

Thomas Fetzer

**Industrial democracy in the European Community: Trade unions
as a defensive transnational community (1968-1988)**

published in: Marie-Laure Djelic/Sigrid Quack (eds.), *Transnational Communities: Shaping Global Economic Governance*, Cambridge: Cambridge University Press, 2010, pp. 282-304

In recent years social scientists and historians alike have increasingly emphasised that national political systems, economies, and societies can not be understood in isolation from their international environment (Djelic and Quack 2003; Osterhammel 2001). The growing prominence of concepts such as transnational governance (Djelic and Sahlin-Andersson 2006), or network society (Castells 1996) is indicative of this trend. In the field of European Union studies – the more precise context of this article – a similar tendency has led scholars to focus on the ‘informal politics’ (Middlemas 1995) of the EU’s multi-level governance system characterised by constant communication and negotiation between supranational, national, and regional policy-makers and non-governmental groups. Studies of transnational networks ranging from the Christian Democrats (Kaiser 2007) to competition lawyers (van Waarden/Drahos 2002) demonstrated the innovative potential of this approach. However, as emphasised by Mayntz in the introduction to this volume, most contributions in these literatures concentrate on relational processes of exchange and negotiation, and pay less attention to the ‘community’ aspect of transnational governance, that is, the bonds of shared values, knowledge or skills, which underlie processes of transnational group formation.

In this article I explore this community aspect in relation to the trade union movement in the European Community (from 1991 European Union), and more specifically, its involvement in the debates about industrial democracy (ID) at the European level between the late 1960s and the late 1980s. So far, trade unions have not been prominently represented in the transnational networks and governance scholarship, which can be easily accounted for by their relative reluctance to envisage supranational organisations like the European Community/Union (EC/EU) as a political space beyond the Nation-State (Pasture 2005). In turn, this is usually explained by the fact that EC/EU encroachments on national regulatory power with regard to social welfare and

industrial relations, the two key areas of trade union interest, has been more limited than in many other realms of public policy (Ebbinghaus and Visser 1997).

These assessments are valid but they tell only half of the story. First, a predominantly national orientation in terms of policy approach does not preclude involvement in transnational exchange and networking; indeed, recent evidence from social movement research suggests that domestic strategies of NGOs are themselves partly informed by encounters with foreign practices (see for example Nehring 2005). In this sense the European Community/Union can be regarded as one of many transnational arenas for the exchange of ideas and experiences, which feed back into national settings. In the case of industrial democracy this dynamic, as we shall see, can be traced back to the 19th century. Second, with regard to supranational EC/EU regulation, the relative underdevelopment of a European industrial relations policy can not be equated with a lack of attempts in this direction. In the field of industrial democracy such attempts reach back to the late 1960s (see further below), and while lack of progress can in part be accounted for by employer resistance, trade unions also contributed to this outcome.

It is at this point that the community notion comes into play: The article argues that trade union reluctance was premised on a shared overriding objective that European regulation should not negatively affect industrial democracy achievements in individual countries. This defensive notion reflected in part the broader attitude of most national trade unions to European integration, which emphasised subsidiarity in social policy and industrial relations matters. The protection of vested national rights was given preference over the potential achievement of new rights at the supranational level (Fetzer 2004). At the same time, the defensiveness was also the result of fundamental ideological disagreements, which made it very difficult to agree on guidelines for European action; in this sense the defence of national rights was, so to speak, the 'default' option, which all national delegates could accept.

The article thus demonstrates the usefulness to conceptualise trade unions as a (defensive) transnational community yet also gives support to Mayntz' emphasis (in this volume) on the fluid borderline between the community logic of shared goals/values, and the negotiation mechanisms that underlie coordination in transnational networks. Commitment to shared principles did matter for European trade unions, yet such commitment was shaped by the outcome of negotiation processes. Moreover, given that European regulation could affect national systems very differently, outcomes also

reflected specific efforts made by particular national delegates. This interaction between national and transnational community levels will be illustrated with the case of the German trade unions.

The article pursues these themes in three parts. In the first part I explore the transnational dimension of industrial democracy since the 19th century and provide a brief account of the regulatory agenda of the European Community/European Union in the ID field since the late 1960s. The second and main part is dedicated to the analysis of key debates about industrial democracy within the European trade union movement, and the concomitant emergence of a defensive transnational community. The third part considers the interaction between European and national developments focusing on the Federal Republic of Germany. I conclude with some brief reflections about the development in the period since the late 1980s, and about the broader significance of defensive transnational communities.

Industrial democracy as a transnational issue field

In a broad and uncontroversial sense industrial democracy can be defined as the participation of workers, and their representatives, in the decision-making processes, which govern their working lives (Schuller 1985: 4). The debates about the concept's more specific meanings and applications are of course much older than the European Union, and the ID discourse community has always included actors other than trade unions, most importantly 'enlightened' employers, social reformers, government officials, and academic experts from various disciplines.

Debates about ID have had a transnational dimension ever since Robert Owen's first initiatives towards a cooperative movement in the early 19th century because they responded to a problem – how to deal with the 'labour question' created by industrial capitalism – that was shared across borders. Clearly, industrial democracy meant different things for different actors. For conservatives and most employers, a limited degree of consultation with worker representatives appeared to provide a device to contain social unrest, and to enhance employee motivation and loyalty to the firm. Trade unions and socialists, by contrast, predominantly approached the issue from the perspective of how to use ID to further employee interests not only in labour market terms, but also with regard to the emancipatory benefits arising from the achievement of influence over decision-making processes in the economy. At the same time, however,

there emerged contrasting opinions of how to achieve these goals – witness the bitter dispute between Marxists and anarcho-syndicalists in the First International in the late 1860s (Van der Linden 2003: 11-22).

