PARTICIPATIVE ENERGY

Increasing employee involvement in conflict prevention and resolution during energy sector restructuring

CONFLICT PREVENTION MANUAL

Co-funded by the European Union

Content

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Objectives

The “Conflict Prevention Manual” aims at presenting the key issues related to collective labour dispute resolution and to provide the project partners in the ”Participative energy: Increasing employee involvement in conflict prevention and resolution during energy sector restructuring” project to prevent or to mitigate collective disputes in the energy sector. The main aim of the “Conflict Prevention Manual” is to answer the following questions: what are the problems hindering employee participation at the company level? how to solve the existing problems in the company through information, consultation and participation mechanisms to defeat the vicious cycle of lack of participation and conflicts? What is the role of the workers’ representatives? What is the role of employers’ representatives? What are the prejudices to be tackled? Why it is important to engage in the co-decision-making? How will it affect workers’ employment?

The report “Conflict Prevention Manual” outlines overview of key definitions, statistics, legal provisions at the EU level and the key results of the International Roundtable held on 22 and 23 May 2023 as a part of the project ”Participative energy: Increasing employee involvement in conflict prevention and resolution during energy sector restructuring”. The Roundatble consisted of two sessions: on methods of conflict resolutions (how to prevent and solve industrial conflicts?) and on external and internal factors of industrial conflicts and how to tackle them? Input provided by the project partners will contextualise the information provided in the first parts of the Manual. The report will also draw on the examples of the national Case-study Reports and the Conflict Prevention Methodology. The participants of the project will be therefore equipped in practical tool allowing for better dealing with labour conflict resolutions in their practical work. In principle, this handbook for workers’ participation will be tailored to the challenges in the energy sector in Bulgaria, Poland, Portugal, Serbia and Spain.

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The project ”Participative energy: Increasing employee involvement in conflict prevention and resolution during energy sector restructuring” aims at achieving several goals: putting in place the workers’ right to information consultation and participation in the restructuring processes; facilitating the participation in the energy sector by - studying the reasons why the related issues persist in project participant countries; strengthening the employee-employer dialogue at national and international levels; disseminate the project outputs and outcomes to outreach target groups. Specific objectives include the following:

- To analyse the reasons for low workers participation and promote the workers participation through project outputs in all project participant countries such as Conflict Prevention Methodology, Conflict Prevention Manual and National Case-studies

- To build social partners capacity for more participation at the company level and facilitate knowledge and experience sharing between employers' and employees' representatives by realizing information, consultation and participation rights. This will be done by project meetings such as Online Trainings and serve as a tool for peer-learning exchanging practice via group exercises, Q&A and brainstorming sessions, etc.

- To raise the awareness of workers' and employers' representatives of energy industry from five countries on the effective conflict resolution tools, relevant EU regulations contributing to improved effectiveness of worker-participation bodies achieved through implementation of comprehensive communication and dissemination campaign, outreaching the project target groups; increase employee involvement and make a meaningful positive impact on the daily work of the energy sector enterprises in all partner countries. This objective will be achieved via International Conference, different dissemination tools listed below.

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The "Conflict Prevention Manual" consists of the five major parts which include the following: objectives of the manual, introduction to collective labour disputes (definitions and legal regulations), brief overview of labour dispute resolution in Europe, mechanisms for disputes prevention (information, consultation and participation rights) and finally the factors impacting or preventing collective labour disputed and the role of social partners.

Introduction to collective labour disputes

A collective dispute is a conflict situation that may arise in the relationship between an employer and workers. Therefore, only the employer may be a party to a collective dispute, on the one hand, and workers represented by trade unions or the workers' council, on the other.

According to Section 4(a) of the International Labour Organization's resolution on the statistics of strikes, lockouts and other action due to labour disputes (1993): "A labour dispute is a state of disagreement over a particular issue or group of issues over which there is conflict between workers and employers, or about which grievance is expressed by workers or employers, or about which workers or employers support other workers or employers in their demands or grievances."

Not every conflict is a collective dispute. A collective dispute can only be a conflict that will concern a specific category of cases, and they must directly affect the situation of a specific group of workers, not one worker, because then we are dealing with an individual dispute, not a collective one. An individual dispute arises from the difference in the positions of a specific worker and employer as to their rights or obligations under the employment relationship between them. On the other hand, collective disputes concern a certain community, and therefore the interests of a larger group of workers, and they can be all workers of the workplace or a specific part of them (e.g. administrative employees, blue-collar workers, etc.).

As regards matters that may be the subject of collective dispute, these are matters relating to: working conditions, wages or social benefits, and the rights and freedoms of workers or other groups with the right to form a trade union.

A collective dispute usually begins with a request by trade unions. For example, it is possible to indicate a demand for a wage increase, shortening the working time, providing additional benefits ie. commercial health insurance. Basically, the demand of the trade unions aims to broaden the scope of benefits to which workers are entitled and to better regulate working conditions or pay. But also in case maintaining the existing rights that the employer wants to limit.

