures 'which have as their object the establishment and functioning of the internal market' (thus reducing the obstacle of the unanimity requirement of Article 100). The consequent harmonisation of health and safety standards for products, aimed at reducing barriers to trade, has functioned as an instrument of health and safety policy. The third paragraph of Article 100a (now Article 95 EC) provides that Commission proposals 'concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection.' The Machinery Directive of 1989 (Council Directive 89/392/EEC of 14 June 1989 on the approximation of the laws of the Member States relating to machinery) provided an important framework for health and safety standards for machinery. In addition, the SEA introduced an explicit legal basis to adopt legislation aimed at protecting health and safety in the working environment (process regulation).

A new Article 118A was introduced into the EEC Treaty (now part of Article 137(1) EC) (**working environment**). The new Article provided: 'Member States shall pay particular attention to encouraging improvements, especially in the working environment, as regards the health and safety of workers, and shall set as their objective the harmonisation of conditions in this area, while maintaining the improvements made.'

Crucially, legislative proposals based on the new Article 118A could be adopted by qualified majority voting in the Council of Ministers. The European Court of Justice declared (in *United Kingdom of Great Britain and Northern Ireland v. Council of the European Union*, Case C-84/94) that the provision in Article 137(1)(a) – of 'improvement in particular of the working environment to protect workers' health and safety' – ' ... does not limit Community action to the lowest common denominator, or even to the lowest level of protection established by the virtuous Member States'.

In other words, the minimum requirement is a Community minimum standard, which is to bind all the EU Member States, and is not determined by the lowest standard established in Member States.

The scope of EC competence to legislate in the field of the working environment was expanded due to a very wide health and safety definition given by the European Court of Justice (Case C-84/94), when the UK challenged the legal basis of the Working Time Directive. Rejecting the challenge, the Court referred to the World Health Organisation's definition of health as, 'a state of complete psychic, mental and social well-being ... [which] does not merely consist of an absence of disease or infirmity'. The scope of health and safety includes protection of the worker's overall well-being – social and psychological as well as physical.

Many factors thereby enter into the scope of health and safety. Social well-being may be affected by the organisation of work, such as space, working-time patterns, isolation; psychological well-being may be affected by factors such as workload and speed, **stress at work**, monotony, lack of social contacts, absence of collective representation, unfair remuneration, and so on.

There is considerable overlap between health and safety, working conditions and labour standards. The Commission's Social Action Programme of 1974 proposed a programme aimed at the 'humanisation' of living and working conditions, with particular reference to improvement in safety and health conditions at work. The overlap is made explicit in Article 31(1) of the EU Charter of Fundamental Rights: 'Every worker has the right to working conditions which respect his or her health, safety and dignity.' Although in the early days the Commission was the main actor, the Community has now established specialised agencies in the field: the **European Foundation for the Improvement of Living and Working Conditions** and the **European Agency for Safety and Health at Work**.

The turning point in EU health and safety policy following the Single European Act 1986 was the **framework directive on health and safety** of 1989 (Directive 89/391/EEC). This established a number of general principles (Preamble and Article 1(2)) aimed at prevention and elimination of risks and protection of health and safety through the imposition of obligations on employers and the engagement of workers and their representatives through information, consultation and participation. The scope of application of the directive is very wide (Article 2(1)). The general principles governing the employer's obligations are set out in Article 6(2). They include **risk assessment** (risk evaluation, avoidance, substitution and prevention). The framework directive specifically prioritises collective protective measures (**health and safety representatives**). Workers are obliged to take care and cooperate with the employer and fellow-workers (Article 13) and are to be provided with necessary training.

In accordance with the priority assigned to collective protective measures, the framework directive provides for a variety of persons with different functions connected with health and safety at the workplace. Workers and worker representatives (**health and safety personnel**) have the right of consultation and to take part in discussions on all questions relating to safety and health at work (Article 11(1)) and, specifically, in connection with planning and introduction of new technologies (Article 6(3)(c)).

Workers or worker representatives with specific health and safety responsibilities are entitled to information and to balanced participation, or to have consultation in advance and in good time, on a variety of matters concerned with safety and health (Article 11(2)). Specialist worker representatives also have the right to ask the employer to take appropriate safety measures and the right to submit proposals in connection with hazards (Article 11(3)).

