

**Social dialogue  
in the state labour market  
in the European Union**

**November 2002**

## Social dialogue in the state labour market in the European Union

### Social dialogue in the state labour market in the European Union

ISBN: 87-7956-072-5

This publication can be ordered by phone from:

Schultz Information  
Herstedvang 12  
2620 Albertslund  
Tlf.: (+45) 43 63 23 00

E-mail: [Schultz@schultz.dk](mailto:Schultz@schultz.dk)

Further enquiries regarding this publication can be adressed to:

State Employer's Authority  
Frederiksholms Kanal 6  
DK - 1220 Copenhagen K  
Tlf.: (+45) 33 92 40 49

Cover: Nordsjællands Trykcenter  
Printing: Nordsjællands Trykcenter  
No. of copies: 350

This publication can be found on [www.perst.dk](http://www.perst.dk) or on [www.cfu-net.dk](http://www.cfu-net.dk)  
ISBN: 87-7956-073-3

Table of contents

**Foreword** ..... 5

**1. Introduction**..... 7

    1.1. What is social dialogue? ..... 8

    1.2. Is it possible to speak of a social dialogue in the state labour market? ..... 9

**2. Social dialogue in five state labour markets** ..... 11

    2.1. Social dialogue in the state labour market? ..... 11

    2.2. The location of negotiating power ..... 12

    2.3. Are the government and the state employer one and the same entity? ..... 13

    2.4. Legislation or agreements? ..... 14

    2.5. A long way from law to practice ..... 16

    2.6. Towards uniform conditions for public employees ..... 17

    2.7. Different cultures of negotiation ..... 19

    2.8. Political themes in the national social dialogue – in search of a hierarchy of needs ..... 21

    2.9. Prioritisation of competence development ..... 22

    2.10. Prioritisation of equal opportunities ..... 23

**3. Playing in several arenas – the social dialogue at the EU level.** 25

    3.1. Types of labour market party ..... 26

    3.2. The decision-making procedure ..... 27

        3.2.1. The European labour market parties are particularly relevant during negotiations in the Social Dialogue ..... 27

        3.2.2. In most labour market policy questions, however, the traditional EU institutions still make the running ..... 28

3.3. The stages of the decision-making process .....	30
3.3.1. The Commission is particularly important in connection with the setting of the agenda. ....	30
3.3.2. Later in the process, the other actors will begin to exert more influence .....	31
3.4. Playing in several arenas .....	31

## **Foreword**

On behalf of the State Employer's Authority and the Danish Central Federation of State Employees' Organisations, Thomas Karlsson, Anne Rasmussen, Agi Csonka, Katrine Aadal Andersen, and Angela Köllner from PLS RAMBØLL Management have carried out a survey of social dialogue in the state labour market in selected EU member states and at the EU level. The survey's overall conclusions are presented here via an extract from the report.



## 1. Introduction

The survey had a partly national and partly European focus. On the *national level*, the intention was to acquire knowledge regarding the organisation of the state labour markets and to identify the relationship between the various parties and their political priorities. On the *European level*, the goal was to achieve insight into the strategies as well as the channels of influence utilised by the parties on the state side, to influence the decision-making processes.

Both the national studies and the EU study devoted special attention to two areas of policy, namely equal opportunities and competence development. Equal opportunities have been on the European agenda for some time, whereas competence development is a more recent concern in a European context. The choice of cases thus makes it possible to look both backwards and forwards in relation to the EU's decision-making processes. The cases are also interesting inasmuch as they both represent "softer" areas within labour market policy, which in general have had difficulty in competing for political attention with "hard" areas such as wages, pensions and working hours at national level.

The report is based on literature studies and on interviews with 15-20 persons in Denmark, Italy, Spain, Germany and the UK, respectively, as well as on a similar number of interviews carried out in Brussels. With the exception of a few telephone interviews, the interviews took place "face to face" in the various member states.

More precisely, the persons interviewed fell into three groups: Representatives of the employees' side, representatives of the employers' side, and observers. In this context, the observers were politicians, civil servants and researchers with a wide knowledge of the social dialogue in the Danish and European labour markets, but who were not directly connected with either the employers' or employees' side. Moreover, at the EU level several representatives from the EU institutions were interviewed.

We have to the greatest extent possible attempted to ensure that the persons interviewed came from the same types of institutions, and from the same level in the institutions in the various countries and the EU. This means, amongst other things, that we aimed to interview both managers and specialists from the various organisations.

### 1.1. What is social dialogue?

To begin with, it is necessary to spend a little time on the concept of social dialogue. It appears that there are different understandings of what social dialogue means, both within the individual countries and at EU level. In Germany and Denmark, for example, the term 'social dialogue' is not normally used to refer to decision-making processes at a national level, but is mainly applied to refer to the EU level. If we look at other countries, we find differences in the extent to which social dialogue is understood to mean only negotiations between employers and employees on pay and working conditions, or whether the concept also encompasses hearings, committee work, social partnerships, the preparation of legislation, etc.

