

Summary of Bernadette Ségol's intervention to the Regional Social Dialogue for Growth, Employment and Sound Industrial Relations in the Services Sector: Sharing Experiences from ASEAN and the EU

Hanoi, 31 March – 1 April 2010

UNI europa is the European trade union federation representing workers in services and communication. We represent 7 million workers and 330 trade unions in Europe. UNI europa is one of the four regional organisations of UNI; we are UNI asia and pacific sister. UNI europa is a recognised social partner in the European union.

Introduction.

In the context of regional integration, it is essential to establish a structured dialogue between employers and trade unions (social partners) and also between them and political authorities.

Such a dialogue is part of a sustainable and true democracy.

Social dialogue came about in the European Union after a long process. It was not there originally. The birth of the social dialogue is the result of:

- the creation of regional trade union entities, at the confederal and sectoral level. (ETUC was created in 1973 and most of the European trade union federations, like UNI europa were created around the same date.). Trade unions believe that they have a positive role to play in national and integrated regional economies. They also believe that regional integration could only be good if workers' interests are fully taken into consideration.
- Favorable political circumstances. In 1985, Jacques Delors was President of the European Commission. He favoured and supported the recognition of social dialogue in the European Union.

The conditions for a true dialogue:

Social dialogue requires strong and representative social partners. It requires strong trade unions bodies and structured employers' federations. It requires the will to discuss and find solutions. But also the awareness that there can be and will be conflicts and

disagreement; our discussions have not always succeeded; discussions did fail because employers and trade unions were too far apart. This is not surprising.

When this is the case, when employers and trade unions do not manage to find the right balanced solution at EU level, political authorities (in the EU: the Council and the European Parliament) have the power to legislate.

One concrete example: UNI europa dialogue with its employers' counterpart, EuroCiett, in the field of temporary agencies.

UNI europa has ten and soon eleven platforms of social dialogue. Some of them work satisfactorily. Some others don't: make enough progress, unwillingness of employers to deal with issues.... We have ups and downs, according to sectors, years, subjects, etc... This is not surprising.

The example of our dialogue with EuroCiett is a good example because it did yield results and because it had an influence on workers' protection.

The specificity of temporary agency work is the tripartite relation: The worker is employed by the agency, but works in the user company, along other workers directly employed by this user company.

At the end of the 90s, there was a negotiation on temporary agency work, involving essentially social partners at the confederal level (ETUC/BusinessEurope (then called UNICE)). Sectoral social partners (UNI europa, at that time called Euro-FIET, and EuroCiett) were present, but not central to the negotiation.

These negotiations failed. Trade unions wanted equal treatment between workers employed through temporary agencies and workers in the enterprise. Employers did not want to set equal treatment from day one in an EU law.

According to EU treaties, the authorities had to note the failure of negotiations and propose a legislation. This was a very long process. Governments could not agree on legislation. However, because of the risk of abuse and exploitation that agency work brings about, pressure for EU regulation was maintained, particularly by trade unions, particularly by UNI europa.

In 2006-2007 the process towards a legislation was revived. At the end of 2007 UNI europa and EuroCiett decided that they could actively influence the process if they would sit together and prepare a recommendation addressed to the European Council and to the European Parliament.

This is what we did. After a number of meetings, we managed to reach a draft agreement. (This agreement is included in your documentation). But we had to go to our respective board to get it approved.

UNI europa executive board approved this text in May 2008, but it was not easy. The opinion of the board was that, although this agreement was not as protective as we wanted for workers, it could be the basis for progressive and protective laws in countries where protection was lacking. Countries that had a high level of protection feared that an EU legislation which was not as good as their national one, could bring about negative pressure to push down the existing national provision.

The key points of the agreement from UNI europa standpoint.

- Temporary agency work cannot replace usual forms of employment: temporary agency work must remain a tool to facilitate the functioning of labour, and therefore remain marginal.
- Equal treatment between temporary agency workers and other workers should be implemented from day one of the assignment; working and employment conditions have to be the same or similar to a worker doing the same job in the user enterprise, or to a worker being directly recruited by the user company;
- Derogations from equal treatment can only be decided by representative social partners, in the form of agreements or collective agreements,
- Striking workers cannot be replaced by temporary workers.

We could feed in our agreement in the EU decision making process. A law came about at the end of 2008; largely influenced by the elements set in our text.

Caution....

A European legislation, and particularly this one, is a frame that must be implemented at national level.

Therefore we insist that social partners at national level have a key role to play so that the spirit of our agreement be implemented at national level.

This is not an easy process.

Conclusion:

- Social dialogue within a regionally integrated group of countries (like EU, in the future like ASEAN) is a necessity.
- It is the result of joint effort from strong and representative employers and trade union organisations and democratic governments.
- It is a rocky and tiring path, sweat and tears are to be expected.
- It's worth exploring....with one thing in mind: economic integration is not an end in itself; it must improve living conditions of workers and of citizens.