

From Corporate Social Responsibility to international framework agreements

Towards an internationalisation of industrial relations?

Unternehmen müssen die Verantwortung für die Auswirkungen ihrer Aktivitäten übernehmen. Wie kann dieser Verantwortung durch die europäische Gesetzgebung Rechnung getragen werden? Internationale Standards und ein Ansatz der Europäischen Union müssen zusammengeführt werden, um einen sozialen Dialog zu beginnen, der über das hinausgeht, was derzeit als CSR diskutiert wird. Von Isabelle Schömann

Corporate Social Responsibility (CSR) is a topic of debate in Europe since the late 1990s and one, which, although not as a new phenomenon within the Member States, is gaining importance. It has moved up the list of priorities of the European Union, as one of the contributions to the strategic goal set by the Lisbon Summit of March 2000 and to the European Strategy for Sustainable Development (Schoemann 2008). It is also contributing to the promotion of core labour standards and improving social and environmental governance in the context of globalisation. Furthermore, CSR debates are part of the European developments on European governance which contribute to opening up "the policy-making process to get more people and organisations involved in shaping and delivering EU policy to promote greater openness, accountability and responsibility for all those involved" (EU COM 2001: 428, 3 and 8).

Securing employees rights

However, an analysis of various Commission communications reveals that the ambition to elaborate a European framework for Corporate Social Responsibility as mentioned in the 2001 Green Paper was reduced in its communication of July 2002 to a business contribution to sustainable development. Moreover, there is a post-Lisbon tendency in the European Union to retreat from securing employees' rights and to promote growth and competitiveness. In this respect, the current process of reviewing European legislation clearly demonstrates that the social partner consultation process is deteriorating, in contradiction to the provisions of the EC treaty, and is affecting a large range of stakeholders in civil society.

One of the major aims of the European Trade Union Confederation, particularly in its participation in the European Multi-Stakeholder Forum on Corporate Social Responsibility, has been to reinstate the priority of elaborating a European frame-

Table 1: Key steps of CSR in the European Union

1995	■ European Commission President Jacques Delors and a group of European companies launch the Manifesto of Enterprises against Social Exclusion.
March 2000	■ Lisbon European summit sets new strategic goal of making Europe the most competitive and dynamic knowledge-based economy in the world by 2010. For the first time, the European Council makes a special appeal to "companies' corporate sense of social responsibility regarding best practices on lifelong learning, work organisation, equal opportunities, social inclusion and sustainable development".
June 2000	■ EU adopts Social Policy Agenda, stressing the importance of CSR in adapting working conditions to the new economy.
March 2001	■ European Council in Stockholm welcomes business initiatives to promote CSR and calls for a wide exchange of views around the forthcoming Green Paper.
July 2001	■ European Commission publishes the Green Paper on promoting a European framework for CSR (COM/2001/366).
July 2001	■ European Commission Communication on promoting core labour standards.
October 2001	■ ETUC Executive Committee adopts a wide-ranging policy on CSR.
July 2002	■ European Commission Communication on Corporate Social Responsibility: A business contribution to sustainable development (COM/2002/347).
October 2002	■ European Commission sets up European Multi-Stakeholder Forum on CSR (CSR EMS Forum) to exchange good practices and assess common guidelines.
June 2004	■ ETUC Executive Committee adopts resolution laying down a series of priorities for the development of CSR in Europe.
29 June 2004	■ CSR EMS Forum presented its report to the European Commission.
14 June 2005	■ European Commission conference on CSR in SMEs
22 March 2006	■ European Commission issues a new Communication: Implementing the Partnership for Growth and Jobs: Making Europe a pole of excellence on CSR, and launches a 'European Alliance for CSR'. The ETUC, together with a range of NGOs including the Social Platform, accuses the Commission of adopting an unbalanced, unilateral approach that gives undue weight to the interests of industry and business.
13 March 2007	■ Approval by the European Parliament of the report on 'Corporate Social Responsibility (CSR) - a new partnership' of the rapporteur, Richard Howitt MEP. The report stresses the need to keep a balance between the social aspects and business interests of CSR

Source: www.etuc.org/a/139

work and proposed a series of priorities for CSR in Europe. However, during the European Multi-Stakeholder Forum on CSR, a number of important divergences between the different stakeholders involved have been raised thus without having →

been addressed since then. Concerns about the evolution of an unbalanced, unilateral approach to CSR that takes account of the viewpoint of only one actor: the companies have been expressed by the trade union movement and by non-governmental organisations involved (Schoemann 2008). In the same vein, the European Parliament adopted in March 2007 a report on “Corporate Social Responsibility – a new partnership” of the rapporteur Richard Howitt. The report stresses the need to keep a balance between the social aspects and business interests of CSR (European Parliament 2006).

Corporate Social Responsibility is a crosscutting issue affecting competitiveness, social cohesion, environmental protection, the consumer dimension, human rights, democratisation, and conflict prevention. This interdependence of different interest groups in the societies where companies are operating, but also the interdependence of various branches of law in which CSR initiatives can be found, makes it difficult to adopt a single legal approach as to how it should be regulated. Although initial attempts in the field of consumer law and environmental labeling have sometimes been successful in providing a legal framework for CSR initiatives, they cannot be applied to labour aspects of CSR. Furthermore, CSR is embedded in the current debates on the development of soft law and the trend towards deregulation of labour law. The question is how to balance compliance with core labour standards while attaching greater importance to the self-regulation of labour relations.

Research projects at the European Trade Union Institute for Research Education Health and Safety (ETUI-REHS) on CSR and recently on international framework agreements seek specifically to get to grips with the implications of CSR and CSR related instruments for the trade union movement in Europe in respect of paving the way to a transnational industrial relations system.