In this study, we utilise a broad understanding of the term "social dialogue" to mean *all decision-making processes within the labour market policy area in which the parties are involved in one way or another*. It is however important to distinguish between two strands in the social dialogue. *Firstly*, the social dialogue possesses a *negotiation route*, in which the parties in the labour market directly negotiate agreements with each other. At national level, this would for example be the case in countries that engage in actual collective bargaining, while at the EU level it occurs when the social partners directly negotiate agreements in the Social Dialogue, under the chairmanship of the Commission. *Secondly*, social dialogue possesses a *consultation route*, whereby the labour market's parties are consulted in connection with the preparation of legislation or of other measures in the area of employment. This takes place in connection with the introduction of new legislation at both national and EU level. It is moreover important to note that the social partners are consulted in this way at EU level in connection with the preparation of the Annual Guidelines for Employment.

Our analysis of the national social dialogue focuses on *collective bargaining*. However, we have also discussed other means by which the parties can

be consulted, such as hearings, etc. These other institutional arrangements, however, are involved only to the extent that they are of significance for the determination of pay and working conditions. This means that consultation of the parties in relation to overall public welfare and employment policy is not covered by the survey. At the *EU level*, we examined both *direct negotiation* between the European parties in the Social Dialogue, as well as *hearings/consultations* of these in connection with legislation, the Employment Guidelines, etc.

### 1.2. Is it possible to speak of a social dialogue in the state labour market?

Another fundamental question is whether it really makes any sense to speak of social dialogue in the state labour market. Two questions immediately arise:

- Is the state a naturally differentiated section of the labour market?
- Can we speak of labour market parties – i.e. an employees' side and an employers' side – independently of the political system and thereby the legislative system?

To go into details on these questions now would naturally be to anticipate our analysis. However, with regard to the first question, it should be briefly noted that Denmark is the only one of the five countries covered by the survey in which dialogue in the state labour market can be separated from social dialogue in the public labour market as a whole.

With regard to the second question, it can be briefly noted that the state labour market has a specific character and is distinct from the remainder of the labour market simply because the government is in this case the employer. It is thus extremely uncertain whether we can speak of the social partners as actors who are distinct from the political system. As we will see in our analysis, however, there are significant variations in the extent to which individual countries have attempted to separate the government's roles as authority and employer, respectively.



## 2. Social dialogue in five state labour markets

In this chapter, we examine the overall conclusions of the studies of the social dialogue within the five countries covered by the survey.

### 2.1. Social dialogue in the state labour market?

The survey reveals that *Denmark* is the only one of the five countries covered by the survey in which there are specific negotiations – and thereby a specific social dialogue – in the state labour market. In *Denmark*, there are joint negotiations for all state employees – which, we should note, are separate from the negotiations for public employees in local authorities.

In the *United Kingdom*, too, it is to a certain extent possible to speak of negotiations involving state employees only. However, this takes place, not at national level (i.e. for all public employees), but rather locally, between the individual ministries and groups of employees.

In all of the other countries dealt with in the survey, all public sector employees are covered by the same national-level negotiations. In *Spain*, the initial negotiations take place in *Mesas Generales* and *Mesas Sectorales*, in *Italy* in *ARAN*, and in *Germany* in the Ministry of the Interior.

Beyond this, there are significant differences regarding how much of the negotiating takes place collectively for the entire public/state labour market, and how much takes place within individual sectors. For all five countries, initial negotiations tend to some extent to take place across sector boundaries – first and foremost in relation to pay negotiations. Beyond this, the countries may be divided into two groups: In *Germany* and *Denmark*, the majority of key negotiations take place across sector boundaries, while in *Italy* and *Spain* most of the national negotiations take place within the various sectors. The *UK* is once again in a category of its

own, inasmuch as no negotiations take place there at national level or across sector boundaries.

Finally, it is worth noting that in all of the countries, part of the collective bargaining takes place locally, in the individual companies or institutions. The *UK* is once again in a category of its own here, because, as mentioned, all negotiations in the *UK* take place locally, in the individual ministries, and negotiating power is consequently distributed among the ministries and the individual trade unions for state employees.

### 2.2. The location of negotiating power

If we begin by examining the employers' side, we find certain interesting differences between those countries in which negotiations are conducted for the entire public sector under one heading: In *Italy* and *Germany*, negotiating power on the employers' side is very much centralised in the state – in ARAN and the German Ministry of the Interior, respectively – while regional and local levels have considerably less influence, even though negotiations are also carried out for state employees at this level. In both of these countries, however, regional and local employers' representatives are present at the negotiating table, and part of the subsequent negotiations are also carried out regionally and locally.

In *Spain*, negotiating power on the employers' side is in its own way centralised to the same extent as in Italy and Germany, inasmuch as negotiations for the entire public sector are led by the federation's ministries in "Mesas Generales" and "Mesas Sectorales". Considerable remit, however, is delegated to the individual regions, which conduct their own collective bargaining in some areas. The autonomous regions also have considerable freedom to pass local legislation if national agreements should conflict with their own interests.

