

RESEARCH

REPORTS

RECOMMENDATIONS

CHRISTOPHE TEISSIER

BOOSTING COOPERATION BETWEEN FRENCH AND CEE UNIONS: LEARNING BY DOING!

INSTITUTE OF
PUBLIC AFFAIRS

CHRISTOPHE TEISSIER

**BOOSTING
COOPERATION
BETWEEN FRENCH
AND CEE UNIONS:**
LEARNING BY DOING!



Social Policy Programme

This report is one of a series of Western expert commentaries on research findings about the visions of the Europeanisation of industrial relations which trade unions from Central and Eastern Europe have, particularly in regard to building common EU-level standards. The research was carried out in Bulgaria, Lithuania, Poland, Romania, Slovakia and Slovenia, as part of the project titled ARTUS CEE 'Articulation of the Trade Unions' Strategies on upward convergence of social standards in the enlarged European Union – voices of CEE countries' (VS/2019/0070), which was led by the Institute of Public Affairs (Warsaw). The other partners were the Central European Labour Studies Institute (Bratislava), the Centre for Economic Development (Sofia), the Lithuanian Social Research Centre (Vilnius), the Institute of Public Policy (Bucharest), and the Faculty of Social Sciences at the University of Ljubljana.

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Management at the Institute of Public Affairs: *Dominik Owczarek, Małgorzata Koziarek*

Proofreading: *Alisa Masiejczyk*

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00-031 Warszawa, ul. Szpitalna 5 lok. 22

tel.: +48 22 55 64 260, fax: +48 22 55 64 262

e-mail: isp@isp.org.pl, www.isp.org.pl

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Introduction

Generally speaking, despite the fact that France was among the Founding Fathers of the European Union, the domain of European integration has essentially been reserved for political and administrative elites and has not been a matter for general public debate. However, as soon as the enlargement process started (following the fall of the Iron Curtain), the EU enlargement to the East raised many debates, leading many to consider the latter a significant and new challenge (compared to the previous situation) for the European project, as such. On the one hand, moral and historical considerations led most prominent political leaders to support the enlargement as a way to close the communist ‘parenthesis’ and reunite European peoples under democratic auspices. On the other hand, the enlargement to the East was quickly associated with major problems or challenges, mainly those linked to the number of New EU Member States considered (involving difficulties, for instance, with respect to the decision-making processes within the new EU) and to the significant economic and social disparities between ‘old’ and ‘new’ Member States¹. This situation allowed some researchers to describe the French position towards the UE enlargement to the East as ‘unconvincing acceptance’, in other words, a mix of hopes and strong fears: fear of losing the traditional German/French leadership in the EU, and fear of witnessing the development of a ‘more liberal’ Europe (far from the initial European political project). This mixed position probably resulted in a negative image of France in CEE countries, concerning French support for EU enlargement to the East, making it difficult to build mutual trust between France and new EU MSs, or seize the opportunity to develop the European Union on a new basis².

On the side of the French unions, experts tell us that ‘the increasing integration of Europe’s economic policies has been taking place under auspices that are quite alien to the reasons that have underpinned the favourable engagement of European trade unions in previous decades. Trade unions have always been divided on the “European issue”. Even if major French unions have had to learn to manage these divergences in the European arenas/institutions where they are neighbours, the construction of Europe has been, since the beginning of the

¹ See especially the Economic and Social Committee opinion of 28th June 2000 “L’élargissement de L’Union Européenne : conditions et conséquences”, <https://www.lecese.fr/travaux-publies/l'elargissement-de-lunion-europeenne-conditions-et-conssequences>

² On these aspects, see C. Lesquene, *La France dans la nouvelle Europe*, Presses de Sciences Po, 2008.

process in the 1950s, the subject of intense opposition between the three main French confederations³. Let us detail the attitudes of the three major French unions towards Europe:

The CGT: In the 1950s, the CGT's solidarities were in the East. Until the intervention of the Warsaw Pact troops in Czechoslovakia in 1968, the CGT invested in the World Federation of Trade Unions (WFTU) rather than 'little Europe'. The Marshall Plan, the ECSC, the European Defence Community project, and later, the Common Market, were regarded by the CGT at the time as aggressive initiatives towards the USSR, and were denounced as such. Later, at the end of the 1990s, the distance with the European Union was reduced and the CGT joined the ETUC at the beginning of 1999. Within the ETUC, CGT adopts a participatory approach, one critical of European neo-liberalism. It has thus normalised its relationship with Europe, even if it continues to display strong hostility to liberal policies conducted in the name of European integration, as in the case of the referendum on the draft European Constitutional Treaty in 2005.