In practice, collective disputes might take place also in case of company restructuring (internal restructuring, merger, acquisition, etc.). Here, it is necessary to analyse whether the above situations will translate directly into the situation of workers, especially in terms of working conditions or pay. If so, then they may be the subject of trade union organizations' demands addressed to the employer, which, if they are refused, may lead to a collective dispute. In the case when changes taking place in the workplace do not directly affect workers (e.g. only a change of owner), they cannot be the subject of demands that may lead to a collective dispute.

The right to collective bargaining is regulated at national level. However, the sources of this law can be found in international agreements and some policies of the European Union. These include, for example:

- Conventions of International Labour Organisation, in particular:
  - Nr 98 Right to Organise and Collective Bargaining Convention, 1949;
  - Nr 154 Collective Bargaining Convention, 1981;
- European Social Charter – especially art. 6;
- Charter of Fundamental Rights of the EU – Art. 28;
- European Pillar for Social Rights – Art. 8 – Social dialogue and involvement of workers.

Conciliation, mediation and arbitration are methods of resolving collective disputes in industrial relations. Generally, arbitration is distinguished by the fact that the arbitration decides the dispute, whereas conciliation and mediation only aim to assist the parties to reach a settlement of the dispute. In 2001, the Commission set up a group of experts to study national experiences of conciliation, mediation and arbitration arrangements with the aim to elaborate a European system of intervention in industrial disputes, involving more than one EU Member State (a transnational system operating alongside mediation, conciliation and arbitration services established at national level). For example the European Works Council Directive 94/45/EC and the European Company Statute were to help the parties to the EU social dialogue at sectoral and intersectoral levels to reach agreements and resolve disputes over their interpretation, and contributing to resolving transnational labour disputes arising from company restructuring. Unfortunately, the initiative was discontinuead and currently there is no institution nor mechanism allowing for collective labour dispute resolution at transnational level in the EU.

Strike is an ultimate phase of collective dispute. Strike action is one of the fundamental means available to workers and their organisations to promote their economic and social interests. It is the most visible and controversial form of collective action in the event of industrial dispute and is often seen as the last resort of workers' organisations in pursuit of their demands. The right to strike is explicitly recognised in the constitutions and/or laws of many countries. It can take many forms, from the complete withdrawal of labour for an indefinite period to more restricted forms of protest. A right to strike is not explicitly provided nor regulated in the ILO Constitution nor in any of the ILO Conventions. The constitutions of some Member States have explicitly recognised the right to strike. In others, it is not explicit but implied, and in several it is not possible to speak of a right but only of a freedom to strike.

Labour dispute resolution in Europe – a brief overview

Change management is a general term for approaches to prepare, support, and help individuals, teams, and organisations in making change in their organisations / companies. It includes methods that redirect or redefine the use of resources, business process, budget allocations, or other modes of operation that significantly change a company or organisation. Organisational change management (OCM) considers the full organisation and what needs to change, while change management may be used solely to refer to how people and teams are affected by such organisational transition.

Specific form of the organisational change is discussed in the report – namely the dispute resolution, that involves decision making process in various aspect: wages, restructuring, technological advancement, adaptation to new regulations policies, etc.

A collective dispute is a conflict situation that may arise in the relationship between an employer and workers. Therefore, only the employer may be parties to a collective dispute, on the one hand, and workers represented by trade unions or the workers' council, on the other. A collective dispute usually begins with a request by trade unions. For example, it is possible to indicate a demand for a wage increase, shortening the working time, providing additional benefits ie. commercial health insurance. Basically, the demand of the trade unions aims to broaden the scope of benefits to which workers are entitled and to better regulate working conditions or pay. But also in case maintaining the existing rights that the employer wants to limit.

Labour disputes are significant for European policy in several respects. In the context of the right to organise collectively and negotiate, the right to strike is a key right of European workers. It is, however, generally managed at national, rather than European, level. The right to strike interacts in complex ways with other rights, especially the information and consultation rights, right to participation at the board level (see the list of relevant EU-level legislation in the references).

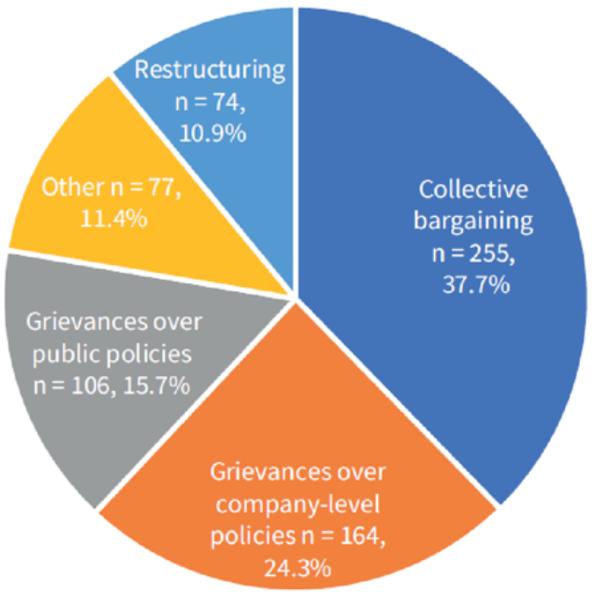
In recent years, there has been a general decrease in industrial action across the EU Member States. According to Eurofound's 2022 report on collective labour disputes in the EU, this trend continued during the COVID-19 pandemic, with the most significant labour disputes, not surprisingly, occurring in the human health and social services sector, the education sector, and the transport and logistics sector.