The *UK* once again represents a special case, inasmuch as collective agreements here are not negotiated at national level. The actual negotiations take place locally, which in the case of the state means, for example, that individual ministries and other state institutions conduct negotiations for their own workplaces.

The organisation on the employees' side also reflects – not surprisingly – the organisation of the collective agreement negotiations in the public sector.

In *Denmark*, which is the only country in which separate collective negotiation takes place for the state sector, negotiating power on the employees' side is located within the separate, centralised state organisations.

*Spain, Italy* and *Germany*, on the other hand, possess negotiating units that cover the entire public sector, such as ver.di in Germany, FPI-CISL in Italy and FSP-UGT in Spain.

In the *UK*, there are neither formal negotiating units nor readily differentiated central state organisations as in Denmark. Negotiating power on the employees' side is delegated to the individual trade unions, which co-ordinate their negotiations to a certain extent with other trade unions present in the individual ministries.

### 2.3. Are the government and the state employer one and the same entity?

When you compare the five countries, it is noticeable that there are large differences in the extent to which the state's roles as executive authority and employer either tend to merge or are seen as two separate functions. This means that there are differences in the extent to which it makes any sense to speak of social partners, inasmuch as the concept requires that you can with a certain justification speak of the state's function as employer as something that is separate from its executive function.

*Denmark* distinguishes itself in this regard as the country in which the employees' side is most inclined to regard the “state as employer” as “something other than the government”. This is probably first and foremost a consequence of the fact that the agreement system is firmly rooted in Denmark, i.e. the Danish Ministry of Finance puts on its “executive hat” relatively rarely during collective bargaining, compared to its equivalent in several of the other countries. It also probably relates to the fact that negotiating power is physically located in the State Employer’s Authority.

In the other countries, it is much more difficult to distinguish between the state as authority and as employer. This is not least due to the fact that the employer function in *Germany*, the *UK* and *Spain* is distributed between several ministries. It is often the Ministry of Finance that has the main responsibility for pay negotiations, while the individual ministries or a specific ministry for public affairs can influence parts of the negotiations on pay and conditions.

In *Italy*, an attempt has been made to separate the state's employer function from its ministries, and thereby from its executive power, by creating an independent institution (ARAN) in which the employer function is purely technically located. This, however, has not yet altered the fact that it is the government – not ARAN – that is seen as the actual public employer. This is due to the fact that *Italy*, like *Spain*, is characterised by a complex and undefined relationship between legislation and negotiation. This is revealed in, on the one hand, laws that lay down quite strict limits concerning what may be determined via agreements, and on the other hand, in the use of legislation to intervene in the negotiating process if the resulting agreements conflict with the government's or parliament's interests. Factors like this naturally make it more difficult to distinguish between the state as employer and the state as government/legislative power.

#### 2.4. Legislation or agreements?

The state labour market in each of the five countries included in the survey is subject to regulation in two ways: via legislation, with the parliament/government holding the decision-making power, and via agreements adopted between the social partners. It is also characteristic for all of the countries concerned that the government and parliament have a greater influence on negotiations in the state labour market than in the private labour market. This is partly due to the fact that the government is itself a part of one of the social partners, as well as due to the fact that the government and parliament – to greatly differing degrees – determine the financial framework for the negotiations.

Beyond this, however, it is possible to divide the countries into three groups with regard to the relationship between legislation and agreements:

In *Spain* and *Italy*, legislation and the political system play a large role in the determination of pay and conditions in the public labour market, as described above. This is due to a number of factors:

- An imprecise division between what may be determined via legislation and what may be determined via negotiations in the Italian and Spanish state labour markets. The private labour markets in these two countries are considerably better organised in this respect, as here it is legislation that determines what may or may not be the subject of negotiation. Italy is currently in the process of extending legislation to cover the public sector. In Spain, setting a similar process in motion is among the highest priorities of the employees' organisations.
- Areas must be positively assigned to the negotiating arena, via legislation, before they can be included in negotiations. By default, some areas are thus excluded from negotiation. This applies, for example, to pay negotiations; while there is a certain amount of room for negotiation with regard to the distribution of the wage package whose overall size is determined by law.
- In the areas assigned to negotiation, the social partners are to a great extent unable to enter into agreements. Usually an act in a given area – say, working hours or equal opportunities – will set some minimum standards and thereby open up for negotiations within this general framework.
- In the case of Spain, the agreement system is also impeded by the fact that the autonomous regions have the power to enact legislation of their own.

A direct result of the considerable influence exerted by the Spanish and Italian political systems on the regulation of the state labour markets in these countries is that the influence of the employees' organisations tends to fluctuate according to the political composition of the governments to a greater extent here than it does in the more agreement-based systems. One symptom of this is the fact that the current right-of-centre governments in these countries have curtailed the influence of the trade unions at both national and EU level.

