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ITALY

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DEPARTMENT OF POLITICAL SCIENCE

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Dedicated to my sons, Enzo and Viggo.

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ABSTRACT

How is European integration affecting patterns of capital-labour interaction? More specifically, how is the inclusion of interest associations at the European level affecting the behavior of domestic interest associations? This dissertation contributes to the perennial debate over models of capitalism, focusing on the core component of industrial relations in Western Europe. In particular, the dissertation attempts to answer three questions: (1) how the European Trade Union Confederation (ETUC) and BusinessEurope as new political actors have influenced domestic interest configurations; (2) how negotiation at the supranational level affects the strategies of central actors in domestic industrial relations systems; and (3) if and how pressure from the European integration project modifies the institutional legacies of domestic IR systems. Using Ireland and Italy as case studies, this dissertation examines the impact of two external factors on each country's industrial relations system: interest aggregation and representation at the EU level, and the 2002 EU Directive on the Information and Consultation of Employees. The findings suggest that the development of the EU and related supranational interest confederations generate pressure over time on domestic industrial relations systems to decentralize collective bargaining to the company level. European integration has shaped the development of a new model of capitalism – one which ties market responsiveness to meso-level corporatism – while also addressing the more perennial questions of institutional endurance, path-dependence, and change.

CHAPTER 1: Introduction

Background of the Problem

The development of the European Union as a sui generis supranational institution poses many new challenges to country-specific domestic institutions. The inclusion of interest associations at the European level has the possibility of affecting the behavior of domestic interest associations, as does the advent of European level legislation pertaining to modes of labour-management consultation. Western Europe is home to a variety of types of industrial relations – ranging from the highly formalized ‘neo-corporatist’ to the more competitive ‘pluralist’ – and the advent of substantial activity at the EU level relating to organized interests creates an additional dynamic for EU member states to account for. In the context of EU being the external mover behind policy transfer processes, the study of industrial relations under the rubric of EU authority is worth examining for contributions to larger discussions of Europeanization.

Statement of the Problem

Two developments at the European level have the potential to have significant effects on domestic systems of industrial relations. The first is the advent of European level social partners, which represent peak-level federations of workers, industries, businesses and public enterprises all acting together in a consultative role for legislative proposals originating from the main three EU institutions (Commission, Council, and Parliament). The second is the

implementation of the 2002 EU Directive on the Information and Consultation of Employees (DICE). This Directive obliged employers to “establish a general framework setting out minimum requirements for the right to information and consultation of employees in undertakings or establishments within the Community.” (EUR-Lex 2002, Article 1) While DICE ensured that the practical implementation of the Directive could be done with attention to the pragmatics and industrial relations context of each member state, its stipulations still called for a legal floor of required employer-employee consultation that was not previously present in all EU member states. These two developments hold potential for modifying the framework of industrial relations dialogue in member states, either by providing a new access point at the supranational level for organized interests to lobby or by introducing a new formal requirement for consultation that may not have existed prior to DICE. Either form of modification is noteworthy because it would indicate that indirect as well as direct forces at the supranational level can affect the behavior of institutions within member states. The EU is clearly able to bring about significant changes in general member state behavior in areas of monetary policy, trade and market preferences, and internal immigration rules; in the area of labour-management relations, where country-specific norms and nuances are highly embedded and where compliance or non-compliance with a EU recommendation is much more difficult to ascertain, the potential ability of the EU to re-shape the climate of worker-employee relations is less clear. Added to this is the oft-repeated scholarly claim that domestic systems of industrial relations in

Western Europe are ‘sticky’, path-dependent, and very difficult to change.¹ Taken together, this dissertation examines whether either of the European-level developments given above have had any significant impact on domestic systems of industrial relations in EU member states, as indications of specific impact would reveal the potential authority of the EU to be greater than regulatory.

Purpose of the Study

The purpose of this research was to ascertain what impact the EU, as a sui generis supranational organization, has had on industrial relations in its member states. The broad purpose speaks to the effects of multilevel governance from a top-down, European perspective; the specific purpose examines what effects EU legislation pertaining to labour issues can have on domestic systems of bargaining and negotiation between management and labour. In all cases, this research sought to contribute to the idea of institutional ‘path-dependence – to what degree certain paths remain cemented even under EU regulations and what conditions might contribute to or inhibit path flexibility. The purpose was driven by an interest in the concept of “Europeanization” and the question of what issue could showcase a

¹ In general, path-dependency refers to any political processes that unfold according to the contextual opportunities and constraints afforded to the situation at hand – a system of “increasing returns” according to Paul Pierson (2002). In matters of European integration, path-dependence criticizes the inter-governmentalist viewpoint that member states have control over the integration process, due to “change-resistant decision rules and sunk costs associated with societal adaptations [that] make it difficult for member states to reassert their authority,” (Pierson 1996, 123). For the specific area of industrial relations, path dependence refers to the limitations of different domestic labour-management systems converging either in the same direction or towards a similar model due to contextual country circumstances (see Fetzer 2009 on the comparative responses between the UK and Ford Germany to internationalization, or Teague 2009 on the evolution of conflict resolution systems in Ireland and Sweden).

tangible example of the softer, non-fiscal side of Europeanization. Political Science literature on the EU has dealt with the concept of Europeanization as an indirect, conceptual process that exists in definition but is unavoidably too hazy and ambiguous to offer concrete examples of how such indirect influence can be measured. This dissertation reflects an attempt to research a linear line of influence from the European level to domestic institutions in an area that is suitably significant.

Significance of the Problem

The significance of the problem lies in the overarching power of EU actions having substantive effects on domestic institutions, as well as the potential for a new 'hybrid' form of political economy that deviates from previous European models. European integration initially began with a small number of member states pooling limited amounts of sovereignty for the purpose of maintaining peace through economic interdependence. The growth of the EU since its inception, both in breadth and in depth, has posed great advantages and challenges for its member states to accommodate. The perennial question within the 'Europeanization' area of study is whether the EU has the power to fundamentally reshape domestic political institutions; whether domestic systems are gradually becoming harmonized towards a recognizable European model. Examining the effects of EU-level organized interests and DICE on domestic institutions of industrial relations offers an

opportunity to trace the directionality of influence and to chart to what degree any visible effects are intended or unanticipated, subtle or extreme.

Objective of Research and Nature of the Study

The main aims of the research were to trace the course of directive ICE's implementation in two different member states; to decipher if the implementation helped in enacting significant changes in labour-management consultation behaviour, and to determine if social dialogue at the European level has had a visible impact on influencing the traditional (i.e., long-standing since the post-war period) forms of industrial relations' conduct in EU member states. The overarching objective of this research was to contribute to the academic discussion of "Europeanization", in the form of showcasing the relationship between the supranational level and the domestic level in one particular issue area.

Research Questions, Hypotheses, and Argument

The dissertation attempts to answer three questions: (1) how the European Trade Union Confederation (ETUC) along with European-level employers' organizations as new political actors have influenced domestic interest *configurations*; (2) how negotiation at the supranational level affects the *strategies* of central actors in domestic industrial relations systems; and (3) if and how pressure from the European integration project modifies the *institutional legacies* of domestic IR systems. Using Ireland and Italy as case studies, I examine the

impact of two external factors on each country's industrial relations system: interest aggregation and representation at the EU level, and the 2002 EU Directive on the Information and Consultation of Employees. I hypothesize that the development of EU-level, supranational interest confederations generates pressure over time in member states toward a form of social dialogue that is increasingly less political and binding than previous neo-corporatist models and yet more formal than previous voluntary models. I also hypothesize that EU legislation related to worker-employer relations generates pressure over time on domestic systems of industrial relations to decentralize collective bargaining to the individual company level.

The central argument of the dissertation is that the EU is in fact slowly reshaping the industrial relations context of Member States through a newer European notion of "social dialogue" that furthers the aims of the single market – essentially, productivity and international competitiveness – and underscores the priority of employability in any and all social policies. The very limitations of supranational EU authority over the domestic social and taxation policies of its Member States have necessarily bent the activities of 'Social Europe' toward job creation and worker preparedness, as opposed to job security and worker protections. This has the indirect effect of favouring employer and business concerns over traditional trade union demands, and the accompanying effect of encouraging unions to adapt their demands to the climate of the EU single market. More broadly, the EU's use of Social Dialogue sets it apart from other industrialized capitalist democracies in that it uses social policies to help *achieve*

competitiveness, rather than to ameliorate the *effects* of competitiveness on its population.

Theoretical Framework

Political scientists often employ institutional variables to account for variation and similarities in the political behavior of EU member states. This dissertation follows in this tradition and includes political factors regarding actors, interests and choices between competing values to account for variation. Possibilities for institutional evolution are linked to external inducements, incremental changes, and political re-alignments. The inclusion of organized interest representation at the EU level as a prominent political actor has the potential to condition national interest configurations to focus on issues separate from ideology. The scope of this research contributes to literature on models of capitalism and to research on the Europeanization of political economies. The suggestion is that European integration has shaped the development of a new model of capitalism – one which ties market responsiveness to meso-level corporatism, where bargaining and negotiation remains primarily at company level – while also addressing continual questions of institutional endurance, path-dependence, and change.

Topic and Scope of the Project

The topic was chosen by the researcher when reading through lists of directives enacted at the EU level. The form and content of any country's system of industrial relations tends to be one that is heavily conditioned by local context. Given the inherently contentious issue of many issues intuitively associated with industrial relations – collective wage bargaining, rights of workers, limits of employer demands upon workers – the addition of the European level of governance to a country's mode of labour-management dialogue might initially seem intrusive for the actors involved. At the same time, given the breadth and scope of intra-European integration in the realms of business, finance while trying to create a coherent and internationally competitive single market, the need for European-level regulation to maintain a floor of standards across the union is important in order to avoid “social dumping” of worker rights (i.e., the reduction of social protections and provisions to the lowest common denominator, which would be the EU Member State with the weakest and thus cheapest regulations). The tension that could potentially arise out of these two points imbues DICE with a special significance (given the topic area of employee consultation) that could have far-reaching implications in certain member states. Specifically, states (such as Ireland) that did not have any previously mandated forms of employee consultation might find the implementation of this directive to be a very strong challenge to its existing voluntarist system of industrial relations.

The scope of the research project extended from an examination of scholarly literature and official documents to first-hand interviews with relevant

officials. Literature comes from the political science sub-fields to do with neo-institutionalism, industrial relations (meaning the interaction of labour and management as organized interests), and European integration – all primarily in the context of comparative politics. Official documents include EU publications and reports from European think-tanks and observatories specifically assigned to monitor industrial relations in Europe (for more detail, see Chapter 4). Interviews included EU officials in the Employment and Social Affairs DG office, experts attached to European level social partners, and professionals within the layers of social partners in Italy and Ireland, respectively. The European level social partners include ETUC, BusinessEurope, UNICE, and CEEP. Within each country the social partners included those in government offices to do with employment relations, and national federations of trade unions and employer organizations. Taken together, these interviews generated the bulk of evidence pertaining to the actions at the EU level and the foundations of “social dialogue” that have become the new norm in interest negotiation in Europe. Basing evidence on these contacts was done with the intention of identifying changes in domestic industrial relations systems that are potentially the direct result of European integration. The purpose of this research is to compose a dissertation that demonstrates that countries which are member states of the EU can experience a convergence of their political economic systems in unanticipated ways.

Central Argument

The central argument, based on evidence found through multiple sources of data collection, is that any ‘Europeanization’ of industrial relations systems in EU member states is visible in two trends. The first trend is the transfer of negotiation away from traditional organizational structures – i.e., national federations of trade unions and employee organizations – and toward a general ‘individualist’ approach to consultation and coordination increasingly taken on at the company level, when a company is large enough to act independently of the sectoral framework. The second trend is the notion of social dialogue between relevant social partners becoming somewhat standardized and institutionalized across cases at the country and sector level. This last trend is the most significant, as it is indicative of a general acceptance of a required consultation tool in areas with high degrees of formal mechanisms for negotiation and areas with little to no formal mechanisms for negotiation. Simply put, this trend institutionalizes the process of ‘social dialogue’ in member states that previously had strong state-oriented corporatist structures as well as member states that previously had little to no formal roles for organized interests in national decision-making.

Taken together, these two trends illustrate that while effects of ‘Europeanization’ do exist, they are less visible as a harmonization of national systems or as a transfer of sovereignty from domestic levels to the supranational level than they are visible at a level of harmonization of sectors and/or company practice across the continent and business models in different European countries. It should be noted that this argument corresponds to more general trends of

globalization and multi-national companies and flows of finance. The difference between studies on globalization and this research, however, is that there is a decidedly European component in the sheer emphasis of the *role* of employee information and consultation systems. Industrial relations are a feature of most industrialized democracies; Europe, however, is where the most formal and long-term systems exist. Europeanization is a concurrent phenomenon with globalization, but the explicit priority of strengthening the EU area sets apart a more distinct strand of labour-management relations than is prioritized elsewhere in literature on multi-national corporations and capital flows across borders. A specific example of this is the 2002 EU Directive on the Information and Consultation of Employees, which mandates worker *consultation* in addition to the basic information of workers by employers and businesses (see Chapter 5 for more detail). The content of this directive is significant because it takes a longer-term view of competitiveness; the very idea of mandatory labour-management consultation assumes that the productivity of an area (be it a sector, region, or country) depends on the *employability* of the workforce (i.e., the ability of the workforce at large to have the resources and capability to quickly adapt to new workplace environments and circumstances) rather than the straightforward immediate decisions of a company.

The findings of this research dovetail with an existing strand of research on the role of national social pacts to do with collective wage bargaining in various EU member states. These studies demonstrate that in adapting to market pressures

emanating from the EU level – entering Economic and Monetary Union (EMU) and adopting the euro as currency, most critically – member states had to enact painful reforms in order to bring deficit levels and inflation rates to EMU standards. Adopting the method of tripartite concertation (or independent social dialogue), where government consulted with trade unions and business organizations during the stages of policy/budget formulation, these national social pacts served as a device of ‘pre-commitment’ by gaining the support of prominent actors ahead of time who might otherwise have been oppositional forces. For many authors, the paradox of the run-up to EMU was the fact of the European level (the euro) reinforcing the national level (where the social pacts took place) (Crouch 2000; Pérez 2002; Royo 2002). Numerous other studies (Héritier 2001; Sbragia 2001) point out the important role of EMU and the EU more generally to member states, to such a degree that in certain member states an unlikely majority was willing to negotiate tactics together such as painful budget cuts in order to meet the criteria for entering the euro-zone. This research complements the aforementioned bodies of work by highlighting the occasional perverse effects of European integration. Pooling sovereignty at the supranational level can sometimes lead to new domestic systems springing up in order to support the framework for the European level; the response of domestic social partner organization is one prime example of this. The results of this research illustrate that sectoral- and company-level systems of negotiation are also evolving in response to European integration,

and that sometimes these new systems leave the actors at the national level less influential in sculpting industrial relations.

The central argument of this dissertation also contributes to the “varieties of capitalism” literature within the political science sub-disciplines of comparative European political economy. But while “varieties of capitalism” concentrates on the different ways that industrialized democracies respond to market pressures, in the form of institutionalizing various domestic social protections and/or market regulators, this dissertation takes a more narrow focus on the sub-genre of industrial relations to what could be simplistically termed as ‘varieties of neo-liberalism’. The EU’s central mandate to provide the free movement of goods, people and services across and within member state borders is a direct embodiment of using market forces (internally) to enhance relative worldwide economic strength, by pooling resources and by breaking down domestic economic protections to benefit the larger union. The commitment to free market capitalism is inherent in such goals. Scholars and commentators have often referred to the overarching process of European integration as a clinically ‘negative’ one, where boundaries and traditional domestic protections are removed in order to make way for the free flow of persons, goods, capital, and services across the Union (Scharpf 1998). Yet this negative integration acts as a distinctly protective factor against overarching forces of globalization. At the same time, the EU’s attention to issues that border or directly cross the line into the ‘social’ realm cloud the purely neo-liberal bent of economic integration by introducing various protective legal

measures. At the very least, the recognition that consultation systems between workers and employers need to be addressed at the supranational level denotes an important qualification to the typical Anglo-American form of neo-liberal capitalism. The realm of industrial relations is useful for examining European integration because it highlights the tension between negative integration (the removal of barriers) and positive integration (the creation of new, shared, or harmonized rules and/or systems). The large-scale efforts of the EU now include objectives to enhance social policy within the Union and laws to standardize a relatively high floor of working rights and conditions.

Definitions of Terms²

The term “Europeanization” generally refers to the impact of the EU integration process and EU institutions on national politics and policy making (Radaelli 2003, 28-29). This process has been conceptualized by scholars as one-way directionality from the supranational to the national level (Ladrech 1994), or as a two-way interaction between the national and supranational levels in which member states assimilate the influence of the EU and in turn “project” their interests at the EU level (Bulmer and Burch 2000, 2-3). However, the literature on Europeanization is not unanimous on the extent to which there is convergence towards a common European institutional model.

² The terms “Europeanization” and “Neo-corporatism” are taken up more fully in *Chapter 2: Review of Literature*.

“Industrial Relations” generally speaks to the relationships that exist within an industry between the employer and the workers. Related more specifically to the field of Political Science, “industrial relations” describes the relationship between employees and management which stem directly or indirectly from the union-employer relationship, and through various other organizational settings designed to promote the respective interests of workers and employers. Industrial relations also include the interactions between employers and employees with the government, and the institutions and associations through which such interactions are mediated (Crouch 1977).

One process through which such interactions are mediated is that of “collective bargaining”, where unions, employers, and government where appropriate negotiate to reach an industry-wide collective agreement. Collective agreements usually address wages and wage scales, working hours, working conditions, grievance mechanisms and rights to participate in workplace or company affairs (Ibid).

“Social dialogue”, as defined by the International Labour Organization, is:

all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy. It can exist as a tripartite process, with the government as an official party to the dialogue or it may consist of bipartite relations only between labour and management (or trade unions and employers' organizations), with or without indirect government involvement. Social dialogue processes can be informal or institutionalised, and often it is a combination of the two. It can take place at the national, regional or at enterprise level. It can be inter-professional, sectoral or a combination of these. The main goal of social dialogue itself is to promote consensus building and democratic involvement among the main stakeholders in the world of work. Successful social dialogue structures and processes have the potential to resolve important economic and social issues, encourage good governance, advance social and industrial peace and stability and boost economic progress (International Labour Organization 2011).

Not included in the above definition is social dialogue taking place at the *supranational* level – definitively the case with the EU. At the European level, social dialogue is both bipartite and tripartite, the latter being the case when the Commission or other EU public authorities are involved. Tripartite dialogue at the EU-level is used less and less as European-level social partners have gained more legal autonomy to negotiate agreements amongst themselves (Eurofound 2011a). Related to this definition is the term “social partners”, which refer to the chief representatives of management and labour; for the purposes of this dissertation, the relevant social partners are ETUC (European Trade Union Confederation), BE (BusinessEurope), CEEP (Centre européen des entreprises à participation public et des entreprises d’intérêt économique général – the European Centre of Enterprises with Public Participation), and UEAPME (European Association of Craft, Small and Medium-sized Enterprises).

“Neo-corporatism” refers to a system of state behavior where organized interests have clearly defined, formal roles in the realms of social and economic policy making that impact worker and employer interests. As contrasted against a more “pluralist” system, where interest groups are formed voluntarily, competitive for access and resources with each other, and engage in free-form lobbying behavior, neo-corporatist systems engage prominent organized interests by law in

policy proposals with the objective of obtaining a higher degree of consensus in parliamentary/committee debate (Crouch 1977).³

Outline of the Dissertation

The text in this dissertation is arranged in seven chapters: Introduction, Literature Review, Methodology, EU-Level Social Dialogue, the 2002 EU Directive on the Information and Consultation of Employees, Analysis, and Conclusion. Each chapter begins with an introductory paragraph outlining what specific material the chapter contains, and concludes with a brief summary. Headings and sub-headings within each chapter organize the material into country-specific findings where appropriate. The empirical chapters (Chapter 4 and Chapter 5) are organized by variable, rather than by country cases. The format of referencing follows the Chicago standard, with in-text citations and footnotes for supplementary information. The Bibliography follows Appendix A and Appendix B at the end of the dissertation.

³ Related to this definition is the term “concertation”, which is often confounded with a neo-corporatist system of policy-making. Concertation is more akin to the process of tripartite social dialogue, wherein key actors come together for the purpose of ad-hoc problem-solving, but lacks the formal regularized nature of neo-corporatism (Baccaro and Lim 2007).

CHAPTER 2: Literature Review

The bodies of literature addressed in this chapter are those that either speak to the influence of European integration on the political economies of EU member states, or deal with the context and details of industrial relations in a European context, or both.

