# Chapter 4 Social dialogue and Socially responsible restructuring

This chapter provides a comparative overview of European social dialogue amongst those sectors providing services of general interests based on a widespread infrastructure and affected by both liberalization processes in views of the establishment of a European unique market, and by technological changes based on ICT innovations: we mainly focus on railways, civil aviation, electricity and telecommunications.
These industries were for a long time seen as "natural monopoly" vertically integrated, apart civil aviation which shows comparatively lower infrastructure investments. They experience both processes at different stages, with different sequences, and of different intensities, due to the extent of infrastructure investments, operators-equipment providers relationships, extent of interconnections amongst different systems, ownership patterns and sectoral technological dynamics.
By taking into account such differences, a comparative overview provides interesting hints about possible approaches and problems they faced in their implementation.

## 4.1 Social dialogue in the railways sector

### *Trade Union density*

The railways sector is characterized by high union density and a great number of trade unions: general unions (congruent and overlapping unions) and sectionalist unions[1], representing specific professional profiles without belonging to general confederations, are the most frequent. The very large number of the sectionalist domain demarcations is the main reason for the pronouncedly pluralist structure of most national trade union systems.
Union density is in general higher than national average because of both the size of the main national companies, which often benefit of a public status or are state-owned: 15 countries over 24 analyzed report a union density above 60% while 7 of them report a union density over 80%. Most of them are affiliated to ETF, thus easing the European level in representing. Collective bargaining coverage is very high (over 90% across EU countries, with the exception of Portugal).
The overall picture is therefore contradictory: while high union density favours the role of social dialogue in managing innovation, high fragmentation in employees' representation may rise some difficulties, as "sectionalist" and "general" unions may show conflicting goals: the former in fact in general display an higher propensity to a short-term "bread-and-butter" approach, focused on earning.

### *EU level achievements in the railways' sectoral social dialogue*

Sectoral social dialogue at EU level in the railway sector is a well consolidated institution, as outlined by the establishment of the Joint Committee on Railways in the 70ies, then replaced by a sectoral social dialogue committees after the 1998 Commission Decision on the reform of the European social dialogue. Its activity in the first decade mainly focused on issuing opinions on EU policies, in particular the liberalization process, by stressing since its 1986 common Opinion on social aspects of European transport policy the importance of the social impact both on workers and on the social and territorial cohesion.
Social dialogue then widened its scope by integrating such general policy contributions with both joint opinions, agreements and projects on several issues concerning working conditions and employees' perspectives. The most relevant issues they dealt are:

[1] According to Eurofound, 2009, congruence occurs when the domain of the organisation or scope of the collective agreement is identical to the sector extent, as defined by statistical NACE demarcation; sectionalism when "the domain or scope covers only a certain part of the sector ... while no group outside the sector is covered"; overlap when "the domain or scope covers the entire sector along with parts of one or more other sectors";sectional overlap when "the domain or scope covers part of the sector as well as parts of one or more other sectors".

1. Working time: started with a 1996 common position and achieving a 1998 agreement, by including the railway workers into the general working time directive and defining a number of rail activities related to train movements, for which the Directive's derogations might apply;
2. careers perspectives: the 2007 agreement on "employability" in the sector, envisaged as a "strategic concept (...) based on prevention aimed to create a work environment which maintains and improves the capacity of workers" both in their competences and health and fitness to work, having social dialogue as a mean of procedural equity in order to tackle both the feeling of insecurity in public transport and the decline of attractiveness of the sector; the 2007 joint recommendations for a better representation and integration of women, after a 2005 joint project, addressing equal opportunities amongst gender and drawing recommendation for positive action in order to promote women career perspectives and achieving a better work life balance, then reviewed in 2010 follow-up;
3. the impact of interoperability, in particular on working conditions by paying a special attention to working times, rest periods and breaks, and by agreeing on European licence for drivers carrying out a cross-border inter-operability service focuses on competences required: both agreements were signed in 2004. The agreement on working conditions of mobile personnel assigned to cross-border interoperable services was implemented as EU Directive 2005/47/EC (to be implemented into national law in 2008). The locomotive drivers' license agreement was incorporated into the EU Directive on the certification of train drivers. A 2009 joint declaration on the European locomotive drivers' licence clarified the relation between the EU Directive and the CER/ETF agreement.