In *Denmark*, the relationship between legislation and agreements is the precise opposite. The governing principle here is that pay and conditions should be determined by agreement, unless otherwise stipulated in law.

Uniquely among the countries included in the survey, this also means that salaries in Denmark are, in practice, subject to negotiation between the parties. While it is true that, formally speaking, an amount has been allocated in the annual state budget to which the negotiations are supposed to adhere, in actual practice it is the Ministry of Finance's "problem" to find funding in other budgets to cover any shortfall. The distribution of the wage package between the various sectors and groups is also subject to negotiation. It might, for example, be determined that doctors should receive a larger salary increase than other public employees – something that in Spain or Italy would be subject to the parliamentary budget.

*Germany* resembles Denmark in this respect, in the sense that there is a right to free negotiation and agreement, which means that working conditions – provided that specific legislation does not stipulate otherwise – are negotiated by the labour market parties. Germany, however, differs significantly from Denmark in that the overall wage package for the public sector is not subject to negotiation, but is determined solely by the ministries.

Finally, the *UK* is also a special case in this area. Here, the budgetary framework for pay negotiations is centrally determined by the government, although the employees' organisations have a certain right to consultation. The independent "salaries review bodies", in which employees' organisations, amongst others, are represented, can, for example, recommend a particular pay rise for a particular group.

Beyond this, the *UK* is characterised by the fact that neither legislation nor centralised agreements play any significant role in the determination of working conditions. Here, the greater part of the decision-making power lies in the individual workplaces. This also applies to the detailed salary negotiations.

### 2.5. A long way from law to practice

One common characteristic in the determination of pay and conditions, particularly in the state labour markets of *Italy* and *Spain*, is that it can be a long way from rules to practice. This is closely connected with the relationship between legislation and agreements, as described above. It is also often the case that the financial means do not necessarily accompany

the intentions expressed in the legislation. This applies, for example, to the easing, via recent legislation, of the restrictions on taking study leave in Italy and parental leave in Spain. The improvements were in both instances devoid of financial coverage, and possessed thereby very limited value for the individual employee.

## **2.6. Towards uniform conditions for public employees**

In all of the state labour markets covered by the survey, public employees may be divided into two groups: civil servants and contractual employees. There are several interesting things to note when comparing the relative position of civil servants in the five countries and the developments that have taken place:

In *Germany* and *Denmark*, the pay and conditions of civil servants are formally subject to legislation. In practice, however, this group's pay and conditions are subject to negotiation in the same way as contractual employees. The most important difference between the two groups in both countries is that civil servants are not entitled to go on strike, which means that if it should prove impossible to reach an agreement at the negotiating table, the matter is settled by legislation. Civil servants in these countries also possess employment conditions and pension schemes that differ from those of contractual employees. In summary, it could be said that the means of determining pay and conditions is by and large the same for civil servants and contractual employees in both Germany and Denmark: namely, by negotiation. Germany and Denmark differ, however, with respect to the proportion of public employees who are employed as civil servants, which is decreasing in Denmark, but constant in Germany.

In the *UK*, the determination of salaries and working conditions takes place for all state employees via decentralised negotiations. A distinction is drawn between negotiations for civil servants and for other public employees. However, both sets of negotiations may well be conducted by the same trade unions (representing different departments/columns/industries). With regard to the trends in the number of civil servants in the UK, this has actually risen. This is primarily due to a rise in the number of people employed in part-time positions.

In *Italy* and *Spain*, the level of social dialogue is limited in relation to civil servants, as their pay and conditions are stipulated in law. At the same time, however, it is characteristic for both countries that the employees' organisations are entitled to some form of consultation in relation to this group.

It is also characteristic for both Spain and Italy that the position of civil servants is a major point of contention in the struggle between the government and the employees' organisations. In both countries, a shift has taken place – with the trade union movement acting as *primus motor* – in the direction of incorporating civil servants more and more into the negotiation system. This development has been especially marked in Italy, where most civil servants were incorporated into the collective bargaining system in 1993.

To sum up, the overall trend is in the direction of the harmonisation of conditions for civil servants and contractual employees in the public sector. This occurs in two ways: by way of a simple fall in the number of civil servants, and by regulating the pay and conditions of civil servants to a greater extent via the negotiation system. However, it is also interesting to note that there is a difference between the various countries with regard to which side is pressing for this harmonisation. In *Spain* and *Italy* it is the employees' side, in *Denmark* it is the employers' side, while employees' organisations in *Germany* are divided on the question.

These differences probably relate to the current position of the civil servants in the various countries. In *Denmark* they are covered by the same agreements as other public employees, but enjoy better security of employment and pension conditions. This group is consequently not greatly interested in change. The employers' side in Denmark, on the other hand, is very much interested in change, and would like to see, amongst other things, more flexible employment conditions for this group. In *Italy* and *Spain*, the situation is different. Here, civil servants do not benefit from the results achieved via the social dialogue, but are subject to legislation that often leaves them in a worse position than their contractually-employed colleagues. This means that it is the employees' side in these countries that has the greatest incentive to have civil servants brought into the negotiation system.

