The Five Pillars of the European Social Model of Labor Relations

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"But my intention being to write something of use to those who understand, it appears to me more proper to go to the real truth of the matter than to its imagination; and many have imagined republics and principalities which have never been seen or known to exist in reality; for how we live is so far removed from how we ought to live, that he who abandons what is done for what ought to be done, will rather learn to bring about his ruin than his preservation."
Niccolò Machiavelli, *Il Principe*, Florence: 1514, Chapter XV.

1 Introduction

Europe has not one but several different social models, just as it contains various welfare state and industrial relations regimes. However, they have certain elements in common that separate them from the United States, which usually represents the default for comparisons in debates on the European Social Model. In 2002, the Barcelona European Council stated that the European Social Model is about three things: good economic performance, a high level of social protection, and social dialogue.

What constitutes good economic performance or a high level of social protection is a matter of debate and degree. The popular view is that economic performance has been better in the United States in recent times, since it offers a higher GDP per capita and higher GDP growth per hour worked, achieves higher levels of employment and less unemployment, and is therefore closer to what many believe to be the true foundation of any social model. The same popular discourse accepts the premise that Europe offers higher levels of social protection with less social exclusion of the poor. Both of these comparative evaluations may be questioned. When a more inclusive measure of economic and human development is applied, the Atlantic divide narrows (Aiginger 2005). If we travel from Portugal to Finland and from Ireland to Poland, we may discover greater differences in living conditions than presently exist in the United

States. The Gini coefficient of income inequality in the entire European Union is larger than the coefficient for the United States, which is larger than that of any single EU member state (OECD database).

It may be countered that the European Union and most of its member states have policies in place that explicitly address the issue of social inclusion with regard to homelessness, poverty, health care, and the elderly, and that European social cohesion programs do seek to redress the differences in economic and social development. Such ambitions, policies, and programs have been weak or altogether absent in recent US history. In this chapter, I want to concentrate on what *is* truly distinctive about Europe, with regard to both aspiration and reality. This distinctive aspect is the European emphasis on *social dialogue*, which I define as legal and political support for the routine consultation of business and labor on matters of social and economic policy, combined with structured contractual and noncontractual relations between business and labor and their representatives.

Even though this may not come naturally to all twenty-five member states, some of which lack a tradition of social dialogue or have abandoned its practice, social dialogue is an EU mainstay and has been explicitly acknowledged in the EU Treaty since Maastricht (1992). The Commission goes out of its way to advocate social dialogue as a value, a "force for innovation and change," and a "condition for successful social and economic reforms" (EC 2002a). In September 2005, a large gathering of European institutions and social partners met during a Tripartite Social Summit to celebrate "20 years of social dialogue," praising its achievements and declaring the social dialogue "an essential tool for the future." Although pessimistic accounts of its present state and achievements exist, to most practitioners of social dialogue what Streeck (1995: 407) has said of students of European social policy appears to apply: they "tend not to let the obvious lack of progress at present disturb expectations of progress in the future."

In this chapter, I want to assess whether such optimism is warranted. In particular I shall discuss the grounds on which one may claim the existence of a distinctly *European* model of industrial relations and social policy based on social dialogue. In the paper he wrote more than a decade ago about "problems in forming a European industrial relations system," Wolfgang Streeck identifies five institutional pillars of a *labor-inclusive* industrial relations regime: strong and publicly guaranteed trade unions; routine participation in tripartite policy arrangements based on formal rights; a high floor of universalistically defined and publicly secured social rights; a degree of solidaristic wage setting based on coordination at the sectoral level or above; a reasonably generalized arrangement of information, consultation, and perhaps codetermination at the firm

level based on the rights of workers and unions to be involved (Streeck 1992a: 314). I shall use these elements as benchmarks in this paper for evaluating where Europe stands today and in which direction it may be headed.

When analyzing European social policy and industrial relations, we must not limit ourselves to observing what happens at the so-called European level. Most social policies and industrial relations are designed and practiced within national borders and institutions, by national and subnational actors, although the autonomy and sovereignty of decision-making has been limited by EU regulations and policies, albeit more in social policy than in industrial relations (Leibfried/Pierson 1995). We also need to look at global forces and developments beyond the European Union. The crucial question regarding EU-level policies is whether they increase or decrease "the vulnerabilities and institutional capabilities" (Scharpf 2000) of the interdependent national political economies that make up the EU.