This review is grouped into four themes: Europeanization, Varieties of Capitalism, Industrial Relations, and Collective Bargaining. Demoting each theme as such highlights the previous work that has shaped this dissertation's research question.

Europeanization

A wealth of literature exists on the definitions, contextualization and possibilities of Europeanization: whether it exists, how it is visible, to what extent it can explain convergence, and if it is irreversible. Featherstone provides a general framework for Europeanization as “a process of structural change, variously affecting actors and institutions, ideas and interests”, (Featherstone 2003:1). His definition considers Europeanization as conceptual rather than a direct causal effect, visible in either tangible institutional change or in the gradual adaptation of policy and policy processes. He states that evidence for convergence can be found at three levels: “the emergence of a European political agenda (the problem of process definition shifts to the European agenda); *the forms of interest representation (for example, corporatism threatened by more open and competitive*

modes of representation); and the modes of operation of various actors”, (Ibid: 11, italics mine).

Radaelli corroborates Featherstone’s understanding of Europeanization as being neither irreversible nor permanent, by defining the Europeanization process as a change in the logic of behavior. The process is *not* political integration but strictly the adaptation of domestic institutions in response to pressure from Europe (Radaelli 2003: 30-33). The timing and degree of this process depends on a number of intervening variables, such as the discourse, institutional capacity and leadership quality present in a member-state during the development of EU public policy (Ibid: 47). The strength of Radaelli’s contribution is that it can explain variation in domestic adaptation by institution, country or specific policy.

The term Europeanization was in many ways invented to answer the core overarching question of how European integration and policy making affect the very states responsible for these very processes. “The term ‘Europeanization’ ...responded to the conceptual difficulty of talking about the effects of integration on domestic structures...the process by which distinct structures of governance at the European level affect domestic structures and domestic politics broadly defined,” (Caporaso 2008, 27). Caporaso states that the term Europeanization serves a dual definitional function: it highlights the role of EU politics and European institutions as an independent variable in domestic politics, and it elucidates the process by which domestic structures adapt to European integration (Ibid). Caporaso (2008) and Risse, Cowles and Caporaso

(2001) have generated a model of Europeanization that addresses the latter part of Caporaso's definition – that of Europeanization and domestic change. The model, in both publications, has three phases. The first phase is the process of European integration itself, to include treaties, political activity, institutional enlargement, and the more specific elements of regulations and court rulings. The second phase deals with the immediate 'fit' or 'misfit' of the first phase on member states themselves, assessed by the degree to which each member state needs to change circumstances in order to adapt to the process of European integration. The third phase identifies the domestic structural conditions that serve as "mediating factors"; structures and institutions (such as federalism, interest group structures, veto points) that either facilitate or obstruct the member state's adaptation to European integration (Caporaso 2008, 30-34). The utility of this model is that it highlights a sequence of events that pinpoint a more linear process of Europeanization. Although Caporaso emphasizes that the model must be understood as a fundamentally endogenous process, in that the member states under study for what effects they exhibit from their 'fit' to EU policies are the same actors that *create* the process of integration in the first place, the beginning of the first phase with the process of European integration conceptualized as a more or less exogenous process is helpful for more detailed analyses of specific acts of integration on EU member states.

Generally problematic to the concept of Europeanization is solid evidence on causation. The non-binding character of much of EU governance makes it

difficult to assess the amount of change emanating from Europe, or to draw a line between regulations from the European level to domestic political economy changes. Literature on Europeanization heavily emphasizes the “soft law” character of much of integration policies: “In considering the Lisbon Agenda, we confront an interesting duality: while the process is consciously designed to alter domestic policy and outcomes, it relies on ‘soft’ mechanisms of implementation; a conscious effort to engineer policy change coupled with consciously suggestive means (a product of national sensitivities and diversity of fostering progress towards the goal,” (Smith 2012, 2). This is particularly relevant when considering things like EU-level employment objectives on the political economies of member states. Many elements of the Lisbon Agenda are general objectives that require member states to demonstrate effort only towards attaining these goals, but do not carry with them concrete rewards or penalties for meeting or not meeting these objectives by a set deadline. This clouds the possibility of identifying the EU’s transformative capacities; however, many studies of Europeanization also demonstrate that soft mechanisms of policy making may have subtle but important indirect effects (Vink and Graziano 2008, 10).

To this point, numerous authors examine the potential of the Open Method of Coordination (OMC) as a mechanism for Europeanization, but many conclude that its effects remain suggestive only.⁴ OMC is a procedural, cooperative,

⁴ Wincott (2003) finds that with regard to the European Social Model, the OMC is predominantly useful for information-sharing and benchmarking, but because it lacks mechanisms of enforcement and holding member states accountable it cannot be considered a definitive form of governance. Conversely, Bursens and Helsens (2005) consider the OMC a legitimate instrument of EU

reciprocal learning process where EU member states agree on a set of common goals, put them into practice at the national level and then evaluate the outcomes – in essence, a direct manifestation of the ‘soft law’ concept. The Lisbon European Council of 2000 emphasized the potential of OMC for a number of policy areas where the EU has no competences for the definition of minimum standards – social policy areas, particularly areas such as inclusion and cohesion related to the context of employment, being the most obvious example. The European Employment Strategy (EES) is a ‘soft’ law mechanism designed to coordinate the employment policies of member states with the overarching objective of increasing employment and productivity within the EU as a whole. It is also, to date, the most advanced coordination process that utilizes OMC (Eurofound 2008b). The goals and objectives of EES are particularly apt for studying industrial relations at the EU level and within EU member states for two reasons: first, the content of many EES goals – such as those to do with reducing unemployment figures for certain populations – often falls within the jurisdiction of the main social partners to help develop policy; second, the *manner* in which social partners are able to generate policy prescriptions for EES targets are often (both at the supranational and national levels) is often through a framework or non-binding joint agreement, which serves as a soft law mirror to the initial objectives.

Research on the EES considers the emphasis on employment in the Lisbon Agenda to be a large factor shaping the industrial relations systems of member

governance through its principled recognition of subsidiarity, deliberation, and consensus-driven politics, but allow that its effectiveness for problem-solving capacity is still very weak.

states. For these studies, the topic of employment is the central independent variable rather than the institutions of the EU. A key finding of many of these studies is that the increase of tripartite central agreements at the national level is one key effect of the EES. As the EU's employment strategy asks member states to prepare annual National Action Plans (NAPs), detailing the amount of progress towards EU employment targets and the means taken towards achieving these targets, national governments are encouraging national social pacts in order to coordinate labour market activities at the national level (Goetschy 1999; Léonard 2001). Cressey and Gold find that the European Employment Strategy (EES) is slowly converting social dialogue from a partnership process to a managerialist process "by decentralizing [social dialogue] to the national level and co-opting social partners into taking responsibility for meeting employment targets over which they have had no influence," (Cressey and Gold 2007, 7). Social dialogue is not involved in the co-determination of labour market policies at the EU level; instead, national institutions and domestic social partners are left to implement EES policies as they see fit. The reliance on the OMC, while upholding the principle of subsidiarity and accounting for national discrepancies, also reinforces the shift in social dialogue towards goals over means. The danger of this redirection is that it renders social dialogue apolitical and empties it of its initial ideology: "redirection moves away from the principle of autonomy of bargaining and towards a form of managerialism that has been prevalent in the UK, especially in relation to new forms of public management," (Ibid, 11). EMU and the adoption of the euro also

influences member states to centralize their labour market agreements at the national level; once monetary policy was delegated to the European Central Bank, national governments preferred to coordinate employment issues because it was then easier to control for other macroeconomic factors (Pochet 1998). At the same time, the emphasis on adaptability and flexibility in the EES encouraged the decentralization of bargaining to the company level from the union level because businesses needed more room to maneuver policies such as part-time work, temporary work, and overtime (Léonard 2001). Ultimately, the EES contributed to a concern with employment over other labour market issues, to the point where employment levels became a new “social ‘norm’” (Ibid). The main effect of this new norm was to encourage the development of centralized agreements targeted towards the competitiveness of a country’s labour market; in essence, rather than unions and businesses negotiating reciprocal concessions among themselves on various labour market issues, negotiation has instead become a series of agreements between companies, social partners and governments that focus on the framework of employment (Ibid).

More recently, Heidenreich and Bischoff find with the French example that although the execution and implementation of NAPs mainly illustrates the relative autonomy of the national field, as well as how officials comfortably re-interpret European concepts to fit national processes, the OMC process has legitimate influence for national policy-makers in areas (such as employment and social policies) that have a high degree of uncertainty and ambiguity. This is because the

social construction of other' "success stories" can help to overcome previous impasses, and help shape riskier reform projects designed by national administrations. A side effect of using OMC for EES-related goals, in the French example, has been the "strengthening of a tripartite dialogue on employment issues between the unions, the employer associations, and the state", because "sometimes the obligation to write a national action plan...contributes to the integration of the respective national field because this task requires an improved co-ordination within and between different ministries and a closer co-operation with other actors...In France, the co-operation between unions and employers' associations in particular seems to be greatly improved by the requirement to include them in the process." (Heidenreich and Bischoff 2008, 522-524).

Although alternative forms of governance are arguably appropriate for a wide swath of social and labour policies, the legal and thus more linear form of Europeanization visible in the implementation of EU directives is a means of assessing systematic domestic adaptation to the supranational level with more rigorous empirical evidence. It is thus reasonable to surmise that Europeanization hinges on EU policy implementation success in member states. This suggestion also helps clarify the distinction between changes in domestic political economies that are attributable to Europeanization and those resulting from forces of global integration more generally; responses to EU directives in member states offer a viable starting point for studying Europeanization. Without the transposition of legal directives and the shared *acquis communautaire* the project of European

integration would lack the necessary foundation to build upon. A perennial research topic for Europeanization is the question of why some member states implement EU policy differently than others, and how the style and substance of implementation differs between national administrations. The concept of ‘goodness of fit’ is pertinent here, as related to Caporaso’s model (2008). The idea behind ‘goodness-of-fit’ is that EU policies will have a discernible impact on the domestic level only if existing domestic policies diverge from EU prescriptions. If the domestic framework already fits well with that of the EU, the pressure to change is minimal and adaptation is less visible. When the framework fits poorly, the pressure to change is stronger and the impact is much more significant. Thus, misfit between the European level and the domestic level constitutes the necessary condition for expecting change (Börzel and Risse 2000; Cowles and Risse 2001, 217). This approach is predominantly neo-institutionalist in character as it focuses on the response of domestic institutions to EU policies, particularly state structure, administrative capacities and the presence or absence of a consensual political culture (Ibid, 225). Similarly, a more agency-oriented approach to ‘goodness of fit’ concentrates on the socialization of actors in European norms and procedures. The extent that existing domestic norms and practices differ from those at the EU level is the extent that Europeanization pressure is most visible (Börzel and Risse 2000, 8).

Other authors focus on the regulatory authority of the EU and the inherent regulatory effects of Europeanization. Scharpf (1996) refers to the influence of the

EU as negative integration, responsible for depoliticization, removal of public ownership, and general heightened technocratic powers, all contributing toward promoting a neoliberal economic platform with few significant matching endeavors at positive integration of social protections. One of Scharpf's central criticisms is that a system of European interest representation was, at the time of his writing, not suitably complementary or capable to fit the process of negative economic integration among EU member states. This theme overlaps with a more general definition of 'globalization', which refers to the accelerated growth of economic activity (to include trade, investment, goods and services, and people) across national and regional political boundaries. The central commonality between Europeanization and globalization in this argument is the premise of deregulated capitalism and heightened competition due to high levels of exposure to globalizing economic forces. The central distinction between the two forces is not just geographical. Whereas globalization encompasses worldwide market deregulatory forces and shared communication, it does *not* usually include any shared understandings of social policy or state protections. Europeanization, by contrast, refers to the process of domestic change as a result of being a member of the EU, and consequently includes domestic change with regard to labour laws and social policies due to shared legislation and understandings emanating from the institutional-supranational level.

Varieties of Capitalism Literature

Europeanization literature generally focuses on (but is not limited to) the study of the impact of European integration on national systems of political economy. The institutional arrangements that characterize the different political economies of industrialized democracies are often referred to as different “models” of capitalism (Berger and Dore 1996; Iversen, Pontusson, and Soskice 2000; Streeck and Yamamura 2001). The models refer to the enduring features of capital-labour organization among the advanced industrial countries – financial institutions, industrial relations, welfare states, and vocational training systems, to name the most predominant features. Literature on the different models of capitalism uses different terminologies and contextualizations to categorize the various types, but most authors point to a distinction between ‘organized’ and ‘liberal’ varieties (Hall and Soskice 2001). Organized, or ‘embedded’ capitalism is characterized by patient capital, committed labour, highly institutionalized relationships among stakeholders (labour, employers and capital, with the government often abetting these relationships), and in some cases, an emphasis on value-added production. By contrast, liberal capitalism is characterized by a return on investment, short-term financing, market competition, and a more deregulated and pluralistic environment for interests, labour, and companies alike. Germany and Japan are often referred to as the ideal types of organized capitalism, while the United States and United Kingdom exemplify the liberal-Anglo, less-regulated varieties of capitalism (Boyer and Hollingsworth 1997; Streeck 2001; Hall and Soskice 2001).

A key justification for returning to the study of models of capitalism is the implication that any disruption in one of the core enduring features of a type of capitalism would resonate in other areas – for example, a significant change in the organization of financial institutions would reverberate in the organization of industrial relations. This would seem to be the case whether a political economy is considered to be a predominantly institutional arrangement (Hall and Soskice 2001) or a result of political maneuvering (Streeck 2001). The notion that the key features of a country's political economy rest on certain equilibrium suggest that an alteration in any of the key features would upset the other components (Thelen 2004).

The study of varieties of capitalism is important in political science for the ongoing debates over which model performs best and in which conditions. The post-WWII politico-economic environment of full employment in industrialized democracies applauded organized systems that utilized aspects such as welfare spending and solidaristic wage policies. The postwar economic success of Germany's worker compensation schemes, and Sweden's corporatist networks that gave quasi-public status to interest groups in policy making, promoted the strengths of the organized models of capitalism up until the late 1970s. After a widespread economic recession, the shift towards supply-side economics and monetarist policies in the early 1980s emphasized the strengths of flexibility, low government spending and worker exclusion in the neoliberal model. Since the resurgence of neoliberalism in the 1980s, debates over models of capitalism are more open-

ended, veering away from measuring performance by productivity and focusing on the nuances in the divergence and convergence of elements within and between both kinds of systems.

The development of the EU and its related institutions offers a new avenue of study as far as models of capitalism are concerned. Rather than investigate solely the factors that comprise different systems, the interweaving of the Single Market with EU Social Policy legislation poses the question of whether the EU may be the conveyor of a new model that joins the flexibility and responsiveness of the liberal market with the productivity benefits of greater investment in workers. This trend is evident in various EU projects but nowhere more so than the Lisbon Agenda. The EU's concept of "Social Europe" is intended to marry the concepts of economic growth and social policies when considering things such as labour market reforms. Although Social Europe is arguably much less visible than the economic impact of European integration, the efforts of EU legislation in directives on working conditions (including directives on health and safety conditions in the workplace, working time, and part-time work) demonstrate an empirical commitment to the setting of minimum standards in some social policies.

Rhodes and van Apeldoorn (1997) operationalize different forms of Western capitalism along the dimensions of corporate governance and macroeconomic institutional environment, resulting in a three-fold classification of market-oriented Anglo-Saxon, network-oriented Germanic, and Latin types of capitalism. They authors argue that European integration doesn't so much impose

an Anglo-Saxon neo-liberal regime of capitalism on member states than it does integrate elements of Anglo-Saxon corporate governance and economic organization with established national institutions, norms and rules, thereby allowing for continued national diversity within a framework of “embedded neo-liberalism” (171). Their argument is helpful for delineating the differences between “type”, and for demonstrating how and where convergence of capitalist elements might be taking place. Table 2.1 outlines the main characteristics:

Table 2.1: Varieties of capitalism: the main characteristics

	Market-oriented <i>Anglo-Saxon</i>	Network-oriented <i>Germanic/Continental</i>	<i>Latin</i>
Macroeconomic factors			
Role of the state	Minimal state	Regulatory rather than interventionist state	Extensive public ownership
Cooperation between social partners	Conflictual or minimal contact (Ireland maintains corporatism)	Extensive at the national until late 1960s. Revived in 1980s/1990s	Social pacts in Italy and Portugal in 1980s/1990s
Labour organizations	Fragmented and weak	Union membership density high; strong centralized unions	Union density generally low; significant decline outside public sector
Labour market flexibility	Poor internal flexibility; high external flexibility	High skills allow internal flexibility, external flexibility more restricted	Lower internal flexibility (lower skills); external flexibility also restricted
Microeconomic factors			
Shareholder sovereignty	Widely dispersed ownership; dividends prioritized	Number of freely traded shares limited; dividends less prioritized	Shareholder sovereignty recognized but rights restricted
Employee influence	Limited	Extensive through works councils on organization of work and training	Strong shop-floor influence until early 1980s; now minimal

Market for corporate control	Hostile takeovers are the 'correction mechanism' for management failure	Take-overs restricted; managers under direct stakeholder influence	Take-overs restricted; little external challenge to management
Role of stock exchange	Strong role in corporate finance	Publicly listed corporate firms limited; stock exchanges small	Stock exchanges relatively undeveloped; closed ownership
Role of banks	Banks play a minimal role in corporate ownership	Universal banks play an important role in corporate finance and control	Bank holdings and participation in France and Spain only

Source: Adapted from Rhodes and van Apeldoorn (1997, 174-5). In addition to the variables listed above, their original analysis included the role of education and training and the national innovation system.

An important development at the EU level relevant to discussions of political economy and varieties of capitalism is the concept of “flexicurity”, as defined by the European Employment Strategy (EES). Flexicurity generally refers to the balance between labour market flexibility and security for employees against labour market risks. Specifically, the European Commission identifies four basic components:

“Flexible and reliable contractual arrangements (from the perspective of the employer and the employee, of ‘insiders’ and ‘outsiders’) through modern labour laws, collective agreements and work organization; *Comprehensive lifelong learning (LLL) strategies* to ensure the continual adaptability and employability of workers, particularly the most vulnerable; *Effective active labour market policies (ALMP)* that help people cope with rapid change, reduce unemployment spells and ease transitions to new jobs; *Modern social security systems* that provide adequate income support, encourage employment and facilitate labour market mobility. This includes broad coverage of social protection provisions (unemployment benefits, pensions and healthcare) that help people combine work with private and family responsibilities such as childcare,” (Eurofound 2008b, 2, italics in text).

While flexicurity could arguably be a simple semantic political exercise in trying to appease employers and employees both, the Commission has been emphatic in its publications on how to implement flexicurity policies. The flexibility component is the more readily apparent side of flexicurity, referring to the ability of employers to become better able to adapt their workforce to changes in economic conditions (essentially low firing costs). The security component encompasses employment security and social security – basically that of finding a new job and income security – but also includes the security of information and consultation in existing employment. EU publications specifically focus on the role of the social partners at various levels in drafting and implementing flexicurity policies, as well as being an example of how flexicurity ought to unfold at the company level: “the emphasis on the possible plurality of national flexicurity models and on the role of the social partners has added a relevant dimension to flexicurity in terms of industrial relations and the contribution of collective bargaining, especially at workplace level,” (Ibid, 15).

The purpose of this dissertation is to consider the effects of European integration on capital-labour interactions in member states. In doing so, this research tests the possibility of a ‘hybrid’ capitalism that rests on the intertwining of market flexibility and worker consultation, and is in part in response to EU efforts to balance efficiency with equality. The relevance of social dialogue in policymaking concerning the different dimensions of labour market policies appears as a distinctive feature of the European social model. The development of

interest representation at the EU level and the implementation of EU directives related to worker rights and working conditions are both plausible catalysts of change in domestic industrial relations systems. An early suggestion of such a pattern is the initiation of formal consultation systems in businesses in the UK and Ireland – countries that previously relied on predominantly voluntarist systems of worker consultation – in response to a EU directive. The importance of this consideration is to illustrate the evolution of capitalist models as well as to highlight the novel role of the EU as a non-state regulator of both business and working conditions. In order to test this possibility, this dissertation will study EU legislation and domestic interest associations to identify what kind of causal relationships are at work between the EU and member state levels in consultation dynamics. Focusing on capital-labour interaction in the field of industrial relations offers an assessment of how domestic institutions of collective bargaining evolve and respond to economic and political conditions. This evolution is also noteworthy in considering the role of the EU as an instigator of domestic political economy adaptation. In addition, the study of EU legislation and organizations specifically, and member states' response to these factors, potentially helps to distinguish between the forces of the EU and those of global economic integration more generally.