FO: The trajectory of FO towards Europe is different, when considering the various political orientations of the latter, compared to the CGT. At the time of the ECSC and the Common Market, it gave full support to the European integration. However, with the signing of the Single European Act in 1986, FO began to withdraw from its European commitment; it did not reject integration but kept a marked distance from the content of its policies. Opposed to the advance of a liberalism that it considered to be far from the 'spirit of the Founding Fathers', Force Ouvrière took an even more critical stance on the Maastricht Treaty. The attacks on labour legislation and the decline of branch collective agreements were frequently attributed to the rise of liberalism, for which a liberal Europe was regarded as the main vector. Even if FO did not intervene in the campaign on the European Constitutional Treaty in 2005, it is becoming increasingly critical of the Union, as time goes by.

CFDT: In the post-war period, the CFDT⁴ was in favour of the ECSC, and felt comfortable in the Europe of Christian democracy. In the 1950s, as it hardened its position on social conflicts in France, it also became critical of European social policy, which it denounced, for example in the ECSC consultative assembly. CFDT was in favour of the Common Market but described it as a 'business Europe'.

³ See J.M. Pernot, *l'Europe une influence diffuse sur les relations professionnelles mais un sujet de discord syndicale*, *Chronique Internationale de l'IRES*, N°143-144, November 2013.

⁴ The CFDT is a spin-off of the CFDT (Christian Union) which occurred in 1964.

After it became the CFDT, it accentuated its anti-capitalist criticism but never questioned its adherence, as a matter of principle to the European project. It pled for a ‘Europe of the workers’ and declared during the 1970s that Europe will be a ‘Europe of the workers’.

Changes in the French industrial relations system following the 2004/2007 enlargement

Whereas many changes have occurred in the French industrial relations system since 2004, and even more since the 2010s, they have no direct link with the enlargement of the European Union.

It has become usual, while comparing national industrial relations regimes, to place France in the ‘southern-state centred’ model of industrial relations (Visser). According to the features attributed to the latter, France combines frequent intervention of the State in labour relations, different and variable levels of bargaining, a conflict-oriented bargaining style, an irregular/politicised role for social partners in public policy, and a dual system of employee representation at the workplace level. Eurofound⁵ recently referred to Visser’s clusters of IR regimes in identifying a ‘state-centred associational governance’ cluster, including France, Italy, Portugal, Slovenia and Spain. According to this research, ‘This cluster is characterised by relatively strong associational governance (high collective bargaining coverage⁶), within centralised but quite uncoordinated collective bargaining institutions that have greater dependence on state regulation. Indeed, this cluster records the highest scores in collective bargaining state intervention, which are matched by low trade union densities⁷. While mandatory works councils exist at company level, they are granted less wide-ranging legal rights’ than in some other clusters; ‘board-level employee representation rights are also more limited. A defining feature of this cluster is the limited performance in social dialogue at company level’.

⁵ Eurofound (2018) Measuring varieties of industrial relations in Europe: A quantitative analysis, Publications Office of the European Union, Luxembourg.

⁶ More than 90% of employees are covered by a sectoral collective agreement in companies with 10 employees or more.

⁷ In 2016, according to surveys regularly carried out by the Ministry of Labour, 11% of French employees overall are union members. This rate has been decreasing sharply since the 1950s despite recent stabilisation. Union density is higher in the public sector (20%) than in the private one (9%).

⁷ Christophe Teissier

From a national point of view, all of this means that the State traditionally plays an important role in framing the roles and prerogatives of trade unions and employer organisations at various levels. It also refers to the existence of different levels for both collective bargaining and worker representation. In the context of pluralism, there are several unions and employer organisations, though only legally representative organisations are allowed to collectively bargain, and thus to conclude collective agreements, especially at the sectoral and company levels. There are five representative trade unions at the cross-sectoral level, according to the last evaluation done in 2017: CGT, CFDT, CGT-FO, CFTC and CFE-CGC. Other unions exist but might be representative only at the sectoral level (therefore depending on the sector/branch considered). On the employers' side, there are three representative employer organisations at the cross-sectoral level: MEDEF, U2P and CPME.

In this context, the main trends⁸ seen recently regarding the general evolution of IR in France are the following:

- A clear and old tendency towards increasing decentralisation in collective bargaining to the company level, which has been pushed forward by the last reform of the Labour Code (2017), so that companies' and workers' representatives get many opportunities to deviate from 'upper' rules, especially legal rules and branch collective agreements.
- The merger of the numerous existing branches to make sectoral social dialogue more efficient. There were around 700 different branches in 2015 in France; there should be 200 in 2019.
- A deep restructuring of worker representation at the company level by putting only one body in place for employee representation (the 'Comité Social et Economique') instead of several (staff delegates, health and safety committees, works councils), in order to make social dialogue more efficient. This also includes an enlargement of board-level employee representation in large companies.