2 Strong and Independent Unions

With regard to this first institutional pillar, the contrast between Europe and the United States is great (Table 1). Union membership, expressed as a proportion of the number of wage and salary workers in employment, is higher in Europe and much better protected by civil and industrial rights and public policies. Union presence, i.e. the proportion of workers employed in an establishment where a union or union-like organization is present, is probably a better measure of this contrast than union membership. Union presence turns out to be a strong determinant of the willingness and capacity of employees to address grievances and claim individual labor rights. It has been demonstrated, for example, that equal pay and family-friendly policies are more effective in British workplaces where unions are present, and that, controlled for self-selection effects, the incidence of low pay and discrimination is lower (Metcalf et al. 2000). Trade unions act as "swords of justice" (Flanders 1970) through the awareness-raising and confidence-building measures they provide their members and by signaling to employers that workers will be supported in industrial action and in the courtroom.

Based on statistics from the European Union before the enlargement of May 2004, I estimate that approximately half of all employees work in workplaces or firms where there is union representation (Table 2). With some exceptions, mainly in the new service industries and in US-owned companies, workers in large firms and in the public sector have access to union representation. Even

Table 1 Union Density Rates, 1980–2003 (in %)

	Year	UK	Germany	France	Italy	Netherlands	Sweden	Poland	Czech Rep.	EU(15)	USA
Trade union membership	1980–83	49	35	18	48	33	80	. .	. .	39	20
	1990–93	38	34	10	39	25	82	33[a]	46[a]	33	15
	2000–03	29	23	8	34	23	78	19	27	26	12
of which in 2003/4:											
men		29	30[b]	9	. .	27	76[b]	. .	. .	. .	14
women		29	17[b]	8	. .	20	83[b]	. .	. .	. .	11
16–24		10	. .	. .	. .	11	45[c]	. .	. .	. .	5
private		17	22[b]	5	28	21	77[b]	. .	. .	. .	8
public		59	56[b]	15	60	39	93[b]	. .	. .	. .	36
manufacturing		25	45[b]	8[d]	. .	28	95[b]	. .	. .	. .	13

Notes: a = 1996; b = 2004; c = 2000; d = including mining and construction; . . = no data available.
Source: author.

in France, otherwise characterized by a very low level of union membership, 39 percent of the employees work in establishments where unions are present, varying from 31 percent in the private sector to 71 percent in public services, and from 8 percent in small firms (under 50 employees) to 81 percent in large firms (500 employees and more; Amossé 2004). In Germany, too, there is a strong variation by firm size. Only 7 percent of the small establishments with up to 50 employees have established a works council, but this proportion increases to 78 percent in establishments of 200 employees or more (Ellguth/Kohaut 2005). We observe that even in the United Kingdom, after twenty years of union decline and in the absence of a legal framework for employee representation, almost one out of two employees reports that a union is present in the workplace, a proportion that has hardly changed during the past decade (Grainger/Holt 2005). Contrast this with the United States, where only one in eight employees has access to union representation and even in large establishments the presence of a labor union has become uncommon outside some long-established industries. Unlike in Europe, there is no legal framework or public encouragement of such representation (Rogers 1995; Weiler 1990).

Yet all is not well for the unions. European trade unions share in the worldwide trend of declining membership. One of my pastimes has been to analyze the causes of this decline and its cross-national variation; I find that unions in some countries have weathered the onslaught of globalization, the rise of the service economy, and labor-market change much better than those in other countries. Streeck's reading of the initial evidence on this *divergence* in union trends

Table 2 Some Indicators of the Five Pillars of European Industrial Relations, about 2000

	United Kingdom	Germany	France	Italy	Nether-lands	Sweden	Poland	Czech Republic	European Union	United States
1 Union density (%)	30	24	8	35	23	79	19	27	26	13
Workplace presence (%)	49	>50	39	>60	>50	>80	. .	. .	>50	13
2 Bipartite relationships	weak	strong	weak	medium	strong	strong	weak	weak	weak	weak
Tripartite consultation	weak	weak	medium	medium	strong	weak	medium	medium	medium	none
Mandatory extension	no	yes	yes	(no)	yes	(no)	yes	yes	n.a.	no
Main bargaining level	firm	sector	sector?	sector	sector	sector	firm	firm	n.a.	firm
Bargaining coverage (%)	35	65	95	>60	82	92	43	27	>60	15
3 Statutory minimum wage	yes	(no)	yes	(no)	yes	(no)	yes	yes	no	yes
4 Bargaining coordination (index)	1	4	2	3	4	3,5	1	1	n.a.	1
Main bargaining level	firm	sector	sector?	sector	sector	sector	firm	firm	n.a.	firm
Union centralization (index)	1.3	3.6	1.6	2.8	4.5	3.5	1.2	1.8	low	1,0
Employer organization (%)	<50	>60	>70	>50	>80	>70	<40	<40	>50	low
Earnings inequality (D9/D1 ratio)	3.40	2.87	3.07	2.40	2.85	2.30	. .	. .	. .	4.64
5 Mandatory works councils	no	yes	yes	(yes)	yes	(no)	no	yes	yes	no
Codetermination	no	yes	limited	no	limited	limited	no	no	no	no