Based on data collected in 2018–2019 during the piloting of its Industrial Action Monitor database, Eurofound conducted a cluster analysis to classify industrial action in Europe into five categories:

1. national disputes of interest and rights, sometimes involving different forms of employment
2. extended disputes about collective pay agreements
3. localised disputes about employment problems, working time and restructuring, with short work stoppages
4. localised disputes about workers' rights and grievances over company policies
5. disputes concerning public policies

According to Eurofound (2022), the contexts in which disputes arose in 2021 were diverse and not all were related to workplace issues. Collective bargaining was the context of over a third of disputes, with grievances over company-level policies making up another quarter and grievances over public policies accounting for a further 16%.

Figure 1. Context of disputes in Europe



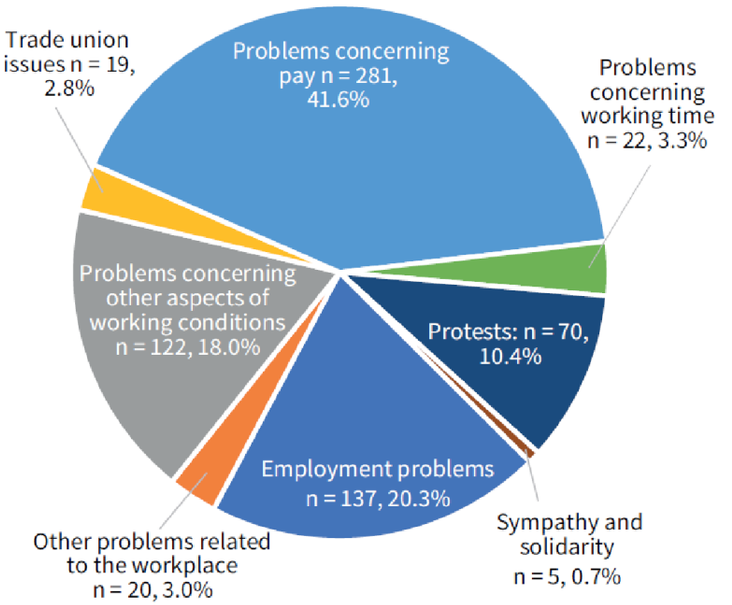
Source: IAM database, 2021, n=676 (Eurofound, 2022)

In terms of specific issues, problems over pay accounted for over 40% of disputes, employment problems accounted for 20%, other aspects of working conditions accounted for 16% and protests accounted for 13%. Over 80% of disputes concerned matters of interest as opposed to matters of rights.

The authors of the study stress, however, that the databases on collective disputes in the EU are incomplete and therefore, there is a relative lack of reliable comparable data on the causes and issues of collective labour disputes across Europe, which hinders efforts to analyse patterns and compare them nationally or by sector. In this context, interpretation of the data presented in the study (the most comprehensive this far) should be done carefully.

The complexity and multicausality of disputes present a challenge in terms of extracting the major drivers of labour disputes. By far the most commonly reported single cause of a dispute is pay and, in an era of growing neoliberal policy orientation, plus increasing austerity over the last decade, the potential for conflict within the employment relationship has increased. Hence, pay claims may be bundled up with other issues relating to work intensification, management restructuring or changing shift patterns (Vandaele, 2016).

Figure 2. Main issue of disputes in Europe



Source: IAM database, 2021, n=676 (Eurofound, 2022)