The debate about the relocation of production is not recent in France but was raised prior to the enlargement of the EU with CEE countries. As early as 1993, a public report⁹ denounced the negative effects of relocation on France. In 1993, the relocation of a HOOVER plant from France to Scotland was widely

⁸ Resulting from different legal reforms, especially since 2013.

⁹ J. Arthuis, Rapport d'information sur l'incidence économique et fiscal des délocalisations hors du territoire national des activités industrielles et de service, rapport d'information n° 337, Sénat, June 1993.

commented upon in the media and debate about those issues followed. Globally, through various studies, it appears to be difficult to measure the phenomenon, and there may be various reasons for the relocation of French economic activities abroad, with relocation to low-wage countries being only one of them. Considering these limitations, the National Institute for Statistics (INSEE)¹⁰ estimated that 95,000 industrial jobs were relocated from 1995 to 2001 -- meaning 6,370 jobs per year on average -- to low wage countries (and more than 70% of them to non-European countries: China, Brazil, Tunisia, Morocco....). Did the enlargement change anything with respect to this limited phenomenon? According to the INSEE¹¹, in the period from 2009 to 2011, 4.2% of (non-financial) companies with 50 employees or more relocated some of their activities, especially in the manufacturing and information/communication sectors. This especially concerned companies which were part of a group (94%). 55% of activities were relocated in the European Union, 38% in the UE 15 and 22% in new Member States. Regarding relocations implemented by SMEs with more than 50 employees, there is more recent data¹². From 2014 to 2016, 1.9% of these companies (excluding agricultural and financial businesses) relocated some activities; 63% relocated activities within the European Union, including 44% to the UE 15 and 24% to newer Member States; 72% of the companies declared that the search for lower labour costs was an important or very important reason for relocating their activities.

Overall, despite the difficulties with assessing the phenomenon, relocations to CEE countries exist but seem to have remained limited, considering their effects on jobs. However, recent cases of relocation to Poland have been widely discussed in France, which shows that the topic is still a sensitive one: the relocation of administrative jobs (accountants) by Castorama and Brico Dépôt (Kingfisher group -- retail sector), or the plant closure in France and relocation in Poland undertaken by Whirlpool (industry -- production of tumble dryers).

10 INSEE, délocalisations et réductions d'effectifs dans l'industrie française, Dossiers, 2006.

11 L. Fontagné, A. d'Isanto, Chaînes d'activité mondiales : des délocalisations d'abord vers l'Union Européenne, INSEE Première, n° 1451, June 2013.

12 F. Lécivain, N. Morénillas, les PME de 50 salariés ou plus qui délocalisent : principalement vers l'UE et via leurs filiales, INSEE Première, n° 1760, June 2019.

Even if not strictly related to the national IR system, it is worth mentioning that the issues of undeclared work and fraudulent posting have led to changes in law and public administration organisation in the past few years, in order to foster the fight against abuses associated with irregular posting. These developments took place in the context of changes regarding posting regulation at the European level¹³. According to the 2018 A1 Portable Document figures published by the EU Commission¹⁴, France had the second-highest number in 2018, with 262,162 A1 PDs received, behind Germany. Three laws passed in 2014, 2015 and 2016 aim to strengthen the fight against fraudulent posting: better regulation of prior posting declarations, facilitation of controls by labour administration, and reinforcement of sanctions, chain liability, etc. In addition, the fight against fraudulent posting has become a priority for labour inspection at the national level since 2015. According to the Cour des Comptes¹⁵, several shortcomings still exist in spite of these evolutions: there is a need to better inform workers and companies (both sending and receiving ones) about their rights and duties, labour inspections should be more focused upon the most relevant situations, and better enforcement of legal provisions, etc., is required. In this respect, transnational administrative cooperation between France and some CEE countries (especially Poland, Romania, and Bulgaria) have been developing in the last years, sometimes with very good results.

Relations between Trade Unions in France and unions from the CEE

It is difficult, of course, to provide an extensive explanation of what cooperation between TUs in France and in the CEE can cover, but it is clear that cooperation exists. We might try to distinguish institutionalised cooperation, identify different examples, and make observations on some of the specific fields the ARTUS project focuses on.

- **Institutional cooperation**

ETUC and the various ETFs are presented by French TUs as viable areas for union cooperation, for instance to develop bilateral projects. However, this is also the case of other ‘tools’ with a wider geographical scope than the European

13 Enforcement directive of May 2014, revision of the 1996 directive in 2018.

14 European Commission, Posting of workers, report on A1 Portable Documents issued in 2018, October 2019.

15 Cour des Comptes, la lutte contre la fraude au travail détaché : un cadre juridique renforcé, des lacunes dans les sanctions, Annual Public Report 2019, February 2019.