Industrial Relations

In line with Rhodes and van Apeldoorn (1997), convergence within the EU may also mean the growing resemblance of member states' political economies to one another, and not necessarily a distinct shift to Anglo-American capitalism. The scope of scholarly literature on this topic is wide. One strand relevant to the purposes of this dissertation is the examination of the evolution of domestic forms of neo-corporatism in Western Europe against the backdrop of EU-related regulations. The bulk of this literature examines a 'paradox' present in many EU member states: adjustment to the requirements of single market integration (particularly those requirements of Economic and Monetary Union [EMU]), which ought to promote liberal deregulatory trends in domestic political economies, has instead often tended to heighten or reinforce patterns of social concertation – a formalized method of interest negotiation that would seem to contradict the deregulatory forces of market integration.

Pérez (2002, 1200) address the question of how monetary union is likely to impact the preferences of governments, employers, and unions regarding the organization of wage bargaining. The experiences of Italy and Spain reveal that the combination of a strict monetary policy with fragmented wage bargaining will, perversely, induce the social partners to adopt the strategy of centralizing negotiation in order to reduce fragmentation and respond more coherently to the challenges presented by EMU. The two countries underwent the functional equivalent of decentralizing wage bargaining in relation to EU monetary policy in the 1980s and early 1990s. This led to a reorganization of bargaining at the national

levels that involved greater coordination across bargaining sectors. Pérez extends this analysis to the supranational level, and suggests that a similar dynamic might play out across the Eurozone. Similarly, Royo (2002, 99) argues that the resurgence of national level bargaining in Spain and Portugal is the result of the changing strategies of social actors in a new economic and political context. A fragmented and decentralized wage bargaining system led trade unions to seek social bargaining primarily as a defense mechanism to assert more influence. Royo allows that EMU offered the social actors important incentives to reach agreements, but disavows EMU as a full explanation given that both countries began some form of tripartite concertative procedures before EMU was initiated, and continued such procedures after EMU had arrived. Royo finds that the weakening of trade unions is a more compelling explanation for the expansion of social concertation, as the unions' traditional confrontational strategy became less effective as their membership eroded. Combined with the institutional learning of the social actors and the failure of national governments to achieve macroeconomic policy objectives, the depletion of union confrontational capacities shaped new incentives and constraints for union strategies.

Ebbinghaus and Hassel consider whether there has been a generalized renewal of tripartite concertation at the national level in response to the need to coordinate policies across policy fields, and examine why some countries have adopted formalized negotiation strategies to enact reforms while others have not. The findings reveal, "concertation is dependent on institutional prerequisites, most

importantly the governance of policy fields,” (Ebbnghaus and Hassel 1999, 46). There are three implications from the findings: that concertation is not necessarily always a suitable tool for reform; that state capacity to intervene plays a large role in reorganizing governance; and that concertation must serve the interests of the social partners.

The above works illustrate a new dynamic at work within EU member states. The delegation of monetary policy in Eurozone members to the European Central Bank (ECB) limits conventional economic adjustment mechanisms, such as currency devaluation. As a result, structural areas that have the potential for increased competitiveness are targeted as alternative adjustment mechanisms to stimulate economic growth, such as labour markets. The economic assumption is that increasing the activity and flexibility of labour market structures will lead to a higher economic growth rate, from the standpoint that a relationship exists between wage rigidity, price, and output performance. Higher labour market rigidity will encourage the persistence of high unemployment and rigidity; thus, activation and deregulation of labour markets ought to promote employment and flexibility (Antonelli and De Liso 2004, 60). Given that EMU places limitations on conventional economic adjustment mechanisms, governments and social partners alike perceive the need to tackle labour market rigidities, and are more likely to work together towards the similar objective of higher employment rates.

Should neo-corporatist practices increase among eurozone members, however, it does not follow that all changes in a concertative direction will

resemble one another. Hancké and Rhodes argue, “the different forms of institutional innovation in wage setting found in the EU depended on the combination of the character of external pressures and preexisting protoinstitutional structures in the labour market.” While macro-economic shifts can be largely attributed to EMU and its related shocks, the micro institutions conditioned the ability of countries to “embed” new arrangements with social partners in formal structures (Hancke and Rhodes 2005, 196). The main implication of this argument is that although EMU acted as a strong impetus for the re-emergence of social bargaining at the national level in certain areas, it cannot be identified as the cause of any reorganization of social partners.

Notably, the need for consensus is particularly strong in areas where flexibility is particularly difficult. Crouch argues that the introduction of the ECB and the single currency is likely to produce some pressure for a convergent search for concertative processes in countries that have difficulty enacting straightforward neoliberal solutions to labour market passivity. Because labour market institutions still retain the capability to adapt at national and/or regional levels, wage determination systems in some areas may be able to facilitate adjustment to monetary union: “The most striking conclusion...is that the paradoxical renationalization of industrial relations systems which seemed to be provoked by the single currency can coexist positively with, rather than undermine, a potential growth of Europe-wide coordination”, (Crouch 2002, 302). To avoid widespread public resistance to any dismantling of social protection, unions and government

alike have a shared interest in concertative strategies to reduce labour costs in the most painless manner possible.

The above literature summary illustrates the importance of potential Europeanizing processes to member states' economies and labour markets. In the context of industrial relations, it is theoretically reasonable to surmise that the evolution of the EU as a whole and the growing influence of its regulatory institutions have had a marked affect on the institutional systems of member states' modes of negotiations with social partners. The significance of such research is that it contributes an understanding of what consequences – intended or unintended – single market integration can have on domestic modes of negotiation and representation. Although many such consequences are indirect effects of European integration, the results are still important for considering the efficacy of worker organization within the context of liberalizing market integration.

Collective Bargaining

A specific subset of Europeanization literature focuses on industrial sectors rather than study EU industrial relations as only a supranational-national dichotomy. Such studies focus on the internationalization of EU businesses (Due et al. 1991) or the role of multinational companies as a distinctive form of organization for industrial relations (Marginson 2000). European Works Councils (EWCs) feature prominently in such arguments; EWCs are the firm-level complement to the ETUC, as both function at the supranational level. Much as the

ETUC is not considered to be a national form of trade union that has been uploaded to the European level (Falkner 2000; Hyman 2001), neither are EWCs seen to be simple extensions of national works councils. Because of the transnational character of multinational companies, the functional constraints of the sector in question play a heavier role in conditioning the structure of an EWC, as opposed to the more political constraints that condition a national works council in different member states (Marginson 2000). The central implication here is that national trade unions that deal with multinational companies will come to prefer the supranational level for negotiation and articulation of interests as the internationalization of businesses means a loss of control over capital at the national level (Bieler 2005). In a study comparing different production sectors, Bieler finds that domestic sectors that have been relatively sheltered from globalization – such as education – are unlikely to develop strong cooperative initiatives at the supranational level. Conversely, those production sectors that have been transnationalized are much more likely to have trade unions supporting cooperation at the international level (Strange 2002; Bieler 2005). The evidence illustrates that trade unions will utilize the European level when they perceive it as an arena in which to further their interests.

Other studies considering the impact of the EU on national systems of industrial relations emphasize the institutional legacies within the unions themselves to explain why and under what conditions trade unions make use of the European political arena to pursue their interests. A common thread through these

studies is that trade unions are essentially rational actors, who perceive the European level as an additional sphere in which to campaign for their interests. Often times there are variations in how trade unions pursue their goals at the European level. This variation has been explained by the generosity and stability of the national system of social provision in which a particular trade union is enmeshed (Mitchell 2006), the absence or decrease of fundamental divisions between unions as neo-liberal economic policies become increasingly predominant (Strange 2002), and the strength of the legacy of corporatism in the member state in which the trade union is housed (Molina 2008).

Lastly, a central trend running through literature on Europeanization and industrial relations concerns the decentralization of collective bargaining away from the national level and toward the company or plant level. Decentralized collective bargaining is largely preferred by employers who seek maximum flexibility and adaptability for their respective businesses or undertakings, whereas unions tend to prefer centralized bargaining as it presents strong opportunities for employees to achieve greater protections from the state. Whereas the EU has no policy or jurisdiction into the industrial relations of member states, the integration of the single market holds the potential for many unintended consequences stemming from the need to foster as much internal competition as possible.

Conclusion

Taken together, previous research on the Europeanization of EU member states' industrial relations systems illustrates a number of different dynamics at work between the supranational and domestic levels. Europeanization as a process offers an analytical means of understanding how European integration affects the political and institutional decisions of member states. One part of this process is the climate of deregulation and liberalization that the EU single market seeks to achieve; however, the accompanying social models of many EU member states have served to strengthen the EU social model at the supranational level and to introduce the objective of “flexicurity”, which seeks to marry active labour market policies with employment and social securities. The concept of Europeanization offers a model wherein one can analyze whether common policy instruments can produce consistent effects across diverse political economies. The introduction of the Euro as common currency created incentives for the reorganization of wage bargaining and determination systems across sectors at the national level, as a means of facilitating adjustment to macro-economic pressures. The EES pushed employment levels to the forefront of all labour market issues, helping to enshrine the norm of competitiveness among both social and political actors. Simultaneously, the decreasing levels of membership in national trade unions (Royo 2002) along with the advent of multinational companies and growth of the ETUC encouraged local trade union confederations to seek out alternative strategies to existing modes of operation – either by increased tripartite concertation at the national level or by making use of the European political arena.

This dissertation seeks to build upon these existing studies to contribute to theoretical work on the conditions for institutional evolution that might potentially indicate a new model of capitalism. Because industrial relations lie directly at the intersection between capital and labour, they are a crucial component of the organization of capitalism and fertile testing ground for institutional evolution. Social dialogue and social partners at the supranational level have the potential to slowly shape domestic institutions of industrial relations through incremental maneuvers that complement the legislative and policy-making procedures taking place through EU institutions. This work will contribute to convergence/divergence political economy arguments by arguing that convergence/divergence may not be an either/or process, as well as contribute to neo-institutionalist theories by offering a picture of layered institutionalist strategies. The pressures of European integration have encouraged the decentralization of bargaining from unions to companies; following this, those sectors that are significantly internationalized are slowly emulating the more managerial or lobbyist style of the ETUC and BusinessEurope and are relying more on supranational worker confederations for interest articulation. The impact of these changes suggests a shift towards “meso-level” corporatism that relies on company level bargaining to mediate between productivity and worker consultation.

CHAPTER 3: Theory and Research Design

This chapter discusses the choices of methods employed for this dissertation. This begins with an outline of the research question and a discussion of the theoretical approaches used to frame the inquiry into the research question. Next, the chapter outlines the research design, including the case selection, hypotheses, variables and data for the variables. Finally, the chapter addresses the manner of data analysis used for this dissertation.

Research Question

The research question asks: how does European integration affects patterns of capital-labour interaction? More specifically, how is the inclusion of interest associations at the European level affecting the behavior of domestic interest associations? And how is legislation at the EU-level related to consultation mechanisms affecting national patterns of industrial relations? The premise for these questions is that domestic organized interests are likely to reorganize themselves so as to capitalize on new opportunities in a supranational environment. Therefore, this research asks how and to what extent the domestic institutions of interest consultation in EU member states are being transformed by Europeanization.

Theoretical Approaches: Alternative Explanations of ‘Convergence’ and ‘Divergence’

Using the starting point of Europeanization as an important external influence on domestic systems of industrial relations, this dissertation examines the impact of relevant European level actors and EU directives on the behavior of interest associations in Ireland and Italy. European level actors and EU directives each provide a source of potential adaptation/transformation for the existing dynamics of industrial relations in EU member states; through new avenues of access, new sources of ideas, and new forms of pressure. This dissertation examines both the nature of this adaptation and the domestic response to such opportunity. The European level is thus an important instigator of change, through the notion that the consideration of relations between social partners at the European level has had a profound influence on the bargaining dynamics of social partners in member states. To examine this premise, this dissertation examines the patterns of adaptation in Ireland and Italy to EU-induced changes.

The concept of Europeanization in political science often centers around institutional arguments on the potential for the convergence or divergence of EU member states' domestic institutions. Broadly speaking, convergence refers to the possibility of national political economies beginning to resemble one another more and more, usually with the characteristics of heightened market reliance and deregulation found in the Anglo-American model of capitalism. Literature pertaining to convergence identifies the key forces encouraging this resemblance as heightened capital mobility, globalization, and the end of socialism (Crouch and Streeck 1997, 4-9; Strange 1997, 185-191). The most relevant point in this

literature is regarding the shift to an emphasis on financial capital over industrial capital in the last 30 years. The shift placed considerable pressure on domestic institutions distinct from Anglo-American market capitalism; market forces impose high costs on countries sustaining domestic institutional arrangements that do not fit with a market-based financial system, competition among national systems leads to a voluntary emulation of systems that seem to work best, and international regimes and institutions (i.e., WTO, World Bank, IMF) lead governments to make criticisms of other government's practices. Ultimately, the heightened interdependence within global trade and capital flows creates a source of leverage and pressure to comply with the most effective market-based model – usually considered to be those of the US and the UK. In addition, there are political consequences of converging institutional arrangements – specifically those that derive from systems of interest representation. Less organized systems of capitalism are characterized by a less regulated and more dynamic pluralist system, whereas capitalisms more carefully controlled by the state or other institutions are more likely to have embedded interest systems, such as formalized neo-corporatist bargaining (Crouch and Streeck 1997, Chapter 1; Scharpf and Schmidt 2000, 2-8; Hall and Soskice 2001, Chapter 1; Streeck 2003, 1-5).

The idea of convergence offers one possible explanation for the behavior of interest associations and the dynamics of industrial relations in Ireland and Italy. Indeed, the overarching project of European integration necessitates a degree of convergence of market-based norms and economic principles in order to deepen the

single market and achieve the benefits of integration. EU legislation in the form of directives concerning social affairs and employment indirectly fosters a certain amount of harmonization of labour laws and social standards. However, this influence remains indirect and exists more in the form of guaranteeing minimum standards rather than reorganizing domestic industrial relations systems along a single model. What convergence cannot explain is the amount of variation and/or unexpected results within the integration project. Although DICE – like many pieces of EU legislation concerning social affairs and employment – remained suitably flexible in order to allow member states discretion in how to implement the directive, it still had the effect of modifying the form of consultation mechanisms in member states that remained previously committed to a high degree of autonomy in their industrial relations systems. This was the case in Italy where workers were given the legal right to *consultation*, and not just information, and where the right was legally extended to the private sector. In Ireland, the sheer creation of legal worker information and consultation rights was a sizeable departure from the prior voluntary norms of labour-management relations at the company level. In this sense, convergence helps explain the content of legislation but not the form of implementation or the norms arising from that implementation. The important research context here is that while the EU is certainly an agent of change, there is a great deal of uncertainty about what this change might look like in each member state. Consequently, studying the effects of Europeanization on capital-labour

dynamics offers purchase on the nature of influence between the EU and member state institutions.

Divergence theories assert that the individual elements of national economies are not necessarily compatible with one another. Each domestic political economy is a complex individual system and may not have the interchanging parts that are easily comparable to other systems. In essence, states are not functionally equivalent. The notion of path-dependence plays a heavy role in divergence literature. The institutions of each domestic system are politically entrenched and very sticky; global forces may provide the pressure to change, but these forces are mediated through domestic constraints and national institutions. Institutions create their own politics and generate resistance to outside pressures, in the form of “increasing returns” of maintaining institutional consistency (Pierson 2002, 251-252). Domestic actors are reluctant to abandon the familiarity of national arrangements. This familiarity over time increases trust and lowers levels of uncertainty between actors, providing more efficient sources of information, bargaining mechanisms, and conflict resolution. Consequently, even though states are exposed to identical external pressures, their responses vary according to the manner in which their domestic institutions continually reproduce themselves. Institutional theories hold that by adapting to such pressure, country-specific institutions become even more robust and durable as they continually adapt and re-adapt (Hall and Soskice 2001; Schmidt 2002).

The idea of divergence holds a great deal of potential explanatory power for the implementation of DICE in both Ireland and Italy, as it offers a means of understanding the variation and unexpected developments in each country. As well, it acknowledges the specific politico-economic conditions in each country that act as an equally strong or stronger force towards conditioning legislation than the EU level might. The weakness of divergence as a full explanation is that it remains a primarily static explanation, relying on analyses of domestic behavior at single points of time. The notion of path-dependence allows for critical junctures and important windows of opportunity that may break a specific domestic pattern and change the institutional path, but it neglects the effects of cumulative incremental changes that build and shape the evolution of institutional paths. Put another way, the idea of divergence does not always allow for gradual institutional change that has come about over a lengthy period of time. This point is evident when examining the effects of the presence of EU-level organized interests. The representation of federations of trade unions and employers organizations, respectively, at the supranational level provides an (arguably) influential example of industrial relations conduct in both style and substance. Style-wise, the bipartite, independent role of EU-level interests offers a “best practice” model of how to engage social partners – a stronger formality on the consultative role of “social dialogue” that simultaneously moves away from neo-corporatist modes of mandatory tripartite mechanisms. Substantively, EU legislation on works councils, workers’ rights, and information and consultation is gently ‘Europeanizing’ the

practice of industrial relations across the EU by establishing a minimum standard of dialogue between employers and employees and by delineating the importance of consultation as a general practice.

Theoretical Framework

Neo-institutionalist political science theories generally hold that actors are embedded in institutional milieus. Institutions in this sense are the array of formal organizations inside the macro-structure of the state, economy, and civil society, and act as “ligatures” fastening sites, relationships, and large-scale processes to each other (Katznelson 1997). Historical developments are always patterned by context and circumstance, as are the key decisions made by political agents who possess particular clusters of preferences, interests and identities. As such, institutional design is connected to the particular configurations of politically salient elements and variables, both as causes and effects (Putnam 1993; Katznelson 1997).

The idea of path dependence is prevalent in studies of institutional evolution and change in comparative politics. Path dependence emphasizes the historical origins of institutions, and allows that the “processes responsible for the genesis of an institution are different from the processes responsible for the reproduction of the institution” (Mahoney 2000, 4). The original historical path taken conditions the possibilities for institutional change at a later point in time; such changes occur due either to “critical junctures” (Ibid) or to “‘feedback effects’ through which

institutions, once selected, reproduce themselves and also shape the trajectory of institutional development by constraining subsequent choices” (Thelen 2004, 27).

While path dependence provides compelling explanations for the historical legacies of institutions and for comparative differences, more recent comparative political studies have built upon existing arguments to consider patterns of incremental institutional change through periodic political realignment and renegotiation (Palier 2000; Seeleib-Kaiser 2000; Thelen 2004). The strength of these contributions is that the focus on incremental institutional changes illustrates how elements of stability and change are often linked. This dissertation utilizes the concept of incremental institutional change to study the supranational political dynamics at work influencing industrial relations in EU member states. Rather than viewing national patterns of worker-employer relations in a deterministic, locked-in manner, this dissertation suggests that slow incremental reactions to similar pressures over time may cumulatively point to significant institutional adaptation, and may even indicate a fundamental Europeanization of domestic industrial relations. Thelen argues:

“Once in place, institutions do exert a powerful influence on the strategies and calculations of – and interactions among – the actors that inhabit them. As power-distributional theories suggest, however, institutions are the object of ongoing political contestation, and changes in the political coalitions on which institutions rest are what drive changes in the form institutions take and the functions they perform in politics and society” (Thelen 2004, 31).

While the EU and its major institutions are consistent sources of external pressure, EU-level organized interests/social partners present a more specific source of

political influence for domestic industrial relations configurations. These organizations are well situated to have access to – if not influence on – EU agenda setting and are thus well placed to potentially unsettle the current status quo of regional and national trade union confederations.

As discussed in Chapter 2, previous literature has examined the indirect effects of EMU and the EES on the behavior of organized labour and management interests in different member states. Once European imperatives are agreed upon and accepted by all actors, the use of national social pacts and other similar concertative strategies in certain countries have been frequently utilized to meet key economic targets. Based on this, the dissertation asserts that the pressures of European integration on interest configurations warrant a focus on the role of the major European social partners in key EU directives. The purpose of such focus is to demonstrate that the Europeanization of forms of interest representation takes place through incremental institutional realignments of relationships between domestic and supranational interest representatives.

