

## Assessment of European Work Councils By Turkish Trade Unions<sup>1</sup>

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**Abstract:** This paper aims to present the assessment of the European Work Councils which provide workers with informing and counselling right by Turkish trade unions. European Union membership process entails to comply with the legal acquis of the EU. Therefore, the effects of the European Work Councils Directive which provide workers with informing and counselling right on Turkish workers have become an important subject. Turkish workers have the right of participating in decision-making process by trade unions, collective labour bargaining and some methods on work place level. However, the effectiveness of these methods is low as a result of the dominant position of the state, negative approach of employers and relative weakness of workers. Moreover, narrow-scoped industrial relations system which is regulated in detail and the existence of informal economy reduce the effect of these methods. Reviewing labour relations and its legal background in the EU show us that there is a considerable difference according to Turkish industrial relations. The most significant difference is the participation of all parties in decision making process related to the EU industrial relations. It can be said that European Social Model (ESM) lie behind the participation culture and the Directives. During recent years the European Social Model is associated with "increasing economic performance, advanced social protection and social dialog" (Hermans, 2005: 5). Right after European Single Market was created; there has been an increase in the number of multinational corporations and their interrelations. Multinational corporations consider revising their management structure at national level necessary according to new developments at European Level (Marginson, 1997: 224-225). Therefore, the Council Directive 94/45/EC<sup>2</sup> which is related to employee participation in decision making process was legislated in 1994 with the intention of maintaining economic relations; reduce competitive pressure between corporations and accordance in management methods. The Council Directive 94/45/EC was revised in May 2009 and new Directive 2009/38/EC is in effect. One of the negotiation titles between Turkey and the EU is social policy and employment. The Directive 2009/38/EC is among the subjects in negotiations. In this context, presenting assessments of Turkish Trade Unions on European Work Councils make contribute to the process and to determine reservations on the subject.

### Employee Participation

Economical activities have been dominating the world for around two centuries since industrial capitalism has emerged. By today's capitalist society, labour is considered as moral and social responsibility as well as a way to personal success. All politicians suggest that economic crisis can be overcome by working more (Gorz, 2007: 265- 266). From this point of view, labour relations and employee participation are important subjects in today's capitalist societies. From the emergence of industrial capitalism to today, there have been several methods related to employee participation such as self-governance, producer cooperative, co-determination, work councils<sup>3</sup> and trade unions<sup>4</sup>.

There are several points of view on employee participation. First of all, some opposed to the idea of market intervention arguing effectiveness of individual bargaining. Therefore, they opposed to the methods of employee participation such as trade unions, collective bargaining, work councils which signify market intervention. From this point

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<sup>2</sup> For details, see: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31994L0045:EN:HTML>

<sup>4</sup> *Local Work Councils:* Local work councils function as local representation structure in several European countries. They assemble regular meetings with the firm on job-related subject. Election of representatives bases on partly legal rules and partly volunteer bases. Only workers or workers-employers are jointly represented in the Committees (Holland, Germany and several EU countries).

*Regional (European Work Councils):* Regional European Work Councils are identified as social dialog structure base on enterprises. Labour has the right of consulting and being informed on job related subjects. (The EU, the countries of European Economic Area and the countries which have Multinational Corporation within the boundaries of the EU).

<sup>5</sup>For detailed information see. Poole, M. (2004): 156-157.

of view, regulations based on collective representation means market intervention, burden extra cost on employers, reduce capacity to compete and increase unemployment (Alon, 2005: 70). However, some suggest that collective bargaining emerged as a reaction against power inequality between labour-employer. So, collective bargaining and collective representation provide labour with bargaining power, cooperation, negotiation, opportunity to improve employment conditions and to determine priorities<sup>5</sup> (Davidov, 2004: 84–85). The methods and degree of employee participation differ according to these points of views.

Employee participation is defined as participation of employees and their representatives and employers and their representatives in decision making process (Rose; 2004: 384). Hyman and Mason (1995: 24) define employee participation as legal initiatives to improve collective participation rights and to weaken the dominance of employers. By this definition, participation implies a structure which enables labour to exert their power against employers. These structures include collective bargaining and work councils.

There has been a change which gives partial employee involvement a prominence especially after 1980s. This term is defined as any activity to reveal potential of labour in work place or a process to increase labour's contribution. Main methods of employee involvement are strengthening of labour, team work, briefing groups and quality circles. These methods are employed to achieve goals of the organizations. These methods provide labour with participation in decision making process on only job related subjects. Therefore, this term is sometimes used as "duty participation" (Salamon, 1998: 355).

As understood, there is a considerable difference between the terms of participation and involvement. While participation means to affect decision making process by power conflicts, the other means to restrict use of the right to say by the subjects which contribute to productivity and processes.

Employee involvement differs according to geography, language, culture and ideology. In terms of methods, employee involvement shows parallelism with political regimes which means that employee involvement is employed more effectively in democratic regimes (Talas; 1992: 31). Involvement rights differ according to EU states as well. However, as a general labour in the EU countries have a right to participate in job related decision making process. Especially the West and Central European countries have different structures then the others in terms of participation methods.