Union. The PERC¹⁶ (Pan-European Regional Council) appears to reflect a ‘regional’ approach to Europe, thus including other Eastern European countries than the EU Member States. In France, four unions take part in the PERC, based on their affiliation with the International Trade Union Confederation: CGT, CFDT, CFTC and FO. According to one FO confederation representative, ‘this institution is really at the core of cooperation of Western and Eastern Europe. It works well and is a good driver to develop partnerships. FO is active in this body. It has especially developed concrete cooperation with Bulgaria, such as a multi-annual cooperation with Metalic/CITUB. This cooperation has existed for 15 years and includes other partners from Romania, Serbia and Macedonia. It entails annual exchanges (study visits) on specific topics: the right to be informed and consulted, young workers, etc.’

- **Cooperation in specific fields**

Below, we focus on some examples of cooperation identified through desk research and our own experience.

Joint learning activities

One might find more examples of cooperation depending on the different unions’ traditions towards CEE. We report briefly on two initiatives which are of interest, in our view:

The CFDT union was the only partner from Western Europe in an EU co-funded project (2014-2016) titled ‘AN ATTEMPT TO REVITALIZE SOCIAL DIALOGUE AND NATIONAL INDUSTRIAL RELATIONS SYSTEMS IN SOME OF THE CEECS – LESSON LEARNT AND BEST PRACTICES IN THE WAY OUT OF THE CRISIS’¹⁷. This project included joint workshops dedicated to the exchange of good practices between unions, CFDT being the only partner from Western Europe. On the CEE side, the project included associated unions from Hungary, Bulgaria, Lithuania, Latvia and Poland.

At the regional level, the CFTC Union in ‘Rhone-Alpes’ developed a project dedicated to vocational training and apprenticeship in partnership with the Malopolska Regional Union of Solidarnosc.

¹⁶ <https://perc.ituc-csi.org/?lang=en>

¹⁷ http://arodbiedribas.lv/wp-content/uploads/2019/11/Final_Report_VS_2014_0588.pdf

¹¹ [Christophe Teissier](#)

‘After the meetings organised in Lyon and Krakow, in 2012, between the Malopolska Regional Union of Solidarnosc and our Regional Union, we will continue and complete, in 2014, the two action programmes started in 2013’.

‘Within the framework of a Leonardo project with the Lycée des Métiers Jehanne de France specialising in catering and paramedical social work, we organise exchanges of teachers but also of students so that the latter can complete their training in Poland or France.

In 2014, this project will be supplemented by the search for other partner institutions to work and study issues related to apprenticeship or work-linked training. Meetings will also be organised in partnership with the Training Organisations of the Solidarnosc trade union and our Regional Union, to study and improve the welcome given by companies to young apprentices.

A conference on VAE (validation of acquired experience) in Krakow will also be organised by Solidarnosc with the participation of our representatives on this subject because the Poles are very interested in this system that we presented to them in Lyon in December 2012. VAE does not yet exist in Poland, hence the desire to discover it and transpose it to their country’.

Source : <https://cftc-aura.fr/nos-actions/europe-international/>

The posting of workers

In the last few years, some European and non-institutional networks supporting transnational cooperation in the field of posting have emerged, involving unions alongside public authorities.

- **The REDER network**

The REDER network (European Network for Fair and Responsible Posting) was created in 2015, within the framework of a project led by the CGT Federation of building and woodworking (FNSCBA), with the financial support of the European Commission. It was a network of cooperation and exchange, putting together Labour inspectors and trade union organisations from nine countries (Germany, Belgium, Italy, Portugal, Spain, Poland, Bulgaria, Romania and France). On the unions’ side in the CEE countries, ZZ Budowlany (Poland), CITUB (Bulgaria -- which was the first CEE union involved) and FGS Familia (Romania) were members of the network. According to a Polish union official involved,

the reasons for joining this network were that ‘faced with increased fraud and exploitation of loopholes in EU legislation by companies, we decided to cooperate with the labour inspectorate and trade unions from other EU member states in order to protect people who have been harmed and to increase their knowledge of the situation. The Polish workers’ awareness of their rights and duties in the area of posting remains scanty. It must be increased in order to curb abuses, many of which could have been avoided if the worker had been informed of the warning signs that should be checked in the labour contract and the activity of the worker’s employer’¹⁸. In this framework, joint initiatives were developed, including activities of cooperation, the exchange of good practices, the organisation of joint visits, and simulations on previously-solved cases of abuse of posting rules. Notably, contacts made between participants proved useful to increase their competences and to create channels of communication which were later helpful in tackling cases of exploitation of posted workers¹⁹. Even though the network was to be enlarged to other sectors and countries, and new tools were to be developed, it did not manage to get further EU funding. However, the partners intended to keep it alive.