This dissertation uses the theoretical framework of ‘layered’ institutionalism that accounts for multiple political influences on the political economies of EU member states. While there are undoubtedly both convergent and divergent forces at work shaping the trajectories of industrial relations in member states, the acknowledgement of new and unforeseen political actors that are incorporated into decision-making and strategy-making allows for a fuller explanation of how and why domestic behavior can both converge and diverge at

the same time. This perspective is borrowed in part from Kathleen Thelen's *How Institutions Evolve* (2004), which illustrates how new political dynamics can add a layer to existing institutional arrangements. Thelen's work examines how four countries arrived at the institutional arrangements governing skill formation, partly by studying the political processes which induce changes that are incremental but cumulatively transformative – "transformation without disruption" (Streeck and Thelen 2005, 4). In the context of the EU, this dissertation proposes that supranational developments contribute to such incremental changes by adding a new layer of regulation. Included in this new layer, however, are new points of access for organized interests and new venues for ideas and contestations – in short, a new layer of politics. These new layers shape and influence the evolution of institutional behavior over time. This approach complements the multi-level governance approach to the EU as a regulatory state (Hooghe and Marks 2001) and illustrates how member states can incorporate external political influences without dissolving their own internal structures and without maintaining full institutional resiliency in the name of strict divergence.

Research Design

The research design for this dissertation is a qualitative, process-tracing, comparative analysis of two main external developments on domestic industrial relations systems in two case studies: the EU member states of Ireland and Italy. The central question for this research asks how European integration is affecting

patterns of capital-labour interaction. This can be broken down into three sub-questions: (1) how interest representation and aggregation at the European level has influenced domestic interest configurations; (2) how negotiation at the supranational level affects the strategies of central actors in domestic industrial relations systems; and (3) if and how pressure from the European integration project modifies the institutional legacies of domestic IR systems. Thus, in order to find evidence to answer each sub-question sufficiently, data was collected toward the purpose of: (1) identifying *changes in domestic interest configurations* (which actors/groups are present, which actors/groups are strong, and what approach is favored by each group); (2) identifying *changes in the strategies* of key domestic actors/groups (what issues are targeted and when, the level of confrontation versus consensus between actors/groups, and whether actors/groups are confronting the regional, national or supranational level); and (3) identifying *changes in the institutional legacies* of domestic systems of industrial relations (whether a country continues along its path of neo-corporatism, voluntarism, occasional tripartite concertation, etc.).

Case Selection

This dissertation studies the effects of Europeanization on domestic systems of industrial relations in two EU member states: Ireland and Italy. The logic in selection was to target cases where the pressure from the EU level might be most visible. These countries were selected on the basis of having existing systems of

industrial relations that are substantively different from continental models of industrial relations. Comparison to a continental model (often called a “Germanic” model)⁵ is valid for the reason that many regulatory aspects of the European Union complement institutional features and systems that are – more often than not – found in Austria, Belgium, Germany, Netherlands, and to some extent France and Scandinavia. These features include strong neo-corporatist elements of institutionalized collective bargaining and policymaking with key organized interests, moderate to robust welfare states, a relatively high commitment to patient capital and a strong floor of minimum worker rights and protections. Ireland and Italy each deviate from such continental ‘norms’ in a number of ways. Ireland belongs to the market-oriented Anglo-Saxon model of capitalism and has a largely voluntarist (meaning, not legally enshrined) system of industrial relations, a climate of deregulation in economic and social arenas, and a great degree of foreign direct investment from non-EU members. Italy is generally grouped in the Latin network-oriented model of capitalism, and has the differentiating characteristics of a large economy with a high number of small and medium sized enterprises, a high degree of industrial conflict, a relatively conflictual and fragmented system of political parties, and a technically voluntarist system of industrial relations that nevertheless rests upon numerous legal statutes affording rights and protections to sectoral consultation bodies.

⁵ Rhodes and van Apeldoorn (1997) group varieties of capitalism into three kinds: market-oriented Anglo-Saxon, Germanic/Continental, and Latin network-oriented (see Table 2.1 in Chapter 2).

These countries were selected on the basis of having existing systems of industrial relations that are substantively different from each other; at the same time, each country has important qualifications to the 'type' of capitalism it belongs to. Ireland has traditionally been grouped into the 'voluntary' category of industrial relations, meaning collective bargaining and negotiation that is undertaken on a completely voluntary basis on the part of all social partners and that is done without any legal obligation to government for process or outcome. 'Voluntary' also entails a lack of definition as to whether government participates in collective bargaining or whether the results of collective bargaining are translated into formal regulations or legislation. However, the use of national-level social pacts since the 1980s as a means of achieving specific economic goals has become accepted practice for large-scale policy making; the collapse of social partnership in 2010 has reduced the importance of national pacts somewhat, but the recognition that national social pacts are useful to economic programs remains (see Chapter 4). Italy, by contrast, is characterized by mandatory collective bargaining at industry level and the frequent use of concertative, non-binding tripartite mechanisms for national level social pacts. Almost all collective bargaining occurs through unions or unions representatives at various levels, but union membership and activity is heavily disproportioned toward the public sector and pensioners, with low membership and little activity occurring in the private sector. In essence, the voluntarism of the Italian system is irregularly applied, with some sectors enjoying a high degree of

legal protections for collective bargaining and other areas utilizing collective bargaining on a more occasional basis.

An important similarity between the two countries' systems of industrial relations is that each has utilized the national level for achieving social pacts to meet significant economic goals in recent decades – in particular, since the advent of EMU. Although Ireland is often classified within Anglo-American liberal economic groups, policy makers have emphasized the importance of national social pacts between social partners and government in the past 20 years. Italy has had experience with collective bargaining and workplace representation through trade unions only and frequently at the national level, but the Italian use of concertation is informal and often inconsistent in its form (ie., whether discussion is bipartite or tripartite). While both countries have utilized the process of national level social pacts since the 1980s to achieve specific (and usually economic) goals, the context of these social pacts is in a different type of capitalism for each case – liberal economy for Ireland with minimal state intervention, extensive public ownership for Italy with heavier bureaucratic regulations in policy making. More detail on each case is included in Chapters 4 and 5.

There is also variation among each country's success rate of transposing directives into national legislation on time and among each country's record of infringement related to directive transposition – an appropriate consideration given the directive under study in this dissertation. An additional consideration is each country's relationship to the EU. Ireland's political economy can be characterized

as Anglo-American capitalism, yet the country exhibits notably little of the Euro-skepticism that the UK is so notorious for (Ebbinghaus and Manow 2001). Italy is one of the original members of the European Community and is sometimes grouped into the category of a 'Southern' European political economy. While historically one of the most avid proponents of European integration, Italy has also regularly had significant difficulties meeting EU deadlines and criteria (Sbragia 2001), and has been frequently penalized by the European Court of Justice (ECJ) for failing to implement EU directives on time (Duina 1997).

The existing system of industrial relations in each country is necessarily an intervening variable, interacting with the two independent variables to condition the effects of potential Europeanization. The legacy of industrial relations in each country must be accounted for in order to appropriately capture significant changes and modifications at a systemic level. 'Goodness-of-fit' arguments would hold that those industrial relations systems that have the most institutional similarities with the directives in question will be the most likely to implement directives (relatively) easily and to exhibit the effects of Europeanization. Neither Ireland nor Italy had an industrial relations system containing elements that were analogous to the activities of the social partners at the EU level, and neither country had pre-existing legislation to do with worker consultation that would have made the implementation of DICE unnecessary (as it was in Germany and Austria) or even straightforward (as it was in Scandinavia). 'Goodness-of-fit' arguments would consequently hold that Ireland and Italy would face challenges with the example of

independent social partners and the implementation of DICE, and that each country would remain illustrative of domestic institutional paths being stronger than Europeanizing forces. As Chapter 5 will discuss, each country did in fact encounter significant obstacles with transposing DICE, but these obstacles were to do with the details and not with the introduction of the context of legalizing mandatory worker consultation.

Overall, these cases were selected with the intention of choosing countries that differed on the dependent variable – the configuration of industrial relations as established previous to significant European developments. In-depth study of the particularities of each case is found in Chapters 4, 5, & 6 as the dissertation chapters are organized by variables rather than by cases.

Hypotheses

The generation of EU-level labour law pertaining to worker information and consultation meant that member states that previously relied on very different systems of worker consultation would have to implement substantial changes. Given this development, it is evident that some nature of influence exists between the EU and domestic levels. The consequence of DICE in such member states is not only the introduction of regulations where there were previously none, but the broader enforcement of formalized and organized representation at the workplace level, rather than the national level or even sector-level.

As such, I first hypothesize that the development of EU-level, supranational interest confederations generate pressure over time toward a form of social dialogue that is simultaneously mandatory but less formal. The EU Commission itself explicitly recognizes the need for social partners and has granted European social partners the right to be consulted by the Commission. The Commission also funds social dialogue initiatives, such as capacity-building for social partner organizations (Eurofound 2011a). However, the bulk of social dialogue remains bipartite (without the involvement of public authorities) and results in mostly autonomous agreements between the social partners themselves; meaning, they result in expected conventions that are passed down through the tiers of workers unions and employers' organizations, but do not often result in legislation. The efficiency of this example for reducing the potential of industrial conflict is one that is being increasingly emulated in member states, as it presents a more consensual alternative to free-form debate and lobbying and less of a bureaucratic load than heightened formal modes of neo-corporatist institutions.

I then hypothesize that EU legislation related to worker-employee relations generates pressure over time on domestic systems of industrial relations to decentralize collective bargaining to the company level. This is because the content of EU legislation establishes the need for a minimum floor of worker-employee relations but does not dictate precisely how this need is to be met. As such, countries that had purely voluntary bargaining systems previous to EU legislation will likely implement EU law in a minimalist manner; implementing regulations for

companies rather than sectors, and avoiding anything akin to collective bargaining at a national level. Countries that already had some form of mandatory consultation system are likely to rely more and more on independent works councils and company representatives rather than introduce additional mechanisms at national or sectoral levels, in order to allow for subsidiarity and avoid conflict.

The significance of these hypotheses points to the new dominant trend of social dialogue. Social dialogue is more formal and regulatory than in voluntary systems once it becomes institutionalized within a political system (connoting a step *away* from conventional neo-liberal rhetoric), but much less formal and regulatory than neo-corporatist systems (connoting a step *toward* competitiveness and efficiency). The institutionalization of social dialogue is helping usher in a mild form of convergence around “meso-level” corporatism – bargaining at the company level. This level of bargaining illustrates a new productivity model that is neither completely liberal nor coordinated. Instead, this model incorporates both the flexibility and responsiveness of the market and the social and productivity benefits of worker consultation. The significance of this potentially new model is that it contributes to the literature on models of capitalism in a manner that goes beyond the organized/liberal division as well as points to the EU Single Market supported by EU social policies as important innovators of growth.

Independent Variable 1: EU-level Social Partners

This dissertation examines the inclusion of European-level organized interests as new political actors as an independent variable. There are four foundational organizations that make use of interest aggregation and representation at the EU level: one workers' confederation (ETUC) and three employers' associations (BE, CEEP, and UEAPME).

This variable identifies the presence and influence of the above four organizations in labour market policy issues and relevant directive formulation and implementation. Research on each entity includes a review of the organizations, the organizational publications that are relevant to the two directives under study, a thorough reading of news sources and academic literature pertaining to each organization's activities, and most importantly, interviews with significant officers from each organization's headquarters in Brussels. The purpose of this data was to gather information on what each interest group's perspective was on DICE, and to worker-employer relations more generally across the EU. The question motivating study of this variable was to ascertain whether each EU-level organization has reshaped any part of domestic interest confederations in the countries under study. The assumption here is that each entity presents a specific source of political pressure that is emblematic of the Europeanization process, and that pressure, in turn, may contribute to a gradual institutional evolution of domestic industrial relations systems.

Independent Variable 2: EU Directive on the Information and Consultation of Employees (DICE)

This dissertation uses the 2002 EU Directive on the Information and Consultation of Employees (DICE) to examine the impact of Europeanization on the patterns of capital-labour interaction in Ireland and Italy. Directive 2002/14/EC focused on social dialogue between management and labour and can be construed as contentious to the extent that industrial relations are contentious in each member state. EU legislation on worker representation has the potential to set the stage for increased harmonization of social laws in Europe, as such legislation is likely to lead to changes – or at least lead to important discussions leading to changes – in the organization of labour. “Establishing a standing structure for worker representation throughout Europe, it is an important feature and even an element in the definition of the continental model of labour relations in Europe, having a major impact in countries with a voluntarist tradition such as the United Kingdom and Ireland.” (Schömann et al. 2006)

The EP and the Council formally adopted DICE in February 2002; member states had until March 23, 2005 to comply with its requirements. Under DICE, all undertakings with at least 50 employees (or establishments with at least 20 employees) must inform and consult employee representatives about business developments, employment trends and changes in work organization. As Ireland and the UK each had no history of formalized in-company information and consultation systems, they were given a longer timetable by which to implement

the full application of the directive – until 2007. The voluntarist tradition of labour organization in both countries meant that there was no standing structure for worker representation as there was in the continental model of labour.

Data for this variable includes study of the directive's content, provisions, and origins, along with analyses of the role of the European Social Partners in the directive's formulation. Data on the directive's content and provisions comes from EUR-Lex, the official legal database of the EU. EUR-Lex houses all EU legislation, preparatory acts, references to national implementing measures, case-law of the ECJ and parliamentary questions. More recent material provides publication references to member states' national provisions enacting directives. Examination of these materials provides a thorough account of what the directive entails, the mandated deadlines, and the amount of flexibility in implementation. The analysis of the directive's composition is based on first-hand interviews with Commission officials, relevant Members of European Parliament (MEP), and experts within the major European Social Partners. The purpose of such interviews was to gather information on the germination of EU legislation to assess what, if any, intended or unintended political and/or national biases may exist in the form of a directive's design and related policy prescriptions. Included in this analysis is a thorough reading of academic literature pertaining to the EU legislation process along with reliable news sources relevant to the directives at hand.

Analysis at the national level includes detailed case studies on the general process and specific procedure of the directive's implementation. This encompasses

a thorough reading of all primary and secondary literature pertaining to the transposition processes in the two countries under consideration. As well, the analysis builds on interviews with officials in each country's Ministry of Labour/Employment, trade union confederations and employers' organizations to collect perceptions on the DICE's implementation process. These interviews will supply the political focus of the domestic analysis, which will provide insight into what interests or what power sources may be influencing the implementation process. The overarching goal with this independent variable is to examine the formulation and implementation process of this directive in order to assess whether the DICE had any lasting impact on the way in which worker consultation systems are organized in each country.

Previous research on Europeanization would suggest that there are two categories of theoretical expectations for how the DICE ought to affect member states' consultation systems. On the one hand, pressure from European integration might foster a convergence of interest behavior that organizes itself in a Europeanized neo-liberal direction. On the other hand, the distinct and idiosyncratic institutional dynamics of each member states' system of industrial relations might reinforce the divergence of national industrial relations. Those member states that already have consultation systems in place that are similar to the DICE model would have little trouble with implementing the directive, while those member states' whose industrial relations systems differ sharply from the DICE model would have trouble implementing the directive or would end up

implementing the directive in a necessarily idiosyncratic manner. The cases of Ireland's and Italy's implementation of DICE offer a challenge to each set of arguments. Neither country had equivalent pre-existing consultation mechanisms that would have made implementation of DICE straightforward, or even unnecessary, as was the case with Austria and Germany (Eurofound 2009). The results of this dissertation analysis show that each country did implement the directive in a manner heavily shaped by each country's institutional particularities; however, the results to date reveal a great deal of similarities in how the legislation was debated and how the domestic legislation was implemented.

Using directives to help assess the influence of the EU on national systems of industrial relations is appropriate because it provides the opportunity to chart a linear course of events that involve both supranational and national deliberation. In the context of industrial relations, directives also offer the opportunity to trace the involvement of the EU-level social partners in the development and articulation of EU legislation. Duina defines directives as "the most powerful and probably the most commonly used legal tool." In contrast to decisions, which are administrative acts with limited impact, or framework regulations, which do not need to be transposed into national law and are thus less transformative, directives are supranational legislation passed through the European Parliament that must be translated into national law and then applied into action: "thus, they harmonize national legal systems before harmonizing the social, economic and political spheres of member states." (Duina 1997, 156). In addition, some previous research

on the Europeanization of industrial relations systems has focused on the policy areas of employment and wage determination (see review of literature in Chapter 2). Studying directives offer another avenue by which to assess the direct and indirect effects of EU policy on national interest representations.

Dependent Variable

The dependent variable is the amount of change or modification in the domestic systems of industrial relations in each country, from 2002 to present. I operationalize this variable in two parts. First, by looking at the domestic configurations of trade unions and employers' associations at the systemic level and assessing any changes in structure, objectives, and operation. This entails any change in the content and form of dialogue between social partners, what level of government (regional, national, supranational) unions and associations are targeting and for what purpose, and what role unions and associations are playing in labour policy formation and implementation. Such assessments help clarify the roles of interest articulation between the social partners as well as illustrate where major decisions are being made and in what context (i.e., in reaction to market behavior, EU agendas, economic policy, etc.).

The second method of operationalizing the dependent variable is by studying specific trade union confederations and employers' associations in each country. In Ireland, this was the Irish Congress for Trade Unions (ICTU) and the Irish Business and Employers' Confederations (IBEC); and in Italy, all three major

Italian trade union confederations (Confederazione Generale Italiana del Lavoro, Confederazione Italiana Sindacati Lavoratori and Unione Italiana Lavoratori), and the central employers' association (Confindustria). This dissertation concentrates on any significant changes in the strategies of central actors. Examples of this include lobbying at the European level rather than the national level, decentralizing the implementation of key labour market reforms to the company level, and efforts to adopt a shared platform among all unions and associations to present to either the national or supranational level. In both parts of this operationalization I give special attention to those changes associated with the European level.

Data for the dependent variable comes from academic literature, news sources, and interviews. I conducted interviews with key officials within each country's Ministry of Labour, and relevant officials in each country's main trade unions and employer associations. Such data provided first-hand perceptions of the impact of each of the two independent variables. As well, such data also offers insight into the strategies of each confederation and association towards labour market reforms. Such strategies include enhanced communication and cooperation between social partners in areas that were previously more problematic, an increased likelihood of decentralizing the implementation of key policies to the company level, a greater reliance on the European level for lobbying and agenda-setting, and a realignment of objectives towards employment over worker protection or profit.

Data Analysis

I collected data for this dissertation through three routes: (1) academic literature searches and reviews; (2) reading official documents available online pertaining to relevant organizations, directives, and governments; and (3) conducting interviews with officials and professionals in relevant areas of the EU itself, national governments, and social partner organizations at both European and national levels. The first route was done repeatedly throughout the course of this study in order to stay informed on academic analyses relating to the dissertation subject. Similarly, the second route was also done regularly and repeatedly, but also on the basis of finding documents recommended by interviewees. The third route, conducting first-hand interviews, was done in person and by telephone. Prospective interviewees were contacted by email or phone, given a brief description of the study, and asked to participate in a 30-60 minute interview. Those interviews done in-person were held in Brussels, Dublin, and Milan in 2008. Those interviews done over the telephone took place in both Europe and North America between 2008 and 2009. I took notes during these interviews and did not use a tape recorder. In total, 35 people were interviewed; of those, approximately 22 of those interviews resulted in material useful to this research and are indirectly quoted in the following chapters. These interviewees held various kinds of professional positions at:

- ETUC, BE, UEAPME, CEEP
- EU Commission, EU Parliament, EU Committee for Employment and Social Affairs

- ICTU, IBEC, Irish Ministry of Labour and Employment
- UIL, CSIL, CGIL, Confindustria, Italian Ministry of Labour and Employment
- Trinity College Dublin

Conclusion

The theory guiding this research is that of institutional adaptation. This entails the concept of gradual institutional evolution as a result of small incremental changes that end up having a cumulative effect. The growth of the EU adds a new institutional layer to domestic systems of industrial relations through new regulations, new actors, and new sources of opportunity for existing actors. This contributes to a definitive degree of Europeanization in areas of political economy that are normally taken to be heavily path-dependent. The larger context is that this process of Europeanization in the industrial relations of member states is contributing to a hybrid model of capitalism that entwines neo-liberal logic with a thorough and non-reactive social model that underscores security with labour regulations.

The next two chapters provide the data for each independent variable. Chapter 4 provides an overview of social partner activity in Europe and discusses the data gathered to do with social dialogue at supranational and national levels, while chapter 5 outlines the development of DICE and discusses the data gathered on DICE's debate and implementation in each case study. Following, chapter 6

incorporates the material from the previous two chapters to provide an analysis of the data speaks to the hypotheses in the context of the theoretical framework.

Chapter 7 then summarizes the results of the dissertation and offers implications for future research and concluding remarks.

CHAPTER 4: EU-Level Organized Interests

Introduction

This chapter describes the independent variable of EU-level organized interests, outlining what their role and function is at the supranational level and providing an analysis of what their influence is on domestic industrial relations systems. Despite the largely coordinative role that EU-level social partners fill, organized interests at the European level and their style of interaction have an impact on domestic industrial relations in three areas: by encouraging a form of social dialogue that is highly coordinated yet highly autonomous from government; by indirectly encouraging the use of social dialogue as a central manner of economic adaptation during debt crises and other difficult economic periods; and by encouraging national social partners to centralize and coordinate in order to boost their own capacity to utilize the EU-level to their respective advantage.

