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Research Subject:

The Role of the Social Partners in Formulating and Implementing European Social and Employment Policy.

Project proposal:

1. Theory:

- Question to be researched:

In the present state of European law and national labour laws, and from what can be anticipated in terms of future developments at European level, what is the nature and the extent of the Social Partners' role in formulating European social policy and implementing such results at national level? (Priority will be given to a legal approach to this question).

- Historical / Economic / Political / Legal relevance:

The "Val Duchesse" intersectoral social dialogue, launched by the Commission in 1985, marked the Community's intention to associate both sides of industry with the development of European social policy. The social dialogue was then given legal status in Article 118B of the Treaty (new and amended Article 139).

With the Maastricht Treaty on European Union, the role of the social partners was enhanced dramatically: they were given a consultative role in terms of development of European social policy, as well as the power to negotiate and conclude agreements at Community level which could in turn be given legal force by the Council on proposal by the Commission.

This promotion corresponded with a focus on employment issues operated by the Community, the fight against unemployment and the modernisation of the labour market becoming top priority in the Commission's social agenda. This put the social dialogue at the core of the formulation of European social and employment policy.

However, the European social dialogue has largely evolved in a piecemeal fashion; although attempts have been made at giving it some formal structure, the Commission insists on the voluntary character of negotiations between the two sides of industry. More importantly, crucial questions remain unsolved, in particular regarding the legal nature of agreements reached by the European social partners (and their enforceability at Community as well as national levels), and regarding the representativity of the said social partners. Furthermore, present hypothetical legal solutions to these questions might be compromised by anticipated changes such as the enlargement of the Union and, to a lesser extent, the European Monetary Union.

- Theoretical relevance:

At present, the above mentioned legal questions related to the role of the social partners in European social policy have been identified; however, an attempt at proposing legal

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solutions requires a thorough examination of the formulation and implementation processes at Community as well as national levels.

The role and legitimacy of the European social partners are closely linked and dependant on the national interests of workers they represent or should represent, and the effectiveness on the Community scale of the agreements they reach depends greatly on the different national labour and industrial relations systems in which these agreements are to be implemented.

Therefore, in trying to assess the role of the social partners in formulating and implementing European social and employment policy, it is necessary to complete the study of the social dialogue in the context of Community institutions and law making by a comparative study of the different labour and industrial relations systems present in the Member States and the impact of such differences on the formulation and implementation by the social partners of European social policy.

- Theoretical significance of the research:

By drawing a complete picture of the social dialogue and its consequences in terms of social norms at European level as well as in the Member States' legal systems, the research follows the whole process of formulation of social policy – taking into account national and European factors shaping the dialogue at European level and raising issues regarding its legitimacy – and of implementation thereof at national level – thereby completing the legal process and examining the impact and effectiveness of European collective bargaining on national labour systems and the potential disparities that might result from differences in labour and industrial relations systems.

Thus, the research proposes eventually to assess the relevance of the choice of the social dialogue as a primary tool for social policy making at European level.

- Policy significance of the Research:

The European Commission has explicitly chosen the social dialogue as the preferred tool in formulating and, to a lesser extent, implementing European social and employment policy. The proposed research will be material in thoroughly assessing the relevance and legitimacy of such choice.

Beyond this general assessment, solutions will be proposed to important issues raised by the social dialogue such as the questions of representativity of employers' organisations and workers unions, and legal nature and effectiveness of agreements at Community and national levels. The comparative study of national labour and industrial relations systems will also be material in providing elaborate and complete models against which to assess the European embryonic industrial relations system.

2. Methodology:

2.1. Research Designs:

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The research will be based on an assessment of the present incomplete model of industrial relations at European level against the rules laid down by the Treaty, the European Court of Justice's (few) rulings on the issues raised, the general principles of labour law and industrial relations as can be identified from national legal systems and international law principles. This assessment will enable us to evaluate the power of the social partners in the law making process and to judge the legitimacy of the social dialogue as a norm-creating mechanism.

It will be completed by a comparative study of national industrial systems in the Member States in order, on the one hand, to establish the legal status of European collective agreements at national levels and, on the other hand, to study the possible implementation scenarii available throughout the Member States. The result of this comparative study will reveal the possible disparities in implementation that might result from the differences in industrial relations systems, and, generally, it will provide an overall picture of the social dialogue throughout the Community which in turn will enable us to assess whether, as a law making process, the social dialogue is legitimate.

2.2. Sample:

- Countries:

The choice of Member States will be dependant on the differences between industrial relations systems, with a focus on systems representing industrial relations 'models'. However, the present number of Member States makes it possible to mention all situations, if not describe and modelise them thoroughly.

- Time Period:

Time period is only relevant insofar as a history of the evolution of the social dialogue will be necessary as an introduction, and some anticipation will be made on the future enlargement of the European Union.

2.3. Data and Data sources:

aside from traditional legal academic research, data will be collected mainly from relevant industrial relations organisations (employers organisations and workers unions), as well as industrial relations research centers and relevant national and EU institutions. Some empirical research in the form of interviews might be relevant in assessing the future of the social dialogue as envisaged by employers organisations and workers unions or the relevance of the European social dialogue to national industrial actors.