- **Eurodétachement network**

Somewhat similar to the REDER network (and presently still active) is the Eurodétachement network, which aims to improve transnational cooperation in the field of posting between Labour administrations, as well as that between (and with) social partners, where possible. This approach has been carried out since 2010, through a set of five different projects supported by the EU Commission. Even if national labour inspections are at the core of the project, the network has also boosted union cooperation. A recent example (2019) is the involvement of both the FGA CFDT federation and Podkrepa, in a cooperation plan along with labour administrations from the two countries, in the form of joint information meetings dedicated to Bulgarian workers in agriculture. According to the national secretary of the FGA union, ‘We are committed to the movement of European workers from one country to another, as long as the legislative framework is respected. We organise information campaigns in Bulgaria, in areas with high unemployment where there is a high potential of posted workers. We are renewing this same type of action in France, in four regions, in order to forge links with Bulgarian institutions, politicians

¹⁸ <https://betriebsseelsorge.de/sites/default/files/publikationen/pdf/REDERGB.pdf>

¹⁹ For further information about this initiative, see CNCE, Developing experiences of administrative cooperations in the framework of posting of workers - guidelines, POST-LAB project report, p. 16: http://www.fondazionebrodolini.it/sites/default/files/guidelines_en_o.pdf

¹³ [Christophe Teissier](#)

and employees'. As the President of the Agriculture and Forestry Federation of the Podkrepa trade union says, 'Bulgarians had signed employment contracts without knowing what was in them. For economic reasons, Bulgarians are forced to move to the West to find work. And some of them don't care about their rights'.

European Works Councils and TCAs

Because members of European Works Councils are to represent the interests of all European workers in transnational companies, EWCs should be, in theory, an ideal place to foster cooperation between workers' reps and unions, including that of Western Europe and Eastern Europe reps. In practice, things are much more difficult, of course, due to a number of factors. Among the areas which might hinder solidarity within those bodies, we may mention differing national traditions and expectations towards the EWC, differences in national IR systems, possibly diverse businesses, and varied issues in particular countries, as well as cases where companies try to take advantages of differences in national situations and put workers in competition with each other. Beyond this, in our experience with EWC members from different companies, we can also notice another kind of problem which may affect cohesion between EWCs' members. We have often heard doubts expressed by reps from Western Europe concerning Eastern European reps, who seem too silent or too discreet in their view: has the management, in fact, appointed them? In addition, difficulties may arise concerning the role attributed to the EWC; all EWCs' members do not automatically share in it. Generally, we have often noticed that for many Employee reps from Eastern Europe, EWC could appear to be a tool to solve national problems, the latter often being significant: poor social dialogue within the company at a national level, poor working conditions, etc. On their side, EWCs' members from the West, and especially from the company's country of origin, often have to discuss the scope of competencies of the EWC with the management (is this issue transnational or not?). Thus they often prefer not to focus too much on national/local issues²⁰, in accordance with the legal scope of intervention of EWCs (limited to 'transnational' issues -- something that is always emphasised by the management).

All of the above aspects exemplify that acting together within EWCs is complex, which includes an assumption that a learning process can be developed. Depending on the experience of each EWC, solidarity can thus become

20 That does not mean, of course, that exchanges between EWC members about their respective national situations are totally outside of the EWC work, as those exchanges are necessary to build shared opinions and claims.

a reality, and we might find several examples of fruitful cooperation between reps from the West and the East. As a Union representative told us, ‘when our union holds the position of EWC secretary, we promote cooperation with all EWC members on a daily basis, as in the case of the Airbus European Committee’.

Considering transnational company agreements, there are many examples of cooperation, at least in theory, through the negotiation and follow-up of such agreements. However, it is difficult to assess in general terms; many things indeed depend on each specific case. CEE EWC reps are probably not systematically involved in such negotiation processes, even if they can finally approve/validate such agreements, directly or through their national unions, when the agreement is signed by an ETUF. Even so, there are some exceptions, such as the VEOLIA European letter of commitment about skills development (2018), where Czech Union reps, represented in the EWC steering committee, did truly take part in the preparation process of the agreement. As a result, the implementation of this TCA was quickly engaged in the Czech Republic and Slovakia, through the conclusion of a framework collective agreement about cooperation and social dialogue within the Veolia group, covering both countries.