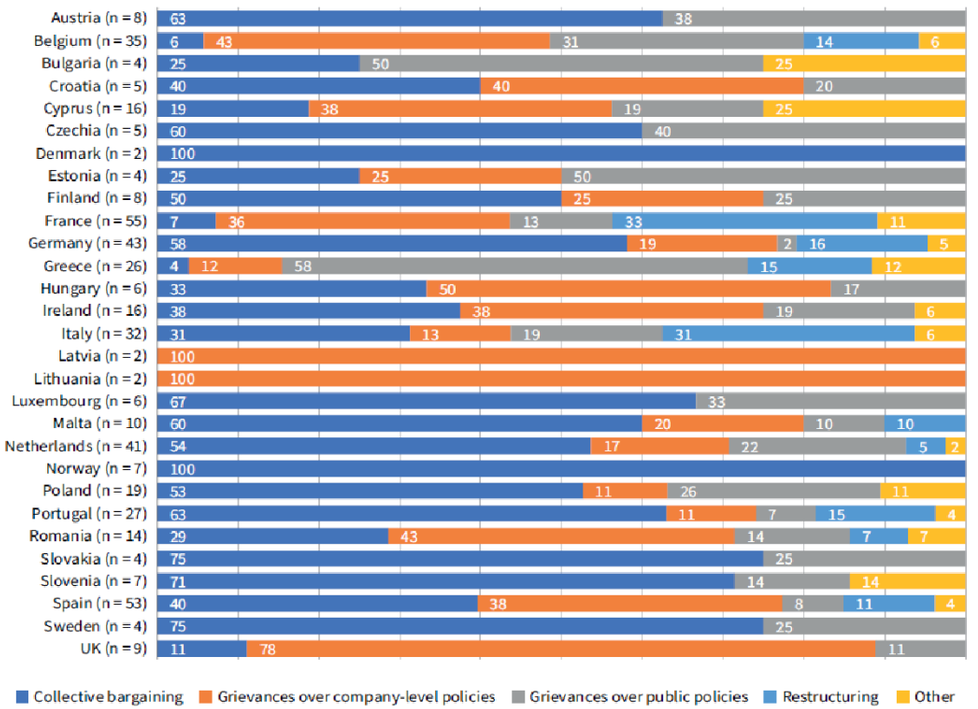
In addition to pay, there are also several other factors regularly reported on as major drivers of collective labour disputes. For example, disputes are often caused by macroeconomic tendencies such as industrial growth or retrenchments in the wider economy (Screpanti, 1987). Equally, there is also likely to be a strong, but conflicting, relationship between unemployment and disputes. On the one hand, low unemployment tends to increase workers' confidence in pursuing their claims, but it also raises the likelihood of employers conceding to their demands to avoid disruption. On the other hand, high unemployment lowers workers' confidence but at the same time may increase employers' commitment to cost cutting, leaving workers with little choice but to enter into disputes (Hyman, 1977; Screpanti, 1987).

The Figure 3 shows the context in which the labour disputes emerged, structured by country (Serbia was not covered by the study). The analysis found that there is considerable variation between countries. In most of the countries, the labour disputes are related to collective bargaining, for example, in Denmark and Norway (100%), Spain and Sweden (75%), Slovenia (71%) and Luxembourg (67%). In some other countries, grievances over public policies predominate, for example,

in Greece (58%), and Estonia and Bulgaria (50%). In two countries, labour disputes related to restructuring represent a significant part of the total proportion of disputes: France (33%) and Italy (31%).

Figure 3. Context in which the labour disputes emerged, by country (%), EU27 & UK

Notes: The number of disputes available for each country is shown in parentheses after the country name. Extreme caution should be exercised in interpreting patterns due to very small numbers for some countries.



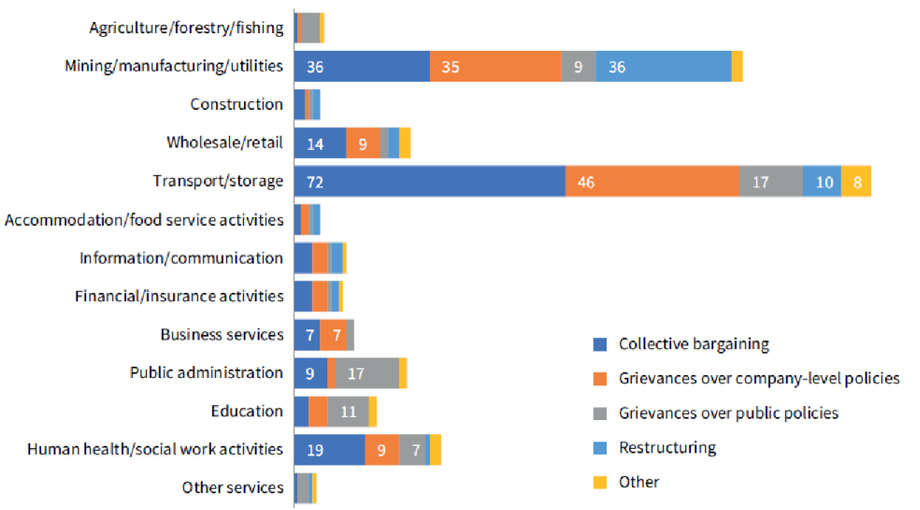
Source: IAM database, 2021, n=470 (Eurofound, 2022)

As regards the countries analysed under the project "Participative energy", in Poland and Portugal, the collective disputes were mostly caused in relation to collective bargaining. In Spain, grievances over the company-level policy play the most

important role, but the collective bargaining is still often ground for disputes. In Bulgaria, the grievances were mostly caused by discontent with public policies, but it has to be taken into account that there is a very small number of reported cases in these countries. The data do not allow to formulate any conclusions on emerging patterns in the analysed countries (which is in line also with the key conclusions of the Eurofound study, 2022).

