The key role of transnational company agreements in the building of a social dimension to European development

The social dimension of Europe is clearly not at the level it should be. European directives and recommendations are important to generate common norms and common processes; but in many cases those standards will also appear through collective bargaining. That is the lesson from the past, everywhere in Europe. In every country; the major breakthroughs have been accomplished through discussions and agreements at the national, sector, regional or, more and more at the company level.

Collective agreements have created, in each European country, a solid basis with agreed principles and common protective rights. However, it is almost impossible at the country, the sector or the region level to elaborate customized solutions to specific company related issues.

Negotiation styles and legal regulations and more globally social models are still quite different in Europe; but everywhere there is the recognition of the importance of unions and workers’ representative bodies.

Negotiation is clearly the common language of Europe. It is certainly a key differentiator with other models where worker’s unions do not exist within companies or do not have the autonomy to act.

CONCEPT

It is why transnational company agreements are so important. They reflect the transnational nature, organisation and management of medium and large companies, which can be pioneers for social responsibility.

The emergence of European companies does offer opportunities to start the building of the social dimension of Europe. As it has been previously done for information-consultation process or for European Works Councils, there is a need for a legal framework to foster the development of transnational company agreements.

Almost 200 transnational companies have paved the way and they did it without any European optional framework. To go further such a framework is needed, because business needs security, and the learning of those agreements provide a good basis for such an attempt.
This framework, which should validate existing agreements, has to fulfil three conditions:

- Be optional; each company has specific questions to solve with a particular timing; furthermore the reciprocal commitments have to be endorsed by both parties which is not always possible or mature

- Fully respect rules and mechanisms of collective agreements; without referring explicitly to a legal framework of a particular country, they have to take them into account as a basis

- Be flexible enough to allow further creativity while organising social dialogue.

AIM

It is not only about generating transnational texts without impact or at the other extreme about producing European collective conventions to define the collective terms and conditions.

It is about answering at the European level to new and common issues.

It is not about duplicating or replacing national texts. It is about finding, through social dialogue, innovative solutions to face and overcome the current economical and social crisis. It is about building a new layer of practices negotiated with a win-win approach. It is about addressing a situation entirely new on a new perimeter. It is a new game where we will have to find the rules by mixing our national experiences.

It is not about closing Europe to the rest of the world by creating barriers or protectionism. It is about finding solutions to balance economic and social dimensions, solutions that can be applied in any country aiming at a social democracy.

The market is global; processes to elaborate social solutions should increasingly take advantage of cross-fertilization.
ACTORS

Seen by a transnational organization, such negotiations are easy to consider and to manage because those companies have built common management and the Executive Committee can make final decisions and commitments. On the worker’s side, it is not that easy. A mechanism has to be found to create an ad-hoc negotiation group with the proper leadership.

It would be then useful to formalize the conduct and outcome of transnational company agreements. The basic principle is that collective bargaining is a core competence of national trade unions, based on national legislation and varying practices in different countries. However, at the same time the role of the EWC will be critical.

Three lessons can be extracted from past experience:

-The appropriate European workers’ Federation that can easily take advantage of previous and similar discussions in other companies should naturally lead the negotiation. This mandate should be very clear and reflect the willingness of both parties to reach an agreement.

-The second step is the creation of the negotiation body; each country should of course be represented but furthermore each country should delegate its representative(s) according to its own tradition and culture; it is a decision of the unions that are representative in respect of their national systems and taking into account when and as appropriate the opinion of the national work councils

-The European Works council that has a role of information and consultation (directive 2009/38/EC) should be a key actor to monitor the process and the implementation, before and after the signature.
TOPICS

The topics selected for such discussion should not be, for the time being, the classic bargaining domains such as salaries, which have to be discussed on a country basis according to national processes. However, there are a lot of shared issues where a transnational approach will be more appropriate and more effective than a national one. It is the case for topics such as job prospective and professional development, assessments and management practices, diversity and equal opportunities and, more globally, all the domain of social responsibility. It means that those negotiations will not reduce the field of national bargaining but will address unsolved questions and new territories. It will enlarge the field of negotiations strengthening social dialogue as the modern way to solve problems and to generate continuous improvements. It is a new frontier for social dialogue.

PROCESS

The first step (that can be a long one) is building the negotiation body, which has to be done carefully to create trust and should not become a permanent body; the mandate given to the European federation has to be very clear.

A second step, which appears to be critical for many agreements, is the collection of existing good practices to create a solid, pragmatic and shared basis. platform for negotiation.

At the time of the signature for the third step, it is very important that a transparent process of consultation is organized country by country. There should be a clear majority in each country. That is the only way to avoid rediscussing the agreement in each country, which would inevitably destroy the building of common rules between countries.

As a consequence, a European legal framework is needed to avoid companies willing to engage in such a process to «reinvent the wheel», as well as to secure the implementation and to formalize the conduct and outcome of transnational company agreements.
FOLLOW-UP

Each agreement should define and clarify the follow-up mechanisms: scorecards (it will be of course much easier if the agreement describes concrete actions and does not only state principles), meetings between management and unions and regular assessments by the European works council.

LEVELS OF NEGOCIATION

The European company agreements are not inconsistent with worldwide company agreements. Depending on the topic to address, each company should decide the appropriate level of negotiation. It is clear that, because of globalization, more and more, a worldwide approach will make sense when possible. But for the time being, Europe can be a good transnational level to start with. The commonalities between European systems make it easier to share good practices and, in any case, a negotiation is possible only when unions are structured within companies; so far, company unions do not exist in most companies in the US, while in China, companies’ unions have no autonomy; at the same time it is true that in Australia or Latin America, the situation is quite often comparable to Europe.

It is why European company agreements are today more precise and more action-oriented than worldwide agreements.

European Company Agreements are clearly paving the way.

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