After the establishment of the European Railway Agency, social partners called this latter for a more institutionalized and formalized relationships between EU and the social partners by making reference to good experience with the previous organisation AEIF, which drafted interoperability standards before ERA.

According to this brief summary, sectoral social dialogue intervened on both the EU policymaking and the regulation of working conditions and professional profiles. Since the 80ies, social partners permanently stressed the need to device European transport policies according a global approach by including all transport modalities: this was in the 2000s. Further, they stress the need to shape liberalization process not as mere deregulation but by taking into account both internal and external social impact, thus devising a socially responsible approach to restructuring (SRR).
Notwithstanding such effort, social partners' room to manoeuvre in order to influence the Commission's transport policies is quite narrow, as the approach of DG-Move (previously DG-TREN) differs from the DG-Social (previously DG-Empl) approach, where consultation is a consolidated and well formalized procedure, as the decision-making process looks more "opaque" and more exposed to lobbystic pressures and sectional interests, as argued by Streeck (1998): "ETF regular express its opinion and send them to DG (Tren, then Move) but they are never taken into account". Social dialogue scope is thus restricted to the management of social consequences elsewhere shaped, thus greatly reducing its room to manoeuvre[2].
Clearly, ERTMS implementation is a new challenge for social partners, until now discussed in a non-specific way and combined with other issues, such as the 2007 agreement on employability and the 2000 joint report on the use of new technologies in training, such as simulators.

## 4.2 Liberalization and technological change: EU social dialogue in civil aviation, electricity and telecommunications.

[2] The 2008 impact assessment of the Renewed Social Agenda pointed out such differences in policy-making, by calling for the mainstreaming of employment and social objectives in all EU policies consistently with the Lisbon Treaty, thus enabling synergies between EU policies, as "an holistic approach is likely to guarantee high degree of consistency and positive interplay between social, economic and environmental dimensions." No action implementing such an approach exceeding the social policy scope has been yet carried out.

We thus now turn to other sectors' social dialogue facing restructuring, by considering technological change, market regulation change and how social partners intervene in restructuring processes these changes.

***Civil aviation***

In the civil aviation industry the Joint Committee started its activity in 1990. Joint opinions on the liberalization process (slot allocation in 1990, third liberalization package in 1993) was soon complemented with opinions on harmonisation of licences and working conditions of traffic controllers, working time of flight-deck crews (both in 1991) as parts of the liberalization process, and ground handling activities (1993-1994). In particular, social partner called on the Commission to withdraw its proposal on working time of air crews as "too prescriptive" without enough room for "the necessary flexibility which is essential to accommodate the different operating conditions in the various sectors of the industry".

Social partners' 1993-1994 opinions focused on vocational training of engineers, working time, and responded to consultation on Commission's proposal on liberalization on ground handling activities. According to this latter, social partners called on the Commission to mitigate the process by including social aspects and by guaranteeing public service obligations: such request aimed to face the risks in "reduction in service quality owing to competition through cost-cutting, and the practice of setting up subsidiaries" on the one hand, and social risks in both employment levels and quality of work on the other, as liberalization would "likely not only to have an adverse effect on working conditions, but also to prejudice workforce training and qualification levels". The issue was further at the core of the 2005 joint statement on Quality, Safety and Training: social partners observe that with the opening up of the market, "several airport operators complained that they have lost control over the quality of handling service", an increased turnover in staff as the drive to cut costs has led to lower wages, and practices such as uncontrolled sub-contracting of ground handling activities with important safety implications, and that these trends contrast with the directive requirements referring to internationally accepted standards, such as IATA AHM standards and/or JAR-OPS ones, which already require special training. Social partners express their commitment in developing training activities in order to support "a ground handling system able to capture the benefits of liberalization without compromising safety and quality" by taking appropriate actions in order to tackle such negative outcomes which generate higher costs. Social partners further expressed their committment to training in the sector in 2009 Joint declaration: as crucial for each employee in order to maintain employees' employability, especially by means of "ad-hoc" vocational training.

In the 2000s, after the 2000 Agreement on the Organisation of Working Time of Mobile Staff In Civil Aviation**,** most of social dialogue is devoted to Air Traffic Management (ATM) issues, namely the establishment of a single-sky regulation and the functional airspace block in the EU, by establishing a Social Dialogue Air Traffic Management Work Group, by defining as Working time" any period during which the worker is working, at the employer's disposal and carrying out his activity or duties, in accordance with national laws and/or practice, setting in 2000 hours the maximum annual working time in block flying time not above 900 hours.