Notes: brackets indicate that there are functional equivalents; n.a. = not applicable; . . = no data available.
Source: author; earnings inequality data: OECD database.

was that trade unions could sustain their position and membership strength if they were capable of making a productive contribution toward diversified quality production by simultaneously preventing firms from following a low-wage adjustment path and helping management raise the functional flexibility of workers in pursuit of quality competition (Streeck 1992a, 1992b). This may have explained part of the relative stability of German and Swedish unions until the early 1990s, compared to their much earlier decline in Britain, France, and the United States. This strategy of social and productive modernization through a partnership with the unions worked so well for such a long time in an economy in which the manufacturing industry was the key source of economic success and employment, but it is a strategy not easily translated to a service economy. Moreover, its terms of trade have changed to the disadvantage of unions, due to higher social and labor costs when workers made redundant are not quickly (re-)assigned to new sectors, firms, and jobs.

In most European countries, trade unions still are a significant social and political force. With few exceptions, governments and mainstream employers regard them as legitimate and sometimes indispensable partners. At the European level, this is expressed through various forms of social dialogue. However, trade unions have weakened and their underrepresentation among young workers, in the new service industries, and among those with nonstandard employment contracts challenges their political legitimacy and industrial power. Unlike in the United States, political attacks on the trade unions in Europe have been rare, with the most important and prominent case having occurred in the United Kingdom during the Conservative governments (1979–1997). Public opinion still widely considers unions a "core institution of democratic capitalism" (Streeck/Hassel 2003: 362). But the institution has seen better days and its future is uncertain.

3 Public Policy Support and Participation in Tripartite Policy Arrangements

In most EU member states and at the European level there are provisions for tripartite consultation with public authorities over the design and implementation of European social legislation, the adjustment of statutory minimum wages, and national macroeconomic and social policies. In more than half of the member states, these provisions are embodied in national councils for policy concertation. Preparing for their accession and with support of the Commission and sister organizations, the former communist countries of Central and

Eastern Europe (CEE) have introduced tripartite structures of this kind. At the European level, an elaborate structure for concertation exists between the so-called social partners (the European federations of trade unions and employers) and the European institutions.

Articles 138 and 139 of the Treaty give the European social partners a special role as potential co-legislators in the social policy domain. Preceded by more than a decade of 'social dialogue' initiated by the Commission, talks have also been held since 1997 between the European Council and union and employer delegates on the eve of their summit meetings. Since 2003, a Tripartite Social Summit has taken place under the auspices of the Council Presidency to deal with issues of macroeconomics, employment, social protection, and education and training. Since 1999, a so-called Macroeconomic Dialogue has organized bi-annual meetings with the EU Employment and Economic Policy Committees, the Central Bank, the Commission and the Council Presidency. Tripartite cross-industry advisory committees also handle the issues of social security for migrant workers, the European Social Fund, vocational training, equal opportunity policies, and health and safety at the workplace. At the sectoral level, finally, the Commission has promoted a large number of so-called sectoral social dialogue committees.

This elaborate structure has no parallel in other countries or regions in the world. In fact, it is more elaborate than what is found in most EU member states, some of which (e.g., the UK, Germany, Sweden) hardly engage in formalized tripartite consultation. It is likely that the excess of formalism and complexity at the European level hides the lack of steady informal practices and very weak structures of social relationships and trust between unions and employers. Thus, in most CEE countries, but also in France and the UK, bipartite relationships between employers and unions are unstable, fragmented, and restricted to isolated occasions (Lado/Vaughan-Whitehead 2003; EC 2004a).

Despite recent attempts to refurbish the bipartite social dialogue at the sectoral and cross-sectoral level, bipartism at the European level is weak (EC 2002b). Employers have no incentive to do serious business with the unions unless threatened by political initiatives from the Council, Commission and Parliament, although they have shown a certain resolve to defend the European social dialogue. At least some of the steps taken to reach agreement with the unions – namely, to establish a pluriannual joint agenda and to produce agreements on telework (2002) and work stress (2004) – may be explained that way. In the sectoral committees, the possibility of joint action seems mostly determined by offers of economic support from the Commission (Benedictus et al. 2002). It is certainly premature to see these developments as constitutive for European collective bargaining.