### 2.7. Different cultures of negotiation

The various countries are also divided by another parameter, namely their different cultures of negotiation. This applies both to the relationship between the employees' organisations themselves and the relationship between the employers' and employees' side.

In *Denmark*, the famous Danish culture of consensus has a powerful influence. The key word is consensus, both internally on the employees' side, and between the employees' and the employers' sides, while the resolution of disagreements tends to take place via informal networks. On the employees' side, this takes a highly concrete form in the joint negotiating unit that has been established, which holds a large part of the negotiating power, and which is governed by the principle of "all for one – one for all". With regard to the relations between the employers' and employees' sides, this is represented by the close informal dialogue between the leaders of the organisations, and in the relatively large degree of agreement concerning the nature of responsible economic policy – a situation that would be unthinkable in most other European countries. At the same time, however, it is characteristic for Denmark that state organisations have relatively little informal contact with the government, in comparison with the two large employer and employee organisations DA and LO.

In the *UK*, the relationship between the employees' and employers' side is far less intense and indeed far less institutionalised than in Denmark. This is because negotiations are rarely conducted at national level, which means that there is very little reason for dialogue. Despite this, a significant level of informal dialogue takes place in the concrete social partnerships between the employees' side and both the ministries and the government, to the extent that the latter is led by Labour.

In *Germany*, the two largest employees' organisations conduct a limited dialogue, but negotiations are by and large not co-ordinated, and are held separately. It is also characteristic for Germany that the state employees' organisations enjoy relatively little informal dialogue with the government and the ministries, in contrast to the private employees' organisations, which are consulted and involved on an ongoing basis. What contact does exist with the state employees' side is relatively formal, and is largely limited to the collective bargaining process. At the same time, there is a low level of conflict.

In *Spain* and *Italy*, these relations are considerably more conflict-ridden. Internally, on the employees' side, it is possible to identify a number of reasons for these practically endemic conflicts:

- The principles of representation play a significant role. The trade unions are in more or less constant competition with each other for members, which naturally gives rise to a culture that is far more marked by competition and conflict.
- The trade unions are grounded in different ideological positions.
- The role of the trade unions in society is weaker and thereby less natural. The unions enjoy a weaker level of support among employees, and less influence.

The EU has however clearly caused employees' organisations in Spain and Italy to move closer together. This is because another kind of logic is at work here: each of the organisations is small within the context of the EU, so if they are to exert an influence, they are obliged to take a united stance. It is also probably of significance that the EU is physically and mentally so far removed from most employees that it is not seen as an arena in which you can attract members by promoting yourself at the expense of other unions.

The relationship between the employees' and employers' side in Spain and Italy is also characterised by significantly less consensus and significantly more conflict than is the case in, for example, Denmark. This reveals itself in the fact that a frequently employed "means of communication" is the strike, while the level of informal dialogue is relatively limited. A concrete example is provided by pay negotiations, in connection with which strikes are taking place at the time of writing (autumn 2001) in both Italy and Spain, because the governments concerned have reneged on their promises. This is a long way from the Danish consensus on wage policy. The immediate reason for this more conflict-ridden situation seems to be the unclarified relationship between laws and agreements, and the consequent weak negotiating mechanisms that leave the parties "fighting for every yard".

## 2.8. Political themes in the national social dialogue – in search of a hierarchy of needs

In general, it is traditional themes like salaries, pensions and working hours that occupy most of the social dialogue in the state labour markets included in the survey.

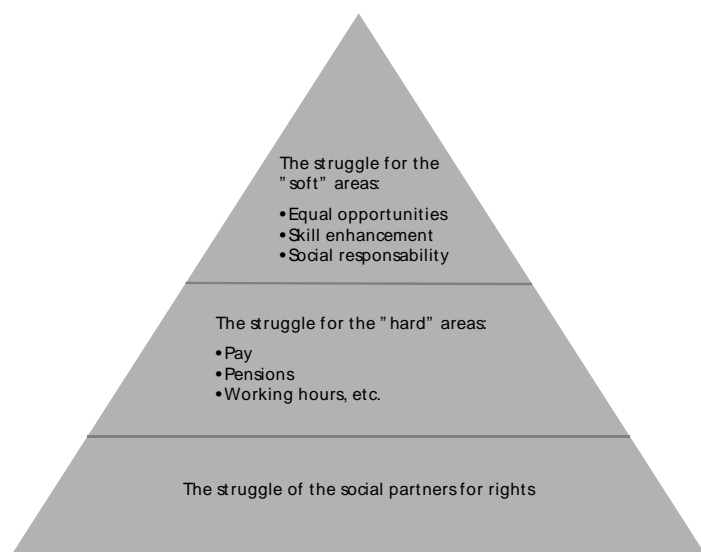
In *Spain* and *Italy* it is also significant that the "constitutional struggle" – the struggle to determine the rules of the game in the labour market – tends to dominate the social dialogue and the labour market debate in general. This must be seen in the light of the fact that the negotiation route is a relatively new phenomenon in these countries, and thus that the relationship between legislation and social dialogue is still undefined.