The Air Traffic Management Work Group started in 2003 in order to establish functional airspace blocks design according to a Bottom-up Approach which takes into account a variety of local and regional specificities by consulting all stakeholders, as foreseen by the Single European Sky Regulations. The activities of the work group whole process is summarized by the 2006 report where the Air Navigation Service Providers (ANSP) and trade unions. As FABs are to lead to improvements in safety, capacity and efficiency, it is essential that ANSPs play a central role in every stage of their development, and secondly, that staff need to be consulted at every stage.

The 2007 Guidelines for Consultation arrangements for Functional Airspace Blocks (FABs) are the main outcome of the working group. Early involvement of employees' representatives in the decision making process, by promoting early and timely consultation, is seen vital as it would avoid difficulties at a later stage of establishing a FAB. To this end ANSPs' management and their respective employees' representatives should agree suitable consultative arrangements: in order to secure the whole process, these latter should be given the opportunity to acquire the skills and support services needed to engage in

the consultative process, such as paid leaves to attend consultation meetings. Social Partners finally agree to monitor the resulting social impact, as it affects jobs and working conditions of all workers involved.
As the air navigation services and their supporting systems are not fully integrated and are based on technologies which are already running at maximum, the establishment of the Single European Sky (SES) initiative requires the development and the deployment of a shared technological platform, which implies a "paradigm shift", supported by state-of-the-art and innovative technologies.
The SESAR (Single European Sky ATM Research) consortium, promoted by the European Commission and Eurocontrol – the intergovernmental European Organisation for the Safety of Air Navigation -, according the Sesar Joint undertakings website, the "programme is the technological and operational dimension of to meet future capacity and air safety needs" by involving all aviation players in the definition, development and deployment of a pan-European modernization project. It aims at developing the new generation air traffic management system capable of ensuring the safety and fluidity of air transport worldwide over the next 30 years. It is composed of three phases:

- The Definition phase (2004-2008) delivered the ATM master plan defining the content, the development and deployment plans of the next generation of ATM systems.
- The Development phase (2008-2013) will produce the required new generation of technological systems, components and operational procedures as defined in the SESAR ATM Master Plan and Work Programme.
- The Deployment phase (2014-2020) will see the large scale production and implementation of the new air traffic management infrastructure, composed of fully harmonised and interoperable components guaranteeing high performance air transport activities in Europe.

The activity of social dialogue in civil aviation and especially of the ATM working group is of great interest for our purpose, as the deployment and implementation of the "Single European Sky regulations" combined with the implementation of increasingly automated air traffic management (the SESAR project) is very close to the railways combination of ERTMS and interoperability, as they both aim to achieve a unique regulatory framework governing automated technology based on division by blocks of traffic routes.
Further, both industries show similar features in their industrial relations: similarly to railways, civil aviation shows "comparatively high degree of unionisation at national level" but while in the railways industry sectionalist representation is widespread only on employees' side (and widely encompassed by ETF at EU-level), it affects the employers' organizations as well in civil aviation. (EIRO, 2010)

**However, some important differences must be stressed:**

1. although both civil aviation and railways are facing both ~~a~~ technological and regulatory changes, timing are different: while in the former regulation precede the technology development, the opposite is observed in the latter;
2. the civil aviation industry is historically dominated by cross border lines with a shared language (English), shared technology standards with technical terms, while most of railways activities is within the states with national technologies;
3. the Single European Sky (SES) project follows the liberalization process in civil aviation, which created a unique EU market, favoured by shared factors listed above (point 2), while in railways industry both technological, institutional and market changes have to be deployed contemporarily, thus increasing complexity and therefore uncertainties over both the timing and the outcomes;
4. air traffic management shows a long-standing simultaneous combination of technological devices and bi-directional communication between the control command and the pilots, achieved only with ERTMS or comparable technology in the railways industry;
5. civil aviation is characterized by a long-standing clear-cut distinction between service providers and technology suppliers, while this is not the case of railways, as discussed above (see chapter 1);
6. civil aviation experienced a regular growth over time, which was accelerated by new entrants which a strong price competition, while railways is experiencing a long-term decline in both freight and passengers transportation, apart the noticeable but for a long time limited exception of high-speed lines;

