

Discussion Paper

Towards a European Labour Market?

Introduction

The ETUC has been discussing again the question of minimum wages in Europe. This discussion exposed the varying views of affiliates of the ETUC about the pros and cons of aiming to introduce minimum wages in Europe.

Colleagues from France and Belgium led those who believe that a minimum wage in the EU is necessary – or at least to start with, a coordinated mechanism or a common formula for minimum wages at national level is necessary - to prevent social dumping. Against that, Nordic and Italian colleagues had no objection to the idea that each country should set minimum wages whether by collective bargaining or by law but that the processes and level of such wages should be set sectorally or nationally, not at European level. This has been the formula agreed at the Seville Congress.

The debate has been given extra urgency by the proposals for European economic governance emerging now from the Council of Ministers and the Commission after the March Summit. These are signaling that the EU will have a view on unit labour costs in each eurozone country and, perhaps, the other EU countries too. The EU is on track to compare on unit labour costs, raise retirement ages, control minimum wages, reduce employment protection laws and weaken collective bargaining machinery. These are the emerging standards of a European labour market!

So although the debate “Towards a European labour market” started as a consequence of ETUC internal pressures, other forces are now at work and are giving fresh impetus to the debate.

This debate, which continues, has led to another one – a wider consideration of Europe’s role in collective bargaining as mobile capital takes advantage of differences between countries and the varying trade union and collective bargaining systems. Europe’s unions are very aware of the way the four freedoms of the European single market – people, good, services and capital – can be exploited to undermine collective bargaining systems.

The recent decisions of the European Court of Justice on the Laval, Viking, and Rueffert cases have illustrated vividly the risks that we run with the single market and how it currently prioritises free movement over fundamental rights. A degree of greater Europeanisation could be less a matter of choice than of necessity.

This discussion paper therefore starts the debate without the intention of prompting decisions at the 2011 Congress but, instead, to acclimatize European trade unions with the various pressures and issues which need to be fully understood and considered at national and sectoral levels. During the next mandate and after due reflexion, the Executive Committee will be called upon to decide on the way ahead.

A European Labour Market?

The debate about minimum wages and European standards needs to be set against the historical developments of Social Europe which has evolved through successive treaties over the past 50 years or so. The main landmarks are as follows:

The Treaty of Rome (1957), the founding treaty of the EU, included a provision for equal pay between men and women. Any social policy initiatives needed to be adopted by unanimity.

The Single Market Act (1987) included for the first time a provision for qualified majority voting on social policy, relating to health and safety. This also provided the detailed legal basis for free movement of labour among EU member states, along with the other freedoms of movement of capital, goods and services.

The Maastricht Treaty (1992) went further and included the Social Chapter whereby the social partners could negotiate European wide collective agreements and that social provisions in some areas could be adopted by qualified majority voting.

The Lisbon Treaty (2009) incorporated the Charter of Fundamental Rights into the EU treaties, including provisions on the right to collective bargaining and to strike.

The combined effect of these measures is that around 60 directives have been produced on social and labour market issues. These can be grouped as follows:

health and safety, including working time; these account for over 40 directives.
equality on gender, race, religion, and sexual orientation; specific provisions on equal treatment for part-time workers, fixed term workers and agency workers (to be implemented by 2011). There is also protection for women experiencing maternity and the right to parental leave.

A general framework on information and consultation, as well as on mass redundancies, transfer of undertakings and European works councils.

miscellaneous laws – in particular the Posted Workers Directive which aims to extend entitlements to workers brought by their employer from one country to another to at least the minimum conditions in the host country.

This is an impressive list but it is, of course, the case that many of the core issues of industrial relations are dealt with at national level, and this includes collective bargaining on pay, strikes, job security and employment protection, restructuring, pensions, sick pay, social security and dismissals and discipline.

Collective Bargaining and Europe

Collective bargaining is the core business of trade unions. And the core principle of collective bargaining is workers joining up in unions to avoid mutual competition so that they can improve their bargaining position towards business. Historically, this principle has guided the construction of many bargaining systems and institutions in many European member states.

However, European economic integration has been, to an increasing extent, working to erode nationally based wage formation and collective bargaining systems. The internal market

freedoms of movement of goods, services and capital (backed up by the ECJ cases) provide business with ample opportunities to bypass national restrictions and to have workers compete against each other across borders. This raises the question whether trade unions are able to lift the principle of 'standing together' towards the European level in order to ease the competitive pressures coming from the internal market.

This issue is not entirely new. Since the 1999 Helsinki congress, the ETUC has undertaken efforts to implement a strategy to coordinate collective bargaining around Europe. At the time, the main reason to do so had to do with the basic concern of preventing workers undercutting each other (avoiding competitive wage devaluations replacing currency devaluations inside the single currency area, working to ensure that wages in the new member states would match their fair share of productivity increases).

To this was added another reason to organize ETUC activity on collective bargaining: This was to help deliver a 'jobs friendly macroeconomic policy mix', the idea being that 'responsible' wage bargaining strategies would help the European Central Bank in providing low enough interest rates to stimulate investment and stronger growth.

The evaluation of more than ten years of ETUC experience with the coordination of collective bargaining strategies shows that affiliates insist on their national autonomy, as do employers and, of course, there are significant and formidable variations in national politics, cultures, collective bargaining systems and labour laws.

Europe v National?

There has always been a tension within the ETUC about those who believe that Europe should have a stronger social dimension to control the development of the Single Market (and increasingly now the problem of the single currency); and those who want to ensure that the core elements of their national system are not interfered with and, perhaps, watered down by the development of European standards. Unions who took the latter view have been prepared to accept the development of European standards but have guarded carefully the national dimension on collective bargaining in particular.