The emergence of different national ID institutions from the late 19th century had ambiguous effects. On the one hand, this process reduced the incentive to seek international solutions in the ID field. On the other hand, however, national institutionalisation encouraged exchange through transnational networks, since looking abroad could serve as an inspiration for national institution-building, or, subsequently, as a comparative ‘check’ for the appropriateness of domestic practices. The pioneers of *Mitbestimmung* in Germany in the early 19th century, for example, were inspired by the model of the *conseil de prud’hommes* in France (Teuteberg 1981: 9-11). Clearly, foreign models had to be adapted to local conditions, and such ‘acculturation’ processes were often very controversial; indeed, one important function of transnational exchange for national actors was that it provided ‘discursive ammunition’, which could be used against domestic opponents in debates about the reform of national institutions (for a UK example see Fox 1983: 265/266).

Against this backdrop industrial democracy continued to be debated in numerous transnational arenas. The cooperative movement retained a prominent place in these debates (Watkins 1970), as did syndicalist currents within the labour movement (Cole 1922). Following the Vatican’s increasing interest in social and labour problems since the late 19th century there also emerged a debate about ‘Christian industrial democracy’ (Maclean 1927).

In the post-1945 period the transnational ID discourse further intensified not least because next to the ‘labour question’ other considerations became associated with industrial democracy. In the immediate post-war period there was, for example, a lively debate whether more industrial democracy was needed to prevent another collapse of parliamentary democracy as witnessed in many European countries during the 1920s and 1930s. Soon, this concern was supplanted by the onset of the Cold War, which turned industrial democracy into a component of the ideological competition between capitalism and communism. Tito’s Yugoslavia promoted its concept of worker self-management as a ‘third way’ – again fuelling debates at the transnational level (Deutsch 2005: 646-648). Within the Western world the trend towards larger firms, and the associated divorce of ownership and management functions gave additional importance to the issue (Dartmann 1996: 210ff.). The debate reached its high point in the 1960s and

1970s against the backdrop of full employment, growing worker confidence and the generational change culminating in the 1968 movement. Industrial democracy became a key concern for those on the Left who wished to accelerate change (Coates 1968), as much as for those who promoted modest forms of ID to contain strikes and social unrest. The growing importance of multinational firms accentuated the transnational character of debates (Piehl 1973).

Largely in response to these developments transnational institutions devoted to the debate of ID topics multiplied. The issue featured prominently in the work of the OEEC/OECD, and of the ILO's International Institute for Labour Studies; growing academic interest found expression in ID as a permanent topic on the agenda of organisations such as the Industrial Relations Research Association, or the International Association of Labour Law. In many countries specialised research institutes were created, which promoted transnational debate through journals and conferences involving academic experts, employers, trade unionists and government officials (Deutsch 2005: 648f.).

Next to these global or transcontinental arenas industrial democracy also became associated with the development of regional political integration in postwar Europe. On the one hand, the establishment of the supranational institutions of the European Community (later European Union) simply added another platform for the transnational exchange of ideas and experiences about industrial democracy. This was clearly expressed in the work of specialised agencies such as the 'European Foundation for the Improvement of Living and Working Conditions', which played an active role in the ID debate since the mid1970s aiming at the dissemination of comparative knowledge about the development of ID models in different European countries, and the promotion of cross-border encounters and mutual learning among the actors (Deutsch 2005: 653).

On the other hand, however, EC/EU involvement in the ID debate went beyond the status of yet another transnational arena of exchange to facilitate policy transfers across borders. Crucially, supranational European regulation itself touched on ID issues, and, therefore, the transnational discourse about industrial democracy in the EC/EU has had a direct link to transnational governance.

Overlooking the evolution since the 1960s this link has become manifest in three key regulatory initiatives whose origins stemmed, on the one hand, from the EC/EU's internal market agenda, which from early on included ideas for a European company law framework with provisions for employee participation, and, on the other hand, from

the slowly emerging social policy agenda (see Höland 2000). Firstly, there was the long debate about the Statute for a European Company Statute (ECS), which would allow firms to register under European law as an alternative to the law of individual member states. Following two expert studies about the provisions for worker involvement in such a European Company (Sanders 1967; Lyon-Caen 1970) the Commission presented a first draft Statute in 1970, which was transmitted to the Council of Ministers in an amended form in 1975. The draft was modelled along the German model of ID providing for the establishment of a European works council and employee participation in the supervisory board in the form of one third parity between shareholders, worker representatives, and 'neutral' co-opted members (Gold 2008: 48-50). However, the proposal never passed the Council, and by the mid 1980s the debate was deadlocked. As part of the Single Market agenda the Commission launched a new attempt in 1988/9, this time adopting a more flexible approach by allowing member states to choose between different models of ID for European Companies registered on their territory. After further debate, and a special report by a group of experts chaired by Lord Davignon in 1997 the flexibility principle was given still more weight. A new draft directive accorded preference to direct negotiations between company and employees to determine ID arrangements, supplemented by minimum fallback provisions for information, consultation, and board participation in case of failure to reach agreement. In this form the directive passed the Council of Ministers in 2001 (see *ibid.*: 52-58).

In a second field related to the harmonisation of company law of the member states Commission attempts remained without result to this day. In contrast to the European Company Statute, which was to create an *additional* and non-obligatory European framework, the regulatory objective was more far-reaching here, since harmonisation necessarily affects all already existing firms. Initially, along the lines of the first ECS draft, the Commission proposed a standard model designed largely along the lines of the German system in 1972. As in the case of the ECS, however, this approach triggered resistance in the Council. Notwithstanding subsequent modifications towards more flexibility (in parallel to the ECS) the directive has never been adopted (Höland 2000: 44-50).

The third area concerns regulation with regard to the information and consultation of employees. There has been a certain overlap here with the ECS proposals – the first Commission initiative in this field was related to the establishment of European works councils as part of the ECS draft in the early 1970s. However, regulatory objectives

widened beyond companies adopting the ECS since the mid1970s, nurtured by the widespread public debates about the growth of multinational firms. The unsuccessful Vredeling directive from 1980 attempted to introduce minimum information and consultation rights for employees in any firm with operations in more than one member-state; in the early 1990s the discussion resumed and culminated in the adoption of the European works council directive in 1994. Subsequently, the information and consultation directive from 2001 again widened the regulatory scope to include any firm registered in a member-state of the EU (Ibid.: 55-61).