The sectoral distribution of collective labour disputes shows the largest numbers in the EU in transport and storage sectors (approx. 33% of all reported cases). The energy sector has been included in the agregated group: mining, manufacturing and utilities which is the second largest group in terms of number of collective labour disputes in the EU (25% of all of all reported cases). The study however does not allow for extracting the energy sector and to compare it with other sectors.

Figure 4. Context in which the labour disputes emerged, by sector (%), EU27 & UK



Notes: Some sectors were combined due to low numbers.

Source: IAM database, 2021, n=465 (Eurofound, 2022)

Eurofound's report draws attention to the extent to which the existing literature on industrial action in Europe is based on incomplete data. It points to the need for the systematic collection of empirical evidence in the future to provide a basis for comparative analysis. The collection of data should be based on clear definitions agreed at international level to ensure national comparability. Data should be collected regularly to enable longitudinal analysis.

The data collected should also be sufficiently detailed to enable comparison across a number of dimensions – agreed through discussions with relevant stakeholders – such as sector, occupation/type of employment, triggering issue, collective bargaining context and gender of the workers involved. Ideally, it should be possible to collate this information with other data to calculate the economic costs of disputes, to both employers and workers.

Overall, it is widely accepted that the first two decades of the 21st century have been a challenging time for industrial relations in the EU, and the institutional pillars of European social models have been weakened – in particular, the key pillars of employer associations, trade union membership and collective bargaining coverage – leading to increased heterogeneity at national level among these pillars (Marginson, 2017). Factors responsible for this decline are increased market and economic integration, globalisation, the monetary union, EU expansion and the global financial crisis – whose impacts have been spread unequally across the EU. These events have increased the pressure to weaken employment protection, liberalise precarious contracts, decentralise collective bargaining and remove extension mechanisms (Hyman, 2018). In short, there has been a general worsening of the position of labour, relative to capital, within the realm of industrial relations but, because these transnational pressures have been spread unevenly across the nations of the EU, factors such as employment security, social benefits and representation in the workplace are now even more dependent on the country where the individual works (Meardi, 2018). Consequently, industrial relations regimes have become more diverse across the EU and the relationships between state, capital and labour at national level have become increasingly important (Marginson, 2017; Hyman, 2018; Meardi, 2018).

However, in more recent times, the EU has made efforts to boost its social credentials. Most notably, this emanates from the European Pillar of Social Rights, which was formally agreed in 2017 and represents a broad and encompassing commitment to equality and social welfare across the EU. In relation to the industrial relations regimes, Chapter II of the pillar, which covers fair working conditions, is the most relevant. This includes a reaffirmed commitment across the EU to the following aspects of working conditions: secure and adaptable employment; fair wages; information about employment conditions; employment protection; social dialogue; worker involvement; work–life balance; healthy, safe and well-adapted work environments; and data protection. The pillar is a very ambitious and long-term project but certainly, if existing and future governments are able to deliver

on its central tenets, it will have a positive impact on social protection across the EU and, as part of that, will help to create industrial relations regimes that are more conducive to social dialogue.

In line with this change in focus, it is also already clear that the EU's approach to the challenges of the COVID-19 crisis is different from its approach to previous crises, especially the 2007–2008 financial crisis. There is little likelihood of an immediate return to the strict austerity measures that were imposed in the last decade, with policy responses within the euro zone. Given that, as outlined above, the previous austerity regime placed severe pressure on the industrial relations climate and led to a further weakening of trade union power and influence, if the current measures remain in place in the post-COVID-19 period, even if only partially, this may well lead to a more conducive environment for trade union activities. However, it must be conceded that, with the level of public expenditure currently being undertaken in response to the COVID-19 crisis, there will at some point have to be a reversal and a return to a more fiscally prudent regime. It is hoped that at least some lessons will have been learned from the previous decade and this reversal will not be applied in such a severe and draconian fashion.

Information, consultation and participation rights – mechanisms for disputes prevention

The EU legislation provides workers with rights to information, consultation and participation, which establish mechanisms for social dialogue in order to prevent collective labour disputes.

Council Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community[1] defines "**information**" as "transmission by the employer to the employees' representatives of data in order to enable them to acquaint themselves with the subject matter and to examine it" (Article 2 (f)). "**Consultation**" is defined as "the exchange of views and establishment of dialogue between the employees' representatives and the employer" (Article 2 (g)). This directive introduces the requirement to provide information and consultations in the company with the representatives of employees and creates the legal basis to establish **works council** (WC). These entries concern enterprises employing at least 50 employees in any one Member State; or EU establishments with at least 20 employees in any one Member State. The Directive leaves flexibility to the Member States as to the practical arrangements that can be made in agreement with the social partners. However, they must comply with the prin-

1 https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32002L0014

ciples expressed in Art. 1. Namely, "(3.) When defining or implementing practical arrangements for information and consultation, the employer and the employees' representatives shall work in a spirit of cooperation and with due regard for their reciprocal rights and obligations, taking into account the interests both of the undertaking or establishment and of the employees."