One might nonetheless value these attempts at institution-building at the European level and the deliberate diffusion of tripartism to the new member states as the expression of a genuine political will to involve trade unions in social and economic policy, a political will which sets Europe apart from domestic US politics. Granted, in their recent documents, the Commission and Council justify social partnership less as a matter of right than as a clever way to design and deliver policies better tailored to the needs of industry that are supposedly met with less obstruction from employers and resistance from workers (EC 2004b, 2005; Employment Taskforce 2003). Even so, social partnership also reflects an appreciation of the political and industrial relevance of unions and confers additional political legitimacy on them.

It is common in many European countries and at the European level to use public policy to enhance the reach of 'private' contractual arrangements between trade unions and employers' associations. In addition to binding members who have voluntarily joined the organizations which sign the collective labor agreements, these agreements also are often applied *erga omnes* and extended to firms not belonging to organized employers' associations by government decision. Provisions for such extension exist in most EU member states. In combination with the continued practice of nationwide or sectoral bargaining and high levels of employer organization, this explains why almost 70 percent of European employees are covered by collective agreements, compared to 15 percent in the United States (Table 2). In countries like Sweden or Denmark, where the social partners insist on self-regulation and the possibility of extension through public law does not exist, the law nonetheless supports collective organization. Firms are free to refuse membership in a Swedish employers' association and to pay their employees below the going rate, but they then have no protection against industrial action, as a Latvian firm that brought in foreign workers to work on a construction site in Sweden discovered when its actions caused a major dispute in August 2004 leading to the withdrawal and bankruptcy of the firm involved.

It might be feared that the general application of the 'country-of-origin' principle, as foreseen in the draft Services Directive published in January 2004, will intensify such conflicts. The possibility to extend the reach of national regulations on minimum employment conditions to workers posted by foreign companies, as is allowed under the Posted Workers Directive (96/71/EC), will be weakened by three factors: the removal of administrative controls on foreign providers that the framers of the Services Directive brandished as a tool of protectionism; the lack of European regulation of the market for temporary employment agencies; and the unlimited use of 'dependent' independent employees who work on contract with 'employers' out of state. The statement found in the original draft declaring that it does not affect existing labor law is

disingenuous. There is more honesty in the comment of the editor of the *Financial Times* who complained that the diluted Services Directive, acceptable to a majority in the European Parliament, creates "unfortunately no legal possibility of east European or any other EU service providers of flouting, say, France's 35-hour working week," as did the original version (*Financial Times*, 10 February 2006).

Since the Agreement on Social Policy was annexed to the Maastricht Treaty and therefore later included in the EU Treaty, there are two ways to implement agreements negotiated between the European social partners. Under Article 139(2), they shall be implemented either "in accordance with the procedures and practices specific to management and labour and the Member States" or, at their joint request, "by a Council decision on a proposal by the Commission." The three agreements that were reached in 1995 (parental leave), 1997 (part-time work), and 1999 (fixed-term employment) used the latter method.

Surprisingly, the social partners have reached two European agreements, one on telework (2002) and the other on work-related stress (2004), which they have chosen to implement by the first method. This means that the social partners themselves are responsible for implementing these agreements. At the time the Maastricht Treaty was signed, legal experts doubted that this route would ever be used, given the huge diversity in rules and practices across member states. They assumed that such agreements, being a substitute for legislation, ought to have an *erga omnes* effect, which cannot be obtained without a state guarantee, given the varying and incomplete coverage rates (Barnard 2000: 92; Bercusson 1992: 181; Blanpain 2002: 102). Yet there is no such state guarantee, as was made clear by the interpretative declaration (No. 27) annexed to the Agreement on Social Policy and, later, the Amsterdam Treaty, clarifying that the arrangement under Article 139(2) "implies no obligation on the Member States to apply the agreements directly or work out rules for their transposition, nor any obligation to amend national legislation in force to facilitate their implementation." There is, of course, nothing to prevent member states from implementing these agreements through legislation, but from a European legal perspective they are entirely free not to do so.