The chapter begins with a detailed definition of what an EU-level social partner is and then offers a brief historical outline of the main organizations fulfilling the role of social partner for the main European institutions. Following are descriptions of the four main European-level social partners – ETUC, BE, CEEP, and UEAPME – along with descriptions of their interactions with each other and with European institutions, and an overview of their chief successes. Then, the chapter discusses the social partners in Ireland and Italy, respectively, and analyzes the interactions between domestic social partners and European-level social partners. Using interview and institutional data – institutions being those that

specialize in the evaluation of European industrial relations⁶ – this chapter then analyzes the measure of influence the European level has had on the domestic level.

The central argument in this chapter is that “social dialogue” at the EU level does in fact stimulate patterning of labour-management relations in Member States in a similar direction. This is done by the EU level offering a prominent example of best practices that emphasizes social partner independence and through the initiation of “softer” mechanisms of joint opinions and framework agreements more often than legally binding directives (see Chapters 2 and 6 for more on the softer mechanisms of EU governance). This example is highly coordinated, yet does not transcend a fundamentally ‘voluntarist’ approach to industrial relations – a central feature of how EU processes are able to ‘hybridize’ some of the formal features of Western European-style capitalism with single market liberalization. As successive EU treaties have increased the rights and recognition given to European organized interests, both sides of industry at the EU level have become better prepared to negotiate based on the contributions from respective affiliates in Member States.

Autonomous social dialogue carries with it a central feature that is preferable to employers more than labour – the increased use of independent non-

⁶ The research institutions that this dissertation utilized material from are Eurofound and EIRO. Eurofound, the European Foundation for the Improvement of Living and Working Conditions, is a European Union body set up by Council Regulation (EEC) No. 1365/75 of 26 May 1975, to contribute to the planning and design of better living and working conditions in Europe. The European Industrial Relations Observatory (EIRO) is a project of Eurofound that acts as a monitoring instrument offering news and analysis on European industrial relations. It aims primarily to serve the needs of national and European level organizations of the social partners, governmental organizations and EU institutions.

binding framework agreements. Interview data illustrates that concepts such as “flexibility” and “adaptability” are much more important to business and managers, whereas unions and workers are fundamentally more concerned with binding agreements (preferably with legal force) that demand concrete worker protections. Whereas autonomous dialogue might allow the social partners to negotiate without the constraints of the executive, in the EU context it arguably allows employers to shape the concept of ‘employability’ (employment security within a competitive marketplace, rather than ‘job security’) and the objectives surrounding that concept. The underlying impact of the EU example is to reinforce growth, employment and competitiveness over working conditions, and as such to implicitly nudge industrial relations in a neo-liberal direction that supports the goals of employers more than unions. The Commission actively promotes the idea of “Social Europe” and social cohesion, and offers financial assistance to all EU-level social partners in order to level the playing field of resources between employers and employees, yet it is largely governments and industry that benefit from the mechanisms designed to support “flexicurity” within EU-level processes. Interviews and reports reveal that employer associations have a much more positive view of EU labour market initiatives than trade unions, which remain largely skeptical. In essence, as the single market is an effective transmitter of liberalization (Smith 2006), and EU social dialogue exists in order to moderate the effects of single market integration, EU social dialogue has the accompanying and indirect effect of (gently) re-shaping the objectives of domestic social partners toward the Europeanizing project at large.

The European Level

European-level Industrial Relations

The level of EU involvement in domestic matters pertaining to social policy, employment policy, and labour-related policies has grown correspondingly with the growth of EU institutions and EU areas of regulation as a whole. To speak of a specifically European form of industrial relations that is a direct result of EU governance is a stretch, or at least an oversimplification. However, the influence of EU governance upon employer-worker relations in member states, along with the influence of member state practices into the wider body of EU regulation, has nudged member states closer toward an EU system of employment and industrial relations, in that both the form and process of industrial relations at country level and supranational level has begun to mirror each other more and more over recent years. Eurofound, in December 2011 states:

“Without any doubt the influence of the European Union in the field of employment and industrial relations has assumed greater importance since the mid-1980s than in the decades before. This is mainly due to three factors. The first was the idea of a European type of capitalism which includes a specific social model and the idea of a ‘social dimension’ of European policies that was adopted by the European Commission in the mid-1980s. The second factor was the move towards a common currency and more liberalized markets within the EU since the 1990s, which led to attempts to improve the coordination of economic and social policies among EU Member States across a whole range of issues. And the third factor was an increasing pressure from different actors of what is now being called the ‘civil society’ to have their positions being taken into account at European level.” (Eurofound, 2011b, p.1)

For the purpose of arguing the salience of Europeanization, the second factor is undoubtedly the most salient, as it addresses the need to “coordinate” sets of policies in order to support economic and monetary integration. It also could be argued that this need to coordinate is what created the conditions for the third factor to take root, in that coordination of certain relevant economic policies galvanized relevant groups in civil society to lobby and gain access at the EU decision-making level.

The history of industrial relations at the EU level could perhaps also be referred to as an evolution of the term “social dialogue” as it pertains to organized interaction between the channels of management and labour. Table 4.1 offers a succinct summary of the main elements of EC/EU initiatives that spurred forward the process of social dialogue.

Table 4.1: Timeline of EC/EU Social Dialogue

EUROPEAN INITIATIVE	Year	Content
<i>Treaties of Rome</i>	1957	<ul style="list-style-type: none"> • To create a common market in services, good, capital and labour • Basic principles of social and employment policies (equal pay between men and women; enhancing geographical and occupational mobility of workers) • Recognized the general need for a “social dimension” of Europe, particularly in matters relating to employment (<i>Article 118</i>)
<i>First Programme of Social Action</i>	1974	<ul style="list-style-type: none"> • Emphasized need to ensure more cooperation between the Member States in the social field • Council adopted directives on equal opportunities and on health and safety at work as well as action programmes for vulnerable groups within society • Included recommendations for the objective of improving the condition of

		employees and their legal position in undertakings, such as in the cases of collective redundancies and mergers of companies
<i>Val Duchesse initiative</i>	1985	<ul style="list-style-type: none"> • Regarded as the starting point of European social dialogue • Jacques Delors, President of the European Commission from 1985-1994, invited representatives of national organizations affiliated to the EU-level employer and worker organizations and the EU level social partners themselves to a meeting at the castle of Val Duchesse
<i>Single European Act</i>	1986	<ul style="list-style-type: none"> • Act was adopted in order to facilitate the implementation of a Single European Market by 1992, and included the objectives of: <ul style="list-style-type: none"> ○ Greater effort to improve workers' health and safety at work ○ Same conditions for all workers in terms of their working environment, regardless of which Member State they work in ○ Prevention of 'social dumping' as the internal market was completed • In addition, the SEA stated that "<i>the Commission shall endeavour to develop the dialogue between management and labour at European level which could, if the two sides consider it desirable, lead to relations based on agreement</i>" (Article 118b).
<i>Social Charter</i>	1989	<ul style="list-style-type: none"> • "Community Charter of the fundamental social rights of workers" – a range of social rights that are to be guaranteed in the European labour market • Not legally binding, but demonstrated political intent • UK opt-out
<i>Maastricht Treaty</i>	1992	<ul style="list-style-type: none"> • Introduced the 'Social Protocol' and the 'Agreement on Social Policy' (UK opt-out of latter) • Gave a major boost for the role of social partner, giving employers and unions the right to negotiate binding European framework agreements • Extension of qualified majority voting in the Council in the areas of protection of

		<p>employees in working environment, working conditions, information and consultation of workers, equal opportunities for men and women on the labour market and equal treatment at work, and occupational integration of people excluded from the labour market</p> <ul style="list-style-type: none"> ○ Several directives derived from the basis of the Agreement, such as those on European Works Councils, Parental leave, and Part-time work
<i>Amsterdam Treaty</i>	1997	<ul style="list-style-type: none"> • Integrated the Social Protocol and Agreement from the Maastricht Treaty into a new comprehensive ‘Social Agreement’ that also included the UK • Introduced an Employment Charter which required the coordination of employment strategies and an annual report by national governments on the employment situation of their respective countries • Renewed the commitment to combat discrimination • Renewed the obligation that the principle of equal pay is applied
<i>Treaty of Lisbon</i>	2009	<ul style="list-style-type: none"> • “<i>The Union recognizes and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy</i> (Article 152, TFEU) • Shift of responsibility of promoting social dialogue from the Commission to the EU, and institutionalizes in primary law the “Tripartite Social Summit for Growth and Employment” • European Parliament to be informed if social partners wish to extend their framework agreements via Council decision

Source: adapted from Eurofound (2011b), p.1-3.

Taken together, the history of industrial relations at the EU level highlights three processes: the interaction between European industrial relations and the national and local levels; the interaction between bipartite and tripartite processes at European level (tripartite meaning the involvement of the Commission); and the

interaction between the sectoral and cross-sectoral levels. These processes are discussed toward the end of this chapter. Particular dynamics involved in shaping these processes are EU-wide social dialogue, the collective representation of interests, and the EU's growing role as an employment and industrial relations regulator.

European Social Dialogue

The Val Duchesse initiative in 1985 launched a bipartite social dialogue that started to become a forum for negotiation on a European level. This bipartite (meaning independent from government, or in this case, the European Commission) dialogue produced declarations and opinions from the social partners but nothing with any binding power. The Maastricht Treaty of 1992 allowed agreements negotiated by the social partners to potentially be given legal force through a Council decision, which would then have to be integrated into the legislation of each Member State, or through an 'autonomous' agreement, whereby the social partners themselves take responsibility for implementing measures at national, sectoral and enterprise level. Council decisions – also known as directives – become a part of EU law. Three agreements have been implemented by Council Directive: the parental leave (1996) and revised text in 2008, the part-time work (1997), and fixed-term contracts (1999) agreements. Four autonomous agreements have been negotiated: the telework (2002), the work-related stress (2004), the harassment and violence at work (2007), and inclusive labour markets (2010)

(ETUC 2011a). With these resulting events, the Maastricht Treaty definitively helped establish a more formal role for the major European social partners by giving substance to their agreements and by further legitimizing the process of social dialogue.

Since Maastricht, European social dialogue has grown in independence and autonomy, as well as in scope. Cross-sectoral dialogue involves the main European-level organized interests (ETUC, BE, CEEP and UEAPME), while sectoral dialogue involves sector-specific European social partners along with some of their national analogues. The Commission has placed increasing emphasis on the European sectoral social dialogue in the past ten years, stating that social dialogue at the sectoral level “is the proper level for discussion on many issues linked to employment, working conditions, vocational training, industrial change, the knowledge society, demographic patterns, enlargement and globalization” (EU Commission Communication 2002). This emphasis has resulted in 40 sectoral social dialogue committees which have produced more than 500 texts and seven binding agreements (Eurofound 2011b, p.5).

“Social partners” is a term generally used in Europe to refer to the main representatives of labour (trade unions) and management (employers’ associations). At the EU-level, “European social partners” refers to the organizations engaged in “European social dialogue”. The Maastricht Treaty established the Protocol on Social Policy that formalized the manner of introducing and adopting social policies at the EU level, the significance being that it gave social partners the right

to be consulted by the Commission on the direction of Community social policy *and* the content of Community action in this area. Maastricht was also significant in setting a precedent for what kind of organization could be considered a European social partner – an important definition considering that social partners gained the right to be consulted under the Treaty. Organizations should “be cross-industry or relate to specific actors or categories and be organized at the European level; consist of organizations, which are themselves an integral and recognized part of Member State social partner structures and with the capacity to negotiate agreements, and which are representative of all Member states, as far as possible; have adequate structures to ensure their effective participation in the consultation process,” (Eurofound 2011a). While this definition initially appears quite broad, the criterion requiring organizations to have ‘adequate structures’ is what excludes actors that might wish to be included. Adequate structures include the resources necessary to participate at meetings in Brussels and elsewhere and the internal logistics necessary to quickly and effectively communicate information throughout an organization and back and forth to the European level. Organizations that lack the adequate structures to participate as a European social partner on their own might choose to join a larger federative type organization, i.e., a small regional trade union choosing to belong to a larger national trade union confederation in order to be able to be a part of European social dialogue.

The European social partners engage in either sectoral or cross-industry social dialogue. The Commission’s regularly updated list of European social

partners includes 79 sector-specific organizations (such as those in metalworking, chemicals, transport, etc.), three general cross-industry organizations (CEEP, ETUC, BE), three cross-industry organizations representing certain categories of workers or undertakings (UEAPME, and two others representing executive, professional and managerial workers), and one specific organization (Eurochambres, representing the Association of European Chambers of Commerce). Representativeness is based in large part in the “mutual recognition” between the social partners on their capacity to engage in collective bargaining, rather than a term referring to the extent of coverage in European civil society (Eurofound 2011a).⁷

The most recent EU treaty – the Lisbon Treaty or the “Treaty on the functioning of the European Union” (TFEU) – contains key articles addressing the protocol for the role of the European social partners. Article 152 states: “The Union recognizes and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.” Article 153 outlines the areas that the EU supports and complements the activities of member states, including (but not limited to) the protection of working conditions, social security and the social protection of workers, the information and consultation of workers, and the representation and collective defense of the interests of workers and employers.

⁷ This dissertation concentrates its focus on the European social partners ETUC, BE, CEEP and UEAPME only, with the justification that these are the largest and most visible cross-industry social partners participating in European social dialogue, and that these are frequently the largest federations representing domestic interest groups and domestic interest federations.

The Union is *not* allowed to engage in co-determination in areas dealing with issues of pay, right of association, right to strike and lock-outs. Articles 154 and 155 outline the procedure for social partners (Lisbon Treaty 2012). The Commission is responsible for promoting consultation of management and labour at EU level and helps facilitate dialogue that ensures balanced support for parties. ‘Facilitation’ primarily consists of creating working groups and providing technical/financial assistance “deemed necessary to underpin the dialogue,” (EU Commission 1993). Facilitation in the form of funding cannot be underrated, as it provides the social partners with the capabilities necessary to enact social dialogue. This is particularly the case with ETUC. The Commission funds the major cross-sector social partners disproportionately in order to bring them to a relatively equitable playing field between management and labour, contravening the commonly-held belief that employers’ associations have more equity than workers’ organizations and trade unions to raise the money necessary to be an effective actor at the European level (Interview B1)⁸. The funding comes under the rubric of “capacity-building” through the European Social Fund⁹ or through direct Commission initiatives on social dialogue and European industrial relations.

⁸ For a list of interviewees according to code, please see Appendix B.

⁹ The European Social Fund (ESF) is one of the EU's Structural Funds, set up to reduce differences in prosperity and living standards across EU Member States and regions with the goal of promoting economic and social cohesion. In tandem with the 2000 Lisbon Strategy, the ESF adopted the priorities of encouraging active labour market policies to prevent unemployment. (“What is the ESF?” European Commission, European Social Fund, retrieved May 25, 2011. <http://ec.europa.eu/esf/main.jsp?catId=35&langId=en>).

Any proposals coming out of the Commission in the field of social policy must be given to the social partners for consultation, who are then responsible for submitting an opinion and/or a recommendation. The most general form of debate usually arises between ETUC (representing workers and trade union federations from all member states) and BE, CEEP, and UEAPME (together representing employers in businesses, public sector entities and small-to-medium enterprises). If both sides of management and labour agree to do so, they may initiate autonomous bipartite dialogue between them. The purpose of this dialogue is to develop contractual relations (i.e., a contract) on the subject of the dialogue under negotiation. As the Commission must suspend legislative initiative during the period of bipartite dialogue, the time frame for autonomous negotiation is limited to nine months – the social partners can jointly ask the Commission for an extension on this time period, which the Commission may or may not choose to approve. Contractual relations are agreements made between the social partners for how to move forward on a certain issue, either in accordance with the procedures and practices in member states or by asking for a Council decision on a Commission proposal (Eurofound 2011a). Any agreements resulting from such contractual relations “shall be implemented according to the practices of management and labour and Member States,” (Lisbon Treaty, Article 155).

Articles 154 and 155 of TFEU (Lisbon Treaty 2012) define the prerogatives of the European social partners as:

- “social partners are procedurally involved in the genesis of any Commission initiative in the social policy field (Art. 154.2 and 154.3 TFEU), both in the direction and the content of a proposal;
- they may decide on how they wish to implement their agreements – ‘either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 153, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission’ (Art. 155.2 TFEU);
- they may decide on autonomous agreements in all social policy fields – even those not falling under the competences of EU institutions as defined in Art 154 EC (Art. 155.1 EC).”

European cross-industry social dialogue has resulted in over 300 joint texts which are housed in a database and are used consultatively by various enterprises and organizations. These joint texts are considered as suggestive guidelines that do not necessarily result in binding agreements. The most outstanding achievements of cross-industry social dialogue (according to Eurofound 2011a) have been: three agreements implemented by Council Directive, on parental leave (1995), part-time work (1997) and fixed-term contracts (1999); three autonomous agreements on telework (2002), work-related stress (2004) and harassment and violence at work (2007); and two frameworks of action on the lifelong development of competencies and qualifications (2002) and gender equality (2005) (EU Commission 2011a).

Several interviewees in the course of research for this dissertation opined that the European social partners have not used their rights very extensively, meaning that each “side” of management and labour has maintained a mostly “reactive” role to the Commission, rather than asserting specific platforms or proposals that are self-generated (Interviews B3 and B6). This is mainly due to the difficulties in reconciling different interests when it comes to formulating joint agreements. The

successful agreements (listed above) in the cases of parental leave, part-time work, stress at work, harassment and violence in the workplace, and inclusive labour markets, are all (according to source) “mostly ideologically straightforward for all social partners, workers and businesses” (Interview B4); meaning that the positions of each side and their differences are precisely what one would expect, with worker representatives desiring more accommodations and employers desiring more restrictive practices. The social partners have either failed¹⁰ to reach *autonomous* agreements (meaning that management and labour have not been able to successfully negotiate a contractual agreement after an extended time period, or have not been able to reach agreement after nine months and have not opted to ask the Commission for an extension) or have had significant obstacles in coming to some kind of agreement in cases that have “more of a bottom line” or are more related to worker consultation mechanisms, such as the information and consultation of employees, temporary agency work, and European Works Councils (Ibid).

Since 2002, the Commission has called upon the European social partners to establish joint work programs and to develop their autonomous dialogue further. This was for the purpose of developing social dialogue between relevant actors within the framework of the European social model.¹¹ The notion of enhanced

¹⁰ ‘Failure’ in this sense is the lack of success in negotiating an *autonomous* agreement, without the involvement of the Commission, but is *not* the failure of an end result of either a Directive or a framework agreement.

¹¹ The European Social Model began with the Commission’s 1994 White Paper on social policy (COM (94) 333) which described a ‘European social model’ in terms of values that include democracy and individual rights, free collective bargaining, the market economy, equal

autonomy for the social partners was, in essence, a move toward more bipartite social dialogue that would not involve the European public authorities, with the goal of strengthening the social partners. The first joint work program was for the time period 2003-2005 and focused on framework agreements for telework and work-related stress, action on gender equality, and actions for the lifelong development of competencies and qualifications. The second joint work program for 2006-2008 was aimed toward further building the autonomy of the social partners; mainly, through the construction of joint analyses and framework reports on instruments used to enhance the effectiveness and inclusion of various labour markets. Some key achievements during the second work program were the negotiation of framework agreements on harassment and violence at work and on parental leave (the latter resulting in a Council Directive), and the publication of a joint analysis on the key challenges facing European labour markets. The third work program (2009-2010) saw the main European social partners negotiate an autonomous framework agreement on inclusive labour markets and one on a framework of actions on employment, as well as manage a project on national studies on economic and social change in the entire EU in order to effectively manage change and restructuring. The current 2012-2014 work program is centered on the recent financial crises and efforts toward balancing labour market recovery strategies with social inclusion and employment (ETUC 2011b).

opportunities for all, and social protection and solidarity. The model is based on the conviction that economic progress and social progress are inseparable: 'Competitiveness and solidarity have both been taken into account in building a successful Europe for the future.' (Eurofound 2011b)

Collective Representation of Interests at the EU level

A key facet of the organization of European social dialogue concerns the organizational context of worker and employer relations. The collective organization of these interests has given rise to what is widely referred to as the “social partnership model”, which generally moves beyond a very narrow conception of the employment relationship as a function of the labour market and towards a consideration of work in a broader, social context.¹² The organizational structure of workers into trade unions is highly centralized at the European level and sectoral organization is very strong – similar to the trade union organization of countries such as Austria or Germany, where one finds the existence of a few strong trade unions that are organized along industry sectors. At the EU level, the European Trade Union Confederation (ETUC) and the growing number of European industry federations provide members with a clear organizational profile. The collective representation of employers at the European level is similarly centralized, although with more separation between public/private employers and the distinct representation of small businesses. Employers’ sectoral organization, in contrast to trade union industry federations, remained underdeveloped until late 1998, when the Commission created sectoral social dialogue committees promoting

¹² See here Gollan and Patmore (2002, 218-219), who point to the incorporation of employee democracy into law and the assignment of both economic and social functions to participants in a business enterprise as being key features of the social partnership model. ‘Employee democracy’ focuses on the rights of workers in a contemporary business setting, and as such is distinct from the industrial democracy sometimes advocated by social democrats in the immediate post-WWII era, which advocated a broader conception of rights to social welfare programs at large. Other authors define the European social partnership model as the basic co-determination of EU policy by means of agreements struck between EU institutions and European-level employer organizations and trade union confederations (Compston 2001, 1).

the dialogue between the social partners in the sectors at European level. The purpose of these committees was to establish centralized, autonomous bodies for consultation, joint initiatives, and negotiation, and to reinforce the autonomy and representativeness of social partners on either side of management and labour (EU Commission 1998). In doing so, the Commission directly demonstrated a preference for centralized organization, presumably because the centralization of key interests provides an important mechanism for undertaking effective social dialogue which streamlines the opinions of representative social partners into general categories and removes some of the more competitive aspects of a more pluralistic style of interest representation (where random lobbying tends to be more the norm than formalized social dialogue mechanisms).