The information and consultation procedures shall cover:

- information on the recent and probable development of the undertaking's or the establishment's activities and economic situation;
- information and consultation on the situation, structure and probable development of employment within the undertaking or establishment and on any anticipatory measures envisaged, in particular where there is a threat to employment;
- information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations,

The right to information and consultations is also granted to employees in transnational enterprises operating in the European Union. Directive 94/45/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees [2]and the subsequently updated Directive 2009/38/EC[3] created the basis for the establishment of **European works councils** (EWC). These are permanent bodies of employee representation that facilitate information and consultation processes.

The main motivations staying behind the establishment of such a mechanism was the need for a workers' response to the developing globalization processes of enterprises and the need for greater integration in the European Union, also in the dimension of social dialogue. Along with the greater internationalisation of companies, a relevant level of social dialogue was needed that corresponded with adequate bodies were decisions made in order to balances the position of workers and employers. European Works Councils have introduced a new European level of industrial relations. The EWCs might be created in multinational companies having establishments in at least two member states. Such companies must comply with the following criteria:

- have at least 1000 employees in the Member States
- and have at least 150 employees in each of at least two Member States

2 https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A31994L0045
3 https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32009L0038

The Directive 94/45/EC has been amended after 15 years of operation. The new Directive 2009/38/EC (Recast) strengthened the role and rights of EWCs in many areas, in particular:

- it strengthened and defined more clearly EWC rights to information and consultation,
- distinguished more clearly information and consultation within the EWC from processes carried out by national bodies and thus introduces a new definition of "transnational issues", which are the responsibility of the EWC;
- gave a stronger role to trade unions,
- entitled EWC members to participate in training without losing remuneration due to absenteeism,
- included rules for adapting EWCs to structural changes in the context of multinational companies.

Employees may also undertake activities which are called **employee participation** and are associated with greater employee involvement. Employee participation may be direct - then it consists in direct practices of negotiation, usually individual, between employees and the employer. There is also participation mediated by democratically elected employee representatives. In European Union countries, employees can usually meet the following forms of representation:

- trade union (there can be more than one union in a given workplace)
- *ad hoc* representations - established ad hoc in order to initiate a dialogue in order to resolve an issue that is important at a given moment. They are usually established in place of a trade union, if such an organization has not yet been established in a given company.
- board-level employee representation (BLER). In most European Union countries, employees have the right to elect their representatives to statutory bodies (supervisory board, management board) in selected companies (most often in state-owned companies or other relatively large enterprises or in the public sector).

Board-level employee representation is a mechanism of workers participation and an important element of industrial democracy. According to Aline Conchon (2011), board-level employee representation "refers to the phenomenon in which employees choose or designate their representatives for the statutory bodies of companies". The workers' representatives once elected (or designated) have the responsibilities equal to other members of the statutory bodies in company (supervisory board, executive board) and represent workers' interests at the same time (Munkholm, 2018).

Unlike the information and consultation rights, regulations on BLER are left to the discretion of the Member States, and therefore there is no legal framework allow-

ing for setting certain standards in each country in this respect. In result, a large variety of adopted BLER solutions might be found in the EU countries. BLER is in place in 19 out of 31 countries of the European Economic Area, 14 of which enjoy the wide regulation scope and five only limited participation rights. In every country a specific system has evolved and board-level representation is always embedded in the wider context of the national industrial relations system (for further details on country level differences see Conchon, 2011 and Munkholm, 2018).

Some directives expressly recognise participation rights in relation to changes in company status or companies' transnational mobility (Owczarek, 2021). In these instances, the relevant directives safeguard participation rights in the involved companies. For instance, Directive 2001/86/EC – which supplements the European Company Statute – ensures employee involvement in European companies through informing and consulting employees. It even protects board-level participation when such participation already exists in one of the companies involved in the process of creating a European company. Moreover, the Cross-Border Mergers Directive 2005/56/EC contain provisions ensuring that the mechanisms of information, consultation and participation in the merging companies will be maintained at a level not worse than before the merger - under certain conditions. These labour rights were repeated in the subsequent EU Directive 2017/1132/EC relating to certain aspects of company law. Additionally, Directive 2019/2121 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions extended the scope of the regulated restructuring from mergers also to divisions and conversions.

