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## The 'Culture-free' Organization? Industrial Relations in European Authorities

**ABSTRACT** ■ How far can organization-specific industrial relations coexist with national industrial relations systems? This article adopts a novel perspective on this question by looking at organizations which are outside any national framework of industrial relations. Two case studies of employment conditions, labour relations and trade union structures in European authorities reveal industrial relations systems independent of those of the country in which they are based, and primarily dependent on organization-specific factors such as the institutions regulating employment conditions in the organization.

Research has shown that the vast majority of transnational companies comply with the regulations of national industrial relations systems (Brewster and Hegewisch, 1994). Even companies with a clear ethno-centric approach have encountered the strength of national institutions and traditions and reacted by adapting to national customs. This has been the experience with Japanese transplants in the UK, and was recently confirmed by the case of Samsung in Germany. Here the European division of the company was instructed by the Korean headquarters to prevent the establishment of a works council; Samsung threatened that it would otherwise relocate. However, after a two-year conflict with the local trade union, the company was eventually forced in May 1995 to accept the election of a works council (Hassel and Schulten, 1995).

One widespread explanation of the tendency of transnational companies to adapt the practices of the country of origin to those of the host country is the embeddedness of organizations in national social institutions such as educational systems and industrial relations systems. These reflect the national culture of a society and have a profound influence on the organizational structure of the subsidiary of transnational companies in a given society (Mueller, 1994).

While the bulk of research focuses on consequential strategies of

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transnational corporations to develop company-specific industrial relations structures which might overcome national patterns (Marginson and Sisson, 1994; Schulten, 1996), a different way of examining the relationship between universal organizational structures and national systems of institutions is to look at international organizations or transnational authorities that are not embedded in any national system of institutions but are free to set up their own means of regulating work organizations and employment conditions. In two case studies of European authorities, the European Patent Authority (EPA), based in Munich and the Council of Ministers of the European Union, based in Brussels, we look at features of industrial relations in a 'culture-free' and 'institution-free' environment.

### Three Families of International Organizations

International organizations are based on agreements between governments in which sovereign national states hand over a certain set of rights to the organization which is established. The organizations themselves are therefore able to act as sovereign entities within their given sphere of competence. Most international organizations take the form of intergovernmental cooperation, while some – in particular in the European Union – take the form of supranational institutions. In general, one can distinguish between three 'families' of international organizations:<sup>1</sup>

- The family of the United Nations with all its agencies such as UNESCO, FAO, IMO, WHO, IAEA, ILO; and also the World Bank, IMF and GATT/WTO. The UN and its agencies employ in total about 60,000 staff.
- The family of the so-called coordinated organizations which include the OECD, NATO, CSCE, WEU and the Council of Europe. The coordinated organizations are based on intergovernmental cooperation treaties.
- Third, the family of regional organizations. This includes ASEAN, the Organization of African Unity as well as the European Union. The European Union is obviously the furthest evolved of this family and encompasses all direct organs of the European Union such as the Commission, the Council of Ministers, the European Parliament, the European Court of Justice and such agencies as the Foundation for the Improvement of Working and Living Conditions in Dublin, CEDEFOP, the European Monetary Institute, the European Investment Bank and about a dozen agencies which are currently in the process of being created.<sup>2</sup> The family of the European Union has about 30,000 staff.

In this article the term 'international organization' will be used for the general description of transnational authorities, while the term 'European authority' applies to the specific cases we are considering.

All international organizations have in common the fact that the principal decision-making power is in the authority of an administrative board which consists of delegates of the member states (in the case of the EU, the Council of Ministers). The administration of the organization is assigned to its president or director. The organizations of the European Union do not differ from other international organizations in this respect, but they do with regard to the extent and quality of their competencies. This in turn leads to a different structure of administration and also requires a more elaborate set of legal instruments in case of conflicts.

The continuing increase of the importance of international politics and economic relations after the Second World War has led to a high density of international organizations and institutions. In particular, the integration drive of the European Union since the mid-1980s (reflected in the Single European Act and the Maastricht Treaty) and the further transfer of power to a European level of policy-making has resulted in a rapid growth of European authorities. In October 1993, when the institutions of the European Union already employed more than 26,000 persons, the European Council agreed upon the so-called second generation of seven new authorities which are designed as decentralized agencies. In contrast to the first generation which comprise the classic organs of democratic policy-making (Parliament, Council of Ministers, Court and Commission), this second generation is concerned with the administration and monitoring of policies in fields such as health and safety at work, drug abuse, standards and trade marks and monetary policy.

The European Council of Ministers is the highest authority within the European Union. Since 1974, the heads of government of the European Union meet for a biannual summit with the European Commission. In addition, ministers responsible for specific government departments meet in functional councils (such as the Social Affairs Council which deals with employment and industrial relations) to discuss issues relevant to their own area of responsibility. The task of the Council administration is the preparation and organization of these meetings, with an emphasis on the preparation and translation of proceedings and documents (Werts, 1992). Since the work of the authority revolves around these meetings, work processes are highly dependent on effective time schedules. In 1992, the European Council employed 2215 members of staff.