As for possible outputs of TCAS at the national level, there is no doubt that many French EWC members might fear that such agreements result in leveling down French workers, and that is why so-called no-regression clauses are often introduced in agreements signed by French multinationals. Many might also have doubts as to whether such agreements are able to improve workers’ conditions in the end, considering their existing rights at the national level. But this also depends on the contents and topics addressed by TCAs, and concrete effects deriving from such texts may also exist in France. Beyond that, we have very often heard from Western European EWC reps involved in the negotiation of such agreements that these tools contribute to harmonising the social conditions in Europe, and thereby can favour an upward social convergence in CEE countries. This can include support for capacity building among workers so that management at the national level can hear their voice. BNP PARIBAS TCA on the anticipation and management of changes concluded in 2012 is a good example of considering provisions related to the development of social dialogue at the national level, in case of restructuring, including some CEE countries like Poland, with low or even non-existent union representation in the company²¹.

21 We have no updated information, however, about the evolution of the situation in this respect.

¹⁵ [Christophe Teissier](#)

French Trade Unions' perspective on EU Social Policy and their CEE colleagues

French Trade Unions recently expressed their official positions about the European Pillar of Social Rights through the Economic social and environmental Committee (ESEC - 2016)²². **Generally speaking, all representative unions are in favour of a more social Europe in a general context marked by serious threats to the European project. According to the CGT,** 'Confronted with a fundamental movement of mistrust of the people, the European Union has been experiencing a crisis of legitimacy in recent years, which has resulted in the expansion of nationalist and even xenophobic parties. It is time for the French government and the Member States to "change the paradigm" and to ensure that the social question is finally tackled. This will seem to be asserting itself today in the context of the development of a foundation of social rights in Europe'. To the **CFDT**, 'Dangerously fuelled by illusions of simplistic or nationalist solutions, Euroscepticism is gaining ground and calling into question the sustainability of the European project'. Therefore, 'The situation requires a new stage with concerted and ambitious economic, fiscal and social policies, with a deepening of cooperation, solidarity, mutualisation, democracy and European citizenship.'

Beyond this general ambition, French representative unions support a European and social approach²³ involving all the Member States of the European Union, since the exclusion of some of them risks not only increasing economic, social, environmental and fiscal divergences among the States of the Union, but also intensifying social dumping. Social and tax convergence are therefore key: 'Economic and social convergence, the two aspects of which are inseparable, is a fundamental orientation of the European project. It is essential to create the conditions for it in order to restore a climate of fair competition and promote the competitiveness of businesses with the aim of creating quality jobs in all EU countries. For the European social rights base to be effective and sustainable, a process of tax harmonisation must accompany its implementation. It is indeed futile to hope to fight against social dumping if nothing is done to limit tax dumping'.

22 E. Caniard, E. Weber, La construction d'une Europe dotée d'un socle de droits sociaux, avis Conseil Economique, Social et Environnemental, December 2016.

23 This orientation refers to the position expressed about the scope of application of the EPSR, but in our view it exemplifies the general mood about the necessary development of a more social Europe.

Concerning specific topics, one can illustrate in more detail what this general approach entails:

A decent EU wage

The basis of social rights must provide for the establishment of a decent minimum income in Europe and guarantee its effectiveness by making it subject to an obligation to provide information and simplify procedures. The unions, and EESC as a whole, are in favour of including a decent minimum wage in each European country as part of the European social rights base. Overall, they consider the European Commission capable of using its power of recommendation to promote cooperation and coordination between Member States. Essentially, the establishment of a European right to a minimum wage is therefore based on a desire for progress in social convergence. In the words of the CGT, 'In the same way, in each country, in Europe and in the world, the right to a minimum wage and sufficient purchasing power to lead a decent existence and to benefit from its share in progress must be guaranteed to every employee in each country. The amount and evolution of these minimum wages must take into account the economic level of the country and its growth rate'. According to the CFDT, 'The ETUC must define a common position that responds to three major issues: the issue of wage discussions, whether through legislation or collective bargaining, must allow for a very broad coverage of employees in each country. The second condition is to obtain a common level around 60% of the median wage. Finally, the European Commission must plan to require the countries of the Union to comply with the rules via a binding legal instrument. A directive may have to be adopted'. As stated by FO, 'the idea of a European minimum wage should both guarantee wage fairness and avoid social dumping. But it is necessary to safeguard and/or to improve national social models (especially to strengthen sectoral collective bargaining where necessary) and to make sure social partners take part in the management of minimum wage at the national level. In light of this, a hard law instrument (EU directive) would be necessary rather than an EU recommendation'.