The key cross-industry European social partners involved regularly in European social dialogue are:

1. European Trade Union Confederation (ETUC)

ETUC was founded in 1973 and is an umbrella organization that affiliates national trade union confederations and European industry committees. The structure of the ETUC comprises a Congress, Executive Committee, Steering Committee, and Secretariat, all compiled mostly by democratically elected representatives. Funding comes mainly from contributions made by its member confederations and the European Commission. The ETUC's main activities are to negotiate with employers at the European level through the European Social Model (ESM) over a range of issues concerning (but not limited to) worker's consultation,

collective bargaining, social dialogue and good working conditions. To address these concerns, the ETUC involves itself with economic and social policy-making in all EU institutions (Presidency, Parliament, Council and Commission). This involves participation in regular summits, coordinating trade union participation on advisory bodies, and acting as an information resource for individual MEPs and Commissioners as well as EP groups such as the Employment and Social Affairs Committee and working groups within the Commission Department (DG) of Employment, Social Affairs and Inclusion (ETUC 2012, Interview B1).

Although influential, the ETUC does remain an organization of organizations, rather than an organization of workers – a feature shared with other major social partners at the European level. In many ways its activities are more analogous to a political lobby group rather than to a typical trade union, and has in the past been characterized as more pluralist than corporatist due the *sui generis* nature of the EU itself: “many of the avenues of access to the Commission used by pressure groups occur through highly developed networks of informal exchange relations...As the pre-eminent representative of European labour, the ETUC’s access to the Commission, both formally and informally, is long established and particularly well-developed...It has provided ETUC with a means of feeding information into the political process,” (Abbott 1998, p.615-616). Keith Abbott (1998) writes that the ETUC was best described as a ‘regional’ trade union that is only able to operate in transnational or regional contexts and is not functional in national contexts. Because of this, the ETUC has political effectiveness only in a

supranational structure of authority; when the structure of authority is dominated by intergovernmentalism, the ETUC's effectiveness is low. As such, ETUC's effectiveness within EU policy-making has at times varied somewhat across issues, in that ETUC was able to have more influence over those issues that were more in the realm of supranational policy-making (i.e., part-time work, which accompanied many features of single market integration and multinational businesses) as opposed to those that were more heavily dominated by national concerns and policies (i.e., parental leave). The ETUC's effectiveness is also limited to the political context of getting issues on agendas and promoting specific, European-level objectives – this stands in contrast to more orthodox national trade unions that are dominated by material imperatives (arguing for redistribution in favor of workers) or ideological imperatives (a common vision of the trade union's role in society) (Abbott 1997; 1998). However, as EU jurisdiction into matters pertaining to employment and labour law has increased notably over the past decade – in larger part due to some of the wage adjustment pressures stemming from EMU-controlled inflation and the price stability commitment of the ECB – ETUC's effectiveness has increased as far as it has become much more relevant as a political (representative) actor for workers and trade unions across the EU.

Since Abbott's writing in the late 1990s, procedural changes in EU policy-making – such as a gradual allocation of powers to the EP and a general commitment by Member States to introduce a greater social dimension into the EU's legislative agenda – have enhanced the supranational structure of authority

and decision-making within European integration at large. This has in turn contributed to ETUC's role having increasing salience within the context of social dialogue on policies relating to employment, inclusion, and social affairs. In essence, ETUC's relevance as a political actor at the European level has expanded more or less parallel to the extension of competency of the EU's supranational institutions to act in policy areas that were previously the domain of national governments. More recent literature has examined ETUC in the context of social dialogue in the EU at large (Falkner 2000), in the context of international labour movements and organizations (Dølvik 2000), or in the context of trends of declining union membership (Martin and Ross 2001, Dølvik and Visser 2001, Ebbinghaus and Visser 2000).

The ETUC's main achievements thus far have been to negotiate cross-sectoral framework agreements with its European employer counterparts. These agreements were later ratified by the Council and implemented as directives: parental leave (1996), part-time work (1997), and fixed-term contracts (1999). The ETUC can also call upon its affiliates to take action, through demonstrations and campaigns. One notable event was a major Euro-demonstration in Strasbourg in February 2006 protesting the proposed 2004 Services Directive. The Directive on Services in the Internal Market (often called the Bolkestein Directive, after the European Commissioner for the Internal Market) proposed a vast liberalization of public and private services within the EU. This initially came under fire from citizens and trade unions alike for the "Polish Plumber" scenario, which refers to

the idea that a worker from Poland could (hypothetically, according to the ‘country of origin’ principle) become a more attractive employee in the UK because a UK employer would only have to respect the labour laws and regulations of Poland. Many politicians across EU Member States called for significant revisions to the Directive that would prevent ‘social dumping’, in particular that environmental and welfare regulations across Member States would not be subject to competition. ETUC, along with politically left-wing organizations and other labour organizations called for a large demonstration in Strasbourg during the European Parliament’s plenary session reading of the Directive. The EP approved significant changes to the Directive, including the removal of the ‘country of origin’ principle and amending the rules for public services to guard against social dumping (Interview B1, ETUC 2009).

In order to give a fuller picture of ETUC’s role (as well of the roles of the other main social partners), a description of the evolution of one of the negotiations leading to a directive is useful. Discussions for a directive on parental leave actually began in 1983 through the initiative of the Commission. These discussions began and continued in the Council for more than ten years, and a proposal for a directive was not put to vote until 1994. The UK government’s veto rejected this proposal, and so the Commission began a new initiative in 1995 on the basis of the Social Protocol, by engaging and utilizing the Maastricht Treaty’s provisions for the enhanced role of social partners to create binding framework agreements for EU Member States. Negotiations between ETUC, BE (then UNICE) and CEEP began

in July of 1995, reached their conclusion in November 1995, and a first EU draft framework agreement was ratified by the executives of the three organizations in December 1995. The agreement was then adopted as a Directive in June 1996, and was heralded by the Commission and the social partners themselves as a real achievement in both content¹³ and as an exercise in demonstrating the capacity of social dialogue (Clauwaert and Harger 2000, p.5). The Directive was then revised in 2010 to update provisions in recognition of changing family dynamics and work-life balance considerations; this revision took approximately six months of negotiations between the main social partners.

While the achievements of the ETUC are far from insignificant, many authors note that its role is mostly reactive to agendas set by the Commission and the Council – again, a feature shared with other major social partners at the European level. Members of the ETUC regularly exchange views at annual Tripartite Summits, but do not develop agendas or engage Commission objectives. This reactive quality is characteristic not only of ETUC but also of EU social dialogue in general. A report by the ETUC addressed the lack of space for social dialogue within the EES mechanisms between national governments and the Commission. After evaluating 14 out of 15 member states’ implementation of employment guidelines and the actions of the social partners therein, the report concluded that only four member states were able to cite active participation of the

¹³ The 1996 EU Directive on Parental Leave entitles all male and female workers within the EU to take a leave of up to three months for childcare purposes (distinct from either maternity or paternity leave) and to be protected against dismissal when applying for parental leave or using parental leave. Workers also have the right to return to the same or similar job after parental leave and to maintain previously acquired rights at that job (Eurofound 1998).

social partners (ETUC et al. 2004). The consideration of the report – of implementation over formulation of EES guidelines – demonstrates the inherently reactive role of both the ETUC and the domestic social partners they are evaluating (Cressey, Gold and Leonard 2007, 13).

2. Business Europe (BE) – formerly UNICE

UNICE began in 1947 as a European-level organization comprised of eight employer federations from the six founding member states of the European Community. Both the structure and the activities of BusinessEurope parallel the ETUC in numerous ways – particularly as its role as the European level organization of organizations. The original aims included “uniting the central industrial federations to foster solidarity between them; encouraging a Europe-wide competitive industrial policy; and acting as a spokesperson body to the European institutions,” (BusinessEurope 2012). In 2007, UNICE switched its name to BusinessEurope in order to more clearly express its purpose as a confederation of European businesses. The current objectives of BusinessEurope include implementing the reforms for growth and jobs, helping to further integrate the European market, and shaping globalization to “fight all kinds of protectionism,” (Ibid). At present, BusinessEurope has 39 member federations from 33 countries and over 60 working groups. Similar to the ETUC, the overarching objective of BusinessEurope is to coordinate informed responses and policy statements in response to EU operations that represent a balanced opinion from its member federations. Consequently, BusinessEurope also plays a primarily reactive role

towards EU agenda setting. In terms of social dialogue, in 2007 Business Europe along with the ETUC, CEEP and UEAPME presented a joint analysis on the key challenges facing European labour markets along with recommendations on how to balance flexibility and security (Ibid).

There is much less research on UNICE / BusinessEurope and related employer confederations than on the ETUC or other representative bodies at the EU level to do with trade unions. This is similar to research on domestic level industrial relations, which concentrates much more heavily on trade unions rather than employers' associations (Thelen and Kume 1999, 477-479). It also complements studies on party politics and political party evolutions, which have a disproportionately large degree of literature on socialist and centre-left parties than on centrist, conservative, or Christian-Democratic parties (Kalyvas 1996). Presumably, this reflects in part numerous parallels between the EU's Single Market (and European integration more generally), and the interests of the business community at large – workers organizations and trade unions at regional and national levels have long perceived their cause as being confrontational, or at least on the defensive, against the interests of the state or the economic status quo. This perception is accurate in the sense that within capitalist systems, owners of capital have structural advantages in terms of organization and resources. This conflict informs a great degree of study and analysis. Despite this disproportion of existing research, it is safe to say that in composition and in procedure, BE shares more characteristics in common with ETUC than with powerful employer associations at

the domestic or sector level – the feature of being an organization of organizations, and a reactive quality toward Commission agendas and proposals.

3. CEEP (European Centre of Employers and Enterprises Providing Public Services)

CEEP is one of the major general cross-industry European social partners recognized by the Commission, representing public employers within the European Social Dialogue. CEEP was established in 1961 to represent employers and enterprises providing services of general interest in many sectors such as transport, energy, water, environment, housing, hospitals, education and training, postal services, telecommunications, local administration, etc. The public services that CEEP represents employ approximately 25-30% of the European workforce. Like the other major social partners, CEEP is consulted regularly by the Commission on draft regulations, directives, and other legislation of interest to its members, and is frequently asked to produce opinions. The priorities that differentiate CEEP from BE and UEAPME are to use social dialogue as a means to modernize public services, address regional disparities, and to promote a stronger development of partnerships at regional and local levels (CEEP 2012).

4. UEAPME (European Association of Craft, Small and Medium-Sized Enterprises)

UEAPME is recognized by the Commission as a European Social Partner and is the employer's association representing the interests of crafts, trades, and SMEs (small and medium-sized enterprises) at EU level. It represents 81 member organizations

consisting of national cross sector SME federations, European branch federations, and other associate members, for an estimated total of over 12 million enterprises with nearly 55 million employees (UEAPME 2012). The logic of having a separate employer's organization for crafts and SMEs, distinct from BE, is that some of the policy areas that affect European businesses have differential impacts depending on the size and capabilities of the businesses in question. For example, in the key legislative areas where social partners are active – including (but not limited to) economic and fiscal policy, employment and social policy, enterprise, policy, internal market, research & development – the interests and needs of European-based businesses might differ dramatically depending on the size and scope of an enterprise. UEAPME thus supports its members academically, technically and legally on all areas of EU policy, and identifies the ways in which SMEs can adapt to the challenges of the open and competitive EU economy (Ibid).

Collective Bargaining

Collective bargaining is the most common way for trade unions and employers to interact. It is the process by which the two groups negotiate over the central terms and conditions of employment, such as issues of pay, working time, benefits, and job security as it relates to competitiveness. In Western Europe – or more applicably, the former EU 15 Member States – collective bargaining has long been one of the most important processes of regulating working life and in particular pay determination, either at the cross-sectoral level (as has most

commonly been the case in Belgium, Finland and Ireland) or the at the sectoral level (as has been the case in Austria, Germany, Greece, Italy, the Netherlands, Portugal, Spain and Sweden) (Eurofound 2011c, p.2). Such bargaining on explicit issues (such as pay determination) is not a feature of EU social dialogue; however, a certain amount of *coordination* of the collective bargaining in Member States can be observed. “National trade unions and European industry federations, such as the European Metalworks Federation, have developed what has become known as ‘virtual’ or ‘arms-length bargaining’. This involved national actors’ awareness of cross-national developments as well as agreeing to comply with minimum standards: for example, that all pay agreements exceed inflation.” (Ibid)

According to reports by Eurofound and EIRO, and statements made by interviewees themselves, the decentralization of collective bargaining has increased in importance in recent years, with company and plant-level negotiations complementing agreements signed at the sectoral and cross-sectoral levels. Centralization of collective bargaining means that collective agreements will cover all employers in the country or the sector, regardless of whether certain groups of workers are or are not members of trade unions. Decentralization means that social partners agree to delegate the right to negotiate on certain issues to company-level representatives; this is significant because it has the likely effect of redefining relations between employers and trade unions, as well as redefining boundaries and relations between company-level actors such as works councils and existing trade unions.

EU as employment and industrial relations regulator

In addition to the growing social profile of the EU as a whole and its accompanying increase in the authority of European social dialogue with each new Treaty development, the EU has increased its regulatory profile with the EU Charter of Fundamental Rights, which entered in force in EU Law with the ratification of the Treaty of Lisbon in 2009. The Charter mostly serves to reinforce existing rights that were already explicit at national and international levels in a European context, but goes further in enshrining certain political, social, and economic rights for EU citizens and residents into EU law. The charter is divided into seven titles; the fourth title covers social rights and worker rights, including the right to fair working conditions, protection against unjustified dismissal, and access to health care (Lisbon Treaty 2012). Eurofound states:

“The EU Charter of Fundamental Rights has important implications for the European social model in general and for the concept of EU citizenship, particularly in the spheres of employment and industrial relations...[this European model] requires legitimate institutional governance structures and the EU Charter can play a major role in this regard. The Charter’s fundamental rights ascribe legitimacy to collective bargaining and collective action, and information and consultation on a wide range of issues at company level. Affirming rights to engage in work, vocational training, equal opportunities, and other social and labour standards provides support for the distinctive EU model of individual employment relationships,”
(Eurofound 2011c, p.4)

The significance of the Charter with relevance to European social dialogue is that the increasing autonomy of the social partners in a bipartite framework complements the strategy behind European social policies to rely more on “soft”

law (process-oriented texts, joint opinions and tools, implementation by social partners) than on “hard” law (directives). This is parallel to what Gerda Falkner’s describes as European social dialogue acting in the “shadow” of law; not only does a reliance on autonomous social dialogue provide an organized legitimization of final output, given that the actors involved in the dialogue are non-governmental and unattached to major EU institutions, it also offers a non-threatening mechanism for suggested practice (Falkner 2000, 709; Bercusson 1992, 105). Texts, opinions and joint tools are non-binding and without the enforcement instruments of directives. They are also attractive tools to use for accounting for diversity in and among various interest groups and member states, as outputs that remain in the ‘shadow’ of EU law can be adopted (or not) with a large amount of nuance.

Perceptions of the EU as employment and industrial relations regulator

Interviewees at the European level all emphasized the 1992 Maastricht Treaty as being an important turning point for social dialogue. The new rule that obliged the Commission to consult social partners on any labour market issue raised the status of social dialogue among supranational actors and domestic interest groups alike: “There’s now expectations placed on social partners to operate autonomously from government, and this has carried through to new enlarging countries...never would have happened otherwise...[a] strong social dialogue process given to new Member States by European level, labour and business” (Interview B1). This is a significant observation in the sense that it offers

potentially new avenues of agenda-setting for social partners at the national level: “social partners [that are UEAPME members] might show strong interest in any issue at European level, might learn how to grow by exploiting tools or agendas from the higher level” (Interview B7). A BE representative emphasized the creation of joint work programmes in 2003 as being very significant for European social dialogue; whereas previous phases of BE activity were guided by EU objectives, social partners are now consulted early, right when the Commission initiates (Interview B5). By contrast, CEEP interviewees stated that “CEEP is also auto-critical of ourselves and of social dialogue as a whole...it’s time to make an assessment of how social dialogue is driven and how the future will be carried out. We are now very reactive and defensive, too much about Commission and not about members” (Interview B6). This statement highlights the instruments available to the social partners as set up by the Commission; Treaty Articles 137/8 lets the social partners address social and working conditions through social agreements only, and are then potentially transformed into binding social directives on basic working conditions, but more likely are translated into non-binding framework agreements (Interview B2).

As a direct result of the limitations on certain instruments available to the social partners, as well as the overarching limitations of EU governance over its Member States, one would be careful to say “European Social Dialogue” and never “European Collective Bargaining”. In terms of trends with collective bargaining, interviewees at the European level emphasized that domestic trends toward

decentralization – meaning, the opening of clauses at enterprise level – has been a practice encouraged much more by employers than by workers. “Wages are the first natural thing to be targeted for adjustment, this ‘fallacy of composition’ ...and the European recommendations helped this along, because wages in line with productivity at the enterprise level equals decentralization” (Interview B2). In this context, Europe has played a role in stimulating the use of national social pacts in different countries by driving forward the single currency: “Because inflationary wage spirals had to be contained, EMU made sense, but crisis and no response to demand-side meant that Member States used social pacts to devalue wages...beggar-thy-neighbour language and policies. Social pacts for all economic problems,” (Ibid).

A semi-recent development related to decentralization and the interaction between EU-domestic systems of industrial relations, brought up by numerous interviewees, is the system of European Works Councils (EWCs). EWCs arose from Directive (94/45/EC) in 1994, which mandated that companies with at least 1,000 employees within the EU and at least 150 employees in each of at least two Member States would have to set up works councils for the purposes of informing and consulting employees (Europa 2009b). The same rules apply to outside firms with operations in at least two EU Member States – employee thresholds are the sole criteria. According to ETUI-REHS interviewees, EWCs were created to offer some balance of representation for workers in the face of increased transnational restructuring, and to create venues for consistent lines of communication between

employers and workers in different countries – in essence, establishing the circumstances for worker representatives to develop a common European response to the transnational plans of management. “For the ‘Europeanization’ of industrial relations you could say that worker participation is being Europeanized with the EWCs and the revisiting of the directive,” (Interview B4). The directive was updated and ‘recast’ in 2009 to improve upon definitions of information and consultation, respectively, and to specify the obligations of employers to provide the training for EWCs (Europa 2009b). The content of the recast directive was disappointing for the trade unions, in both institutional aspects and content, and according to the ETUI interviewee this was due to the general pressure placed on the Commission and the European Parliament’s Employment and Social Affairs Committee (EP ECO-SOC) by BE and its affiliates (Interview B4). The same interviewee asserted that the idea of EWCs stemmed from the French system of creating “group works councils” out of multiple works councils for French companies with multiple subsidiaries; this process caught on at the European level as many French companies went international in the late 1980s: “In 1994 the [EWC] Directive was against the will of the employers...[now] employers are against any legal reinforcement of rights conferred to EWCs...BE thinks excessive legal burden on enterprise, as of start of 2008,” (Ibid). However, despite the objections of BE in the 1990s, the idea of worker consultation has become regularized as a recommended practice within large European companies. This is now a legal obligation for any company within any EU Member State that meets a

certain threshold of employees (see Chapter 5); however, according to interviewees from ETUI and BE, companies that are even just under the threshold criteria are sometimes choosing to form works councils – particularly in Scandinavia and France and Germany – out of a “best practice” model (Interviews B4 and B5). What this tells us is that the process of worker consultation has essentially become institutionalized as a feature of the European social model. The objections of employers – all of which basically center around wanting to avoid placing undue burdens on companies and enterprises – have changed from the notion of arguing against consultation bodies in any form and have become arguments in favour of maintaining consultation systems as simple, voluntaristic, and non-union affiliated as possible (see Chapter 5 for a more in-depth discussion of the EU Directive on the Information and Consultation of Workers).