Designated workers (designated by the employer) are to carry out activities related to protection and prevention of risks (Article 7(1)) – for example, first aid and firefighting (Article 8(2)). They are to be allowed adequate time to enable them to fulfil their obligations (Article 7(2)). Outside competent persons are to be appointed where designated workers are not available (Article 7(3)). Workers are entitled to adequate safety and health training (Article 12). Worker representatives are entitled to adequate time off work and the necessary means to enable them to exercise their rights and functions (Article 11(5)). The various categories of workers involved in health and safety are not to be placed at any disadvantage (Articles 7(2), 8(4), 8(5), 11(4)).

EU action prior to 1989 with respect to accidents and occupational diseases included directives related to **dangerous workplaces**, for example, safety signs at the workplace (Directive 77/576/EEC), and exposure to **dangerous substances**, such as vinyl chloride monomer (VCM) (Directive 78/610/EEC), carcinogens, chemical, physical and biological agents (Directive 80/1107/EEC), specifically lead (Directive 82/605/EEC) (the latter two are now replaced by Directive 98/24/EC), **asbestos** (Directive 83/477/EEC) and **noise** (Directive 86/188/EEC).

The 1989 framework directive gave rise to further so-called 'daughter directives', applying its general principles to specific areas and aspects of health and safety. These include minimum safety and health requirements (Directive 89/654/EEC), work equipment (Directive 89/655/EEC), personal **protective equipment** (Directive 89/656/EEC), manual handling of heavy loads (Directive 90/269/EEC), display screen equipment (VDUs) (Directive 90/270/EEC), carcinogens (Directive 90/394/EEC), biological agents (Directive 90/679/EEC), temporary and mobile construction sites (Directive 92/57/EEC), mineral-extracting: drilling (Directive 92/91/EEC) and mineral-extracting: surface and underground (Directive 92/104/EEC), fishing vessels (Directive 93/103/EEC), explosive atmospheres (Directive 99/92/EC) and chemical agents (Directive 98/24/EC), and vibration. Directives adopted under the Euratom Treaty (e.g. Directive 96/29/Euratom) provide separate protection against ionising radiation.

Specific directives have been adopted to deal with the health and safety risks of certain categories of workers, for example, young workers (prohibition of **child labour**) (Directive 94/33/EEC), temporary and fixed-term workers (Directive 91/383/EEC) and pregnant workers and mothers who have recently given birth (Directive 92/85/EEC).

The potential scope of EU protection is illustrated by EU regulation of working time in general as a matter of health and safety (Directive 93/104/EEC). Included are requirements with regard to daily and weekly **rest periods**, and the principle of 'humanisation of work' (Article 13), including **working time** patterns, maximum weekly working hours, **shift work**, **annual leave** and **night work**. The definition of working time has given rise to problems with respect to the health and safety implications of on-call work. Specific problems in certain sectors, such as

transport, have been recognised, as well as regarding particular categories of workers (for example, doctors in training) and categories of workers and activities for which specified derogations may be permitted (**working time**).

The Working Time Directive was notable in recognising both collective bargaining, as a derogation mechanism, and also collective agreements, as setting standards for the health and safety protection of workers (**working time and collective agreements**). This was evident in some transport sectors initially excluded from the scope of the directive. Sectoral framework agreements at EU level have established working-time standards in air, rail and sea transport.

This success of sectoral social dialogue in the area of working time highlights the potential of the new procedure of mandatory consultation of the social partners in the Maastricht Agreement on Social Policy (now Articles 138-139 EC). The Agreement indicates engagement of the social partners in the formulation of EU policy on occupational health and safety. The Work Programme of the Social Partners 2003–2005 proposes to undertake social dialogue seminars leading to voluntary agreements in two new areas, both concerned with occupational health and safety: stress at work (2003) and harassment (2004–2005).

Health and safety in the EU working environment recognises the trend, more marked in some countries than others, towards attributing to the social partners and collective industrial relations an active role in implementation and enforcement of health and safety standards at the workplace. The central role of collective industrial relations in this endeavour is given a European dimension under the framework Directive 89/391/EEC. This highlights important general questions of enforcement of the right to 'working conditions which respect … health, safety and dignity' (EU Charter Article 31(1)) and the role of official authorities. These questions concern enforcement mechanisms in general (**Senior Labour Inspectors' Committee**), including the role of the Commission, as well as including sanctions and employers' liability. The framework Directive 89/391/EEC stipulates in the 13th Recital of the Preamble, 'whereas the improvement of workers' safety, hygiene and health at work is an objective which should not be subordinated to purely economic considerations'.