The posting of workers and social dumping

About this issue, the five representative unions issued a joint position in 2017, regarding the revision of the posting directive. They pointed out that 'following the many abuses in the application of European Directive 96/71 on the international posting of workers and its failure to adapt to the realities of an enlarged European Union, our trade union organisations (FO, Cfdt, Cftc, Cgt and Cfe-Cgc)

have been fighting for years with the ETUC for this directive to be revised'. They also expressed joint claims:

- 'The main advance proposed in the revision is the replacement of the guarantee of the minimum wage of the host country for a posted worker by that of "equal pay for equal work on the same site". Equal treatment between workers is paramount. Subsequent transposition will make it possible to refine what will be included in this remuneration.
- Collective agreements must apply to posted workers.
- The actual transport costs (including the return journey from the country of origin to the host country), board and lodging, which are inherent to posting, must be paid to the posted worker by his employer in addition to his remuneration and at the level of prices charged in the host country.
- Cascading posting practised in particular by certain temporary employment agencies should be prohibited.
- A maximum length for posting must be established, but the current debates on this length (6-12 or 24 months) are secondary, as they overlook the fact that the average length of postings is lower anyway (between 3 and 6 months depending on the branch).
- Road haulage must continue to be covered by the Directive, and special negotiations must be conducted, leading rapidly to additional measures to put an end to the major abuses observed today.
- The legal basis of the Directive should be extended to Article 155 of the Treaty, which concerns social policy. This would be a real point of support if a dispute with an employer were to go all the way to the European Court of Justice.
- It would be good if the principle of joint and several liability between principals and subcontractors were included in the European text, even if it is already enshrined in French law.
- The principle of the right to collective bargaining and the possibility of joining and addressing a trade union must be guaranteed to posted workers. The transposition should make it possible to give concrete expression to new rights for French trade union organisations and staff representatives at all levels so that they can better defend posted workers.
- A reflection must be conducted as soon as possible, within the framework of the revision of Regulation 883/2004 on the coordination of social security systems, on the means of avoiding social dumping caused by differences in the basis of assessment and rates of employers' social security contributions between EU countries'.

Transnational Company Agreements and European Works Councils

French Unions and the Economic, Social and Environmental Council welcomed the steady growth in the number of European Works Councils (EWCs) and their influence on industrial relations in the Member States. In particular, they noted that those bodies have enabled companies to better link their decisions and economic objectives to social expectations, and to restore a certain balance between transnational decisions affecting workers and consultations, which essentially take place at the national level. As for TCAs, the establishment of EWCs has also strengthened the social responsibility dimension, in their view; companies enter into commitments on their own initiative, which goes beyond the legal and conventional requirements which they must comply with in any case, in particular to raise standards relating to social development, environmental protection and respect for fundamental rights. To a union like FO, considering TCAs, ‘effectiveness of these agreements is key’ and ‘the bargaining should be limited to unions’, which are points also mentioned in the ETUC roadmap on Transnational Company Agreements.

The role of European Social Dialogue

Several times, the ESEC opinion has stressed the importance of effective European social dialogue. In light of this, some unions refer to the negative, persisting attitude of European employers’ organisations. But according to the ESEC, this would also mean transposing the Sectoral framework agreement on information and consultation rights for central government administrations, signed on 21 December 2015, into a European directive. Beyond that, the opinion asked for a new start to European social dialogue: ‘The Economic, Social and Environmental Council considers that social dialogue (European, national, sectoral, company) is a key element in the construction of the European social rights base. The dynamic of social dialogue could be further developed by relying on greater determination on the part of the Commission to take action to strengthen the social dimension of the Union, in accordance with the spirit of the Treaties. But it is also up to the social partners, the professional sectors, the occupational branches and transnational companies to strengthen this dialogue. The strategic issues and the aims of the negotiations should prevail, in a spirit of responsibility’. In this context, the FO union still asks that autonomous European agreements be transposed through EU directives: ‘for us it is a priority, especially regarding the upcoming framework autonomous agreement about digitalisation; we’ve been cooperating on this agreement in a very good way with some unions from the CEE to exchanges practices and knowledge. We brought our “right to disconnect” in the negotiation process, while Bulgarian colleagues from CITUB brought their extensive knowledge about some technical questions such as 3D printing’.

Discussion of the ARTUS project findings from a French Perspective

In light of our short developments, what could promote more cross-border cooperation and what might hamper it? There is no doubt that more union transnational cooperation would presume that the unions from different countries are aware that they share a common interest in cooperating. This is difficult, however, when we observe in general terms that in a European open market, the divergences in the various social and national systems allow both companies and member states to put European workers in competition with each other. A simple illustration of this is the case of the cross-border relocation of production in a transnational company from the West to the East. Such a situation is immediately detrimental to some workers and beneficial to others in the same Group, and that makes it difficult to imagine transnational solidarity within a European Works Council, at least in the short term. This is a major obstacle to cross-border cooperation; moreover, there are others, such as language barriers, the local resources of different national unions (providing better opportunities to develop cooperation), reciprocal misunderstandings, etc.