EU legal acts on information and consultation (and related issues)

Council Directive 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees https://eur-lex.europa.eu/eli/dir/1994/45/oj

Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32001L0086

Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32002L0014

Directive 2005/56/EC of the European Parliament and of the Council of 26 October 2005 on cross-border mergers of limited liability companies https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32005L0056

Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast) https://eur-lex.europa.eu/eli/dir/2009/38/oj

Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32017L1132

Directive (EU) 2019/2121 of the European Parliament and of the Council of 27 November 2019 amending Directive (EU) 2017/1132 as regards cross-border conversions, mergers and divisions https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L2121

Factors impacting or preventing collective labour disputes and the role of social partners

The project "Participative energy: Increasing employee involvement in conflict prevention and resolution during energy sector restructuring" assumed an exchange of experiences between countries and social partners (both employers' and workers' organisation) in terms of collective labour disputes which took place during the International Roundtable held on 22 and 23 May 2023. After discussing various typologies of conflicts (see Table 1), differences in the national industrial relation systems and legal landscape in regards to collective labour disputes resolution (see the links to the country profiles in the references and the detailed Conflict Prevention Methodology report), the partners were asked to analyse factors leading to collective labour disputes in reference to their experiences at the national level. The Roundatble consisted of two sessions: on external and internal factors of industrial conflicts and how to tackle them? and on methods of conflict resolutions (how to prevent and solve industrial conflicts?). Input provided by the project partners will contextualise the information provided in the first parts of the Manual.

Table 1. Classification of conflicts by cause

Type of conflict	Cause
Conflict of interest	○ Procedures ○ Substantial issues ○ Psychological needs
Structural conflict	○ Diverging responsibilities ○ Deficits in organisation of work and space ○ Time limits ○ Unclear division of tasks and responsibilities
Conflict of values	○ Central values ○ Peripheral values
Conflict of relations	○ Strong emotions involved ○ Stereotypes and prejudges ○ Failors in communication ○ Negative personal experiences
Conflict of data	○ Lack of information ○ Misunderstanding of data ○ Diverging interpretations of the same information ○ Various procedures of collecting and analysing data

External vs. internal factors

The participants of the International Roundtable were requested to analyse a country cases showing an example of a dispute resolution and to point out key obstacles and difficulties in resolving the conflict (or obstacles for reaching an agreement or avoiding conflict). The discussion covered cases from all five project countries (Bulgaria, Poland, Portugal, Serbia and Spain). The factors have been discussed and structured as follows:

External factors / conditions

- Macroeconomic factors: rising gas prices, rising inflation, rising interest rates, disrupted supply chains in result of the COVID-19 pandemic and the war in Ukraine.

- Political factors: European Green Deal (all countries – except the EU candidate - Serbia), national policies (abandonment of nuclear energy and the plans to close all coal mines in Spain – however with workers protection schemes in place; closure of all coal mines and refinery company with no major collective redundancies schemes in place in Portugal, introduction of a complicated tax system - Polish Deal, and the plans to close the mining and energy sector in Poland, Bulgaria - pre-election period - fulfilment of promises made to social groups)

Internal factors / conditions

- Organizational changes: restructuring, consolidation of companies (Poland, Portugal, Spain)
- Employer / union strategies / tactics: confrontational attitude, rejection of talks, intimidation, e.g. by not paying wages, hiring outsourced workers during a strike, delegating management representatives to negotiations who did not have the right to conclude agreements
- Role of the external dispute mediation agency (positive factor) (Bulgaria, Serbia)
- Non-compliance with the provisions of collective agreements (Bulgaria, Poland, Serbia)
- Ignoring dialogue - unilateral government / employer decisions (Portugal, Poland)

The opportunity to share experience and information between industrial relations actors from different European countries is not only a form of organisational awareness-raising, but above all an excellent platform for learning different solutions to different situations: from the momentous role of social dialogue to institutionalised disputes. In the project report, various aspects of dispute resolution were presented on the basis of the partners' discussions: the factors that determine the shape of industrial relations, the role of social dialogue and the ways in which industrial disputes can be resolved, as well as the effect of the attitudes of the parties to industrial relations, which often turn out to be crucial to the way in which bargaining is conducted.

Methods of conflict resolutions – how to prevent and solve industrial conflicts?

During the International Roundtable the participants expressed a number of factors impacting collective labour disputes and how to prevent or solve the industrial conflicts - as they perceive it from their experiences in the energy sector. The factors were as follows:

- The essence of dialogue is the ability of partners to dialogue, to listen to each other, to seek dialogue and agreement, each party must propose solutions and be guided by empathy.

- The unequal position of the partners must be taken into account. The government and employers are always in the stronger position, while workers are in a weaker position. More conciliation is needed on the part of government and employers. In Portugal, resistance and unwillingness to negotiate has been observed for many decades and resulted in uncompromised policies aiming at liquidation of all coal mines and refineries with to collective redundancies schemes in place.

- Conflict could be an opportunity to improve working conditions, but employers do not see it that way. Employers often treat workers as ingrates, intruders inhibiting corporate strategies. For example, many companies in Portugal enjoy tax concessions and reliefs, so the company profits are increasing, yet companies have chosen not to increase workers' wages. Therefore, some major reforms are needed in order to strengthen workers' position at negotiation table to counterbalance the strength of employers and reintroduce democratic standards. Currently, workers have no desire to be involved in unions nor in collective disputes, because they do not have the strength to assert their rights.

- The key instrument for collective labour dispute prevention and resolution - especially in the Eastern European countries: Bulgaria, Poland, Serbia – is formalised social dialogue, collective bargaining and defined mechanisms that introduce transparency and rules.