This constitutional struggle is the key to understanding the actions of the Italian and Spanish employees' organisations at European level. The organisations of both countries are primarily concerned with consolidating the social dialogue in the EU. The strategy is to win much of the influence at EU level that has not (yet) been won at national level. In this sense it could be said that these countries use the EU as a lever to achieve more influence at national level. This factor is also to some degree relevant in the *UK*, where the TUC uses the European social dialogue to draw both employers and the government into discussions on national labour market conditions.

"Softer" areas such as competence development and equal opportunities have in general more difficulty in fighting their way onto the agenda in the countries examined. Among the exceptions to this rule is the large amount of attention that *Denmark* has devoted in recent years to competence development in the state labour market.

This leads to the conclusion that the dynamics of the social dialogue in the state labour market is to a significant degree subject to a hierarchy of needs, as reproduced below.

**Figure 1. The hierarchy of needs in the social dialogue.**



### 2.9. Prioritisation of competence development

There is a trend towards competence development/supplementary training receiving more and more attention during the last decade in the social dialogue in the state labour markets encompassed by the survey. The general assessment is that it is first and foremost the employees' side that is pressing for agreements in the area, while employers, particularly in southern Europe, tend to see this as interference in their internal affairs, and, in the short run, as an added production cost.

Symptomatically for the relationship between legislation and agreements in the five countries, this process has been kick-started in *Spain* and *Italy* by the adoption of laws requiring employers to pay for their employees' training. In Italy, an interesting development in this context has been that supplementary training has begun to be "traded" as an alternative to longer working hours.

In *Denmark*, where competence development has a high priority, this is primarily arranged via agreements between the parties.

In the *UK*, where there is little enthusiasm for regulating these areas by either binding collective agreements or by legislation, measures relating to

competence development are grounded in partnerships between the employees' and employers' sides. In some cases the government is also represented; however, the decentralised nature of the partnership structure and its voluntary character means that the total effect of competence development initiatives for state employees is difficult to measure.

#### 2.10. Prioritisation of equal opportunities

In all of the countries we have visited, it is characteristic that equal opportunities is a low-priority area for the social partners in the state labour markets. Relatively few initiatives have been produced and, especially in *Spain* and *Italy*, there is a considerable distance between law and practice, due amongst other things to the fact that it is the responsibility of the parties themselves to implement, via agreements, the intentions embodied in the legislation. Despite this, the general understanding is that equal opportunities receive, despite everything, a higher priority in the state labour market than in the private labour market. This reflects, amongst other things, the fact that more women are employed in the public sector.

It is also characteristic for most of the countries that the idea of 'mainstreaming' has failed to win broad acceptance. Initiatives aimed at the promotion of equal opportunities, both at parliamentary level and among the labour market partners, frequently result in the isolation of the equal opportunities issue in particular fora. The initiatives produced thus usually consist of the appointment of committees or of the implementation of activities concerned solely with the issue of equal opportunities. Such initiatives are characterised by:

- low status. Equal opportunities officers in the trade unions, for example, are typically situated low down in the internal hierarchy, while various national committees and working groups concerned with the issue are often given a low priority by the labour market partners.
- they are pushed through by narrow special-interest groups within the ministries, government, political parties or the social partners – and are thereby very much dependent on the positions of individuals.
- they enjoy a low level of general public awareness.

To sum up, there are few trends towards the integration of the gender issue in the labour market decision-making processes, as was otherwise the intended effect of mainstreaming.

### 3. Playing in several arenas – the social dialogue at the EU level

This chapter analyses the various channels of influence that the national and European labour market partners can utilise in order to exert influence on the social dialogue.

The study has examined how different types of labour market partners utilise different channels in different contexts – and, not least, with differing results. It reveals that existing labour market policies at EU level discriminate only to a very slight degree between the private and state sectors, and to an even smaller degree between the state and the remainder of the public sector. Accordingly, a number of our conclusions could be applied not only to the parties in the state labour markets, but also to other national and European labour market parties.

*In general*, the study shows that no channel of influence is in itself more effective than another. Accordingly, we cannot make rigid recommendations concerning the optimal way to act at European level. Instead, we have presented a *toolbox containing some experiences and some recommendations*, from which an individual labour market organisation may draw some inspiration.

On the more *specific* level, however, it is possible to say something about which channels of influence the various actors can most profitably utilise during the various different stages of the decision-making process. When exerting influence on the decision-making process, it is thus by no means irrelevant *who* you are, *which procedure* is being followed, and *which stage in the decision-making process* has been reached. In other words, it is important to be aware of these *frame conditions* before deciding on which strategies and which channels of influence should be utilised in the European decision-making processes.