7. last but not least, railways infrastructure is characterized by an immense "hard" infrastructure, which is very expensive both to set up and to reconvert, while in civil aviation such infrastructure is comparatively very small, with much lower sunk costs

Thus, cooperation amongst Air Navigation Service Providers (ANSP) and these latter and trade unions is a somewhat "natural" evolution in responding to the new challenges, and bottom-up cooperation they envisaged and practised along the 2000s was well grounded as actually responding to "shared urgent needs" (Wilthagen and van Wenzel, 2004). On the other hand, stakeholders in the railways sector are facing a too crowded agenda calling on them intense cross country cooperation that they hardly ever had the need to establish: it is therefore more difficult to agree on the priorities, with an obvious impact on social dialogue[3].

However, as the 2009 Joint CANSO-ETF Analysis of the ATM Social Dialogue reports, implementation at national level followed poorly adopted the desired bottom-up consultative approach : 78% of trade unions officers involved in such activities declared they were unsatisfied about their actual involvement in functional airspace blocks (FABs) definition, as in most countries they were "just informed" about what the other stakeholders have already decided. This outlines the huge distance between EU-level social partners commitment and the reality of social dialogue in most countries involved in the project, where both civil aviation employers, national civil and military authorities are used to consider such subject-matter as outside the scope of social dialogue.

***Electricity***

The electricity industry experienced both a liberalization process in the 90s and a significant technological innovation in both networks and distribution activities: first remote control and maintenance of the network was introduced in the 90s, more recently, remote (or "smart") metering, which is expected to be installed in 80% of home consumers within 2020. These innovations, combined with the liberalization process started in the 90s, all reduce the need of workforce in such functions.

EU-level social dialogue started in 1996 along two main lines: the restructuring of the industry as a consequence of the liberalization process, and training on health and safety.

Joint documents on restructuring include usually take corporate social responsibility (CSR) as a reference approach, by paying large attention to lifelong learning and training and to its impact on the labour force composition, equality, demographic change. Their main focus is on cultural change (more customer-oriented rather than technology-oriented, although the issue of efficiency in terms of reduced emission is a relevant issue) while restructuring is seen more in terms of organizational rather than technological change.

Most of social partners' joint declarations are based on joint projects or reports, as in the case of lifelong learning and CSR, while they promoted several toolkits in order to promote and manage equal opportunities (2006), age management (2008), and to manage restructuring processes (2008). `Socially responsible restructuring` (SRR) is the key concepts, aiming to long-term stakeholders' views in contrast with short-term shareholder gain, involving a wide variety of stakeholders (including social partners) with different interests that may or may not coincide.

The process involves:

- Anticipating change and its implications, especially for the workforce;
- Embracing a thorough consideration of alternatives to the sharper effects of change, such as redundancies;
- Seeking sustainable and responsible solutions to these changes through constructive, in-depth and continuous dialogue between social partners and the wider stakeholders;
- Evaluating the effect and process of change.

The 1996 joint declaration on H&S training, reiterated by the 2006 policy statement, implements the participatory approach underlying the 1989 H&S directives' package, by eliciting extensive training for both

[3] This explains the difficulties in setting up stakeholders committees for each rail corridor (Mariaud, 2010), which are an attempt to reply the FAB model, and in advances of ERA regulations (Laperrouza and de Tilière, 2009).

workers, including temporary employees and subcontractors, workers' representatives, supervisors and H&S advisers. It further pays specific attention in case of

- a transfer or change of job of a worker or group of workers;
- a new site;
- new work equipment and/or change of equipment, and
- use of new technologies, materials and/or products.

Technological change emerges as a key issue in the 2010 joint declaration on smart meters, that is electrical meters that record consumption in intervals of an hour or less and communicate that information at least daily back to the utility for monitoring and billing purposes and can gather data for remote reporting. Further they enable two-way communication between the meter and the central system. Directive 2009/72/EC foresee that they will be rolled out in 80% of homes within 2020. Such a technology innovation is expected to generate redundancies amongst those employees performing on-place metering, while employment opportunities will be created in the roll-out phase and in new services, thus requiring new skills and qualifications.