Interviewees also emphasized the two-way directionality characteristic of any influence going in and out of the European level: “Remember that ETUC is in a coordinative role only, so what goes in is up to country level. It depends on trade union strategies within the countries, and ETUC can help with extent of practices, information, campaigns” (Interview B3). At the same time, there is “no individual trade union access to the European level. Always has to be through a national confederation, unless there’s some expert to bring in the information only” (Ibid). An interview with a representative from the EP’s ECO-SOC Committee stated that the increase of directives and agreements on contentious subjects such as working time and temporary work agencies signal the progress of social partners at the

national level in Member States, as both sides of industry at the European level have been better prepared to negotiate based on the contributions from their respective affiliates (Interview B9). The essence of this statement signals the dependence of European social dialogue on functioning federative peak organizations in EU Member States. More critically, this statement suggests the part of the substantive impact of the European level on domestic social partners. If the opportunity for negotiation, and information-sharing for certain issues exists at the European level more so than the domestic level, and if the viability of such opportunity depends in large part on the capability of organized workers and employers within a national setting, then the process of Europeanization in industrial relations is such that domestic organized interests are utilizing the European level as a simultaneous avenue for access to agenda-setters and for reinforcement of their own capabilities, particularly for issues that remain contentious at the national level.

A 2011 report (Voss 2011) prepared by the major European social partners which assesses the results of European Social Dialogue to date, and includes a stock-taking survey of national social partners in EU Member States, corroborates the above suggestions. In various country responses in the survey, the social partners throughout Europe on the whole,

“stressed the role of European social dialogue in providing a framework and reference point for discussions at national level on issues that are already under examination or were regarded as important... This important role of autonomous framework agreements was also confirmed and stressed by interview partners from countries that are characterized by mature structures of social

dialogue (p.15)...highlighted the close link between European and national social dialogues (p.16)...the EU level agreements and joint initiatives had a positive influence on national social dialogue...[certain] social partners were able to overcome some difficulties in the discussion process,” (p.17).

The report also highlights the commonalities of survey responses between employers and unions and the differences between the two groups. Overall the report findings suggest a generally positive view of specific labour market initiatives at the EU level from employers, and a somewhat skeptical view of the same initiatives from unions:

“A first and quite striking observation of survey replies is that many employers have interpreted the joint labour market analysis as an important contribution to the flexicurity discussion in Europe, as well as in their respective countries...in contrast to this, trade union representatives have expressed concerns about this kind of ‘instrumentalization’ of the joint analysis and also the Europe 2020 statement that are formulated very broadly ‘*thus giving leeway for constructive ambiguity*’ (p.31, italics in text)...[specific worker federations] reports the joint labour market analysis has been interpreted by the national government as a recommendation that was used to justify liberalization of the law on dismissals,” (p.32).

On a more critical note, some social partners – and trade union organizations in particular – indicated that autonomous framework agreements are not serious enough mechanisms to have any real influence on labour and social relationships in their respective national background. Responses from trade union organizations indicated that stronger implementation mechanisms and practices would be helpful, along with accompanying mechanisms to measure and assess results (p.36). Procedurally, the report states that the most important factor of successful implementation of agreements and directives that results in concrete

action and has a real impact at national level, according to the interview partners, is a “well-structured, operational bilateral as well as trilateral social dialogue” (p.35). The trilateral component in particular is emphasized, citing numerous examples of national-level committees and councils that facilitate social dialogue. This illustrates that certain national conditions – such as the strength or weakness of governmental administrations and the various bureaucratic structures that are attached to them, for instance economic-social councils or labour-relations advisory boards – are “fostering or hindering successful implementation and concrete achievements for the outcomes of European social dialogue at the level of individual Member States,” (Ibid). This is reinforced more generally with the report’s overall conclusions, which include:

“Perhaps the most important result is that social partners...underline the clear added-value of European cross-sectoral social dialogue...However, our survey has also shown that social partners throughout Europe are concerned about recent developments at the European as well as national policy level that are undermining a strong role of social dialogue in policy making and decision taking... Though there is no single path for successful implementation, the responses to our survey and the comments made in the conference show that implementation has been most effective in those cases where national social partners are able to develop joint positions and initiatives and where these fit into the agenda of governments...With regard to concrete outcomes and achievements of European social dialogue, national social partners have highlighted and appreciated many concrete positive results in social and working life in Europe, *including the strengthening of national social dialogue itself, in particular in those European countries where social partners and social dialogue do not play a very important role at this time,*” (p.46, italics mine).

The next two sections examine industrial relations in Ireland and Italy respectively. Each section offers an overview of the industrial relations landscape

in the country, followed by an analysis of domestic social dialogue and an overview of perceptions in the country from relevant interviewees.

Domestic Level

Ireland

Up until 2009, Ireland had been the exemplar of economic success of the EU member states, transforming itself from one of Europe's poorest countries into one of the wealthiest. The country's economic transformation began in 1987 and overlapped in time with the Irish institutionalization of social partnership. Whether social partnership contributed to economic success or whether economic success facilitated the institutionalization of social partnership is a discussion under repeated debate among economists (see below); generally noteworthy however is that formal tripartite discussion was a permanent feature of the Irish landscape during the golden years of 1987-2009. For the Irish case, social dialogue generally refers to the national level negotiations between the social partners to discuss various aspects of working conditions, but more specifically and more commonly refers to the centralized determination of wage increases through three-year collective agreements that are negotiated on a tripartite basis.

The main social partners in Ireland are the Irish Congress of Trade Unions (ICTU) and the Irish Business and Employers Confederation (IBEC). Each organization is the national level umbrella body for all the respective organized interests therein – ICTU representing 55 unions and comprising the largest civil society organization in Ireland (ICTU website), and IBEC representing

approximately 7,500 members, or 70% firms employing the private sector workforce in Ireland (IBEC website). Both organizations are the central components of labour and management involved in social partnership and national social pacts. Unlike IBEC, ICTU is consensus-based rather than an authoritative peak federation. The institutionalization of social partnership helped increase ICTU's power position relative to IBEC and government, despite little change in its position relative to its affiliate members, simply because the advent of social partnership increased the formal powers of organized workers in the context of national-level negotiation of Irish "programmes" (O'Donnell, Adshead, and Thomas 2011, 113). IBEC also remained generally supportive of partnership, "as long as the terms of the pay agreements could be sold to firms and statutory union recognition was not conceded." (Ibid, 114)

The Irish case is interesting for being a fundamentally voluntarist¹⁴ industrial relations system intertwined with a commitment to semi-formal coordination of labour-management dialogue on key economic issues – a definitive example of the hybridization of free-market capitalism with traditionally conventional Western European social protections. Prior to 1987, bargaining on working conditions had taken place on a local level, and the government was exerting pressure on unions and employers to invoke national-level agreements with the aim of stemming industrial conflict. Irish industrial relations were similar to the UK's purely voluntarist system, with highly adversarial relationships

¹⁴ As noted, in Chapter 2, "voluntarism" in the context of industrial relations connotes a system with minimal legal interventions and mandates for the behavior of organized interests, and does *not* necessarily mean a system with non-intervention by government in collective bargaining.

between management and unions, and uncoordinated collective bargaining at a decentralized level (Ibid, 90-92). Economic conditions during this time were characterized by weak economic growth, high unemployment and high inflation, all of which led to increased emigration and unsustainable government borrowing and national debt. In 1987 the Programme for National Recovery (PNR) was negotiated between government, trade unions and employers, and was accompanied by a revised National Economic and Social Council (NESC) that produced a consultative tripartite body.

The development and acceptance of the PNR signalled a shared understanding of the problems facing the Irish economy at the same, whereas previous attempts at centralized negotiations had been marred by a lack of consensus on the main determinants of economic crisis. The PNR underlined the importance of reducing public expenditures and public debt, maintaining a stable exchange rate policy, and of enhancing competitiveness of traded sectors by keeping average cost increases below the weighted average of Ireland's major trading partners (Baccaro and Simoni 2004, p.2). The major concessions achieved with the PNR were: the trade unions agreeing to limit wage increases to a set amount for the three years covered by the PNR, as well as promising to not take industrial action that would result in additional cost increases for employers; and government agreeing to reform the tax system so that take-home pay would be increased, and agreeing to maintain the existing value of social welfare allowances (Ibid).

Aside from debates among economists and academics alike concerning cause-effect relationships between tripartite negotiation and economic growth, the recovery of the Irish economy between the years of 1987-1990 solidified the role of social partnership in national economic and social policy. Although Ireland's economic success from the late 1980s onward is frequently attributed in part to the institutionalization of national social pacts (Auer 2000; Mac Sharry and White 2000), there is a substantial debate in the field of economics over whether Irish economic improvement and the introduction of social pacts are merely epiphenomenal, or just coincidental in terms of timing. The economics literature that discounts this overlap explains the Irish boom as resulting in large part from massive flows of foreign direct investment (FDI), as well as educational policies that increased the supply of skilled labour at the same time that demand was also increasing (Barry 1999; Fitz Gerald 1999). Economists writing in the early 1990s argued that the benefits of centralized bargaining were more in bringing about industrial peace than in lowering wage increases; some even go as far as to say that wages could have been lower without centralized agreements, and that high unemployment alone might have weakened the unions enough to tame Irish industrial relations (Durkan 1992). To others, the effects of social partnership have simply been largely overestimated, and have "validate[d] the results which market forces had made inevitable" (Fitz Gerald 1999, 162). Those economists that *do* posit that the link between social partnership and economic growth is significant argue that social pacts introduced important changes in the process of wage

formation in Ireland: “Thanks to social partnership, wage increases in the ‘dynamic’ multinational sector (characterized by high productivity growth) came to be tightly linked with wage and productivity increases in the much more sluggish domestic portion of the manufacturing sector. This represented an important departure from the recent past, when wage settlements stuck in the high productivity sector had unduly influenced the process of wage formation in the economy as a whole and thus led to labour shedding in the low productivity sectors.” (Baccaro and Simoni 2004, 1)

Economic arguments aside, the view that social partnership played a fundamental role in the making of Ireland’s economic miracle is one that is shared by a large part of the Irish population (Fitzgerald and Girvin 2000, 283, from poll respondents) and policy makers alike. Interviewees in the Irish government spoke of the “Irish experience of social partnership helping reduce widespread economic problems” (Interview E3) and the experience of how “certainly Ireland...[shows how] social pacts can and do play an important role in creating viable economic circumstances” (Interview E3). ICTU and IBEC each expressed similar views, although from implicitly different starting points. An ICTU interviewee stated that social partnership “gets the joint discussion going, whether fruitful or no...[even if] employers say no it broaches the topic and has us heard,” (Interview E1), insinuating that social partnership is at least one important point of access trade unions have open to them to argue the side of workers in the face of large businesses and their relative power. IBEC instead offered that social partnership is

“an important method of dialogue to help increase people’s employability with more foresight,” (Interview E2), which perhaps implies that the value of social partnership is what it does to alleviate industrial action and adversarial relations between labour and management. Implications aside, neither ICTU nor IBEC interviewees perceived their respective bargaining position to be eroded by the process of social partnership, or by what social partnership achieved for employers and aggregate productivity.

Following the PNR, national social pacts were negotiated every three years and social partnership “became the backbone of Irish economic policy” (Fitz Gerald and Girvin 2000, p.3). These agreements contained wage guidelines and a number of social and economic measures, and each agreement was preceded by a NESC Strategy Report, which provided the analytical underpinnings for discussion on specific issues. In addition to the empirical successes of each national social pact, the political component of social partnership was to shape the trajectory of Irish industrial relations into a less conventional style of corporatism: corporatism, as the formalization of tripartite concertation in regular national social pacts follows the basic logic of institutionalized interaction between government and single interest representatives; less conventional, because the Irish method of social partnership reflected a particular contextual solution to wage restraint and taxation only. The Irish method also did not evolve out of the more traditional Christian-social-democratic ideological approach to interest involvement in broader economic policies, and did not involve the state to the extent that the more

established corporatist models (such as in Austria or Scandinavia) do. Generally, the bargaining realm was much more circumscribed than traditionally the case in corporatist systems. Also notable in the Irish context is its continued use of national pacts during times of economic downturn as well as economic growth, and as opposed to the Italian case discussed below, during both the run-up to the adoption of the euro currency and in the years following acceptance into the euro zone.

The basic structure for agreements has remained more or less consistent since 1987 – an exchange of wage restraint for tax cuts against a backdrop of general fiscal conservatism and international competitiveness. As the Irish economy grew throughout the 1990s, social partnership also sought to address social inequalities and exclusion, first by keeping constant the real value of transfers, and then after a few years of sustained growth, through substantive measures such as greater wage increases and more public attention to / spending on areas such as housing, childcare, and skill development. Irish social partnership also remained steady during these years despite changes in government and the political parties involved in governing coalitions – each new national social pact building upon the prior successes of previous social dialogue (Ibid, p.4).

The connection during this period to developments at the European level is the parallel between the evolution of EU social dialogue and the institutionalization of Irish social partnership, and how each side used the other's example to boost capacity. As the Irish economy grew in size and strength during the 1990s and early 2000s, Irish interest groups seized the example of social dialogue at the EU level

for the purpose of arguing that social partnership at home was important for economic productivity. Irish employers, according to an ICTU interviewee, at times used the example of how the EU social partners were increasingly entitled to autonomous negotiations to argue that social partnership in Ireland might benefit from similar autonomy – a point not entirely supported by trade unions: “we need to keep our piece of the chain...the European dimension has lots of attention,” (Interview E1). The EU level – either by official Commission press releases or by statements made by EU social partners – has occasionally drawn upon the example of Irish social partnership as justification for emphasizing the importance of organized social dialogue: “[the] Irish economy has strong parallels to the European level...Irish case more so toward the economic situation, economics being the main driving force. Fed well however into the European project,” (Interview B1).

Social partnership in Ireland took a turn during the financial crisis beginning in 2008, which had an enormous effect on the Irish economy. This event is noteworthy for Irish industrial relations as national social pacts up until this point had become an institutionalized feature of the social economic policy-making process, through times of crisis and times of prosperity equally. The combination of the burst of the housing bubble, high debt, and quickly rising unemployment placed pressure on the centralized wage agreements of the public sector as compared to the wage and job cuts experienced in the private sector. Efforts were undertaken to broker a transition agreement in the image of previous national social pacts, but

IBEC, the main employer body, formally withdrew from negotiations when ICTU failed to agree to a suspension of pay terms. Government then unilaterally increased taxation and reduced public pay, severely weakening the position of Irish trade unions (O'Donnell, Adshead, and Thomas 2011, 117). IBEC, speaking in December 2009, stated: "we are entering a period of enterprise level bargaining in unionised employments" (Industrial Relations News 2010, 3), casting doubt over the possibility of revitalizing the previous model of institutionalized social pacts at the national level. More generally, IBEC's unilateral abandonment of social partnership at large casts doubt over the very notion of "institutionalized" social pacts in Ireland. Just as economic crisis spurred the motivation for social partnership in the late 1980s, economic crisis spurred the disassembly of the same model in 2009-2010. Either event illustrates the fundamentally voluntarist nature of Irish industrial relations, where the process of labour-management negotiation has been coordinated and binding, but always outside the framework of the law.

Indeed, in 2011, statements were issued from the Irish government indicating that any return to a more formalized style of tripartite negotiation in Ireland was unlikely; instead, government announced that legislation was being prepared by the Department of Enterprise and Jobs to streamline industrial relations machinery, and in doing so would also give effect to a commitment in the program for government to reform workers rights to engage in collective bargaining: "The Tánaiste said that while a return to social partnership structures of the past was unlikely, there were real benefits for a country like Ireland from effective social

dialogue in terms of greater certainty for investors, maintaining industrial peace and strengthening social solidarity,” (Wall 2011, *The Irish Times*). A 2011 EIRO report stated that the newly elected Irish government was undergoing efforts to rebrand social *partnership* into social *dialogue*, citing broad government statements in favour of coordination without obligation to specific areas (EIRO 2011). No explicit statement was made at the time on what ‘effective social dialogue’ in this new form might look like, but a certain amount of urgency is visible in news statements concerning issues on the table. Ireland is obliged to transpose an EU directive on the entitlements of agency workers by December 2012, and the current government program contains a commitment to ensure that Irish law on the right of employees to engage in collective bargaining is consistent with recent judgments of the European Court of Human Rights: “This is a hugely important issue for the unions. However, it is seen as equally crucial by employer groups who strongly oppose any suggestion of mandatory trade union recognition.” (Slattery 2010, *The Irish Times*)

Both social partnership and representation in Ireland have, since 1987, remained predominantly at the national level. Despite the growth of social partnership, enterprise-level representation and/or negotiation has not been a regular feature of Irish industrial relations. Baccaro and Simoni attribute this to the “dualistic structure of the Irish economy”, which is divided into foreign and domestic components, each characterized by completely different conditions of efficiency and profitability (2004, 7). The manufacturing sector was and is, in large

part, foreign-owned, making multinational companies of fundamental importance for the Irish economy as the manufacturing sector alone played an enormous role in generating the Irish economic miracle of the 1990s. The presence of multinational companies and foreign-ownership of industry contributed, arguably, to hindering the formation of workplace channels of labour representation: “This is partly because under an industrial relations system still largely guided by voluntarism and with many competitive strategies open to firms, employers have adopted a diverse range of approaches to employment regulation, many of which are guided by managerial prerogative and/or weak and diluted forms of employee involvement in company decision-making,” (Dobbins 2008, 4).

At the same time, Hancké and Rhodes (2005) argue that the conditions for national social pacts in Ireland are accelerated by the absence of solid micro-foundations for wage bargaining and training, making the institutionalization of social pacts at the national level a much more functional possibility. O’Donnell, Adshead, and Thomas argue instead that more recent industrial relations challenges, such as the increased salience of individual employee rights defined in both EU and national law, necessarily need government involvement in order to appropriately implement legal statutes, thereby encouraging an increased role for the state in underpinning employee rights and benefits (2011, 112). Without available infrastructure for systematic enterprise level representation in a country the size of Ireland (small relative to other EU Member States), the combination of voluntarism and a high reliance on foreign direct investment has, to date, helped

institutionalize social partnership at the national level only. This point is relevant as the present financial crisis and accompanying failure of social partnership coincide with efforts at the EU level to further legalize the rights of employees as individuals and to garner consensus in businesses in order to stay competitive by promoting effective channels of representation and negotiation that reflect the particular characteristics of different companies (see Chapter 5).

Interaction between the EU and Irish levels

In general, Ireland has long been held up as an example of an EU success story in terms of its economic performance in the context of liberalization and the EU's Single Market. Even the recent financial crisis has not dimmed the generally pro-EU stance of Irish politics and Irish public opinion, in part due to the perception that the EU will likely play a large part in encouraging economic recovery in Ireland (Gartland 2009, *The Irish Times*). In the time period of 1992-1998, during which Ireland was attempting to meet the Maastricht convergence criteria¹⁵ in order to adopt the single currency of the euro, the 1994-6 "Programme for Competitiveness and Work" (PCW) was introduced through social partnership and included specific recognitions that economic policy over the course of the

¹⁵ The Maastricht convergence criteria are the criteria needed for EU Member States to enter the third phase of Economic and Monetary Union and adopt the euro as currency. The four main criteria are based on Article 121(1) of the 1992 Treaty on European Union: inflation rates should be no more than 1.5% percentage points higher than the average of the three best performing member states of the EU; the ratio of the government deficit to gross GDP should not exceed 3%; the ratio of gross government debt to GDP should not exceed 60%; and the nominal long-term interest rate should not be more than 2 percentage points higher than in the three lowest inflation member states (Dinan 2010).

PCW needed to be dealt with in the overarching context of adopting the euro. Ireland successfully became one of the first-wave countries to adopt the euro in 1999, and as a country with a previously weak currency (after ending its peg to British sterling in 1979), Ireland immediately experienced a significant drop in interest rates after its transition to the new currency with the resulting ability to borrow large sums of money that had previously been unavailable to Irish banks or consumers.