This was the regulatory framework against the backdrop of which trade union debates unfolded since the late 1960s

European trade union debates about industrial democracy

The trade union movement looks back on a long tradition of international activity going back to the early 19th century though the first stable international organisations did not emerge before the 1880s in a number of industries. It took even until 1903 that the first international confederation of national union centres was created (Windmuller 1967). After World War I the movement split with the emergence of Communist and Christian Internationals, a division that was reinforced as a result of the Cold War between 1945 and 1970, and has only very recently been overcome (van der Linden 2003: 155-171). In the post-1945 period there was also a process of regionalisation as separate organisations were set up to deal with the specific situation in different continents. In Europe – the focus of this article - this process was further accentuated by the onset of European political integration. Initially EC matters were dealt with by a special committee of the European Regional Organisation of the International Confederation of Free Trade Unions (ICFTU) but in 1958, prompted by the Treaty of Rome, the autonomous European Trade Union Secretariat (ETUS) was set up comprising the national confederations of the six founding countries. In 1969, the ETUS was renamed into European Confederation of Free Trade Unions (ECFTU), before being transformed into the European Trade Union Confederation (ETUC) in 1973, which included not only the organisations of the new EC members Denmark, Ireland, and Britain, but also the trade unions of the EFTA countries. Further enlargements occurred in line with the accession of new members to the EC/EU (see Gobin 1996).

Industrial democracy was one of the core issues on the agenda of ETUS/ECFTU/ETUC, perhaps most clearly demonstrated by the fact that a special working group entitled ‘democratisation of the economy’ was formed soon after the ETUS creation, and became a standing committee by the mid1960s. Initially, the committee’s three to four annual meetings focused on reports about ID developments in different European countries, and their discussion, at times also in the form of special seminars or conferences. Indeed, this exchange of ideas and experiences remained an important function throughout the committee’s history. In the 1970s, for example, there were vivid debates about the new German co-determination legislation, the plans for company law reforms in France and the UK proposed by the ‘Sudreau’ and ‘Bullock’ committees, or Italian trade unions’ initiatives to promote ID through the extension of the scope of collective bargaining. In this respect, the ETUS/ECFTU/ETUC was little different from the above mentioned other transnational networks concerned with industrial democracy issues except that these issues were analysed from a trade union perspective.

From 1968, however, the agenda of meetings became dominated by debates about industrial democracy developments at the European level – in response to the first EC initiatives for supranational legislation with regard to the harmonisation of company law described above. This transformed the character of gatherings from the previous informal exchanges of ideas and experiences to the discussion of common positions vis-à-vis the European institutions. In short, the trade unionists assembled in the ETUS/ECFTU/ETUC working group became a community of interest whose core objective was to ensure that EC legislation in the field of industrial democracy satisfied the aims and ambitions of the organised labour movement.

Finding common positions, however, soon turned out to be extraordinarily difficult. Partly, this was the result of the different emphases given to particular aspects of industrial democracy in different countries – be it with regard to the normative basis (law or voluntary bargaining), the level (workplace, enterprise, and/or macroeconomic level), or the degree (consultation, joint regulation with employers, unilateral ‘worker control’) of ID arrangements. Revealingly, it took almost one year of deliberations in

1978/9 until the delegates agreed upon a common definition of industrial democracy as part of a new ETUC program.¹

Still more importantly, different ID arrangements were linked to contrasting notions of trade union purpose and identity, which were brought out in sharp relief as European Community legislation implied the prospect of harmonisation across borders. Two issues were of particular importance. First, there was the question whether the representation of employees should be the exclusive privilege of trade unions, or whether a 'second channel' of interest representation through works councils established by law, and elected by direct employee vote, was acceptable or even desirable. This question played a large role in the deliberations about the European Company provisions for European works councils in the early 1970s, and again during the debate about the Vredeling directive in the early 1980s.² For the proponents of a dual channel system, foremost the German DGB, this was simply the extension of a successful domestic model of how to use the statutory rights of works councils, e.g. with regard to personnel planning, for the benefit of trade unions both in terms of labour market interests and organisational stability (see Streeck 1981). Those defending the 'single channel' principle, not least the British TUC, associated works councils with employer attempts to dilute collective bargaining through the set-up of workforce-elected consultation bodies, and hence saw them as devices that could weaken trade union power (Hyman 1996).

Second, European Community regulation of company law raised the issue of the participation of worker representatives in company boards. This was a still more contentious matter, and it dominated in particular the early discussions within the ETUS/ECFTU about the European Company Statute in the late 1960s and early 1970s.³ The issue resurfaced in the debates about the planned directive for national company law harmonisation in the late 1970s, and about the revised ECS in the late 1980s. Usually led by the representatives of the Belgian FTGB one group of delegates (also comprising the French and Italian trade unionists) argued that a co-determination system was unacceptable because it would make trade unions co-responsible for

¹ See for example Minutes of the meeting of the Committee on the Democratisation of the Economy, 16 March 1978, in: Archive International Institute for Social History Amsterdam (IISH), Collection ETUC, part II, file 2189.

² See for example Minutes of the meeting of the Committee on the Democratisation of the Economy, 5 April 1973, in: IISH, ETUC, part I, file 2171.

³ See for example Protokoll der Sitzung des Exekutivausschusses des Europäischen Gewerkschaftssekretariats, 29 January, 25 April 1968, Archive International Institute for Social History Amsterdam (IISH), Collection ETUC, files 471, 473.

company decisions, which would unduly restrict their freedom and violate their identity as a countervailing power in economy and society. Based on a conflictual outlook to industrial relations they advocated the alternative concept of ‘workers’ control’ (see Coates 1968) with an emphasis on comprehensive information disclosure requirements, which would allow to control the operations of the firm from ‘outside’. By contrast, the German and Dutch delegates, after 1973 assisted by their Scandinavian colleagues, promoted board co-determination, which they saw as a means to enhance trade union influence in the economy without compromising their identity to represent the interests of workers. As Hyman has demonstrated with regard to Germany, this position reflected a much less class-focused approach, which sought to combine the representation of member interests with the acceptance of co-responsibility for economic decision-making at the company as well as the national level (Hyman 2001: ch.6).