These issues have also become more complex as the recognition of risks expands (**harassment in the workplace**), including those specific to certain sections of the labour force, at a time when the EU is attempting through its employment strategy to encourage greater participation, for example among women and older people.

Theme 9
Towards an EU system of industrial relations

The European Economic Community was founded in 1957 to create a common market in services, goods, capital and labour. The project of creating a common market implied free movement of workers in an integrated labour market. Freedom of movement in a common **European labour market** as a founding objective is quite different from the objectives associated with national labour market regulation. Within individual Member States, free movement requires no regulation. There are other more important objectives, such as employment protection, work organisation and improving quality of work.

Despite the limitations of its original common labour market objective, EU labour market regulation did develop beyond the confines of free movement of workers. A major force was the interaction of Member States, both individually and collectively, with EC institutions. The policies of Member States exerting pressure upon EC institutions, particularly on the Commission, have been a major determinant of EC regulation of labour. In addition, sub- and supra-national actors, processes and outcomes influenced labour market regulation in the EU. This influence was often equal in importance to that of the Member States, a shift from the dominant focus on the Member State-Community axis to other levels where non-State actors are involved. Interest groups within Member States influenced national labour market policies as they interacted with Community policies, and the organisation of interests at European level (employers, trade unions, poor people, farmers, women's groups and other actors in **civil society**) interacted with both Community and national labour market policies. Thus, EC labour market regulation was determined not only by Community or national institutions, but also was influenced (e.g. in terms of formulation) by supra-national actors (primarily the European social partners, but also others, such as the **Social Platform**) and by sub-national actors (e.g. with regard to implementation).

The emergence of an **EU system of industrial relations** has specific features which relate to current economic, political and social developments in the EU. These features include social dialogue, the European Employment Strategy (EES), the EU Charter of Fundamental Rights, transnational coordination of collective bargaining, **macroeconomic dialogue** and the European works councils. The Report of the Commission's High Level Group on Industrial Relations (March 2002) highlighted three issues: the interaction between European industrial

relations and the national and local level; the interaction between bipartite and tripartite processes at European level; and the interaction between the sectoral and intersectoral levels.

The constitution of a specifically EU system of employment and industrial relations comprises as essential components: European social dialogue, cross-border coordination of collective bargaining, coordination of national employment policies and fundamental rights. Like many younger constitutions, however, the elements are not all at the same stage of development.

The dominant feature of European collective industrial relations is **social dialogue**, as stated in the introduction to the Commission's Communication on 'European social dialogue, A force for innovation and change' (COM (2002) 341 final, Brussels, 26 June 2002): 'The social dialogue is rooted in the history of the European continent, and this distinguishes the Union from most other regions of the world.'

In its Communication of 26 June 2002, the Commission placed particular emphasis on **European sectoral social dialogue**: social dialogue at sectoral level 'is the proper level for discussion on many issues linked to employment, working conditions, vocational training, industrial change, the knowledge society, demographic patterns, enlargement and globalisation'. Under Commission Decision 98/500/EC of 20 May 1998, 31 European sectoral social dialogue committees have been set up with a view to promoting social dialogue at sectoral level, while applications for two more – gas and steel – are pending. Many different kinds of European sectoral social dialogue instruments are emerging from this dialogue.

As part of the policy of promoting the engagement of the European social partners in the formulation of Union social policy, including through social dialogue, the Commission is obliged by the Treaty to consult the European social partners before submitting proposals in the social policy field (Article 138 EC).

Articles 138(2) and 138(3) EC set out two stages of the process of EU social partner consultation in the development of EU social policy: first, consultation 'on the possible direction of Community action' and, secondly, 'on the content of the envisaged proposal'. In the course of these stages of consultation, the social partners also address the question posed by Article 138(4) EC: whether they wish to initiate the process provided for in Article 139 EC – social dialogue, which may lead to contractual relations, including agreements. **Framework agreements** describe the successful result of European social dialogue.

The Parental Leave Directive, the first product of EU social dialogue under the Protocol and Agreement on Social Policy attached to the Treaty on European Union, illustrates the practice of mandatory consultation of the European social partners and subsequent EU social dialogue (**European social dialogue**).