From this brief overview, social dialogue in the electricity sector is more focussed on restructuring rather than technological change, while the strict feedback between analysis of changes and social dialogue outcomes deserves wide interest.

### *Telecommunications*

EU-level social dialogue, started in 1992, mainly focused on two strands, namely market dynamics and health and safety. Amongst the former, joint opinions have been issued on tariffs, telecom equipment industry. Mutual recognition of licences, new competitive framework and development of mobile tlcs, including: (is it ok with this bullet points?)

- several joint opinion on various EC green papers (on convergence in 1998, on the Universal Telecommunications Service in a Competitive Environment in 1996, on liberalization of telecommunications infrastructure and cable television networks in 1995, on Partnership for a new organisation of work in 1997, on numbering in 1997, on mobile communications in 1994)
- opinions on Commission directive proposals (application of open network provisos to voice telephony in 1994);
- joint opinions on the study concerning the effects on employment of the process of liberalisation in the telecommunications sector and on the Social and Labour Market Dimension in the Information Society, both in 1997.

In order to investigate the impact of such transformations on the workforce, social partners promoted in 1997 a study on the impact of liberalization on employment, having as a follow up a feasibility study for an observatory on employment (1998), having training and skills as main focus, and by promoting several studies on impact on quality of work and employment, such as telework, lifelong learning, job security and health and safety (1997 framework agreement). They finally issued in 2007 a job statement on social and economic aspects of CSR.

Social partners action at EU level on health and safety at work shows an important move from physical aspects (the 1993 joint opinions on electromagnetic radiations and on harmonized statistics on work accidents) towards psychosocial dimensions of health: after the 1997 resolution against racism and xenophobia, they launched the guidelines for customer contact centres and then established a working group on musculoskeletal disorders by issuing in 2005 Good practice guidelines for the prevention of musculo-skeletal disorders within the telecommunications sector.

Thus, although the sector experienced a technological change, then mainstreamed across both network industries and manufacturing, social partners' action at EU level focused mainly on regulatory issues and on their impact over both restructuring and health and safety at work.

### *Social dialogue about restructuring and technological change*

Several joint comparative research, such as MIRE (Monitoring Innovative Restructuring in Europe) and TRACE (Trade Unions Anticipating Change in Europe) point out that for workers the process of social dialogue is often just as important as the outcomes: successful cases of restructuring generally involve an

active partnership between management and workforce. According to a recurrent argument, consultation with the workforce can help reduce opposition to the proposed restructuring because workers are more likely to feel that their views and interests have been heard and taken into account. The Eurofound (2005)[4] report further argues that "ongoing dialogue aimed at finding points of agreement between all players involved can help to successfully overcome some of the difficult aspects of restructuring".
Finally the role of social dialogue in restructuring is summarized as following by the restructuring toolkit in the electric industry "Social dialogue is not therefore a crisis reaction to short term challenges of restructuring, but part of a wider dialogue between the social partners which recognises change as an essential part of organisational life and addresses strategic issues such as employability. By anticipating and understanding wider industrial and economic trends and change, the social partners increase their capacity to influence possible outcomes and, in doing so, are able to adapt at an organisational level. Anticipation, by both sides enables the parties to develop their capacity to respond to challenges and manage them more effectively. Individuals, like organisations, can deal with change best when it is planned and there are arrangements in place to deal with it. Change management can, in the longer term, enhance the organisation's competitive advantage and profitability, with minimum social costs."
Early involvement therefore provides an opportunity both to formulate more imaginative and creative responses to the challenges related to change thus affecting more effectively the social impact of economic restructuring. These responses might range from process and product innovation to different patterns of working or retraining. In that frame, social dialogue should not be seen as an activity in which employers and trade unions engage at the point at which restructuring is inevitable or actually occurring. Continual information disclosure on company performance and plans is essential to social dialogue and anticipation of the need for restructuring activity. However the timing of discussions is also a vital component in social dialogue within restructuring.

## 4.3 Indications from other sectors' social dialogue

As a recent CEEP report[5] points out, sectoral and cross sectoral social dialogue is moving from an agenda prioritizing "less controversial issues upon which a common view would be most likely, rather than on a shared vision for the future of the sectors" towards a "more challenging agenda that addressed the full range of the enormous challenges brought about by the changes taking place currently and to be faced in coming years" as social partner achieved a shared feeling of mutual trust.