The EPA on the other hand is based on an international treaty of 17 member states, including all the members of the European Union (the other two countries are Switzerland and Liechtenstein). It is therefore not formally under the umbrella of the European Union, but because of this membership overlap it has been labelled a 'satellite' organization; a term

which is meant to indicate that the EPA is in the EU sphere of influence (Seidl-Hohenveldern and Loibl, 1996; Thiele, 1983: 211). It is responsible for issuing uniform patents across Europe; in 1992 it undertook 96,000 tests and issued 54,561 patents. There are 3779 employees in four locations: 1830 at the main office in Munich and 1702 in The Hague, while the small offices in Berlin and Vienna together employ some 200.

## **The 'Culture-free' Organization: National and Organizational Culture in the Context of International Organizations**

Cross-country comparisons of organizational structures have regularly been used to raise the issue of the relationship between universal organizational principles and cultural explanations. Within this research tradition, there are – at least – three ways to approach culture, which are not mutually exclusive:

The first approach stems from the tradition of the Aston school, which has attempted to establish universal principles which are stable across societies and can therefore define and describe an area of organizations which can be called 'culture-free'. The Aston studies showed that there are stable relationships between variables of the organizational context or task environment (size, dependency, technology) and measures of organizational structure such as formalization, specialization and autonomy. The researchers concluded that 'even though culturally shaped variations may occur in some features of organizations, contextual constraints or pressures will persist. Simply stated, if Indian organizations were found to be less formalized than American ones, bigger Indian units would still be more formalized than smaller Indian units' (Hickson et al., 1974: 59; Hickson et al., 1981). By concentrating on those principles which are universal as opposed to culture-bound, there was neither the need nor the aspiration to be more precise on what constitutes culture.

If one, however, assumes that every organization is culture-bound and that it is important to evaluate the role of culture in organizations, then there are still different approaches to measuring its influence. One approach, heavily influenced by the work of Hofstede on multinational companies (MNCs), sees culture as expressed in the values of the individuals who are involved in the organization. His 'mental program' or 'software of the mind' is probably one of the most elaborate approaches towards the definition of cultural variables and their relationship to structural variables (Hofstede, 1984, 1991). Hofstede classifies societies by introducing universal cultural dimensions such as power distance, uncertainty avoidance, individualism and masculinity. Societies have different rankings on each of these dimensions and the different combinations of

dimensions are used to distinguish each national culture (Hofstede, 1984). Similarly, Child and his colleagues tried in their research to integrate 'culture' as a variable alongside factors such as 'contingency' and categorized different cultural values for different societies (Budde et al., 1982).

A contrary interpretation was put forward in the 'societal effect' approach, which argues that organizations are embedded in national institutions. These institutions are based on habitual patterns of social action. Pioneered by the work by Crozier on bureaucracies in the 1960s, the idea rests on the explanation of corresponding features in functionally differentiated sub-dimensions of societies in different historical periods (Crozier, 1964). This argument was further developed by Maurice and his colleagues in various comparative studies on work organization, industrial relations and social inequality. For example, their studies emphasized the important role of skilled manual workers in German manufacturing in contrast to the position in France and the UK. This feature was explained in terms of the distinctive institutions of vocational training, organizational settings, personnel policy and systems of stratification in Germany (Sorge, 1989: 199). As a consequence the societal effect argument states that organizational theory must be based on the comparison of the systemic relationships between the social structure and the organization and the processes through which they manifest themselves in each national situation. Culture is no longer seen as a variable in itself, but as a reflection of factors of socialization and organizational relations (Maurice, 1979).

If we apply to international organizations these two 'culturalist' approaches – Hofstede's individualistic approach and Maurice's institutionalist approach – we discover that despite their very different focus they do not entail different results. Rather, they give a complementary interpretation of the same picture.

The structure and context of international organizations provide them with a unique setting. First, their legal construction puts them outside the jurisdiction of any national institution of the country in which they are based. The special feature of all international organizations lies in the protocols on 'privileges' and 'immunity rights' which come with the international treaties on which they are based. They prescribe that international organizations are completely independent of the national legislation of the country in which they operate: an immunity which applies to all aspects of legislation such as taxation, labour law or health and safety. No German health and safety inspector has access to the building of the EPA in Munich and no employee can ask a German court for help in case of conflict. They are not covered by the *Betriebsverfassungsgesetz* which prescribes the creation of works councils; neither are the employees of the Council of Ministers covered by any Belgian labour legislation. Indeed, European organizations such as the authorities of the European

Union are not even bound by the legislation which is passed by the Council of Ministers. Similarly, no employee of the ILO can claim to be protected by the many conventions which he or she administers. All aspects of their employment relationship are dealt with by a Civil Servant Statute which is approved by their governing boards and enacted by the president of the authority. These statute books therefore include a whole range of provisions including a taxation system and a system of employee representation. In cases of conflict the employees have to refer to the legal system of the international community itself: employees of the organizations of the European Union can refer to the European Court of Justice, while those of the EPA have to refer to the Court of the ILO (ILOAT). This court is recognized by 24 international organizations covering more than 31,000 employees (Ullrich, 1988: 49).