Next to the debate on the appropriation of CSR initiatives by trade unions in Europe, the ETUI-REHS first project dealt with the meaning of CSR for the trade union movement in Europe and more intensively with the complementarity of hard and soft law in analysing the instrumentalisation of soft law in CSR initiatives (ETUI-REHS 2004; Schömann, I. 2004). Replaced in the

current debate on the role of labour law in modern and globalised industrial relations systems, research outcomes have shown that CSR initiatives could be a possible form of deregulation, which can emulate social dialogue. However, such complementarity between hard and soft law, between collective agreements and corporate social initiatives, can only operate successfully when prerequisites are met, so that the negative side-effects of CSR are eliminated. Deregulation and re-regulation of labour legislation should take place in such a way that the social and economic advantages of stability as well as the protection of basic rights are not lost.

On this basis, a system of reflexive labour law emphasises the active role public authorities should play in the interplay between social partners and other social players. Furthermore, the research project addresses the limits of such self-regulation at international level and proposes the conditions under which the way to internationalisation of industrial relations should be framed including related theoretical research results in relation to European public policies such as the limit of current international and domestic regulatory standards and the influence of private actors through sui generis agreements on public policy. From this perspective the role and capacities of European labour and social law to address transnational industrial relations has been addressed. An additional interesting aspect is the evolution of the nature of CSR instruments over the last years. A clear trend is to switch from a unilateral management declaration with little impact to more coordinated instruments with other players up to agreements with trade unions.

Transnational social dialogue

For the time being however, legal gaps in framing the developments of transnational social dialogue lead trade unions on one side and multinationals on the other side to precede legislators in signing international or global framework agreements. Directly linked to the role of social dialogue at transnational level in globalised industrial relations systems, a second project aims at investigating the developments of transnational agreements and their obvious link with CSR themes (Schömann, I. et al. 2008).

An important trend across sectors consists in signing global agreements designed to commit major multinationals to adopt and to comply with core labour standards within their sphere of influence, including subcontractors, clients and suppliers. An analysis of this trend shows that the change from CSR policies to a company-specific strategy including trade unions involvement is due to a strong motivation of both multinationals and trade unions. Their motivation is to fill the current legal gap in international and European labour law to regulate the

Table 2: Recent developments in the elaboration of CSR and related instruments

	till 1990	1990s	after 2000
Nature	Unilateral declaration	Joint declaration Agreement	Global / international framework agreements
Drafting Actors and procedures	Management	Stakeholders Private actors	International, European sectoral trade unions
Content	Marketing tools	Reiterate legislation Selected issues	Workers rights/core labour standards
Monitoring		Information Publication	Information Publication Reporting
Liability	None/rare	Information Publication	Information Publication Reporting
	None	Consumer law Public procurement law	Intern conflict resolution mechanisms

Source: Schömann 2004 (updated)

social consequences of globalisation, to secure the respect of labour and social standards and to propose a legal frame for transnational social dialogue structures.

Furthermore most relevant initiatives started with European multinationals, based in most cases on existing national industrial relations systems and transnational related structures, such as the European works councils. They definitely create a dynamic of social dialogue and represent an impetus for negotiation at the European and international level, in which European and international trade unions are among the main proactive actors. The ETUI-REHS project addresses further the issue of the influence of the local, national and European structures of workers representation and participation to the developments of transnational bargaining and to which extend these developments may support the debate launched by the European Commission early in 2006, on the need for an optional framework for transnational agreements ((European Commission 2005; Ales, E. et al. 2006).

Conclusion

Whereas CSR issues remain sensitive, some might even say compromising topics for trade unions, the European trade union movement understands that, if no-one has ownership over CSR, those who appropriate it will be able to influence its course in shaping it according to their requirements and objectives. The requirements of the European trade union comprise respect and promotion of fundamental workers rights as well as the respect of industrial relations systems worldwide. Furthermore, trade unions do not underestimate the multinationals' commitment to acknowledging their social and environmental responsibilities, in close connection with their sustainable development strategies.

International framework agreements with CSR content are the springboards for reaching out to workers who have until now been both inaccessible to trade unions and untouched by the body of legislation and collective agreements. This is also true for subcontractors or employees along the entire length of the production chain, for instance workers belonging to corporate networks within as well as outside of Europe's borders.

There is probably still a long way to go from the *lex mercatoria* to the *lex laboria* as a third level of transnational law beyond national and international labour law and as an autonomous legal system based ultimately on private autonomy. In fact, it probably does not make sense to advocate such independence for private norm-setters in labour matters, since there would still be tremendous imbalance in the power relationship between undertakings and workers. Furthermore, an arbitration system for international and European labour disputes, which would be a major milestone in the elaboration of such a system, is still inexistent. However, trade unions have a legitimate concern and a political obligation to participate in framing and operating CSR initiatives in order to steer corporate behaviour in the direction of sustainable development and social responsibility.

Responsibility is not merely about improving commercial image or winning over consumers, but rather a challenge for corporate thinking on a worldwide basis.

CSR in the EU must also reflect the principles of Social Europe and the aims of the Lisbon agenda, such as better jobs, sustainable development, and lifelong learning. There is a desire, shared by the European Commission and the European trade unions, to imbue CSR with a European dimension. This means to complement international standards with an EU approach based on the European social model, the Lisbon strategy, democracy and social progress, in order to expand social dialogue to encompass new topics not currently within its remit. It is therefore up to trade union circles in Europe and around the world to disprove the words of Milton Friedman, winner of the 1976 Nobel Prize for economics, according to whom "the only social responsibility of a company is to increase its profits". This can be achieved by using binding corporate social and environmental responsibility as a lever in order to act and influence the effects of corporate activity on the environment, the social fabric, employment and the local economy.

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