### 3.1. Types of labour market party

*Firstly*, the choice of channel of influence depends on *who* you are. The national actors, in contrast to the European labour market parties, are for example dependent on influencing the actors at the EU level, since they do not themselves play a direct role in the formation of labour market policy at this level. This means that the national parties' most important channels of influence are their corresponding parties in the European labour market, the formal EU institutions, and their national governments. The European social partners, on the other hand, can exercise a direct influence on EU policies via their participation in the social dialogue, during which they can either negotiate directly with their labour market partners on the committee, or be consulted in connection with a number of policy initiatives.<sup>1</sup>

In many ways, the national labour market parties are relatively dependent on the willingness of the European labour market parties to listen to their points of view. Our study has thus shown that it can be a struggle for a national labour market party just to keep itself adequately informed, as well as to actively interact with supranational EU institutions such as the Commission. Moreover, the Commission would typically prefer that dialogue between the labour market's parties takes place via the European confederations.

From an ideal theoretical point of view, however, the national partners exert an influence on decisions taken at EU level not only via their European member organisations, but also by means of direct contact with their national representatives in the European Parliament (EP), and with their national governments, concerning specific issues. In fact, the European partners directly encourage their national member organisations to do this, as such national contacts can complement the contacts that the European partners have with the EU institutions. In this way, a relation of mutual dependence exists between the channels of influence utilised by the European and national labour market parties, respectively.

---

<sup>1</sup> It follows from the above that we have utilised a broad definition of the social dialogue at EU level. The social dialogue, consequently, is not merely seen as the procedure whereby the social partners *negotiate* agreements at EU level, but is also seen as encompassing discussions that take place between the European labour market parties and the EU institutions, if the labour market parties are *consulted* in connection with other labour market policy measures.

### Social dialogue in the EU: Channels of influence.

National labour market parties' channels of influence	The European labour market parties' channels of influence
1. Influence via contact with formal EU institutions	
2. Influence via European labour market organisations	→ 4. Influence via consultation
	→ 5. Influence via negotiation
3. Influence via national governments	

#### 3.2. The decision-making procedure

*Secondly*, the best choice of channels of influence depends on which procedure is being used to determine the labour market policy measures. Here we primarily refer to the extent to which agreements are directly *negotiated* between the labour market parties in the Social Dialogue Committee, and the extent to which the labour market parties are *consulted* in connection with, for example, the preparation of new legislation or the issuing of Annual Guidelines for Employment.

##### 3.2.1. The European labour market parties are particularly relevant during negotiations in the Social Dialogue

It is of course particularly important to influence the European labour market organisations when these have a direct opportunity to negotiate agreements in the Social Dialogue. Although the Council is formally required to approve any agreement between them afterwards if it is to be translated into a directive, the role of the formal EU institutions is sharply reduced when this procedure is adhered to.

The national labour market parties can exert an influence on the social dialogue negotiations conducted by the European confederations via the decision-making organs in which they participate as members. However, experience indicates that it can be relatively difficult for individual, national labour market organisations to exert an influence in these formal

organs via their votes alone. Beyond this, it is important for the national labour market parties to ensure that they are solidly represented in the top posts and committees of the European labour market organisations, which is where the overwhelming majority of current policies are determined in the European confederations. Finally, our study has shown that it is important to establish national offices in Brussels, partly in order to follow developments in the EU institutions, and partly so as to maintain daily contact with one's own European labour market organisation/-s.

Although the role of the EU institutions is greatly reduced when agreements are negotiated in the Social Dialogue Committee, our analysis has shown that the Commission continues to play a role here. Its role in chairing discussions between the parties in the Social Dialogue Committee has been described by several respondents as being quite significant. Besides helping to process draft compromise texts, there are also frequent examples of the Commission acting as an informal mediator between the parties during negotiations. Accordingly, it is still relevant for the labour market's partners to have close links with the Commission, even when negotiations are conducted in the Social Dialogue Committee instead of via the "ordinary legislative channel".

### **3.2.2. In most labour market policy questions, however, the traditional EU institutions still make the running.**

As far as the determination of the overwhelming majority of labour market policies is concerned, however, the European labour market parties are merely *consulted*. This applies, for example, in connection with traditional legislation, and in connection with the determination of Annual Guidelines for Employment, as an element of the European employment strategy. In this situation it is thus far from sufficient for the national labour market parties to hope to exert an influence via their European member organisations.

The most important player in this situation is first and foremost the Commission, which drafts the original proposal and is involved in all subsequent phases of the processing of the proposal in the Council of Ministers and the EP respectively, irrespective of whether the bodies deal with legislation or Employment Guidelines. At the end of the day, however, all proposals must be adopted by the Council of Ministers,

which means that it is particularly important to influence the national governments.

Typically, it will not be the individual national labour market parties, but rather the central organisations representing these, that will enjoy good contacts at governmental level. The fact that national governments continue to play a major role in the formation of EU labour market policy could moreover be seen to comprise a potential advantage for state employers, who, by way of their ministerial status, also represent their respective governments. However, it is not usually these ministries, but rather the ministries for Employment and Social Affairs that sit at the negotiating table in the Council of Ministers. This makes it difficult in practice for ministerial state employers to exert a direct influence at EU level.