Given these fundamental disagreements the most likely outcome of deliberations would have been a failure to agree on a common position. In other words, it is surprising that agreements did occur, even though it often took a very long time until they were reached; a common position related to the directive for the harmonisation of company law, for example, was adopted only five years after the first Commission proposal had been released in 1972. What is even more surprising is that these common positions differed remarkably in their substance. For instance, the committee spoke in favour of a unitary German-style co-determination system as part of the European company statute throughout the first half of the 1970s, while the parallel debates about the Fifth directive on company law harmonisation resulted in a document advocating a flexible ‘menu’ of different forms of employee participation.⁴

To account for the fact that such common positions could be reached despite fundamental controversies I suggest to conceptualise trade unions in this context as a defensive transnational community. What united them was not so much the urge to find political compromises that could enhance trade union power at the European level, than the determination to prevent negative repercussions of European developments on national industrial democracy achievements – repercussions, which could result either from the direct legal impact of EC directives and/or from the more indirect impact of European initiatives on domestic *debates* in the ID field. To understand the dynamics of

⁴ Europäischer Bund Freier Gewerkschaften, Forderungen des EBFVG zur Mitwirkung der Arbeitnehmer in der EAG, 17 March 1970, in: Archiv der sozialen Demokratie, Bestand DGB, 24/704; Bemerkungen des EGB zum Grünbuch der EG-Kommission über die Mitbestimmung der Arbeitnehmer und die Struktur der Gesellschaften, 19 January 1977, in: IISH, ETUC, part II, file 2190.

how this defensive notion enabled trade union delegates to agree on common positions vis-à-vis European institutions it is instructive to look in some detail at two key debates in 1968/70 and 1973/77 related to the problem of employee participation in company boards.

The first of the two debates was triggered by the publication of the draft European company statute by the law professor Pieter Sanders in 1967. Sanders' study, while refraining from concrete recommendations, pointed to the dilemma that given the different regulation of employee participation in company boards in the different member states the ECS risked either to impose a codetermination system on all countries, or to create 'islands' free of participation in a country like Germany (Sanders 1967: 76-89). Against the backdrop of these scenarios the above-described clashing trade union visions were brought out in sharp relief during the first half of 1968. Several heated exchanges between DGB and FTGB delegates revolved around the question what kind and degree of 'responsibility' trade unions could or should accept in contemporary industrial societies.⁵ Various compromise formula were tabled, for example the cooptation system, which was to become a cornerstone of legislation in the Netherlands in 1971 and which gave employee representatives a certain influence over the appointment of supervisory board members without involving them directly into the board proceedings (Gohde 2001).

However, no progress was made until, in late 1968, the German representatives declared their inability to accept a formula that was too far apart from the domestic DGB position with regard to co-determination. IG Metall chairman Brenner asked for the solidarity of non-German delegates to avoid that European developments could weaken the position of trade unions in the Federal Republic in the current debates about a reform of co-determination (see further below).⁶ This brought a decisive shift, as documents of the ETUS/ECFTU secretariat, under strong DGB influence, now openly advocated a German-style system, including supervisory board representation in the form of one third parity between shareholders, worker representatives, and 'neutral' co-opted members; this position was officially adopted as a common position in March 1970.⁷ DGB pressure was crucial in this process yet the outcome was not a German

⁵ See for example Protokoll der Sitzung des Exekutivausschusses des Europäischen Gewerkschaftssekretariats, 25 April 1968, in: IISH, ETUC, file 473..

⁶ Procès-Verbal de la réunion du comité exécutif, 5 December 1968, in: IISH, ETUC, part I, file 476.

⁷ Europäischer Bund Freier Gewerkschaften, Forderungen des EBFG zur Mitwirkung der Arbeitnehmer in der EAG, 17 March 1970, in: Ibid., 24/704.

‘diktat’. The Dutch and Luxemburg delegates were largely sympathetic to the German position in any case, while the Belgian FTGB kept its opposition stance until the very end. Decisive were the attitudes of the French and Italian representatives who, while doctrinally rather on the FTGB side, were prepared to go along because they accepted the German solidarity pledge. As one Italian CISL delegate put it: ‘Nous ne pouvons pas entraver la lutte entamée par nos amis allemands’.⁸ At the same time, this defensive notion of solidarity also reflected a belief that the domestic impact of the European company statute in France and Italy was likely to be minimal – in contrast to the situation in the Federal Republic.

The second key debate started in 1973 after the Commission had presented a draft for the Fifth directive for the harmonisation of company law, which again included provisions for employee participation in supervisory boards along the German model of the 1952 *Betriebsverfassungsgesetz* (Höland 2000: 44-50). The debate revealed a similar split of opinions as in the case of the ECS yet it soon became clear that the outcome would be rather different. The sceptics of co-determination stressed that they could not accept a position along the ECS lines since this time the stakes were much higher – rather than offering an additional legal form to multinational firms the new legislation would directly affect *all existing companies* throughout EC countries.⁹ The associated claim about the necessity to respect and protect the different national customs and regulations received further support from the new Scandinavian ETUC members; while favourably disposed to the principle of co-determination they asked for flexibility with regard to the corporate governance implications favouring a one-tier over a two-tier board structure. The British TUC, while internally split over the co-determination issue, also spoke out for more flexibility. Against this backdrop, the compromise formula reached by the ETUC in 1977 asked for a revision of the directive to provide for worker participation in one-tier as well as two-tier board structures, and, moreover, to leave it to employees and their representatives whether they wished to be represented in boards, or set up an alternative external ‘trade union control committee’.¹⁰

Conceptualising the trade unions as a defensive community allows us to understand why the outcome of this debate was so different from the one related to the

⁸ Procès-Verbal de la réunion du comité exécutif, 5 December 1968, in: *Ibid.*, part I, file 476.

⁹ See for example Minutes of the meeting of the Committee on the Democratisation of the Economy, 5 April 1973, in: IISH, ETUC, part I, file 2171.