Yet there are two recent pressures emerging which require a re-think on behalf of all members of the ETUC. One is the scope for conflict between the free movement provisions of the EU treaties and the national systems of industrial relations and labour law. The increasing impact of the European single market as it extends into services, and the enlargement of the EU in 2004 with the entry of eight former communist countries with relatively low levels of GDP, have made the EU's single market a much greater reality than it was before. In particular there has been a (mainly east-west) surge in migrant workers.

The ETUC has long favoured the free movement of labour but on the basis that the rules are that the standards applied are those of the host country, not of origin.

But recent decisions of the European Court of Justice – Laval, Viking, Rueffert, Luxembourg, Germany – have illustrated that the ECJ takes the view that the insistence on applying advanced labour standards is a barrier to free movement. The ECJ's view is in effect that it is acceptable that only minimum conditions need apply to posted and perhaps to other categories of migrant workers (eg seasonal workers and intra corporate transfers).

These judgments are having the effect of undercutting the terms of collective agreements, and producing an increase of anti-European, protectionist feeling among some trade unionists.

The ETUC is attempting to address these problems by calling for a Social Progress Protocol in EU treaties, for a revised Posted Workers Directive based on equal, not minimum pay, and a “Monti” regulation in the proposed new Single Market Act which would emphasise that the single market does not overrule fundamental rights, like the right to strike.

These ETUC proposals would protect workers against being undercut by some categories of migrant workers while providing that migrants are not regarded as second class, subordinate workers to be treated in an inferior way. But they do not provide an answer to growing inequality in Europe, nor to social dumping, nor to the need to build a robust trade union Movement across all member states of the EU, more capable than currently of formulating common demands and actions.

The absence of a universally strong trade union Movement in the EU is being revealed starkly in the current economic crisis – and this leads to the other pressure on Europe’s unions to begin to revisit the ‘Europe v National’ debate. The new proposals, and proposed Treaty, on economic governance will exert tough, anti-social controls on all eurozone countries and perhaps on remaining members of the EU. Almost the full burden of the cost of national recovery programmes is falling on workers’ pay, jobs and public services. The extent varies from country to country but the pressures are the same almost everywhere in the EU. Social Europe is shrinking as labour laws and employment protection are weakened, pay is cut or frozen, welfare benefits and pension entitlements are being cut, and more public services are privatized. The member states with the strongest, most representative trade union Movement, which are capable of combining determination to resist with a measure of genuine flexicurity are the benchmarks for the rest to match (the short-time working subsidies in a number of countries were a good example of genuine flexicurity). Can we unite to fight for a better deal for Europe’s workers?

ETUC Ambitions for a European Labour Market

Is there scope for a more ambitious approach for debate starting with asking some hard questions. How realistic is it for the ETUC to try to insulate national systems against pressures from the EU’s single market. Would a Social Progress Protocol, Monti regulation and a revised Posted Workers Directive be enough? Can we, at least, consider that these measures are complemented by a more European wide approach to establishing a wider range of common and minimum standards drawing on ILO standards and the standards of the most advanced EU states.

If we were to follow that route, first among our concerns should be a universal right to negotiate and to collective bargaining within a member state and at European level. A framework directive might require member states to build collective bargaining systems which

establish minimum rates of pay in all sectors of the economy;
ensure that productivity gains are fairly distributed;

regulate hours of work;
ensure equality on a gender basis, for all categories of migrants, and on a pro rata basis for all “precariously” employed workers;
provide for information and consultation before all decisions affecting employment security and the pressure of work with a view to reaching agreement on change.

Next, among our key concerns might be a framework for democracy at work on other matters. It is proposed, in particular, that we might consider establishing union/worker influence at the level of the board of directors, or at the equivalent top level of private companies and private equity held companies. The aim would be that there is a regular dialogue about creating growth and sharing its proceeds; about reducing carbon emissions and any implications for employment; and about skills and training.

A third element might be that each member state establishes social dialogue machinery to ensure the full implementation of the steps set out in paras 29 and 30 in a manner appropriate to that member state, but which reports annually to a European Conference on labour standards in which the social partners play a prominent part. This way, economic governance could be matched by increased social governance.

Political Realities

For the moment, achieving these ambitions seems a remote prospect. Europe’s leaders are focused on trying to save the euro by imposing restrictive measures. Centre left political parties are currently ill equipped to capitalise on the crisis of financial capitalism. Indeed the crisis is benefitting those who believe that Europe must become more free market and cheaper to compete with emerging economies like China. They – and the eurosceptics and the nationalists - are the ones who are seizing the initiative, and trade unions are their main opponent.

It is clear in these circumstances that Europe’s trade unions will have to rely on our internal strengths and support each other to:

expose the 1930s like direction of key European economic policies
run campaigns and selective actions
regard ourselves as ‘guardian’ of the Treaty as regards the autonomy of collective bargaining
upgrade our existing strategy of co-ordination of collective bargaining, including the industry federations, by aiming to formulate common demands and perhaps organize common actions.

Yet we should debate our possible ambitions as set out in paras 28-31 above so that we are well prepared when the prevailing climate becomes more receptive.

Conclusion

In these ways – and perhaps there are other ways too – the ETUC could adopt – or at least debate – an ambitious programme which is pro collective bargaining and pro worker in a way which fuses national and European levels better than exists currently.

The views of the affiliates and delegates are requested on these ideas.