When legislation is being enacted via the *co-decision procedure*, it is particularly relevant to influence the EP. Under this procedure, the EP possesses the final right of veto, and participates, together with the Council, in conciliation procedures if it has not proved possible to achieve agreement on the proposed parliamentary amendments in advance. As mentioned, the division of responsibility between the national and European labour market parties is typically characterised by the national parties making contact with their national members of the EP, while the European organisations benefit from contacts with the EP on a higher level, i.e. via rapporteurs<sup>2</sup> (or possibly shadow rapporteur), committee chairs, or perhaps the Presidium of the Parliament.

The labour market parties should however bear in mind that it is far from sufficient merely to establish contact with the EP – even in connection with issues being dealt with via the co-decision procedure. The EP does not enter the process until the Commission has formulated its original proposal, which for the most part will remain unaltered during the procedure. One should moreover be aware of the fact that in order to influence the EP in the co-decision procedure, contact should already be made with the EP during the first reading – not when the conciliation procedure begins, as typically occurs. At this point, it is too late to introduce new amendment proposals for the EP.

---

<sup>2</sup> Spokespersons.

### 3.3. The stages of the decision-making process

This leads us to the *third main point* in connection with the choice of channels of influence. This choice also depends on *where* you are located in the decision-making process.

Both the treatment of proposed amendments and negotiations in the Social Dialogue may be seen as relatively *reactive mechanisms* which are first set in motion when the agenda has been set for a series of discussions. Accordingly, the parties should act at a far earlier stage in relation to the Commission, and to some extent also the Council and the EP, if they wish to set their stamp on the overall development of labour market policy.

#### 3.3.1. The Commission is particularly important in connection with the setting of the agenda.

At an early stage – before the proposal has been placed on the agenda, or while the first steps are being taken in this direction – it is vital to establish good contact with the Commission. As mentioned, the Commission has the right to initiate new legislation. Besides this, it also produces the Green Papers and White Papers that often precede actual policy initiatives in a given area. Finally, the Commission can also play an agenda-setting role with regard to what is directly negotiated in the Social Dialogue between the parties.

The Commission can also often "threaten" the parties – especially on the employers' side – with the introduction of a legislative proposal if they refuse to negotiate on a particular area. Accordingly, it can be a profitable strategy for the parties – particularly the employees' side – to get the Commission to press for the start of negotiations in a given area. However, the *credibility* of a threat from the Commission to introduce legislation depends on the extent to which sufficient political will exists in the Council of Ministers to adopt legislation on the relevant subject. The crucial factors here are whether decisions in the relevant area are required to be adopted unanimously or by qualified majority, and the extent to which the EP is involved in the process.

Contacts with the Commission go partly via the channels of administration, and partly via the cabinets. In connection with labour market policy, the most relevant areas to contact are first and foremost the Directorate-General for Employment and Social Affairs and

Commissioner Anna Diamantopoulou's cabinet, but depending on the issue involved, it may also be of relevance to contact other directorate generals of the Commission.

Another way to gain access to the Commission is to go via the advisory and implementing committees that advise the Commission in connection with the formulation of new measures and assist in the implementation of these. The parties at European level however warn that membership of these committees is far from enough to ensure an influence on the formulation of EU labour market policy. Hence, the Commission does not always submit its proposals to systematic hearings early enough to allow the parties to exercise a real influence. It may also be that the committees where the parties have a genuine opportunity to exert an influence – by having the right to speak, for example – are not those of the greatest political importance. Finally, these committees are very large, which does not make them particularly effective.

Our survey also indicates that a good way to get the Commission's attention is through conducting studies or holding conferences. In this way you signal a certain seriousness, and also that you have something to contribute to the Commission in the relevant area.

### 3.3.2. Later in the process, the other actors will begin to exert more influence

Once, on the other hand, the first introductory stages in the decision-making process have been completed, the other actors on the European stage gradually begin to play a greater role. Depending on the procedure involved, these may include the Council of Ministers (including the national governments) and the EP, as well as the European labour market parties.

### 3.4. Playing in several arenas

In conclusion, the decision-making process at the EU level may be described as a *complex game with many different players in several arenas*. Negotiations at national and European level, for example, take place in parallel on both the employers' and the employees' sides, as well as in the EU institutions, in the formal decision-making bodies, and the informal corridor discussions, etc. The point is that the individual games do not take place independently of each other, and that it is important to be

aware of – and in particular to *participate* in – a large proportion of these in order to be able to exert an effective influence.

Beyond this, the successful players will typically be those who manage to *combine* their strategies in the games that they play. It follows that for any labour market actor, whether nationally or European-based, it will rarely be enough to utilise a single channel of influence or a single kind of strategy if it is to exert a real influence over European labour market policy.