Second, the international composition of their workforce prevents the dominance of a culturally determined understanding of power relationships and interest representation. International organizations usually operate either official or unofficial national quotas; while their general recruitment rules state that recruitment is based on performance, competence and integrity (Art. 5, Civil Servant Statute of the EPA), a codex of representation of all member states in the administration of international organizations ensures that above the level of clerical staff there is a truly international mixture of employees (Page, 1997).

As Table 1 indicates, two factors play a major role in the staffing of international organizations: the size of the individual member country and the location. The percentage of staff of a specific nationality rises with the size of the member country, which often reflects their higher financial contributions. The location of the organization is important with regard to the recruitment of clerical staff. In both organizations studied, the level of local staff is proportionately higher in lower grades. In the EPA the biggest share of posts is held by Germans, followed by those from France and the UK. The Dutch share is also disproportionately high, which is explained by the fact that most Dutch people speak German and there is a high mobility of staff between the offices in Munich and The Hague. In the European Council, Belgians have the biggest share, though the proportion of local staff is low compared with the EPA; this indicates the higher political sensitivity of EU institutions. In the EU, the attempts by each member state to ensure that its own nationality is represented within the authorities can in some cases lead to major cabals, in particular when the staff fear that nationality quotas are being abused at the expense of qualification for the job.

For example, when Spain became a member of the EU in 1986 its government attempted to appoint its share of European civil servants directly, circumventing the normal recruitment procedure via the so-called *concours* (a two-stage assessment based mainly on written tests



**TABLE 1. Staff of the EPO (1995) and European Council (1993) by Nationality (All Grades)**

	EPO (%)	EC (%)
Belgium	9	21
Denmark	1	7
France	16	10
Germany	25	11
Greece	3	8
Italy	6	21
The Netherlands	15	6
Spain	3	8
UK	13	7
Other	9	1

Source: Annual Report of the EPO, 1995; Bericht über den Einstellungsbedarf bei den Organen der Europäischen Gemeinschaften, 1993.

covering general knowledge and language abilities). This was prevented by industrial action by the staff of the Council of Ministers.

We can posit that international organizations are 'culture-free' in a different sense from that put forward by Hickson et al., since they have neither a nationally-based set of institutions nor nationally determined dominant 'mental programs'. Arriving from two perspectives of how to evaluate the role of culture in organizational structures, I would therefore propose a rather bold hypothesis: *the multinational staffing system within international organizations and the lack of national institutions governing employment encourage an organization-specific system of industrial relations and interest representation whose primary characteristics are stable across different international organizations and their locations.*

This hypothesis is consistent with Hofstede's assessment of the functioning of international organizations. He argues (1984: 273) that 'organizations can function only if their members share some kind of culture – if together they can take certain things for granted'. This shared culture is lacking, he insists, 'in the administrative part of international organizations' where 'the things that can be taken for granted have been reduced sometimes almost to nothing'. For this reason it is 'no wonder that such organizations often function badly and wastefully. . . . The only way toward viability for such international organizations seems to be the creation of a strong organizational subculture based on professional rather than national identities.'

Before assessing the hypothesis with regard to the systems of labour relations and interest representation in the two cases, one final point should be made here: industrial relations systems are traditionally seen as a strong 'cultural' factor, usually used as an independent variable – a factor

which is influencing organizational structure, rather than the other way round. For example, Maurice (1979) classifies the system of industrial relations as one of the three major factors influencing organizational structures, alongside vocational training systems and power relations within the organization. Therefore when looking at industrial relations as the dependent variable, one should keep in mind the national system of industrial relations of those countries in which the authorities are located.

## Research Design

The stimulus for the case studies was the increase in employment in the EU institutions, particularly with the creation of the European Monetary Institute (EMI) in Frankfurt, and the lack of information on working conditions and industrial relations in international organizations. The original plan was to undertake one case study in the biggest European authority in Germany, the EPA in Munich. But as already noted, this is not formally an EU institution but an independent body based on an intergovernmental treaty; the study was therefore expanded to cover a direct authority of the EU, the European Council of Ministers, in order to establish differences and similarities between European authorities in slightly different regulatory settings. The case studies were designed against the backdrop of existing knowledge and experience with industrial relations systems in different European countries.

The case studies were exploratory and aimed at establishing the following:

- basic information on the structure of European authorities (functions, number of employees, location, decision-making procedures on employment issues);
- working conditions (pay systems, procedures for increases, career structures, health and safety regulation, insurance systems, pension schemes);
- industrial relations systems (participation and co-decision rights and structures, collective bargaining, right to strike, right to organize);
- trade union structures (trade union organization, membership density, relations to national trade union organizations, relations to European trade union organizations).

The research method was based on the assessment of existing literature on the topic, written regulations and material, and expert interviews. The aim was to establish both the institutional and regulatory setting and the actual social relations between European civil servants and their management.



The (rather small) existing body of literature comes almost exclusively from a legal point of view and is published in law journals. Questions concerning forms of employee representation and involvement in international organizations and employees' rights to organize and to strike have been dealt with by lawyers working for the personnel department of those organizations.