¹⁰ Bemerkungen des EGB zum Grünbuch der EG-Kommission über die Mitbestimmung der Arbeitnehmer und die Struktur der Gesellschaften, 19 January 1977, in: *Ibid.*, part II, file 2190.

European company statute. The crucial difference was that European regulation was likely to affect national ID systems and reform debates in a much more far-reaching way in the case of the 5th Directive, and it was also likely to affect countries more evenly than in the case of the ECS. As a consequence, German delegates, in particular, despite their clearly discernible misgivings about the move towards more flexibility, could not expect the same degree of solidarity from their European colleagues as in the ECS debate. Any compromise needed to take account of the strong differences between trade union aspirations at the national level. What the German delegates could achieve was that the ETUC commitment to flexibility was qualified with the principle of ‘equivalence’ between the different models of participation. The criteria for ‘equivalence’, in turn, had a clear German yardstick basically transposing the rights of supervisory board members to the ‘trade union control committee’: the latter should hold its meetings in parallel to the board, should have the right to appoint board members, and should have the right to consent with regard to strategic company decisions, e.g. plant relocation or closure.¹¹ These arrangements were designed to allay the still existing DGB fears that European regulation could endanger *Mitbestimmung* in the Federal Republic.

Thus, a focus on the defence of established national ID patterns became the principal shared objective allowing trade union delegates to overcome fundamental ideological cleavages. This, however, raises the question why unions gave this preference to defensive purposes over the aim to enhance their power at the European level itself. One answer to that, of course, leads back to the ideological clashes between different visions of trade unionism associated with different models of industrial democracy. Put simply, there was no realistic option for powerful European campaigns because opinions about the appropriate means and strategies diverged far too widely. In this sense, the defence of national rights was, so to speak, the ‘default’ option, which all national delegates could accept.

Yet, there is another, perhaps more important element that needs to be considered. Defensive trade union postures did not only reflect the sheer impossibility to bring about a united European trade union front but also the broader attitude of most national trade unions to European integration, which emphasised subsidiarity in social policy and industrial relations matters. Europe was primarily seen as an economic space with

¹¹ Ibid.

important implications for national economic growth, employment and welfare – but not so much as a political arena in which trade unions needed to act (Fetzer 2005).

The importance of this broader framework for the industrial democracy debates becomes clear if we look at the more general pattern of trade union involvement in these debates. What is striking here is the almost complete absence of autonomous trade union initiatives to advance industrial democracy at the European level between the late 1960s and the late 1980s. At a time when organised labour pushed for innovation in the ID field across the continent this lack of initiative seems all the more surprising at first sight. Yet, ID regulation was perceived to be the competence of nation-states – unless it concerned issues that involved a cross-border dimension.

Of course there were a number of such issues already in the 1970s, notably related to the regulation of multinational companies (MNC). Yet, here too, initiatives at the European level were slow to develop. The ECFTU/ETUC organised a number of conferences related to the topic in the early 1970s but already these activities triggered sceptical reactions among a number of national affiliates who preferred to deal with multinational firms in the framework of international union bodies. In 1975 the ETUC executive committee adopted a resolution urging EFTA and the European Community to provide a legal framework for the information and consultation of workers in MNC but little was done to follow up the decision as opinions remained divided as to whether it was not more important for organised labour to enhance international union cooperation and push for global regulatory efforts by ILO and OECD.¹² Still at the time of the struggle over the Vredeling directive in the early 1980s Socialist members of the European Parliament complained about a lack of trade union support against the concerted efforts of European and American business interests to obstruct the legislation.¹³

Against this backdrop, it should not come as a surprise that the trade union impact on European institutions in the field of industrial democracy was very limited until the late 1980s. Positions adopted on the basis of a defensive logic could have a certain influence at times, particularly in the early 1970s when the strong German imprint on European trade union positions resonated with widespread admiration for the German

¹² ‚Stand der Beratungen im Ausschuss ‚Demokratisierung der Wirtschaft‘ zu der Frage einer Arbeitnehmervertretung in herrschenden Konzernunternehmen‘ (insbesondere in multinationalen Konzernen), 24 October 1975, in: Ibid., 24/1310.

¹³ Die Vredeling-Richtlinie: Eine Fallstudie zur demokratischen Kontrolle auf europäischer Ebene, undated, in: IISH, ETUC, part II, file 2202.

co-determination system across the continent (Sorge 2005). It is clear, for example, that the trade unions' endorsement of parity participation on boards did have a direct influence on the draft European company statute in 1975. After all, the Commission needed some legitimate grounds to justify its recommendation of co-determination against the outright opposition of European employers and despite the sceptical conclusions reached in the studies by Sanders (1967) and Lyon-Caen (1970). In fact, Sanders' study had itself pointed to the importance of the stance of European trade unions; while cautioning against any unitary solutions for the ECS he suggested that such a solution might perhaps be achieved '[...] si les milieux intéressés, en particulier les syndicats, des différents pays membres pronaient une solution quelconque au niveau européen.' (Sanders 1967: 77). The Commission's 1975 draft even proposed exactly the same one third parity formula, which had been endorsed by the ECFTU earlier (European Commission 1975).

However, the failure of the 1975 Statute to pass the Council of Ministers indicates that occasional trade union influence on the Commission did not translate into legislative outcomes. There are even indications that the lack of a political, rather than symbolic compromise among the unions at European level left dissenting affiliates free to use their national lobby channels against ETUS/ECFTU/ETUC positions.¹⁴ In any case, given the predominant focus on the protection of national achievements, the actual failure of legislation was not a major problem; from this perspective no regulation was better than one that had negative repercussions on union strength at the national level.