The unequal application of minimum labor regulations across the Union, which was seen as a problem by legal experts, is fully consistent with the neovoluntarist logic of European social policy (Streeck 1995, 1998). The Posted Worker Directive is a case in point: it is for member states themselves to decide if and how to regulate. In fact, they are entirely free not to have any regulation. However, they can only bind foreign firms operating in their territory to rules that equally apply to domestic firms. Similarly, the so-called 'voluntary' agreements struck between employers and unions merely offer a variety of options

to national legislators and affiliates. In some member states, the agreements may prompt new laws or agreements with an *erga omnes* effect; in others they may bind only the signatory parties and their members; in yet others they may become the benchmark or targets for social standards; and then again, they may also fail to gain any attention at all. This is not all that different from the risk involved in the EU labor regulation enshrined in directives, the transposition of which is always left to member states. "To date, the equal treatment principle defended by the European Union has always meant equality at the national level" (Jacobs/Ojeda-Aviles 1999: 68). The highly unequal and incomplete ways in which the EU labor regulations of the 1990s have been implemented in member states is well documented (Falkner et al. 2005).

Yet, even minimalist transpositions of EU directives led to the introduction of minimum rights that had previously been denied British workers. It is doubtful that 'voluntary' agreements will even manage to do that. Voluntary, in the understanding of employers, means nonbinding: a recommendation of 'good practice' to firms and negotiators. Trade unions, instead, see these voluntary agreements as bipartite, negotiated without recourse to the European legislator, but nonetheless binding both sides 'in honor' to do everything possible to ensure full implementation – if need be, by calling upon national legislators. This dispute is as yet unresolved. The Commission, while stressing the need for effective monitoring and implementation but increasingly unable to push social legislation through a Council of twenty-five member states, is forced to sit on the fence. In its recent communication on partnership, it advocates limiting the scope of so-called voluntary agreements by ruling out their use when "fundamental rights or important political options are at stake" or when previously adopted directives need revision (EC 2004b).

In conclusion, a considerable amount of public policy support for collective labor regulation exists in Europe, unlike in the United States. However, there are vast differences within Europe, and the accession of the CEE countries, most of which have no tradition and organizational basis for autonomous collective bargaining, has increased these differences. Outside the area where fundamental human rights are involved and outside the area of competition law, the European Union has not achieved a level playing field in social policy. Instead, it allows member states limited leeway to decide whether and how much regulation they want, to the extent that such regulation does not contravene the main rules of market-making.

4 A High Floor of Universalistically Defined and Publicly Secured Social Rights

Since the adoption of a statutory minimum wage in the UK and Ireland in 2000, eighteen of the twenty-five EU members have a legally defined minimum wage. While in Belgium and Greece the minimum wage is set by national agreements declared binding under public law, in the Benelux, France, Ireland, the UK, Greece, Malta, Spain, Portugal, and the CEE countries, it has its base solely in legislation. Ministerial or parliamentary decisions are usually preceded by tripartite consultations. In Sweden, Finland, Denmark, Germany, Austria, and Italy, the minimum wage is based on collective agreements with various mechanisms assuring the inclusion of nonmembers: judges' rulings in Italy; compulsory membership in employers' associations in Austria; extension on request of the bargaining parties in Germany; high union membership and pressure on unorganized employers in the Nordic countries.

The level of these minimum wages, measured in purchasing power parities, varied in January 2003 from €1,225 in the Netherlands, to €983 in the UK and €543 in Portugal, to €351 in Poland and €239 in Latvia (Eurostat 2003: 80). These differences reflect differences in labor productivity. Unlike the United States, the European Union has no common minimum wage, although proposals in that direction do exist. Recently, a group of European socialist and progressive political foundations has advocated a European right to a minimum standard of living as an expression of solidarity among European citizens. The group admits that this minimum cannot be the same in all countries, given the economic disparities within the EU-25. A common minimum would render the proposal either useless if the level is set too low, or unfeasible and harmful to employment if it is set too high. Instead, the group proposes a common method of calculating the minimum in proportion to productivity developments and mean standards of living (*Re-launching Citizens' Europe*, Gauche Réformiste Européenne 2006).

In addition to European legislation against sex discrimination, triggered by decisions of the European Court of Justice in the 1970s, and to regulations on health and safety in the workplace made possible by the Single European Act (1986), the post-Maastricht conditions facilitated a spate of legislation on minimum employment conditions: on contractual information (1992); collective redundancies (1992); workers' maternity rights (1992); working time (1993); European Works Councils (1994); posted workers (1996); parental leave (1995); part-time work (1997); fixed-term employment (1999); and information and consultation of employees (2002). Some of these (maternity leave; working time; European works councils) represented a considerable dilution of the

Commission's original proposals, resulting from the opposition leveled against them by employers and stalwart member states. Besides representing differing economic interests as the case may be, member states have also been concerned with minimizing the impact of EU legislation on their current national system of labor law and industrial relations. I agree with Mark Hall (1996: 298) that this has not produced a "lowest common denominator" solution in every case, but it surely led the Council to adopt a legislative program and format that required only amendments to existing national legislation with the least infringement on the ground rules of these systems.