Documentary material and regulations include the annual reports of the EPA; the statute books for EU civil servants and for the EPA as well as that for personnel of the European Monetary Institute; internal reports on employment structure, recruitment and career structures in both authorities; relevant legal cases of the European Court of Justice and the Administrative Court of the ILO; collective agreements between different organs of the EU (Commission, Council, Economic and Social Committee) and the staff representatives and trade unions; applications and memoranda from the staff representatives to their employers; material on industrial disputes and campaigns by the relevant trade unions and staff representatives; and the rule books of trade union organizations.

Semi-structured interviews were conducted with several EPA staff representatives in Munich and The Hague on several occasions who were also representatives of their trade unions, with several staff representatives of the European Council who were also representatives of their trade unions, with the head of personnel of the European Council, with the head of personnel of the European Investment Bank in Luxembourg, with representatives of the public-sector trade union (ÖTV) in Germany, and with officials of the European public service trade union organization (EPSU).

## **Employment Conditions, Career Structures and Pay**

In an international organization, the governing board of the authority can decide upon all aspects of the employment relationship of its staff. These regulations are laid down in a statute book which is adopted by the administrative board consisting of delegates of the member states and applied by the president or general secretary of the organization. The statute book of the EPA was adopted by its Administrative Council; that of the EU was drafted and adopted by the Council of Ministers in 1968. This statute book applies only to the direct authorities of the EU. For agencies such as the Dublin Foundation and CEDEFOP, slightly altered statute books exist. For the second generation of agencies separate statute books will be drawn up; the EMI for example has established its own statutes with more flexible employment conditions and fewer rights for staff representation. The statute books take the form of a decree which can only be changed by the authority which issued them and formally

may not be altered by negotiations between trade unions and management.<sup>3</sup>

## The Career Paths and the Civil Servant Status

There are three main categories of staff in European authorities: civil servants, temporary staff and local staff. A civil servant is in some respects analogous to the German *Beamte* and has a permanent contract; in contrast to national regulation in some member states, this does not however mean that European civil servants cannot be dismissed. A European civil servant is co-opted by decree and has to give his or her full loyalty to the international organization. Temporary staff are employed on fixed-term contracts and for a specific task. Between civil servants and temporary staff there is no other distinction in terms of pay, working conditions or type of work. In the EPA, the proportion of staff on fixed-term contracts is limited to 5 percent. In the EU authorities, the share of temporary staff stood at 6.2 percent in 1993. Local staff are at the lower end of the career structure and also on fixed-term contracts. They fill the posts of secretaries and porters and are generally not seconded from national government positions. They do not enjoy the immunities of the permanent staff or the other temporary staff and are covered by the tax and social security legislation of the country where they are based. In the EPA local staff must not be employed for more than two years.

Generally, there are three ways into European authorities: by qualification, by assessment tests and by a combination of the two. The most common way is the latter, the so-called *concours*, which is organized for each career group separately. Between 1986 and 1992, 252 *concours* took place with in total 5766 successful applicants out of 172,420.<sup>4</sup> Those applicants who have passed the several stages of the international *concours* gain a place on a list, from which the persons are drawn to fill vacancies. A successful *concours* does not therefore guarantee a job in a European authority; usually there are 200–300 names on the reserve list for 100–150 vacancies.

The staff are divided into five career groups (see Table 2). A is the most senior group for graduates; LA is the special group for translators and interpreters; B is for senior clerical and administrative staff; C is for routine clerical and secretarial staff, D for blue-collar workers, porters and drivers. Directors General and their Deputies are grade A1, a Director A2, a Head of Unit is A3 and so on. A1 and A2 posts are generally recruited from outside the European civil service, while up to A3 civil servants can rise through the ranks (Page, 1997: 24). In the EPA, the career structure is divided into three groups. A covers academically qualified staff and interpreters; B covers executive, supervisory, secretarial and

**TABLE 2. Percentage of Employees in Grade Categories, 1994**

Grade	EU authorities	EPA
A	28.3	62.5 (technical staff: 51.7)
LA	11.7	
B	19.7	31.0
C	34.7	6.3
D	5.4	

Source: Page, 1997: 24; EPA, Annual Report 1995.

clerical staff with secondary education; group C consists of technical, manual and service staff with primary education. Since the main task of the EPA is to test new patent applications, more than half of all staff are in technical posts. The proportion of academically qualified staff is comparatively high, consisting mainly of engineers, physicists, medical doctors and biologists. These 'examiners' are not only highly qualified in their area of expertise, but also need language skills and a broad knowledge across all member states of the EPA.

The promotion of civil servants to the next salary scale occurs almost automatically after a certain period of time; but promotion to the next grade involves a selection process. Civil servants can apply for promotion to management; a promotion committee – on which there are staff representatives – evaluates the applications and draws up a list of those who are suitable for promotion. Since staff promoted to a higher grade start on its lowest salary scale, promotion is not always attractive in terms of pay.