It was not before the campaign for European works councils in the late 1980s that the trade unions developed a serious autonomous ID initiative at the European level, helped by the conclusion of a number of voluntary agreements in French and German multinational firms since the mid 1980s, and the adoption of the EC Social Charter in 1989. A strong trade union lobby contributed to the passage of the directive in 1994, and it was followed by further initiatives, which indicate a new phase of trade union ID policies: Rather than using European action to avert unfavourable EC regulation that could restrict national policy greater efforts were made to give worker participation a European dimension. (see Knudsen et. al. 2007). Before offering some final reflections about the extent to which this marks a fundamental break with the past the analysis will briefly turn to examine in some more detail the specific role the German DGB played

¹⁴ Mitteilung der Abteilung Europäischen Integration an die Mitglieder des Geschäftsführenden Bundesvorstands, 8. May 1973, in: AdsD, DGB, 24/2099.

for the emergence of a defensive transnational trade union community in the 1960s and 1970s. This will also illustrate the mechanisms of interaction between national and transnational communities in the field of industrial democracy.

The interaction between transnational and national communities: The case of the German DGB

As we have seen the defence of national industrial democracy achievements against potential negative effects arising from EC regulation became the core shared objective of European trade unionists from the late 1960s onwards. We have also seen that German trade unionists played a crucial role in the emergence of this defensive transnational community. The question is still open, however, why German DGB delegates felt particularly affected by EC developments, and how the interaction between German and European debates played out in practice.

As for the causes the answer is simple: Among European Community countries German co-determination was the most advanced system of industrial democracy in terms of the participation rights for employees in corporate decision-making. Regardless of the fact that these rights were heavily qualified by obligations it is clear that German trade unions had most to lose from European regulation in the 1960s and 1970s, all the more so since by the mid 1960s, having by and large abandoned ideas of socialist planning and public ownership with the 1963 Dusseldorf program, the DGB had adopted *Mitbestimmung* as its central political objective (Schneider 2000: chapter XII). The cornerstone of trade union ambitions was to spread the advanced co-determination pattern of the coal and steel industry (parity in supervisory boards, labour director in management board), which had been introduced as a result of contingencies in the Allied occupation policy (Dartmann 1996), to the entire economy (outside the coal and steel sectors only one third of supervisory board members were employee representatives). Between the late 1960s and mid 1970s, importantly, the domestic debate about these issues reached a critical stage after the government, in 1967, appointed a commission under Kurt Biedenkopf to review co-determination experiences, and make suggestions for the future. The Commission's 1970 report intensified controversies between unions and employers, and within the SPD-FDP

coalition, and it was only in 1976 that a compromise was eventually reached (see Schneider 2000: 347-48).¹⁵

Against this backdrop the dynamic between national and European debates unfolded as company law harmonisation at EC level became a major concern for the DGB's domestic agenda. Already in February 1967, shortly after the release of the Sanders study for a European company statute, several members of the DGB board pointed to European harmonisation aspirations as a 'deadly threat' to *Mitbestimmung*. IG Metall chairman Brenner, for example, warned against hopes of German employers to use the European developments to reduce co-determination in the Federal Republic.¹⁶ Subsequently the issue was again object of discussion by the DGB board on several occasions, and it was also placed on the agenda of the special committee, which had been created to promote the idea of *Mitbestimmung* during the proceedings of the Biedenkopf commission. The body elaborated a set of proposals for the ECS, and also for the more general task of popularising co-determination in the international sphere.¹⁷

From the DGB's point of view the potential danger of EC regulation was twofold: First, and directly, there was the danger that the European company statute, and/or a general harmonisation of company law, would encourage *Mitbestimmungsflucht* (flight from co-determination), be it because companies could be legally registered in Germany without imposition of the co-determination rules of national law, or, in the case of a flexible solution, because the possibility for such a registration in other EC countries would lead German firms to change their headquarter location to circumvent *Mitbestimmung*. More indirectly the DGB saw its positions endangered by repercussions of European developments on the *domestic debate* about the reform of co-determination launched by the Biedenkopf commission. Here, debates at the European level could entail a weakening of the unions' case for the extension of co-determination in Germany, for example if European regulations were based on the old German model of co-determination outside the coal and steel industry. Though perhaps exaggerated these fears were not completely unfounded; at times leading employer representatives such as Hanns Martin Schleyer attacked the DGB's domestic push for parity co-

¹⁵ The compromise formula underpinning the 1976 *Mitbestimmungsgesetz* provided for numerical parity in supervisory boards in firms with more than 2000 employees, yet reserving one seat on the worker side for 'executive employees', and, moreover, giving the capital side the final right to decision in cases of stalemate.

¹⁶ Protokoll der Sitzung des Bundesvorstandes des Deutschen Gewerkschaftsbundes, 7 February 1967, in: AdSD, DGB, 5/DGAI, 535.

¹⁷ See Protokoll der Sitzung des Bundesvorstandes des Deutschen Gewerkschaftsbundes, 5 September 1967, 4 February 1969, in: AdSD, DGB, 5/DGAI, 535, 536

determination as ‘anti-European’ because it would continue to block the path towards a harmonisation of European company law.¹⁸ German employers, as demonstrated by the later BDA/BDI action to challenge the 1976 co-determination law in the Constitutional Court, were determined to ‘freeze’ board participation in the form of the one-third formula of the 1952 works constitution act; ‘Europe’ provided one among other strategic elements to achieve that objective.

Among the DGB’s strategic objectives to counter this threat strong emphasis was put on the ‘popularisation’ of *Mitbestimmung* within the European trade union movement. DGB president Rosenberg argued already in 1967 that this was particularly important since employer attacks partly drew their legitimacy from the argument that a harmonisation of European regulation based on the German model would not be acceptable in other countries – not only for employers but equally for many trade unions.¹⁹ One aspect of this was to emphasise the merits of co-determination in European trade union circles, and also through bilateral contacts, with a view to raise the interest of foreign labour movements to implement co-determination in their own countries.²⁰ The other major objective was to influence European trade union deliberations about the Europeanisation of company law in a way that eliminated potential risks for the domestic co-determination campaign. In February 1969, for example, the DGB board adopted a list of ‘essentials’ with regard to the European company statute (parity representation in supervisory boards, minimum of co-decision functions for supervisory board members), for which the German delegates subsequently invoked the solidarity of their European colleagues.²¹

As we have seen, the DGB was successful with this solidarity pledge because it resonated with the shared broader defensive objectives of the European trade union community. And this support was crucial for the subsequent lobby of the European Commission to come up with proposals that took account of the aspirations of German trade unions for extended supervisory board co-determination. Incidentally, that lobbying fell on fertile ground in the Commission given that the DGB had an erstwhile ally in Wilhelm Haferkamp, until 1967 head of the DGB’s economic department, and

¹⁸ See letter Walter Braun (ETUC) to Detlev Hensche, DGB Abteilung Gesellschaftspolitik, 30 November 1973, in: AdsD, DGB, 24/1518.