A brief discussion of the Working Time Directive (1993), currently under review, may illustrate this point. This directive allows member states to derogate and set another reference period for calculating average working hours by means of a formal collective agreement. It also allows countries to make use of a so-called individual 'opt-out' from the obligation to limit the maximum working week to forty-eight hours, if individual workers are willing to sign. Only the United Kingdom availed itself of the latter possibility when, in 1998, it finally implemented the directive following the decision of the incoming Labour government to accept the Social Chapter of the Maastricht Treaty. Characteristically, in its White Paper *Fairness at Work*, New Labour presented the new "Working Hours Regulation" as contributing to fairness and efficiency, helping firms and workers overcome the unproductive 'long hours' culture while keeping regulatory burdens on firms small.

Seven years later, research shows that the individual opt-out continues to be widely implemented, with its use apparently driven by employers' perceived need for flexibility and workers' desire to top up earnings (Barnard et al. 2003a; Dickens/Hall 2005). Overtime has remained a "flourishing institution," used habitually and indiscriminately as Alan Flanders (1964) described in the 1960s. The number of employees who work over forty-eight hours per week has in risen from 3.3 to 4 million people (16 percent of the employed), with 1.5 million working fifty-five weekly hours and more. Thus, the unproductive long-hours culture, identified by New Labour as problematic when it entered office, continues to bedevil employers and to trap workers. Yet, New Labour's Chancellor of the Exchequer staunchly defends the British need for flexibility as a model for Europe (Barnard et al. 2003b). Poorly designed institutions tend to work like drugs: having become used to long hours and low pay, many firms and workers cannot survive without them.

The working-time story also demonstrates that weakening collective bargaining creates a handicap in making full use of European law. The Working Time Directive, like many national laws, allows derogation by collective agreement, thus creating a framework as well as incentive for negotiating the annual-

ization of working hours, establishing longer reference periods, and limiting the use and cost of overtime. A major reason why British employers insist on the individual opt-out lies in the fact that, with the decline of collective bargaining, derogation by means of collective agreement with the unions is only available to a minority of them.

Since 2003, the Commission has been busying itself with the revision of the Working Time Directive. Its most recent proposals are quite modest; they retain the opt-out but with improved checks on its use, thus limiting the chances that employees sign under duress. However, the unrelenting opposition of the British government has prevented a decision in the Council. Until recently, Blair had the former German Chancellor Schroeder on his side in exchange for British assurances that it would not support Commission proposals to outlaw the special voting arrangements protecting firms like Volkswagen. This clearly illustrates that member states, while negotiating social policies and labor rights, will guard national economic interests as they perceive them: in this case, these interests consist of a particular type of flexibility to which the British are now hooked and a type of corporate governance which the Germans associate with quality production and export success. The example also shows how member states are inclined to keep the impact of European legislation on their institutional arrangements to a minimum.

5 A Degree of Solidaristic Wage Setting

Wage-bargaining structures and practices in Europe appear relatively stable. In most countries belonging to the European Union before May 2004 (the EU-15), the industrial sector has remained the main bargaining unit or level. The share of employees covered by bargaining has remained in the neighborhood of 70 percent, with the exception being the UK. Trade unions have remained the privileged contracting partner, in spite of falling union densities. Governments have continued to support collective bargaining by means of extending its reach to unorganized (small) firms and workers in marginal employment, by upholding the legal right of unions to engage in solidaristic industrial action, and by favoring broadly based unions over small firm- or occupation-based organizations. However, with the exception of Slovenia, bargaining practices are unstable and fragmented in CEE countries, where large sectors of the economy lie beyond the reach of collective bargainers and the effectiveness of the existing agreements is limited. The company tends to be the main and most effective level of bargaining in these countries.

This means that the familiar picture of European industrial relations, based on the dominance of sectoral bargaining, has faded. With all wage bargaining concentrated at the firm level, Britain is no longer the only odd man out. The same is true for Poland and the Baltic states and for major sectors in the Czech Republic, Slovakia and Hungary. Moreover, although most EU-15 countries have muddled through with sectoral or national bargaining, the scope for additional bargaining at the company level has widened. In Germany this has been coupled with the widespread use of 'opening' clauses and 'concession bargaining.'