## Pay and Working Conditions

The pay of European civil servants is a very sensitive issue, since national governments frequently cite high salaries as a major criticism of the European bureaucracy. European civil servants receive a basic salary plus bonuses. The basic salary is based on the career group, each of which is divided into eight salary steps, so that all officials are placed somewhere within a matrix of groups and steps. The bonuses are mainly based on marital status, number of children, housing costs and allowances for living abroad.

Since European civil servants are not covered by national social insurance schemes, the European authorities run their own tax and insurance system. There are two forms of income taxes: first a Community Tax – a progressive income tax – and second a 'temporary contribution' of 5.83 percent which was introduced in 1981 as a 'crisis levy'. On top of that

European civil servants pay into Community pension and health insurance schemes.

Temporary staff also pay into an unemployment insurance scheme which provides benefits for a period of up to two years after their contracts have lapsed. The contribution to the unemployment fund, which was set up in 1985, stands at 0.4 percent of basic salary. Benefits amount to 60 percent of the last basic salary for 12 months, 45 percent for the next 6 months and 30 percent for the last six months.

Roughly speaking, net pay levels of staff in the higher grades are comparable to those in diplomatic service, but for clerical and technical staff are generally somewhat below those in the foreign services (see Table 3). There is, therefore, a remarkable gap between the higher and lower grades in European authorities: top civil servants earn almost three times as much as those in lower grades. This inequality is generally higher than in national civil services and to some extent also higher than in national foreign services.<sup>5</sup>

There is a centralized procedure covering pay determination for all European authorities. It is based on a formula which includes movements in the cost of living in Brussels, changes in the purchasing power of salaries in national civil services, and the ratio of the cost of living in Brussels to that in other locations of EU offices. The statistical formula was introduced in 1972, initially for 10 years, and was renewed in 1981 and 1991. The current formula therefore lasts until the year 2001. Before 1972, pay determination was based on direct negotiations between the civil servants' unions and management, increasingly involving industrial action in the late 1960s and early 1970s. The renewal of the system in 1991 was also accompanied by a four-day strike in the European Council (Hassel, 1997: 47).

**TABLE 3. Annual Net Income of Civil Servants<sup>a</sup> Based in Brussels, 1992 (000 ECU)**

Agency of Government	EU Grade (or equivalent)			
	A4	B3	C3	D2
EU	84	49	36	31
UN	111	59	49	41
France	96	61	53	36
Germany	80	56	51	48
The Netherlands	84	54	42	35
UK	94	67	46	38
Coordinated Organizations	93	37	27	—

<sup>a</sup> Married, 2 children.

Source: Report on Staff Vacancies in European Authorities 4163/93.

## Labour Relations

The legal regulation of labour relations shows a high degree of similarity across different international organizations. This is particularly the case for the staff of EU authorities, since they are all covered by the same statute book; but the same general features of interest representation can also be found in more distant international organizations such as the United Nations (Ullrich, 1990).

Despite the formal and actual independence of European authorities from national regulation, many features of the industrial relations system at EU level closely resemble the French system of interest representation, in particular its institutions of staff representation in the public sector. The reason for this striking Frenchness can be found in the traditionally strong influence of France both historically in diplomacy and in its role in the development and establishment of the European Community.

## The Legal Regulation of Labour Relations

The legal structure of staff representation and labour relations is almost the same in both European authorities we examined. The right to organize in trade unions is enshrined in the formal statute books, but there is no right of collective bargaining since employees of international organizations have the status of civil servants whose terms and conditions are regulated by decree. There is no formal right to strike, though strikes are generally accepted and do not lead to disciplinary action. While the European Court of Justice has not yet decided on whether there is a right to strike for European civil servants, the court of the ILO regards strikes as a corollary of the right to organize and therefore recognizes strikes at least indirectly as an appropriate means of expressing grievances.

In 1974 an attempt by the European Commission to enshrine the right to strike officially in the statute book failed because of resistance in the Council of Ministers. In particular, Belgium, Germany, Denmark, Ireland, Luxembourg, The Netherlands and the UK were hostile. For some governments this was a matter of principle, while others (in particular Germany) argued that civil servants in the EU should not enjoy a right which did not exist for their national civil servants. After the proposal was rejected, the Commission nevertheless reached an agreement with the trade unions in 1974 which laid down ground-rules for strikes. The unions agreed that they would give five days' notice before any strike, in order to enable final negotiations to take place, and that no civil servant would be forced to go on strike; conversely, the Commission agreed that no employee would suffer discrimination because of participation in a strike.

In many member states we find a dual structure of interest representation which distinguishes workplace from trade union institutions. The strictest form of this dualism is in Germany (where works councils and trade unions nevertheless form a symbiotic relationship), but Austria, Belgium, France, The Netherlands and Spain also have workplace structures which are more or less independent of trade unions (Rogers and Streeck, 1995). The same dualism exists in the European authorities, since their statute books provide a form of workplace representation which is – in legal terms – not connected to trade union organization.

Staff representatives are elected in all locations of the authorities. The elections take place every two years, and are organized by the current staff representatives themselves. In some cases the representatives must be drawn from all groups of staff, in others the candidate lists are drawn up with the aim of representing all groups.