However, we believe that pointing out views from different national unions and perhaps clarifying misunderstandings could help to foster cooperation, and that is why we were interested in joining the ARTUS project. In this regard, let us comment briefly on some of the general observations resulting from the ARTUS comparative report²⁴:

ARTUS observations	Our French observations
European minimum wage: the idea is generally backed/no clear idea on how such a minimum should look in a legal dimension.	No clear difference can be noticed in this respect/a focus on the role of social partners and the need to develop collective bargaining coverage is visible in French unions' positions.
TCAs and EWCs: all countries but one are in favour of such tools but reluctant Western union attitudes are noticeable. Support to OLF proposal.	The effectiveness of TCAs is also a concern for French TUs. It is also clear that EWCs are not necessarily seen as useful tools compared to national level institutions, but some exceptions exist where EWCs proved to be useful to all countries. EWCs are a learning process for all.

²⁴ See the ARTUS comparative report, part 5.

ARTUS observations	Our French observations
Cross-border cooperation with others: in general, the need for cross-border cooperation is recognised; the potential and actual benefits of such are named. In practice, the experiences of unions in the countries in focus vary significantly.	The same might probably be said concerning French TUs. As a result, some cooperation exists, including some with positive output.
Posted workers: there are many differences between the different countries regarding the changes in posting regulation.	A general joint position of French TUs about those issues in order to prevent social dumping and promote equal treatment for European workers.
Protectionism of Western TUs: different national TU positions, the East/West divide seems to be disputable but there are sometimes feelings that TUs from each 'side' live in different worlds.	We think French TUs are mostly aware of the basic needs of their colleagues from Eastern Europe and sometimes try to address them, also to avoid social dumping, in the limits they face (for instance within an EWC). The need to develop capacity building of Eastern TUs is visible in some French TUs' positions, especially about the European minimum wage but also concerning some TCAs. Finally yet importantly, in our view, it would be wrong to think that French TUs forget traditional IR issues (wages, working conditions) in favour of new priorities (digitalisation, etc.).
Role of European social dialogue: too far from the workplace, not enough concrete output.	French representative TUs all ask for stronger impact from European social dialogue in general terms, including regarding the transposition of EU autonomous agreements.
European Pillar of Social Rights: an important act but doubts about its viability exist.	We would say French TUs share the same position in general terms.
Social dumping: various perceptions/linked to posting but also in some cases to Western multinationals' responsibility.	Social and also tax dumping are clearly seen as global issues by French TUs.
Impacts of foreign investment on national IR systems in the CEE	No general/systematic transposition of the French IR model in French multinationals is noted in the research. However, some TCAs intend to support the development of social dialogue at the national/local levels, for instance by formulating some general principles to be applied all over Europe (within the same Group).

In this short contribution, we have attempted to highlight different examples of concrete cooperation between French and CEE TUs. The participation by both the latter and the main French TUs in the European and International Trade Union movement shows that such cooperation is possible and sometimes fruitful, at least partly, even concerning controversial issues, such as the posting of workers. Perhaps naively, we think they show that cross-border cooperation is not something natural but mainly refers to a learning process -- a case for learning by doing. Given this perspective, all institutional areas putting together unions from different countries (from the TU movement to EWCs, as well as providing resources to implement cooperation) might be seen as tools to develop concrete projects, which in return could help develop trust between unions from different countries. Easy to say and harder to do, perhaps, but possible. Moreover, in our opinion, capacity building of the CEE unions is a very significant issue; improvement in workers' conditions cannot depend solely on European initiatives, and it is a prerequisite for fruitful cross-border cooperation. Some initiatives we have referred to in this paper relate to this 'capacity building dimension'. The last point, to close this paper in an optimistic way, is that French unions, which are no longer so strong, often need the support of their CEE colleagues.

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About the Author

Christophe Teissier holds a Master of Research degree in Economic Law. For more than 15 years, he has been focusing his activities on individual as well as collective aspects of Labour law, mainly concerning labour codes, employee representation and social dialogue, as well as restructuring issues. From 2001 to 2005, while lecturing at various universities in the domain of labour and civil law, he was a coordinator for the 'ACI Travail' - a program by the French Ministry of Research to support innovative work on the subject of labour changes. Since 2005, he has been working as a Project Manager at *Université Européenne du Travail* and, since November 2007, at ASTREES. His current activities relate to coordination, research, and training in the field of work, labour law and social dialogue. In respect to this, he has worked on a number of French and European projects related to workers' representation, social dialogue, collective bargaining, restructuring, evolution of labour law and occupational health and safety. He is also strongly involved in training of European Works Councils members, from different countries and industries. In addition, Christophe is today the co-leader of the Sharers and Workers network (<https://www.sharersandworkers.net/>), dedicated to the social implications of the platform economy.