¹⁹ Ibid.

²⁰ Little is known about these activities so far, and it is beyond the scope of this article to analyse them in detail

²¹ Protokoll der Sitzung des Bundesvorstands des DGB, 4 February 1969, in: Archiv der sozialen Demokratie Bonn (AdsD), DGB collection, 5/DGAI 461.

from 1970 European Commissioner for Internal Market affairs – the DG in charge of European company law harmonisation projects. Between 1970 and 1975, in the crucial phase of the ECS re-drafting process, DGB leaders kept close contacts with Haferkamp and also, after 1974, with his Danish successor Finn Olav Gundelach.²²

The example of the European Company Statute from 1975 also demonstrates that German unions, once they had achieved a favourable outcome at the European level, set out to use such results in the domestic debate. In 1975, for example, the DGB argued that special provisions for the representation of ‘executive employees’, as foreseen in the domestic co-determination reform, were ‘out of touch’ with broader trends at the European level, where no such ideas had ever been discussed. More broadly it was emphasised that the Commission proposal, taken together with the introduction of co-determination in a number of countries, represented a European trend, which confirmed the legitimacy of German union demands for an extension of *Mitbestimmung* in the Federal Republic.²³

These examples also confirm once again that German unions’ European engagement arose predominantly from domestic concerns. The aim was not so much to widen action capacities at the European level than to ensure that potential or actual European regulation had a positive rather than a negative impact on domestic DGB campaigns. As a matter of fact, little changed in this logic until the late 1980s when, as outlined above, the problem of information and consultation in multinational firms led unions to take a more active interest in European regulation as an end in itself. Indeed, German unions played a leading role in this reorientation as evidenced by the fact that German firms were among the first to set up European works councils. The main driver of change was the Europeanisation of many large German companies in response to the Single European Market project since the mid-1980s. Given that this Europeanisation could lead to a slow erosion of the effectiveness of domestic ID arrangements the exclusive focus on the defence of the latter was considered to be no longer sufficient.²⁴ After a controversial internal debate between 1988 and 1990 a clear majority was shaping up in favour of using European action not anymore only to avert unfavourable EC regulation that could restrict national policy, but also to intensify efforts to give worker participation a European dimension. The European policy program adopted by

²² Aktenvermerk der Abteilung Gesellschaftspotlik, 10 April 1975, in: Ibid., 24/2077.

²³ Deutscher Gewerkschaftsbund, Protokoll 10. Ordentlicher Bundeskongreß, 25-30 May 1975, p. 125.

²⁴ See Protokoll der Sitzung des Bundesvorstandes des DGB, 5 December 1989, in: AdsD, DGB, 5/DGAI, 553.

the DGB board, and later confirmed by the 1990 union convention emphasised that an effective protection of national co-determination achievements now required at least a minimum degree of re-regulation at the European level.²⁵

Conclusions

European trade unions have been part of a broader discourse community dealing with the issue of industrial democracy since the mid-19th century. What has distinguished them from other groups within that community (employers, social reformers, academic experts) is that they have predominantly approached the issue from the perspective of how to use ID to further employee interests not only in labour market terms, but also with regard to the emancipatory benefits arising from the achievement of influence over decision-making processes in the economy. From early on it became clear, however, that the cohesion stemming from this common purpose could be seriously compromised by contrasting opinions of how to achieve these goals – witness the bitter dispute between Marxists and anarcho-syndicalists in the First International in the late 1860s. Moreover, the emergence of different national ID institutions, while encouraging mutual exchange of ideas and experiences, posed a second dilemma, namely the relative importance that should be accorded to the transnational level - as compared to the dominant national arena - in the pursuit of industrial democracy.

The paper has demonstrated that the inclusion of ID issues in the supranational regulatory agenda of the European Community from the late 1960s onwards accentuated both problems. The ideological disputes about the 'best way' towards industrial democracy, notably the controversies between co-determination and workers control, and between a single and dual channel representation model, were heightened because of the fact that European harmonisation could entail the 'export' of one particular model across the EC, or, in the case of a more flexible solution, the co-existence of different models within individual countries. In turn, this interdependence implied the strategic choice between an approach focusing on the protection of national achievements, and the alternative path to accept certain European repercussions on national models for the benefit of obtaining new rights at the European level.

25

The case studies analysed in the paper suggest that until the late 1980s European trade unions clearly opted for a protection-focused approach. It might be said that the defence of vested rights achieved in individual countries became the core shared value in this transnational community. Partly this was of course the result of the fundamental ideological disagreements, which made it very difficult to agree on guidelines for common action at the European level. On the other hand, this pattern reflected the broader attitude of most national trade unions to European integration, which emphasised subsidiarity in social policy and industrial relations matters. It is also important to recognise the particular role of the German trade unions; given that they had most to lose from European regulation they used their considerable power within the ETUS/ECFTU/ETUC to obtain the support of their European counterparts, which was instrumental to back their domestic campaign for the extension of co-determination.

This defensive posture did not mean that the European trade union voice was without influence in the European governance system particularly during the 1970s, as the example of the 1975 European Company Statute has demonstrated. It did mean, however, that until the late 1980s there were hardly any autonomous trade union initiatives for more industrial democracy at the European level. With the campaign for a European works council directive in the late 1980s and early 1990s the situation changed even though there is a great deal of debate about the extent to which this change represents a radical break with the past (see Streeck 1997; Knudsen et. al. 2007). There is enough evidence to suggest that a focus on the defence of national achievements continues to be the main motivation of trade union politics; beyond the ID field this found expression, for example, in the union stance towards the posted workers directive, or the joint struggle against the recent service directive. In fact, as long as social citizenship rights continue to be vested predominantly at the level of the member states trade unions will have strong incentives to adopt this approach. At the same time, however, accelerating processes of economic internationalisation, which erode these social citizenship regimes now constitute a more potent factor pushing trade unions towards re-regulation at the European level.