Management consults the staff representatives in so-called parity or joint committees, in which equal numbers of staff and management representatives meet to discuss either general personnel questions covered by the statute book or specific issues involving individuals. In both authorities, different parity committees cover recruitment, promotion, disciplinary measures and also social matters such as canteens and security. The role of the parity committee is to adopt a collective opinion, usually decided by vote, with the chair exercising a casting vote. The chair is often but not always appointed by management. The opinion (*avis*) adopted by the committee is meant as advice to management on how to decide a specific question. It does not bind management, which remains free to decide even if the opinion is unanimous.

This form of staff representation is typical for French authorities in which *commissions administratives paritaires* give their *avis* on personnel issues. It has no resemblance to the German system in which the works council consists of employee representatives only and does have a veto right in certain questions. The relatively weak legal position of trade unions and staff representatives in EU authorities is compounded by the weak judicial system for the resolution of labour conflicts. While the European Court of Justice has become an important institution to which individual employees can complain, it has not become a significant tool for staff representatives to claim collective rights. The ILO court has been strongly criticized by staff representatives of the EPA for taking a very employer-friendly position and for not acknowledging independent consultation rights.<sup>6</sup> Since the court has to deal with a variety of different organizations, it generally avoids taking a position of principle on consultation rights and argues strictly in accordance with the formal letter of the statute book.

In addition there are no provisions for injunctions, and the ILO court deals only with written procedures. Staff representatives do not have their



own right of access to either court, and only the European Court of Justice recognizes trade unions as legal entities which can file a complaint.

## Relations between Management and Employees

Despite the very similar legal rights of staff representation, the actual relations between management and employees were quite different in the two cases. Labour relations in the EPA – both at headquarters in Munich and in the smaller office in The Hague – were antagonistic and hostile, and the trade union was not recognized. There was no contact between union representatives and management, and staff representatives were marginalized. Strike action was possible and sometimes used, but not seen as a useful instrument by trade union representatives.

Hostile management–labour relations have a long tradition in the EPA and have survived one change of presidency. When a new president took over in 1985, relations improved for a short while and an attempt was made to improve communication. The new president and the staff representatives signed an agreement to establish a president–staff committee (PRESTACOM) as a forum for regular consultation; but the new structure lasted only a couple of months, after which consultations broke off or involved only selected staff. While the consultation procedure within the parity committees seems to function satisfactorily, staff representatives complain that more than 60 percent of all opinions unanimously adopted by the parity committees are rejected by the president.

Although the legal position of the court of the ILO is comparatively weak – since it does not recognize a general right of consultation – it ruled against the president in a couple of cases and criticized the abuse of power within the EPA. The staff representatives felt in a very weak and helpless position and demanded better consultation rights based upon the German system of co-determination. Since the situation has been worsening in the last couple of years, there have been several attempts by the staff representatives to complain publicly about bad management practices in the authority. In 1992 the staff organized a petition to the European Parliament asking for the application of the European Social Charter to EPA employees.

Labour relations in the Council of Ministers – based in Brussels – on the other hand can be described as a conflictual partnership (*Konflikt-partnerschaft*) in the German sense of the phrase (Müller-Jentsch, 1986). Trade unions are recognized and play an important bargaining role inside the authority. Beyond the legal provisions on consultation with staff representatives, there are regular meetings between the trade unions and the personnel official of the Council,<sup>7</sup> in which general issues such as the creation of new parity committees and the general regulations of the statute

book are discussed. These meetings can result in decisions: a whole range of agreements between the unions and management cover consultation procedures and strikes. When a decision is reached, it can be given the form of a decree by the general secretary of the Council.

In addition to the internal arrangements within each of the authorities, at EU level the civil servant trade unions have been successful in establishing quasi collective bargaining rights. An agreement reached with the Commission in 1974 providing for an elaborate consultation (or 'concertation') procedure, applicable at both the administrative and the political level. It serves the purpose of exchanging opinions, but also takes the form of genuine negotiations between management and unions. If the concertation procedure does not lead to agreement, there is the possibility of non-binding arbitration in which a neutral arbitrator makes new compromise proposals. This agreement was later applied to staff in the Council of Ministers, in an agreement signed with the unions in 1978.

A decision of the Council of Ministers in 1981 added to the procedure a concertation committee which consists of a standing committee of delegates from the member states, staff representatives and personnel directors of the authorities. The Concertation Committee (CoCo) was created as a forum for consultation on the renewal of the pay formula and also its application, 'looking for example at the effect on the joint indicator of moving Germany's capital from Bonn to Berlin since it is calculated on the basis of officials' costs in national capitals' (Page, 1997: 25). CoCo also deals with matters arising from changes in the statute book or prepares such changes. In order to coordinate the trade union side within CoCo, the trade unions themselves set up a committee CLOSP (Comité de Liaison des Organisations Syndicales et Professionnelles) which used to be a formal part of the procedure; but as a result of inter-union conflicts it has lost most of its coordinating functions.