Sectoral social dialogue in other network industries facing with either liberalization-driven or technology-driven restructuring provides some very interesting hints to social partners' in order to device a sectoral agenda aimed to anticipating change and restructuring.
The civil aviation social dialogue provides several interesting points about the Functional Airspace Blocks (FABs) implementation, as it assumed the consultative approach according a bottom-up approach by attributing to workers and their representatives the same status as the other stakeholders. Unfortunately such an innovation was poorly implemented at national level, as it actually discounts that in most countries industrial relations are not yet ready to include workers' representatives since its very early consultation stage. Such an outcome does not differ so that much from the difficulties trade unions' experts face while participating to the ERA working groups.
Social dialogue in the electricity sector provides a further very useful procedural hint, by focussing on guidelines and toolkits issuing based on joint studies and on joint observatories: the sequence analysis – agreement – operative tools – monitoring seems the most appropriate way to deal with the diversity across EU member states. Similarly, attention to psychosocial risk factors and musculoskeletal disorders, which are strongly related each other, is the most interesting indication from the telecommunications sector.

[4] Eurofound (2005) , Managing large-scale restructuring: The cases of Danone-Saiwa and Moulinex.
**http://www.eurofound.europa.eu/emcc/content/source/eu05010a.htm?p1=ef_publication&p2=null**

[5] CEEP, "Diverse backgroung, common challenges. Anticipation of change in public services". forthcoming.

Unfortunately, the terms of restructuring in the railways sector are a bit more complicated than in the cases discussed above, as the technological change is combined with the market redesign, as envisaged by the liberalization package. As discussed in chapter 1, feedback between the technological and the institutional spheres are not necessarily positive, as the liberalization process can hinder the creation of the unique market perspective in the case it is given priority with respect to the ERTMS implementation.
The likelihood of negative feedbacks amongst these processes greatly increases the level of uncertainty: while the electricity industry is more "static", both in civil aviation and telecommunication the sectoral perspectives were highly favourable and the key problem was restricted to manage incumbents' restructuring: the problem was minimizing the social impact on these latter. Railways face a more puzzling scenario, thus making a successful social dialogue agenda more challenging.
The degree of cooperation social partners will choose, starting from the EU sectoral social dialogue committee, may affect the outcome of such process, although current financial restrictions considerably restrict the scope to manoeuvre to public governments both at national and at EU level, thus objectively favouring those solutions less financially demanding, namely liberalization, with sub-optimal outcomes.
Social partners' both side lower fragmentation may favour lower gaps between what they agree at EU-level their actual behaviours at national level than those observed in the civil aviation: a good European framework and shared overall governance implemented at national level would support such chances.

**Main findings**

**The railways industry displays high union density across all MSs, with a combination of congruent and sectional unions, having in ETF the dominant EU-level coordination stance of employees across MSs.**
**Social dialogue achievements at the sectoral level show that general preconditions for further developments on ERTMS are established (employability, joint intervention with ERA, liberalization). Sectors having experienced the unique market process and a similar technological change offer several interesting hints: the** Air Traffic Management Work Group **in civil aviation promoting a bottom-up consultive approach over FABs; evidence-based approach in the electricity sector, by carrying out joint monitoring of the restructuring process and issuing joint toolkits; strong attention to well-being, psychosocial risk factors and musculosketal disorders with joint guidelines. Unfortunately, there is no record about the implementation of the new technological paradigms.**

**Indications for training**

Intersectoral workshops and conferences, with will greatly help trade unions in better understanding both technological and market changes and their impact over quality of work and working conditions. Cross-fertilization perspective is highly recommended.
Outcomes from sectoral EU-level social dialogue stress the need of increasing trade unions competence levels about the impact of ICT and automation over both workplace and organization design, and workers' health.

**Indications for trade union contractual policies**

EU-level sectoral social dialogue has a wide scope in both monitoring and regulating ERTMS implementation and its impact over working conditions. High union density and EU-level social partners' representativeness are key enabling factors.
The cycle analysis-regulation-implementation-monitoring must be assumed as the reference approach, to be implemented both at EU and at national level. Joint guidelines and toolkits will greatly ease local-level bargaining and favour social partners' commitment both at national and local level.