Bibliography

Archibugi, Daniele, and David Held (1995), *Cosmopolitan democracy : an agenda for a new world order*, Cambridge: Polity Press.

Capenter, R Charli (2007), 'Setting the Advocacy Agenda: Theorizing Issue Emergence and Nonemergence in Transnational Advocacy Networks', *International Studies Quarterly*, 51 (1): 99-120.

Castells, Manuel (2000), *The rise of the network society*, 2nd. ed., Oxford: Basil Blackwell.

Coates, Ken (1968), *Can the Workers run Industry?* London: Sphere.

Dartmann, Christoph (1996), *Re-distribution of power, joint consultation or productivity coalitions? : labour and postwar reconstruction in Germany and Britain, 1945-1953*, Bochum: Brockmeyer.

Deutsch, Steven (2005), 'A Researcher's Guide to Worker Participation, Labor and Economic and Industrial Democracy', *Economic and Industrial Democracy* 26 (4): 645-656.

Djelic, Marie-Laure, and Quack, Sigrid (2003), *Globalization and institutions : redefining the rules of the economic game*, Cheltenham: Edward Elgar.

Fetzer, Thomas (2005), 'Europäische Strategien deutscher Gewerkschaften in historischer Perspektive', in: Knodt/Finke, *Europäische Zivilgesellschaft*, op. cit, 299-318.

Fox, Alan (1985), *History and heritage : the social origins of the British industrial relations systems*, London: Allen & Unwin.

Gobin, Corinne (1996), *Consultation et concertation sociales à l'échelle de la Communauté économique européenne. Etude des positions et strategies de la Confédération européenne des syndicats (1958-1991)*, Brussels.

Gold, Michael (2008), 'The European Company Statute: implications for Industrial Relations in the European Union', *European Journal of Industrial Relations* 14 (2).

Höland, Armin (2000), *Mitbestimmung in Europa. Rechtliche und politische Regelungen*, Frankfurt/New York: Campus.

Hyman, Richard, (2001) *Understanding European Trade Unionism: Between class, market and society*, London: Sage.

Kaiser, Wolfram (2007), *Christian Democracy and the Origins of European Union*, Cambridge: Cambridge University Press.

Kaldor, Mary (2003), *Global civil society : an answer to war*, Cambridge: Polity Press.

Lyon-Caen, Gérard (1970), *Contribution a l'étude des modes de représentation des intérêts des travailleurs dans le cadre des sociétés anonymes européennes*, Brussels.

Knodt, Michele, and Finke, Barbara, eds. (2005), *Europäische Zivilgesellschaft: Konzepte, Akteure, Strategien*, Wiesbaden: VS-Verlag.

Knudsen, H., Whittall, M., and Huijgen, F. (2007) 'European Works Councils and the problem of identity', in Whittall, M., Knudsen, H., and Huijgen, F., *Towards a European Labour Identity. The case of the European Work Council*. London/New York: Routledge.

Middlemas, Keith (1995), *Orchestrating Europe : the informal politics of the European Union, 1973-95*, London: Harper Collins.

Osterhammel, Jürgen (2001), 'Transnationale Gesellschaftsgeschichte: Erweiterung oder Alternative?', *Geschichte und Gesellschaft* 27: 464-479.

Piehl, Ernst (1973), *Multinationale Konzerne und internationale Gewerkschaftsbewegung. Ein Beitrag zur Analyse und zur Strategie der Arbeiterbewegung im international organisierten Kapitalismus insbesondere in Westeuropa*, Nördlingen.

Risse, Thomas (2004), 'European institutions and identity change: what have we learned?', in: Richard Herrmann et. al., eds., *Transnational identities. Becoming European in the EU*, New York: Rowman & Littlefield, 247-271.

Rosamond, Ben (2000), *Theories of European integration*, Basingstoke: Macmillan.

Sanders, Pieter (1967), *Projet d'un statut des sociétés anonymes européennes*, Brussels: European Commission.

Schmidt Eberhard (1970), *Die verhinderte Neuordnung 1945-1952 : zur Auseinandersetzung um die Demokratisierung der Wirtschaft in den westlichen Besatzungszonen und in der Bundesrepublik Deutschland*, Frankfurt/M: EVA.

Schneider, Michael (2000), *Kleine Geschichte der Gewerkschaften. Ihre Entwicklung in Deutschland von den Anfängen bis heute*, 2nd ed., Bonn: Dietz.

Strath, Bo (1996), *The Organisation of Labour Markets. Modernity, culture and governance in Germany, Sweden, Britain and Japan*, London/New York: Routledge.

Streeck, Wolfgang (1981), *Gewerkschaftliche Organisationsprobleme in der sozialstaatlichen Demokratie*, Königstein/Taunus.

Streeck, W. (1997) 'Neither European Nor Works Councils: A Reply to Paul Knutsen', *Economic and Industrial Democracy* 18 (2): 325-337.

Teuteberg, Hans- Jürgen (1981), 'Ursprünge und Entwicklung der Mitbestimmung in Deutschland', in: *Mitbestimmung. Ursprünge und Entwicklung. Referate und Diskussionsbeiträge der 5. öffentlichen Vortragsveranstaltung der Gesellschaft für Unternehmensgeschichte e. V. am 7. Mai 1980 in Düsseldorf, Wiebaden*, 7-73.

Trenz, Hans-Jörg (2002), *Zur Konstitution politischer Öffentlichkeit in der Europäischen Union. Zivilgesellschaftliche Subpolitik oder schaupolitische Inszenierung?* Baden-Baden: Nomos.

Van der Linden, Marcel, ed. (2000), *The International confederation of free trade unions*, Bern : Peter Lang.

Van Holthoon, Frits, and Marcel van der Linden, eds. (1988), *Internationalism in the labour movement 1830-1940*, Leiden: Brill.