Sectoral bargaining contains a solidaristic element that is absent in company bargaining. By setting standards for the entire industry and orienting these standards to the average or above-average performance of relevant firms, unions and employers' federations create incentives for laggards to catch up or leave the industry. This strategy can work as an upgrading process with benefits for the remaining firms and workers and is socially and economically efficient if capital is freed to move elsewhere and labor is retrained for other activities and redeployed without long delays and depletion of human and social capital. These upgrading incentives will be weakened if inefficient employers are allowed to side with workers faced with job losses in their attempts to lower or disregard the industry's wage and social standards (Streeck 1992b).

However, the association between earnings equality and bargaining centralization, noted in the literature (Blau/Kahn 1999; Wallerstein 1999), though still visible (Table 2), may be expected to have weakened with the use of 'opening clauses' and with sectoral agreements now setting minimum rather than standard rates. Scholars studying the national social pacts emerging in the 1990s noted that these pacts served the purpose of macroeconomic stabilization, with an added focus on labor market and welfare reforms, but that the traditional objectives of income redistribution, typical for such tripartite exercises in the 1970s, were glaringly absent (Ebbinghaus/Hassel 2000; Regini 2000).

A key debate regarding wage bargaining concerns the difference between centralization and coordination. Whilst centralization refers to the level at which wage settlements are usually negotiated and to the enforceability of these agreements, coordination reflects the degree to which wage negotiations conducted in different bargaining units take into account the effects on each other and on the economy as a whole. While centralization has been equated with formal structures, organizational hierarchies, and legal rules, coordination is associated with softer forms of guidance and influence. Recent studies of wage bargaining tend to argue that organizational and administrative centralization of wage bargaining is *less* important in achieving beneficial macroeconomic outcomes than a cooperative mood and trust among the major players (Calmfors et al. 2001). But

for redistributive outcomes such as maintaining a high floor of social rights and a relatively flat wage structure, this conclusion does not hold.

Collective standards across similar (sectoral) product markets have come under increased strain with international competition. The historical response of the union movement has been to try and extend regulation to producers beyond the reach of bargainers, both nationally and internationally. Because this was often also in the interest of nationally based employers, the public interest, and internationally leading countries and producers, the regulatory response of trade unions has frequently provided a common agenda with domestic employers, the nation state, and 'progressive' international forces such as the United States directly after 1945 or the ILO. However, as competitive pressures have increased vastly and major employers no longer feel committed to their country of origin, these coalitions have become unstuck or thrown into a minority.

European trade unions have tried to respond to these pressures by stepping up attempts at coordination within the European Trade Union Confederation (ETUC) and its industry federations, as well as between national federations and unions in countries bordering each other. When faced in 1992-93 with the triple pressure of the Internal Market, a European recession, and the Maastricht convergence criteria, the European Metalworkers' Federation (EMF) undertook initiatives to set up international coordination (Schulten 2002). Several national wage-bargaining rounds had run into trouble. When employers began to explicitly praise the lower wage settlements achieved in neighboring countries, it became obvious that wage bargaining was no longer a national issue. Since 1998, the EMF has tried to ensure that national unions pursue a common strategy of demanding wage increases using a similar formula, backed by mutual surveillance. Whether this can work without some threat of sanctions at the European level or without joint regulation with employers must be doubted. "In matters of wage policy, the coordination rules have thus far not been able to influence bargaining at the national level" (Schroeder/Weinert 2003: 578). Other unions have tried to follow the example of the EMF, but their capacities have proven to be even more limited.

6 Information, Consultation, and Perhaps Codetermination in the Firm

In 2002, the European Council and Parliament adopted a directive (2002/14/EC) that established a general framework for informing and consulting employ-

ees. This decision ended a protracted debate over the desirability of an EU-wide framework for national-level information and consultation rights, in addition to the existence of such rights in transnational firms. The directive applies to firms with at least fifty employees, although in member states such as the United Kingdom, Ireland, Poland, the Czech Republic, and the Baltic States where as yet no statutory information rights exist, coverage may be limited to firms with at least 100 employees (or 150 until 2007). The directive only provides a framework, thereby allowing member states to use their own manner of implementation, possibly through agreements between management and labor. It is not intended or expected to have much impact on employee representation and participation in member states that tend to have stronger legislation or agreements in place. The directive calls for "appropriate measures in the event of noncompliance" and "adequate sanctions to be applicable in the event of infringement," but this is left to member states. Implementation will be a major issue, especially where the capacities of the state with regard to enforcing labor laws is poor and no nationwide or sectoral agreements exist that can pave the way for legislation or ensure compliance. In most CEE states there is a clear lack of workers' representation especially in companies without trade unions, the number of which is growing rapidly (European Foundation 2004).