Clearly the position of the staff and trade union representatives in the European Council was quite different from that in the EPA. Both staff representatives and the personnel director were highly satisfied with their ability to resolve conflicts. Both stated that the staff representatives had a rather strong position and were able to raise issues themselves and prevent unilateral decisions by management. The personnel director valued strong staff representation as a positive factor in the administration, since they were knowledgeable and had a high degree of legitimacy. In contrast to the situation in the EPA, strike action is taken when necessary and is seen as a highly successful tool for expressing conflicts. In the view of management and staff representatives, who were both quite familiar with the German system, the influence of the staff representatives is stronger than in comparable national German authorities.

This finding is not exceptional, and is supported by an older comparative research study of staff representation in the public sector in France

and Germany. This concluded that although legal rights in France are weaker, consultation procedures are in practice more developed than the law prescribes and often take place outside the formal structures (Faber, 1979).

## Trade Union Structure

The third finding of the case studies is the very fragmented and isolated trade union structure in both authorities. The general feature of trade unionism in transnational authorities can be described as a mixture of syndicalism and amateurism. There are often several trade unions recruiting in one authority, and these unions find it very difficult to establish an effective umbrella organization.

In general, there are separate unions in each authority. In the EPA, exceptionally, there is only one trade union: the Staff Union in the European Patent Office (SUEPO). The union claims a density of more than 60 percent in the Munich office. SUEPO has a local organization in each of the other locations (The Hague, Berlin and Vienna). These local organizations are independent from each other and have their own rule books; but there are regular meetings of union delegates from all four locations which adopt binding policy guidelines. Since the EPA does not recognize the trade union and therefore does not grant any time off for trade union activities, the local trade union representatives are usually drawn from among the staff representatives.

In the Council of Ministers office there are three trade unions. The biggest in terms of membership and staff representatives is the Union Syndicale – Service Public Européen (US), with about 30 percent of the staff in membership. The two smaller unions are the Syndicat des Fonctionnaires Internationaux et Européens (SFIE), which is close to the Christian trade unions, and the Fédération de la Fonction Publique Européenne (FFPE).

The US has an umbrella organization called Union Syndical Fédéral, USF, which also includes SUEPO. Across all European authorities, the USF has about 7000 members which amounts to 20 to 25 percent of all European civil servants (Jacobi, 1997: 24). This umbrella organization is made up by eight affiliates: SUEPO, US Brussels, US Luxembourg, US Euratom (Karlsruhe), US Euratom (Italy), US Petten, US Jet Culham (UK) and the Syndicat des Agents du Conseil de L'Europe. The organization is however rather weak and has no full-time officials or other forms of permanent administration. The USF is itself a member of the main European trade union organizations such as the European Industry Federation for the public sector trade unions (EPSU).

In general, these unions do not provide any services for their members and do not have a strike fund (Rogalla, 1981). Union functions are carried out either by staff representatives elected on the union ticket in the case of the EPA, or they have time off as union officials if the authorities allow them to do so. This condition obtains in the Council of Ministers, but not in the EPA. Nearly all trade union expenses are therefore paid by the employer. Accordingly, trade union subscriptions are very low, less than 0.25 percent of the monthly income of the members.

Surprisingly, there is hardly any contact between the European trade unions and the national trade unions of the countries in which the authorities are based. Indeed in the case of the EPA there is a high degree of hostility between the local trade unions. The German Patent Office is the direct neighbour of the EPA and there is a great degree of rivalry between the two, which apparently influences the trade unions as well. There is some contact and exchange of information between the European civil servants' trade unions and those in the UN family, and the organizations achieve coordination through the YORICS network (Yearly Organizing Reunion of the International Civil Services).

## Conclusion

The two case studies support the initial hypothesis: that in the absence of a dominant national culture in international organizations there will be a strong organization-specific system of interest representation. This corresponds to the institutions by which industrial relations in these organizations are regulated, in these cases the civil servants' statute book deriving from the European Treaty and the European Patent Convention. Organization-specific factors are more influential than other factors such as the national systems of industrial relations, the objective of the organization or its approach towards industrial relations. International organizations are therefore embedded within their own regulatory setting which is reinforced by highly rigorous recruitment policies.

There is a distinctive model of industrial relations which is typical of all international organizations and which is based on three features: staff representation through parity committees; organization-based trade unionism; and, because of the concentration of all activities at the level of the authority, a blurring of the distinction between trade union activities and staff representation.

The interesting feature of the two case studies is that this model of labour relations in international organizations is *completely* independent of the national industrial relations system in the country where the organization is based. There was no sense of a German co-determination culture in the German-based authority and no Belgian-specific culture in

the Council of Ministers. Rather the opposite: being based in institution-rich Germany, the antagonistic climate of labour relations at the Patent Office made the staff representatives very aware of their lack of institutional rights, but did nothing to enhance their position. The complete lack of any national influence on labour relations in those authorities is even more remarkable since collective bargaining is usually rooted in the autonomy of the social partners and there is no legal rule against national trade unions recruiting in international organizations. However, the German public sector trade union ÖTV has no members within the EPA; and more generally, all efforts by national trade unions to get access to international organizations have been unsuccessful<sup>8</sup> – even though there is no obvious legal or even technical reason for this.