The European Court of First Instance (see **European Court of Justice**) has asserted a specific vision of the legal nature of EU social dialogue: as a legislative process (Case T-135/96).

'Representativeness' is a criterion adopted by the Commission to identify the 'management and labour' with whom it must consult and who may initiate the social dialogue (Article 138 EC) which may lead to contractual relations including agreements between them, such agreements to be implemented (Article 139 EC). The criterion of 'sufficient collective representativity' was put forward in litigation before the Court of First Instance (CFI) to identify the social partners referred to in Articles 138–139 EC as entitled to engage in European social dialogue (Case T-135/96) – **representativeness**. For an agreement to be implemented by a Council decision, the CFI stipulates that it must be ascertained: (paragraph 90) 'whether, having regard to the content of the agreement in question, the signatories, taken together, are sufficiently representative'. Representativeness is a quality requiring close scrutiny. For example, although there is as yet no sectoral social dialogue in public enterprises, CEEP (the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest) purports to be representative. The CFI specifically singled out CEEP as an essential social partner in the context of the Agreement on Parental Leave.

Article 139(2) EC provides that: 'Agreements concluded at Community 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.' Article 139(2) EC is a unique amalgam of EC legislative processes and national labour law traditions: the extension of EU social dialogue agreements. The extension of collective agreements is a conceptual bridge between the pure industrial relations discourse of articulation ('the procedures and practices specific to management and labour and the Member States') and the pure constitutional law discourse of negotiated legislation ('at the joint request of the signatory parties, by a Council decision on a proposal from the Commission') (**European social dialogue and implementation of agreements**).

In their Laeken Declaration of 7 December 2001, the social partners stated that their work programme would be built on a spectrum of diversified instruments of the European social partners: various types of European framework agreements, opinions, recommendations, statements, exchanges of experience, awareness-raising campaigns, open debates, etc. As regards implementation of these texts, however, it is worth noting the problem of the lack of effectiveness of certain texts emerging from the social dialogue, such as **joint opinions**. The European Social Partners' Work Programme 2003–2005 comprises actions including reports, orientations, declarations, studies and reflections. However, 'agreements' appear only in two new proposals regarding stress at work (2003) and harassment (2004–2005). The next joint programme of the European social partners is due in December 2005.

Cross-border trade union cooperation refers to unilateral forms of cooperation among trade unions across more than one Member State. It is a pre-condition for bilateral cross-border social dialogue with employers and their organisations. The Commission's Communication of 18 September 1996 concerning the development of social dialogue at Community level emphasised the growing need to assist the development of new levels of dialogue and referred specifically to social dialogue in transnational enterprises and at regional level, particularly in cross-border regions. For example, the **Doorn Group** takes its name from the Dutch town where, on 4-5 September 1998, trade union confederations from Belgium (FGTB/ABVV and CSC/ACV), Germany (DGB and DAG), Luxembourg (CGT-L and LCGB) and the Netherlands (CNV, FNV and MHP), as well as major sectoral unions representing metalworking, chemicals, construction and private and public services, met to discuss recent trends in collective bargaining and the possible impact of EU **Economic and Monetary Union**.

Coordination of collective bargaining at EU level is the consequence of a political rationale resulting from European Monetary Union and aims to counter downwards pressure on wage costs. It parallels the coordinated national bargaining that has been practised in some Member States, where centralised national bargaining has been replaced by more decentralised systems of bargaining, but there is still a role for the national level. The process is sometimes called centrally coordinated decentralisation, or organised decentralisation. The coordination of European collective bargaining reflects this Member State experience by attempting, at EU level, to coordinate national and sub-national levels of collective bargaining.

For example, the European Metalworkers' Federation's (EMF) Third Collective Bargaining Conference in 1998 proposed **sectoral coordination of collective bargaining** at national level. A year later, the EMF Executive Committee and EMF Congress confirmed this proposal. The rule states that 'the main reference point for the EMF affiliates must be to maintain purchasing power and achieve a balanced participation in productivity increases'. The rule has had effects, not so much on individual bargaining situations, but mainly in the sharing of information and growing cooperation, which can provide support in cases of conflict.