Eight years earlier, the Council had adopted Directive 94/45/EC on the establishment of the European Works Council (EWC) in Community-scale companies with activities in two or more member states and 1,000 employees or more. The directive is foremost a conduit for extending regulations existing in the home country of a multinational to its foreign operations (Streeck 1998) and allows for employee representatives in member states where the company operates to be informed and consulted on the state and progress of the business. According to a joint opinion of the European social partners, published on 17 April 2005, EWCs have played a positive role during the ten years of their existence "in improving the information flow between workers and management," "developing a corporate culture in transnational groups," and "gaining acceptance for necessary change." This positive outcome has apparently not been sufficient to convince the majority of the firms that fall within the directive's scope to establish a works council. However, EWCs have been established by 750 transnational companies or groups, a number that represents approximately 45 percent of those covered by the directive and 70 percent of the 17 million employees potentially concerned. Many still operate on the basis of agreements that were concluded before 1996 and allowed management great flexibility in applying EU regulations.

Proposals for employee representation in multinational and domestic firms had been on the table of European legislators since 1970 and had drawn fierce opposition from European and American business lobbies. It was only by offering more variation and greater voluntarism in implementation by both member states and firms themselves, and by decoupling the thorny issue of corporate governance from that of employee representation that the European Union finally succeeded in legislating a diluted version of its original proposals. Both directives described above provoked sharp differences of view between employers' organizations and trade unions, as well as between EU member states.

Neither directive contains provisions for codetermination or representation on company boards, nor do they specify sanctions if companies fail to inform workers in a timely and adequate manner about major economic decisions. In contrast to national laws or as available under national agreements with the unions in many EU-15 countries, European regulations do not specify rules that require management to reconsider its decisions as a result of consultation. Employee information and consultation is sold as germane to partnership, which in turn is seen as crucial for gaining employee support for sustaining a recurrent process of company restructuring associated with the competitive knowledge economy. The employing organization is presented as a 'unitary' system in which all interests are assumed to be shared in common by all, with employee information and consultation helping to create a corporate culture of change. Squabbles over procedures or the threat of sanctions would spoil this.

One wonders why, if such partnership really existed, American firms do not buy into at least this part of the European social model, but instead choose employee information and consultation as the most censurable element of things European. Probably, they are more realistic and acknowledge that there is always an element of distributive conflict. In order to make partnership work, management must be allowed to take a strategic view in which the interests of *all* stakeholders count and can ignore or negotiate the dictates of financial markets and securities legislation on at least some occasions (Deakin et al. 2001). On this point, however, the European Union and its Commissioners responsible for the Internal Market, competition law, and financial markets work in the opposite direction. The Commission's Action Plan on Modernization of Company Law has drawn the criticism in the Parliament from the unions and some member states that it considers business only accountable to its financial shareholders.

7 Conclusion

The five pillars of the European Social Model of Industrial Relations stand, but only barely. Some are in disrepair, others under construction, and all are built on sand rather than rock. Moreover, with poor *common* foundations, the defenses of social standards and policies are only as strong as national policy-makers want and national interests allow them to be. European social legislation sometimes permits repair of these national defenses by extending their reach, improving coordination across national systems, and providing some minimum social rights. This is more than is currently available in the United States, but it is perhaps a difference more in the presentation of ambitions and values than in hard law and actual practice. If the Scandinavian countries continue to be successful in defending their social model, very little is owed to European legislation but much more to national economic and social choices. If the UK is successful in retaining its version of an uncoordinated and flexible economy, it again owes this to national choices made by the governments ranging from Thatcher to Blair and to the 'voluntarism' of post-Maastricht EU labor regulation that offered member states ample opportunity to apply the directives from Brussels flexibly.

This, to say the very least, is different from the stringency of EU competition law. When the European Parliament recently voted against the liberalization of European ports, the editor of the *Financial Times* commented that would-be providers of port services could still bring suit under existing EU treaty provisions guaranteeing the freedom of services and concluded: "What cannot be achieved legislatively can sometimes be achieved judicially" (*Financial Times*, 18 January 2006). Machiavelli and, I believe, Streeck would have appreciated such sanguine realism in assessing how European market-making really works – a process in which EU social and labor policy is a minor irritant, as yet unable to help Europe define its own course in the global economy.

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