As a result of recent developments<sup>6</sup> and increasing activities of multinational corporations at European level, there have been important developments on the subject of "employee involvement". The most commonly used method is work councils though there have been several differences in regulations and applications on informing, consulting and employee involvement in terms of the type (compulsory or on volunteer basis), methods, power of the parties and scope (Sendikal Notlar, 2003: 81).

Work councils differ from collective bargaining and are an employee participation method at business level. Works councils are commonly employed in many European states. Representation of labour in work councils and administrative bodies is supported by national and international agreements in European countries. (Ramsey, 1997: 315).

One of the important subjects in the debates at European level for the last ten years is regulation of labour market. Cooperation on labour market policies resulted in some developments. Part-time employment, working times, European Work Councils and gender equality are among these developments. Social dialog activities at European level by ETUC, CEEP and UNICE which resulted in some agreements, introduced cooperations between European labour market actors (Jensen et al., 1999: 118-119). As a result of these cooperations, The Council enacted European Work Councils Directive (94/45/EC), Informing and Consulting Directive (2002/14/EC) and the Directive (2001/86/EC) supplementing the Statute for a European company with regard to the involvement of employees (Schwimbersky, 2005: 189).

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<sup>5</sup>These two approaches represent two basic methods in labour market regulation. First of them is free market methods and the second one is right to speak methods. Employment period and conditions base on the individual negotiations within free market. Neo-classical theorists argue that market finds the balance in ideal conditions and collective bargaining is a restraint to optimum process of the market. However, the right to speak method represents a dissatisfaction case which means to approach real and ideal economic and social conditions of labour. In free market, the right to speak means to negotiate working conditions with employers (Hirschman; 1970).

<sup>6</sup> Globalisation means the spread of capitalism to all over the world. Capitalism emerged firstly as a geopolitical fact and went beyond of it. The aim of this fact is not to establish dominance of a country or a group of countries on the others, to establish supranational system. A new approach which aims to control markets and sources (raw materials, labour, distribution nets, knowhow and mentality) took place of integrative approaches of 1950's which based on free movement of goods and capital (Adda, 2005: 9-10).

European Work Councils is statutory obligation for member states. The revised directive 2009/38/EC<sup>7</sup> aims, in particular, at ensuring the effectiveness of employees' transnational information and consultation rights (Charter of Fundamental Rights 27. clause) at favouring the creation of new EWCs and at ensuring legal certainty in their setting up and operation (2009/38/EC 1. clause).

The efforts of ETUC to widen the scope of collective bargaining towards multinational corporations in the EU played an important role in adoption of the directive. ETUC aims to establish a social dialog method with multinational corporations on industrial relations at European level. Secondly, another important development in adoption of the directive is the establishment of informing and consulting committees within multinational corporations. Such voluntary initiatives had a significant effect on the decision of the European Council (Huijgen et al., 2007; Gold, 2007: 30). Another factor is the standpoint of the European Commission on the subject. The Commission consider the right of information and consulting as a way to decrease negative effects of restructuring process and enlargement.

At the same time, widening the scope of the participation rights is an important subject in terms of Europeanization of industrial relations and cross border coordination.

**Table 1:** Breakdown of employment effect by type of restructuring

Type of restructuring	# Planned job reductions	% Planned job reductions	# planned job creation	% planned job creation	# Cases	% Cases
Internal restructuring	3269377	72.65%	74461	3.07%	5322	40.64%
Business expansion	1544	0.03%	2252560	92.87%	4368	33.35%
Bankruptcy / Closure	494502	10.99%	1615	0.07%	1410	10.77%
Offshoring / Delocalisation	188049	4.18%	581	0.02%	594	4.54%
Closure	126412	2.81%	1300	0.05%	375	2.86%
Merger / Acquisition	159154	3.54%	81994	3.38%	334	2.55%
Bankruptcy	127138	2.83%	320	0.01%	331	2.53%
Relocation	58788	1.31%	6893	0.28%	240	1.83%
Outsourcing	38621	0.86%	395	0.02%	67	0.51%
Other	36303	0.81%	5460	0.23%	56	0.43%
<b>Total</b>	<b>4499888</b>	<b>100%</b>	<b>2425579</b>	<b>100%</b>	<b>13097</b>	<b>100%</b>

**Source:** European Monitoring Centre on Change (2012).

<http://www.eurofound.europa.eu/emcc/erm/index.php?template=stats> Date of access: 04.02.2012

As seen on the table above, the rate of job reduction after restructuring process is higher than the rate creating new job.

<sup>7</sup> The Directive 2009/38/EC aims, in particular, at ensuring the effectiveness of employees' transnational information and consultation rights at favouring the creation of new EWCs and at ensuring legal certainty in their setting up and operation.