In their Contribution to the Laeken European Council on 7 December 2001, the European social partners (ETUC, UNICE and CEEP) distinguished **tripartite concertation**, between the social partners and European public authorities, from consultation of the social partners under Article 137 EC and bipartite autonomous social dialogue.

The Lisbon European Council of 23-24 March 2000 articulated a new strategic goal for the EU: 'to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion' (Lisbon Presidency Conclusions, paragraph 5) (**Lisbon Strategy**). In particular, this included modernising the 'European social model, investing in people and combating social exclusion'.

The strategy was designed 'to enable the Union to regain the conditions for full employment' (paragraph 6).

As well as a new strategic goal, the Lisbon Council highlighted the 'open method of coordination' as a principal process through which this goal was to be achieved. The specific application of this method to the European Employment Strategy was confirmed, as already begun in the **Luxembourg Process**, and was to be strengthened through an additional annual meeting of the European Council in the spring of each year, for which an annual synthesis report would be prepared, examining economic and social questions (paragraph 36). Other processes are complementary (the **Cardiff Process** and the **Cologne Process**), and reflect trends at national level, such as **pacts for employment and competitiveness (PECs)**.

In its Social Policy Agenda 2000–2005 (COM (2000) 379 final, Brussels, 28 June 2000), the Commission confirmed the Lisbon Strategy and stated, under the rubric 'Achieving the new strategic goal', that 'a guiding principle of the new Social Policy Agenda will be to strengthen the role of social policy as a productive factor'. Reflecting the approach favoured by the Lisbon Council, the Commission stated: 'This new Social Policy Agenda does not seek to harmonise social policies. It seeks to work towards common European objectives and to increase coordination of social policies in the context of the internal market and the single currency.' The Lisbon Strategy's approach, emphasising coordination, is reflected in the changes to the Social Chapter of the EC Treaty adopted by the **Treaty of Nice** in December 2000.

Employment policy is the paradigm case of the **open method of coordination (OMC)**. The OMC in the field of employment is encapsulated in Article 128 EC. The Council and Commission formulate an annual joint report put to the European Council, which adopts conclusions and draws up **employment guidelines** that the Member States 'shall take into account in their employment policies'. Each Member State is to make an annual report on 'the principal measures taken to implement its employment policy in the light of the guidelines for employment' (**National Action Plans** – NAPs). These NAPs are prepared with varying degrees of social partner involvement. They go to the Council and Commission, which prepare a joint report to the European Council of that year. On the basis of proposals by the Commission, the Council may then make (non-binding) recommendations to Member States concerning their employment policies. Other follow-up procedures may take the form of **peer review**, launched in 1999 with the aim of promoting the transferability of good practice in active labour market policy.

A critical issue concerns the respective importance in combating unemployment of the guidelines' proposals for structural labour market reforms, as compared with macroeconomic reforms. In this respect, the last sentence of Article 128(3) EC is important: 'These guidelines

shall be consistent with the broad guidelines adopted pursuant to Article 99(2)' (**broad economic policy guidelines**). The Broad Economic Policy Guidelines adopted pursuant to Article 99(2) EC aim to implement the undertaking in Article 99(1) EC that 'Member States shall regard their economic policies as a matter of common concern and shall coordinate them within the Council ...'

As already noted, the Social Partners' Work Programme 2003–2005 comprises actions including reports, orientations, declarations, studies and reflections. The Commission's Communication of 26 June 2002 on 'European social dialogue, A force for innovation and change' recommended that 'the social partners are requested to adapt the open method of coordination to their relations in all appropriate areas'.

At present, however, social dialogue is not institutionally integrated into the open method of coordination (OMC) implementing the European Employment Strategy through Article 128 EC. An institutional design could integrate the best features of EU social dialogue and of OMC.

Various fundamental trade union rights are protected by all Member States and, in a number of countries, have acquired constitutional status (**trade unions**). Despite differences in their precise scope, there are elements of trade union rights which all, or most, Member States agree are protected. Many are derived from **international labour standards** in the form of ILO Conventions ratified by all Member States or the instruments of the **Council of Europe**. For example, there is a unanimous consensus among all EU Member States in favour of fundamental trade union rights, such as freedom of association/to join trade unions, or not to join trade unions (**negative freedom of association**), to autonomous organisation, to trade union activity (including in works councils) and to a legal status for collective agreements. Some of these were given early recognition in the Community Charter of the Fundamental Rights of Workers of 1989 (**freedom of association at EU level**).