- But sometimes, even when mechanisms and institutions are in place, tensions and differences of interests are so great that they lead to an escalation of the dispute. For example, in Bulgaria, the key focus is on finding an agreement through social dialogue, but what is failing is the lack of commonality of information between the parties in the negotiation process. This does not allow for a correct assessment of the situation and the pursuit of an agreement that is possible in the given context.

- In order to keep the parties updated, it is necessary to be in constant contact between employer and unions, to have an ongoing dialogue to exchange information, to be in contact with each other.

- Also staying in touch with each other avoids conflicts, does not allow the dispute to escalate. Make decisions on the fly, don't put them off for later. For example, in the mining industry in Bulgaria, all key companies have a collective agreement and these agreements are updated. Social dialogue is intensive and ongoing, avoiding major conflicts. Wage increases are usually around 1.5 percentage points higher than the minimum wage increase.

- It is also important to have experience in dialogue, soft social skills, to understand the other side.

- A key factor in preventing disputes is trust and dialogue. Unions should not make demands that cannot be met and employers should not claim that there is no profit to be shared with employees. There is a need for an autonomous independent opinion on the state of the sector and of individual companies (there is an independent centre in Norway that provides such a diagnosis)

- Attitudes in social dialogue are often reflected in narratives used to describe conflicts. For example in Poland, both parties approach negotiation table to "rip somebody off", to "cheat", to get a deal on the expense of the other side. At the same time the term "compromise" has a negative connotation expressed often as a "rotten compromise". While building trust and partnership requires seeking for "compromise" and "agreement" as a value in itself.

Principles of negotiations

As a part of the International Roundtable principles of negotiations proposed by Roger Fisher, William Ury, Bruce Patton in their classic publication "Getting to YES. Negotiating Agreement Without Giving In" were presented and discussed with the participants.

The book begins with a chapter "Don't Bargain Over Positions" that explains the undesirable characteristics of positional bargaining, in which the negotiating parties argue over a sequence of positions. The next four chapters describe the method of principled negotiation in order to "decide issues on their merits rather than through a haggling process".

1. **"Separate the people from the problem"**

The authors point out that negotiators are people first—people who have different values, cultural backgrounds, and emotions. The relationship between parties tends to become entangled with the problem that the parties are discussing; therefore, issues of perception, emotion, and communication need to be addressed during a negotiation. Concerning perception, the authors note that it is important for a negotiator to understand how the other party views an issue. Ways to accomplish this include "Put yourself in their shoes", "Discuss each other's perceptions", and "Face-saving: Make your proposals consistent with their values". Concerning emotion, the authors encourage negotiators to explore the causes of both their own and the other party's emotions. Techniques may be needed to defuse anger, such as allowing the other party to voice grievances and to provide an apology as a symbolic gesture. Concerning communication, the authors point out three common problems and give suggestions to prevent or solve them: A. Not speaking with the other party in a direct and clear manner; B. Not actively listening to the other party, but instead only listening to rebut the other party's statements; and C. Misunderstanding or misinterpreting what the other party has said.

2. **"Focus on interests, not positions"**

The second principle distinguishes the positions that the parties hold from the interests that led them to those positions. The authors recommend that negotiators identify interests, such as the "basic human needs" of "economic well-being" and "control over one's life", behind the parties' positions. Both parties should then discuss their interests and keep an open mind to the other side of the argument, in order to arrive at options that satisfy their respective interests.

3. **"Invent options for mutual gain"**

The third principle seeks to benefit both parties that are negotiating. To generate options, the authors suggest that the parties brainsorm separately and possibly together. The book describes specific techniques to promote effective brainstorming; for example, a "Circle Chart" diagrams the repeated steps of Problem, Analysis, Approaches, and Action Ideas that should occur. Options can either meet shared interests or meet different interests that are complementary. After a suitable option is developed, one side can draft a written agreement to make the decision easy for the other side.

4. **"Insist on using objective criteria"**

The fourth principle encourages parties to "negotiate on some basis *independent* of the will of either side". This approach can help produce "wise agreements amicably and efficiently". Objective criteria can be based on factors such as market value and precedent. The three steps for using objective criteria in negotiations are to jointly search for such criteria, to keep an open mind about which criteria should be chosen to be applied, and to never give in to pressure or threats.

The participants of the International Roundtable were encouraged also to study other books:

- *"Getting Together: Building a Relationship That Gets to Yes" by* Fisher and Scott Brown (1988);

- "Getting Past No. Negotiating Your Way from Confrontation to Cooperation" by William Ury (1991);

- *"Getting Ready to Negotiate: The Getting to Yes Workbook" by* Fisher and Danny Ertel (1995);

- "*Getting to Peace: Transforming Conflict at Home, at Work, and in the World" by William Ury (1999)*

- "*The Power of a Positive No: How to Say No and Still Get to Yes" by William Ury* (2007);

- "*Getting to Yes with Yourself (And Other Worthy Opponents) by William Ury* (2015).

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