- 1) Community-scale undertaking' means any undertaking with at least 1 000 employees within the Member States and at least 150 employees in each of at least two Member States;
- 2) Group of undertakings' means a controlling undertaking and its controlled undertakings;
- 3) Community-scale group of undertakings' means a group of undertakings with the following characteristics:
  - a) at least 1 000 employees within the Member States,
  - b) at least two group undertakings in different Member States,
  - c) at least one group undertaking with at least 150 employees in one Member State and at least one other group undertaking with at least 150 employees in another Member State;

This case raises the importance of European Work Councils in the process of restructuring.

The Directive of European Work Councils is in effect within the European Union and European Economic Area except Switzerland (Hekimler, 2006: 62; Gülmez, 2008: 444). 24 million workers and 2200 firms are included in the scope of the Directive and %40 of firms has European work councils (Europa, 2008: 1).

Pessimists on Europeanization/Internationalization of industrial relations argue that the right to participation has not a significant effect on European industrial relations. On the other hand, optimists argue that the right to participation provides an opportunity to develop international or supranational relations at several levels and therefore we can mention about the existence European industrial relations (Müller and Platzer, 2003: 73).

At the same time the European Work Councils, in terms of Europeanization of industrial relations, are effective when commercial decisions are to be taken at European level (restructuring and rationalization), trade unions and work councils are organized bawnily in national actions in other countries and in the forming of European level agreement (Arrowsmith and Marginson, 2006: 263).

### **Assessment of Turkish Trade Unions on European Work Councils**

Labour at European level have a say in the decision making process in terms of forming socio-economic policies by several methods. There is no effective structure for employee participation in Turkey arising from legal legislation and applications. However, European Union membership process can function as facilitator. Some important applications on social policy and employment are on the agenda thanks to European Union membership.

The investments of multinational corporations which are included in the scope of European Work Councils Directive are supposed to affect Turkish industrial relations. Turkey is bound to comply with European Directives including the directive 2009/38/EC. So, this paper aims to present the assessment of the European Work Councils which provide workers with informing and counselling right by Turkish trade unions<sup>8</sup>.

According to trade unions, the effect of employee participation structure in the Turkish Industrial relations is relatively low. They argue that democratic structure and regulations do not support the participation of employee and there have been some problems in application of the rights. They also argue that the membership process of Turkey to the EU is an opportunity for Turkey to fill the legal gaps.

It is argued that the problems are arising from application of legislations and applications of employee participation methods base on the existence of the trade unions. Moreover, position of employers affects the process negatively. At the same time, Turkey is supposed to adapt his national regulations according to the regulations of the EU and ILO.

According to us, nonexistence of deep-rooted participation culture and current democratic structure in Turkey which does not support participation render the structure social control mechanism. As a result, current structure is weak and narrow-scoped. By all accounts, labour unions argue that European work councils and similar informing and consulting structures make a great contribution in terms of labour.

As understood by data, institutional structure of European work councils supports the right of labour in terms of participation and is considered as a way for social dialog. However, the important point is that whether theories are applied properly or not. Assuming proper applications of theories, then European work councils will contribute to solve current problems of industrial relations.

Previous studies show that European work councils function properly together with labour unions. This case indicates that trade unions in Turkey contribute to the process. Labour unions are supposed to support European work councils and other participation methods to increase their organizing capacity.

European work councils and similar informing and consulting methods contribute to stay informed on the developments in other countries and to increase international communication. Moreover, they provide a proper environment for restructuring and development activities.

The most significant factors to affect integration of European Work Councils Directives or similar methods negatively are the problems of unionization and collective bargaining as well as ineffectiveness of participation methods and nonexistence of a structure which enable all parties to participate in decision making process. As a result of increasing privatization, flexibility, informal employment and unemployment, labour unions lose their powers. However, labour unions should determine common strategy not to stay out of integration process.

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<sup>8</sup> In this study, a survey has been conducted on 94 specialists who are working in the branches of Türk-iş, Hak-iş and DİSK in Istanbul and Ankara(42 Türk-iş, 31 Hak-iş and 21 DİSK). Data has been assessed statistically.

Nevertheless, although the membership process of Turkey to the EU is an opportunity for Turkey to fill the legal gaps and to establish European work councils and similar methods, there are still some problems in application. Unfortunately, there is a resistance to restructuring process in social rights

## Conclusion

The EU membership process includes integration of social and employment policies. From this point of view, informing and consulting processes are becoming important. It is expected that European work councils and other integration subjects will be on agenda. It is clear that investment of a company in Turkey which is within the scope of the Directive, will have an effect on the applications in Turkey. The positions of parties will play important roles in the integration process.

According to Turkish labour unions current employee participation methods result in some problems in terms of representation. They base their opinions on the problems in the applications. According to them, labour in Turkey is not able to participate in decision making processes at business level as well as national level. As in the World, trade unions are losing their powers. In terms of labour, it means deterioration in working conditions and passivation of labour in the process of decision making.

European work councils and informing and consulting methods are an opportunity to solve problems in Turkish industrial relations. However, labour unions argue that these methods should be formed jointly. Because, they consider these kinds of methods as threats to their existence. This case requires support of labour unions in the process of integration on social policy and employment.

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