These and other rights in individual employment and collective labour relations may now be found in the EU Charter of Fundamental Rights. Examples of such rights include freedom of association – which is critical to the issue of freedom of association at EU level – the **right of collective bargaining** at EU level and the right of **transnational industrial action**. The Charter has been integrated as Part II of the Treaty establishing a Constitution for Europe, as adopted by the Intergovernmental Conference of Member States, meeting in Brussels on 17-18 June 2004 (OJ C 310/1 of 16 December 2004) which was signed by the Heads of State or Government of the 25 Member States and three candidate countries in Rome on 29 October 2004. If the Constitutional Treaty is ratified, the Charter will have legally binding force.

The role of the EU Charter is to provide the constitutional legitimacy of the EU system of employment and industrial relations. Fundamental rights in the Charter ascribe legitimacy to

collective bargaining and collective action, information and consultation on a wide range of issues, free movement, fair and just working conditions, including health and safety in individual employment, non-discrimination and equal treatment, solidarity, and so on. The EU Charter legitimises the actors, processes and outcomes of the EU system of employment relations and the institutional and legal structure of a system of industrial relations at EU level.

A - Z of dictionary terms

Council of the European Union
Council voting procedure
Cross-border trade union cooperation

D

Dangerous substances
Dangerous workplaces
Data protection
Davignon group
Decisions
Decoupling of social rights
Deregulation
Derogation
Direct effect
Directives
Directorate-General for Employment, Social Affairs and Equal Opportunities
Discrimination
Discrimination on the grounds of age
Discrimination on the grounds of religion or belief
Discrimination on the grounds of sexual orientation
Dismissals
Dismissals in the case of restructuring
Doorn group

E

EC/EU law
Economic and Monetary Union
Economically dependent worker
Emanations of the state
Employability
Employee
Employee representation
Employer
Employer organisations
Employment guidelines
Employment protection
Employment rate
Employment relationship
Employment title
Enforcement of EC law
Enlargement
Entrepreneurship
Equal
Equal opportunities
Equal pay
Equal treatment
Equal treatment in collective bargaining
Equal treatment in social security
Equality between women and men
ETUC
EU system of industrial relations
Eures
Euro-litigation
European Agency for Safety and Health at Work
European Centre for the Development of Vocational Training
European collective agreements
European Commission
European company
European Convention for the Protection of Human Rights and Fundamental Freedoms
European Cooperative Society
European Court of Justice
European Economic and Social Committee
European Employment Strategy
European Foundation for the Improvement of Living and Working Conditions
European Industrial Relations Observatory
European industry federations
European labour market
European Monitoring Centre on Change
European Monitoring Centre on Racism and Xenophobia
European Parliament
European sectoral social dialogue

European Social Charter
European social dialogue
European social dialogue via Articles 138-139 of the EC Treaty
European social dialogue and implementation of agreements
European Social Fund
European social model
European social partners
European social partners' work programme
European Works Councils
Extension of collective agreements

F

Financial participation
Fixed-term work
Flexibility
Flexicurity
Fragmentation of the labour force
Framework agreements
Framework Directive on health and safety
Francovich principle
Free movement and social security
Free movement of citizens
Free movement of workers
Freedom of association at EU level
Frontier workers
Fundamental rights

G

Gender equality
Gender mainstreaming

H

Harassment in the workplace
Harmonisation
Health and safety
Health and safety personnel
Health and safety representatives
High Level Group on Industrial Relations
Holidays: see annual leave
Homeworking
Horizontal direct effect
Horizontal subsidiarity

I

Immigration
Indirect effect
Information and consultation
Information in the enterprise
Infringements of EC law
Insolvency
International labour standards

J

Joint opinions
Judicial cooperation in the EU
Judicial enforcement of EC law
Justiciability of EC Law

L

Labour costs
Labour force participation
Language requirements for employment
Lifelong learning
Lisbon Strategy
Luxembourg compromise
Luxembourg process

M

Macroeconomic dialogue
Management and labour
Management prerogative
Maternity leave
Merger control
Mobility of workers
Monti Regulation

N

National Action Plans
National labour courts
National trade union confederations
Negative freedom of association
Night work
Noise
Non-discrimination principle