It follows that the differences between the industrial relations practices in the two authorities were not to be explained by the national location of the authority, but rather by factors which were specific to each organization. For example, the Council of Ministers works under high pressure to meet deadlines and all meetings are highly dependent on translation services. It is therefore very vulnerable to industrial action. By contrast the process of issuing patents by staff of the EPA is not subject to similar time constraints, and hence working to rule or other forms of industrial action short of strikes can exert little pressure on management. In addition, the staff of the EPA consist mainly of highly specialized technicians and engineers who might be less inclined to become involved in trade union activities. Also relevant is the fact that the Council of Ministers as a political institution is influenced by questions of political legitimacy and media scrutiny, which is not the case in the EPA.

In assessing the future prospects of labour relations in European authorities, it is evident that their situation is currently as pressurized as in the public sector in general and changes are therefore to be expected. Employment standards in the new agencies which are being established will be less advantageous than in those which currently exist. The more integrated and supranational the authorities of the European Union become, the less the high differentials in pay and working conditions can be justified. Whether and in what way this will alter the current model of labour relations remains to be seen.

What can we learn from these cases for further studies of national institutions and transnational organizations? Compared to the conclusions derived from research into MNCs and their subsidiaries, the analysis of labour relations in international organizations highlights an important difference: national institutions and culture exert only a minor influence, since the organization is free to set up its own employment system and the staff is internationally mixed and mobile. By contrast, while MNCs may try to move more towards company-specific employment systems, in particular in countries with weak national institutions, they are

constrained by the fact that the vast majority of their staff remain locally rooted.

In our interviews with representatives of staff and management in the two international organizations, it became clear that staff have a strong identity with working in an international and cosmopolitan environment which is perceived as being fundamentally different from any national authority. The 'mental program' of the staff of these international organizations had to a considerable extent left its own national culture behind and had replaced it by the specific identity of the international organization, which was often expressed in contrast to their own national identities.

This perception of difference is not at all related to the functions which are carried out by the staff. Although the task of issuing patents is relatively similar in both the German and the European Patent Offices, the staff representative of the EPA in Munich declared that comparing his office with the German Patent Office down the road was like comparing apples with elephants. The special legal status of the office with its immunities and privileges enhances this perception as does the high level of pay.

The strength of this international identity also derives from the fact that international civil servants are often rather isolated in the country in which they work. As expatriates they mainly socialize with their colleagues. In general, they are not permanently based in the country where they work. If they change jobs they are more likely to move to another international authority (or another location of their current organization) than to a local employer. Usually they intend to return to their home country after they retire, and their children often go to international schools.

The manufacturing sites and service outlets of MNCs are fundamentally different from this in the recruitment and employment of their staff. They tend to rely on the labour market of the host country, and most staff have a primarily local or regional perspective on their working lives and are rooted in their country of origin. They are less likely to adapt to an organization-specific employment system which does not have any links to the traditional ways of resolving conflicts in their societies – at least as long as the organization does not guarantee employment for life for the majority of staff. Since local staff are rooted in local labour markets and more likely to switch between local firms rather than to a different branch of the same company, their identity will remain more with the regional and national society and its institutions than with the organization which employs them. For this reason, MNCs will remain more culture-bound than international organizations.



## NOTES

- 1 There are obviously many more international organizations and a number of ways of categorizing them. For instance, international organizations could be classified according to their purpose: those with peace-keeping functions (such as UNO), economic organizations concerned with international trade, development agencies, bodies with more specific regulatory functions.
- 2 They include the European Agency for Health and Safety at Work (Spain); the Office for the Harmonization of the Internal Market (Spain); the European Centre for Drugs and Drug Addiction (Portugal); the European Environment Agency (Denmark); the European Foundation for Training (Italy); the European Monetary Institute (Germany); the European Trademark Office (Spain) and the Europol Drugs Agency (The Netherlands).
- 3 The court of the ILO (ILOAT) has frequently declared void agreements concluded by management and staff representatives and aimed at altering the statute book (Ullrich, 1990: 338).
- 4 The *concours* draws relatively more applicants from poorer than from richer member states of the EU, which raised concern within the EU Commission on how to attract more and better applicants from the latter.
- 5 For more detailed information on the pay of civil servants in international organizations, see Hassel and Jacobi (1995: 32) and Jacobi (1997).
- 6 The ILOAT itself was subject of a complaint to the German Constitutional Court as to whether it fulfils the right of legal protection prescribed by the German Constitution. The Constitutional Court ruled in favour of the ILOAT.
- 7 The three trade unions representing the staff participate in these meetings on equal terms, although they represent an often unknown but varying number of members.
- 8 The establishment of the EMI in Frankfurt has stimulated the German public sector union ÖTV and the white-collar union DAG to set up a joint body designed for staff of international organizations. This body, called the International Public Servants Organization (IPSO) was launched in May 1997 and thus is still in its infancy (European Industrial Relations Observatory, May 1997; EIRR, June 1997).

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