O

Occupational accidents and diseases
Occupational mobility
Open method of coordination
Opt-out
Outsourcing
Overtime

P

Pacts for employment and competitiveness
Parental leave
Participation
Part-time work
Pay
Peer review
Portability of social security rights
Portability of supplementary pensions
Positive action
Posted workers
Pregnancy and maternity
Preliminary reference procedure
Professional qualifications
Promotion
Proof of employment
Protective equipment

Q

Qualified majority voting
Quality of work

R

Racism and xenophobia
Recommendations
Regulations
Remedies for infringements of EC law
Representativeness
Residence right
Rest periods
Restructuring
Right of collective bargaining
Right to constitute and freedom to join trade unions
Right to strike
Right to take collective action
Right to work
Risk assessment

S

Sanctions
Schengen Agreement/Convention
Seasonal work
Sectoral coordination of collective bargaining
Sectoral employer federations
Self-employed person
Senior Labour Inspectors' Committee
Shift work
Single European Act
Single European Market
Small and medium-sized enterprise
Social acquis
Social Action Programme
Social competences
Social dialogue
Social dumping
Social exclusion
Social objectives
Social Platform
Social Policy Agenda
Social Policy Protocol

Social protection
Social security
Soft law
Solidarity in industrial relations
Solidarity principle
Special negotiating body
State liability
Stress at work
Strike action at EU level
Subsidiarity
Supremacy of EC law

T

Telework
Temporary agency work
Terms and conditions of employment
Third-country nationals
Trade unions
Transfer of an undertaking
Transnational enterprise
Transnational industrial action
Treaties of Rome
Treaty of the European Union
Treaty establishing a Constitution for Europe
Treaty of Amsterdam
Treaty of Maastricht
Treaty of Nice
Treaty of Paris
Treaty provisions
Tripartite concertation

U

UEAPME
Undeclared work
UNICE

V

Val Duchesse
Vertical direct effect
Victimisation
Vocational training
Voluntary agreement

W

Women in the labour market
Worker's right to remain
Worker
Working conditions
Working environment
Working time
Working time and collective agreements
Work–life balance

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European Foundation for the Improvement of Living and Working Conditions

The European industrial relations dictionary

'A unique online tool for industrial relations at EU level'

www.eurofound.eu.int/areas/industrialrelations/dictionary

I am delighted to present you with a copy of the *Overview* to the Foundation's ***European industrial relations dictionary***. Following in the success of the Foundation's ground-breaking series of national glossaries, which covered employment and industrial relations in 15 EU Member States, the dictionary offers a comprehensive collection of the most commonly used terms in employment and industrial relations at EU level today.

The ***European industrial relation dictionary*** is the Foundation's response to an increasing demand for an up-to-date, easily accessible and useful resource on the European system of industrial relations. The progress of European integration since 1952 has resulted in a specifically European context for industrial relations. To understand the European system of industrial relations, it is necessary to have a sense of how it grew, how it is shaped, and what its current and emerging structure looks like.

The *Overview* presents a concise outline of the legal and institutional framework of the EU system of employment and industrial relations, charting its evolution from the Treaty of Paris in 1951 right up to the current predicament regarding the Treaty establishing a Constitution for Europe. The accompanying CD-ROM contains the full-text A-Z entries of the dictionary.

The dictionary is the fruit of a collaborative effort between acknowledged experts in the field, spearheaded by Brian Bercusson of King's College, University of London, and Niklas Bruun, Hanken School of Economics, Helsinki. Designed in an easy-to-use, online format, it contains almost 300 alphabetically listed entries, featuring precise definitions and relevant contextual information, with hyperlinks to EU legislation and case law.

The dictionary has been designed to assist users such as members of trade union and employer organisations, persons from government and international bodies, academics, researchers and all those wishing to gain relevant and detailed information about European industrial relations concepts and practices.

We hope that the dictionary will prove a useful information resource for policymakers, practitioners and students in the field – for all those interested in the history, framework and evolving structure of the European Union. We welcome your feedback and comments which can be addressed by email to information@eurofound.eu.int.

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The European Foundation for the Improvement of Living and Working Conditions is a tripartite EU body, whose role is to provide key actors in social policymaking with findings, knowledge and advice drawn from comparative research. The Foundation was established in 1975 by Council Regulation EEC No. 1365/75 of 26 May 1975.

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