Eurobarometer data from 2009 shows that the global financial crisis had little to no effect on Irish attitudes to European integration, Irish images of the EU, or general Irish support for monetary union. At the time of the survey publication Ireland had the fourth highest level of support for European integration and was 16 points ahead of the European average; on the benefits indicator, Ireland shared first position with Slovakia. Public perception of benefits accruing from membership of the EU was at 79%, while approval rates for the single currency were well over 80% (Eurobarometer 2009a).

Interviewees had markedly varying perspectives on the influence of EU social dialogue on the Irish system. An ICTU representative stated that in many ways, recent developments (speaking in 2008) in the EU could be construed as the “voluntarist system under attack” from two angles: the perception of the Commission sharing more interests with employers rather than workers (“Commission use to be the workers’ friend, now more on employers’ side”) and the perception of Germany trying to upload their system of industrial relations into

a general EU model (“Germany’s trying to impose their system [of information and consultation], but Ireland doesn’t have big industrial complexes, and it hasn’t resulted in the type of union recognition that trade unions had hoped for or employers’ feared”) (Interview E1). IBEC, by contrast, indicated that European social dialogue in general has been effective because the framework agreements and directives it produces allow for a great deal of flexibility and local nuance in implementation, depending on the company and/or the nature of the prescription in question. The IBEC interviewee also allowed that in general, employers prefer much more minimalist direction and legislation from either the European or the domestic level, whereas trade unions tend to prefer more detail and stricter mechanisms of enforcement (Interview E2). The Department of Enterprise, Trade and Employment asserted that arguments concerning the “erosion of voluntarism are too strong,” in that national circumstances still dictate the specific shape and form of EU mandates. To the extent of national social pacts, and domestic developments to do with issues pertaining to industrial relations, the EU holds a powerful role in the form of economic policies: “if something is on the table domestically, [it] needs to be aware of what’s happening at the EU level if only to make sure that nothing will contradict or cause problems down the road. A lot of national policy development is the result of EU Directives.” (Interview E3).

For both ICTU and IBEC, the implementation of social dialogue in the EU and EU Treaties as legitimate instruments of policy making (alongside legislation) has been an important achievement. The European social dialogue is sometimes

seen as complementing and reinforcing the national agenda: “gives extra validation for the national dialogue...makes us sharpen up at home in order to use European social dialogue” (Interview E1). In terms of autonomy or independence, however, the Irish social partners both expressed skepticism on the subject of Ireland imitating the increasingly bipartite model of social dialogue at the EU level. The ‘voluntarist’ nature of Irish industrial relations is voluntary in the sense of minimum intervention by the law, rather than non-intervention by government in collective bargaining (Gunnigle 1998). The main trend in industrial relations from 1987 onward, aside from the institutionalization of national social pacts, has been the growth of individual-rights-based employment law, in large part emanating from European labour law (Gunnigle 1998, and Interview E2). Because this growth in employment law¹⁶ is relatively new for Ireland, the participation of government in moving towards an increasingly legalistic system has been invaluable for unions (Interview E1). The success of national social pacts from the late 1980s until 2010 has also not provided an urgent need for independent, rather than tripartite, social partnership.

Despite the Irish experience with national social pacts, there is widespread awareness and some criticism of the fact that the social partnership approach has not extended to the enterprise level. In large part, criticism was expressed by employer organizations only. IBEC stated that wage agreements at the national level only, with no definitive room for enterprise adjustment, “might pose a

¹⁶ Examples include unfair dismissal, redundancy compensation, health and safety, equality, maternity protection, adoptive and parental leave, atypical work, working time, and the introduction of a national minimum wage in 2000.

problem to competitiveness” (Interview E2). The Irish Small and Medium Enterprises Association (ISME), as quoted in the 2011 report by the EU Social Partners, stated that, “The impact [of European social dialogue and its resulting agreements], particularly on parental leave and fixed term contracts, has further undermined flexibility in the workforce for labour intensive SMEs and added to the administrative burdens for these enterprises. The impact also negatively affects cost competitiveness of SMEs... There needs to be more emphasis on the unique concerns and issues affecting SMEs and less influence by big business and the Trade Unions.” (ISME in Voss 2011, 45)

In general, most interviewees spoke of the Irish economy (as of late 2008) and its parallels to the European level. “Economics have been the main driving force towards organized social dialogue in Ireland. Fed well however into the European project. Ireland’s also used as model for an example of social partners success and fantastic [economic] success of Ireland... Irish ministers often cite social partners agreements as big source of stability,” (Interview B1). This statement was echoed in the Irish social partners themselves. The perception of the potential influence of the European level for Irish industrial relations, broadly speaking, was in the import of specific legal requirements in the forms of directives and individual employee rights, and to a lesser extent, in the validation of social partnership as a tool for economic growth and social stability.

Italy

The industrial relations context in Italy is more complicated than in Ireland, due to a larger number of actors, a less streamlined system of negotiation and interaction, and a much higher degree of politicization of labour-management relations in general. Also in contrast to Ireland, where foreign direct investment in the manufacturing sector plays a significant role in the background of economic and employment systems, Italy has a few distinct economic characteristics: manufacturing in terms of both GDP and employment is higher than the EU average and is similar to that of Germany; unlike Germany, the average company size in Italy is small; a sharp difference in industry, economics and employment between the north and south of the country (Pedersini 2010, 2). These characteristics are also set in the context of a significant degree of adversarial politics and relatively weak governments. Taken together, industrial relations in Italy offers a much more intricate and convoluted picture of labour-management relations, relative to both Ireland and the EU level.

There are three dominant trade union confederations: Confederazione Generale Italiana del Lavoro (CGIL General Italian Confederation of Labour), Confederazione Italiana dei Sindacati Lavoratori (CISL, Italian Confederation of Workers' Unions), and Unione Italiana del Lavoro (UIL, Italian Union of Labour). Each confederation represents a different political orientation, or at least a different legacy of political orientation. CGIL was mostly linked to the former communist and socialist parties of the post-war era. Despite the disappearance of these parties in the early 1990s, political affiliations remain important. CISL was affiliated with

the long-standing former Christian-Democratic party of the post-war era, which also disappeared in the early 1990s, and is now linked with parties of the centre-left. The UIL is associated with the socialist and republican parties – those of the noncommunist, reformist left of spectrum. All three confederations are organized by industry, with UIL also being the confederation to represent the public sector. All three confederations have also frequently acted as a united front, although there have been several instances where divergences in opinion have derailed proposed agreements (Ibid, 5).

There are several large employer confederations, the most important one being Confederazione Generale dell'Industria Italiana (Confindustria). Confindustria acts on behalf of private employers in relations with trade unions as well as the employers' common representative responsible for economic and industrial policy. As of late 2011, Confindustria represents 123,000 industrial enterprises employing more than 4.7 million workers over a total of 17.6 million people employed in the entire private sector. 85% of member companies employ less than 50 employees, and 60% less than 15 employees. The political affiliations of employers' organizations are less significant than those for trade unions, due in part to significant changes in the national political scene in the early 1990s and to a large scale privatization program of the late 1990s (Ibid, 6).

The legal context of Italian industrial relations has both voluntaristic and heavily formal components. On the one hand, legal institutions are rare and the autonomy of all parties involved in industrial relations is high, connoting

voluntarism in the absence of codified legal rules. On the other hand, the widespread political and economic reforms of the early 1990s (an outgrowth of the anti-corruption scandal and aftermath) have helped to institutionalize important framework agreements that have arguably set the stage for formalized tripartite concertation in Italy. One significant legal statute is the Workers' Statute of 1970, which identifies a basic set of individual and union rights and a legal code for strike action in public services. The major institutional framework coming out of the anti-corruption scandal was the central tripartite agreement of 1993, which introduced new systems for incomes policy, a restructuring of bargaining procedures, modifications of forms of workplace union representation, and new policies on employment: "This agreement can be regarded as the first effort to create a systematic framework for workplace-level representation and collective bargaining," (Ibid, 4). Since this framework, tripartite agreements have addressed numerous issues in the 1990s, including incomes policy, pension reform, labour market reform and economic growth, as well as general public spending reforms set in the context of adopting the euro.

In the 2000s, tripartite negotiations were used less often and with less success, culminating in the failure of the CGIL to sign the 2009 tripartite accord. This accord introduced experimental reform of the collective bargaining system by breaking up some of the national bargaining structure into diversifications across sector and confederations through intersectoral agreements (Ibid). It also included commitments to wage moderation and the promotion of company bargaining on

productivity and competitiveness, underlying the assumption that companies need greater adaptability to compete in the market. The then Vice-President of Confindustria stated: “at company level it is possible to respond more directly to the needs of workers and employers, thereby improving productivity and competitiveness, two crucial elements in this phase to cope with the economic situation,” (Pedersini 2009, 1). While ultimately the January 2009 agreement was upheld, CGIL’s refusal to sign was a big drawback. The agreement left much of the implementation details to further intersectoral and industry-wide bargaining, and CGIL’s absence has been significant in stalling any real reform of collective bargaining in the time since 2009. CGIL’s perception of the agreement was that it was intentionally designed to weaken the trade union front and industrial relations in general, and that it had the potential to erode real wages and weaken worker protections (Ibid). The larger significance of CGIL’s objection was that it cemented the division between itself (the largest trade union confederation) and the rest of the national trade union front, thereby reinforcing the volatility of the labour front.

An immediate parallel between the Irish and Italian cases is each country’s debt-crisis-era response in the realm of social dialogue as a measure both of its institutionalization and functionality for economic adjustment. The failure of Italian industrial relations to fully institutionalize tripartite concertation in the past 20 years is what Regini and Colombo refer to as the Italian “rise and decline of social pacts,” and what they explain by three major factors. First, all successful social pacts in Italy in the 1990s and 2000s took place in a climate of economic

emergency only, whereas unsuccessful attempts at tripartite concertation took place almost exclusively during times characterized by a lack of economic urgency. Second, a general feature of social pacts in Italy has been the weakness of the governmental coalitions that looked to concertation as a means of enhancing their legitimacy. Third, the major trade unions in Italy are moderately strong compared to major trade unions across Europe yet are beset by frequent internal divisions, thus hampering the potential of social partnership to fully institutionalize (Regini and Colombo 2011, 118). The three factors taken together indicate the power dynamics of the actors involved in social partnership – government, unions and employers. When economic crises were not the central motivation for negotiation and resolution, the centrality “of the degree of organizational unity [became] an important variable affecting the perception of actors’ relative power... whenever power shifted to governments and employers for either structural reasons to due to trade union divisions, social pacts entered a path of deinstitutionalization.” (Ibid, 118-119) Baccaro and Lim’s findings (2007) support this argument by emphasizing the role of employers in *institutionalizing* social partnership; while the rise of national social pacts, and the social dialogue that goes along with it, may be attributed to internal and external economic factors, the degree to which social partnership becomes institutionalized in domestic systems of industrial relations depends in large part on whether employer organizations perceive utility for their own interests in negotiation, either in an autonomous or tripartite manner. In this sense, employer strategies are not necessarily uniformly hostile to the idea of social

dialogue or of supporting a productive workforce; instead, national social pacts (and related trends of social dialogue) in both Ireland and Italy reveal a certain amount of initiative on the part of management to bring labour along on a path that tries to reap the benefits of European integration by using social dialogue to enhance productivity and competitiveness.

The links between the major trade unions and political parties are, according to some interviewees, very powerful and yet completely informal (Interviews I4 and I5). In one interviewee's opinion, (UIL), the politicization of unions has almost always been a factor in the destabilization of negotiations; the period of 1992-1998 may have been characterized by a great amount of social partnership only because of the need to manage fiscal policy in the direction of adopting the single currency, rather than because of any temporary depoliticization of industrial relations (Interview I2). After the European Commission officially approved Italy's participation in the first-wave of euro-zone members, the climate of unusual consensus among the major social partners failed to capitalize on any existing momentum (Sbragia 2001); the overarching context of EMU in the 1990s highlights the limited range of viable options available to policymakers during times of economic crisis – real or perceived (Ragini 2003). This same time period is also one where a series of 'technocratic' governments took office in the aftermath of the *Mani Pulite* (Clean Hands) anti-corruption investigations, in 1992 (Amato government), 1993 (Ciampi government), and 1995 (Dini government). These technocratic governments did not have a conventional parliamentary base,

and thus benefitted from the political support of the major social partners (Regini and Colombo 2011, 122).

A breakdown of union unity is often cited as a cause and effect both of the decline of social partnership in the 2000s. Social concertation in this period became “less frequent and more controversial,” (Pedersini 2010). Employers associations and trade unions signed a major labour market reform in 2002 without the approval of CGIL, beginning a period of union fragmentation that has continued since, apart from a social concertation agreement on the welfare system in 2007. The beginning of the 2000s saw a shift in concertation from the climate of actor interdependence and economic crisis to a climate in which some actors – namely employers – were increasingly aware of their growing independent power. This was particularly reflected in the roles of the government and Confindustria, who together began to develop a coalition against concertation and social pacts in general (Regini and Colombo 2011, 132). CGIL’s exit from negotiations on labour market reforms to do with flexibility, redundancies, pensions and taxations was framed by observers as a result of its political bias and its “militant” left ideology (Barber 2004, *The Financial Times*). A shift in government in 2006 to the Prodi-led centre-left coalition created a political climate that encouraged CGIL to return to the negotiating table when pensions were once again up for reform. An agreement was reached (the “Pact for Welfare) in July 2007 through tripartite concertation, and was then put to approval in a referendum among workers and pensioners before endorsement (Regini and Colombo 2011, 135). This breakthrough in union

harmony was undone in 2009, when CGIL once again walked away from negotiations over an agreement to reform the collective bargaining system. The January 2009 agreement was intended to focus on economic growth and employment creation in the context of the immediate aftermath of the 2008 financial crisis, and contained proposals to introduce new experimental rules on collective bargaining. Such rules included a dual bargaining structure, based on sectoral and decentralized agreements, intended to support the diffusion of decentralized bargaining for small and medium enterprises, as well as the possibility of introducing “opening clauses” to cope with restructuring. CGIL objected to the proposal to diversify wages across sectors and stated that the erosion of real wages was a very real possibility in the reform, given that energy prices were excluded from the adjustment mechanism. CGIL also felt that “opening clauses” would make it easier to weaken worker protections (Pedersini 2009).

Despite CGIL’s withdrawal from negotiations, the January 2009 reform was still put forward and signed as a ‘separate agreement’ with the approval of UIL, CISL, Confindustria and government. According to the General Secretary of CGIL at the time, Guglielmo Epifani, the “conclusion of a separate agreement was a deliberate objective of the government, aiming to weaken the trade union front and industrial relations in general,” (Ibid). The other two union confederations approved of the separate agreement, stating that it would help strengthen national-level and decentralized bargaining at the same time, thereby promoting an increase in both productivity and wages by reducing inefficiencies (Ibid). Confindustria

stated that the agreement was a necessary step in the “modernization” of collective bargaining – where ‘modernization’ equals decentralized bargaining: “at company level it is possible to respond more directly to the needs of workers and employers, thereby improving productivity and competitiveness, two crucial elements in this phase to cope with the economic situation.” (Ibid)

For some observers, the Italian labour movement has long been beset by internal struggles between moderate and more radical elements, each of which with competing understandings of what it is a union ought to do; moderate union elements (more in line with contemporary UIL and CISL) seek to defend worker interests within the context of firms embedded in a capitalist economy, and do so through negotiation and cooperation rather than conflict, whereas the more radical elements tend to push for more fundamental social change by mobilizing social and political dissent (Baccaro and Lim 2007, 33). Arguably, much like how labour-friendly critics of Irish social partnership assert that Irish social partnership was in large part a strategy of employers and government to make Irish unions more business-friendly, one could find a similar dynamic in the context of Italian industrial relations. As Italy entered the euro-zone, and as Italian businesses and economics in general became more intertwined and generally dependent on the EU single market, major Italian interests would have to re-shape their orientation and objectives to accept the context of European integration. For a union as large, established, and decisively left of center as CGIL, the emphasis of the single market on productivity and competitiveness poses a major challenge to CGIL’s

main principles of protecting workers and increasing wages. This challenge has at times been successfully reconciled elsewhere,¹⁷ but the rigidity of the Italian labour market and the context of Italian politics have exacerbated the challenge for CGIL.

The continuing trend of union fragmentation during the 2000s is reflective in part of the changing dynamics of power and opportunity among the major actors. Entry into the euro-zone brought increased pressure to use wages as an adjustment tool instead of currency devaluation. More generally, continuing single market widening and deepening brought with it the European concept of “flexicurity”, and with it employer-led conceptions of how to define and implement new ideas of employability. Domestically, the position of the Italian government was considerably stronger (relative to Italian terms) in the 2000s under Berlusconi than it had been in 1992/93 when social pacts first emerged as a viable tool, and Confindustria’s willingness to continue negotiated pacts reflected a strengthened position of business interests: “Employers [in Italy in 1993] had nothing to lose and everything to gain from an agreement that eliminated a major source of inflation inertia while simultaneously ‘outlawing’ compensatory wage claims at enterprise level” (Ibid, 36) while in 2009, the range of policy options available to attend to the financial crisis involved neoliberal measures (disinflation, greater labour market flexibility) that were generally favourable to the business interests that employers represent. By contrast, CGIL’s opposition to holding up a united front with the

¹⁷ See for example Thelen and Kume’s (1999) article on German Works Councils and Japanese firms.

more moderate union confederations is indicative of a political stance in the face of a general weakening of the trade union position.

Social dialogue in Italy takes place at multiple levels, with the most visible area of concertation at the national level. The social partners at national level have for the most part been sufficiently capable of engaging in bipartite dialogue, particularly in the face of relatively ‘weak’ government coalitions;¹⁸ however, the circumstances of social pacts have usually involved the pressures of a critical economic situation and/or pressures arising from EU membership. Both of these circumstances led government to initiate tripartite social pacts when the national political and economic situation was “too critical” to be dealt with by the government alone (EU Commission 2011b); some examples of ‘too critical’ include the danger of being left out of the first wave of EMU membership in 1998, or repeated governmental attempts to reform Article 18 of the Worker’s Statute which protects workers from “unfair dismissals” (Eurofound 2002). The national level of social pacts has allowed for extensive bargaining coverage and comprehensive national standards through sectoral agreements. Increasingly, the focus of collective bargaining has been decentralized, either at company or territorial level. Territorial pacts are a form of social dialogue that have taken place since the 1990s, and are a means of improving the attractiveness of specific locations; i.e., speaking to the regional disparities that exist between the north and the south of Italy. In general, since 1993, company-level or regional-level

¹⁸ ‘Weak’ in the sense of frequent or semi-frequent collapses of governmental coalitions in the face of dissent, relevant to the length and durability of other governmental coalitions in Western Europe.

bargaining must confine itself to matters and practices that are not already covered in an industry-wide agreement at the national level (Ibid).

An additional feature particular to the Italian system of industrial relations is the institutionalization of unitary union workplace representation, or *Rappresentanza sindacale unitaria* (RSUs). With the July 1993 pact, employees at plant-level were able to elect RSU bodies through trade union lists. RSUs are able to negotiate at plant-level on issues that are delegated from the industry-wide level. Pedersini writes that the “establishment of RSUs confirms the traditional system of single-channel representation in Italy, whereby union and employee representation are entrusted to a single body, as opposed to dual-channel systems where union delegates operate alongside works councils.” (Pedersini 2010, 9)

Interaction between the EU and Italian levels

Italy, one of the founding members of the European Coal and Steel Community, has long had a population that is largely supportive of European integration. Eurobarometer shows that 48% of Italians consider their country’s EU membership as positive, compared to 30% who hold a neutral opinion and 16% who hold a negative opinion – all slightly more favourable than the EU average (Eurobarometer 2009b). Trust levels for European institutions have risen strongly in comparison to former polls and in comparison to the EU average, while trust levels for national institutions are viewed with much lower confidence: “the clear majority of Italians are in favour of greater power for Brussels not only in the sectors where traditionally a common European approach is regarded as most

appropriate, such as Foreign Affairs or the fight against terrorism, but also in those fields where national management had usually been favoured, like the fight against unemployment and the protection of social rights,” (Ibid). Italians also show a relatively high level of support for the euro, despite the financial crisis of 2008. The majority of the Eurobarometer sample, 49%, believe that euro zone membership enabled Italy to be more stable economically. 61% were in favour of EMU, and 52% maintain that in 2030 the euro will be a stronger currency than the dollar (Ibid).

Many authors point to the fact that Italy has long used the EU as a legitimate, modernizing force. Italy’s self-conception of its post-war success depended in such large part on its role in European integration that the possibility of not being a part of all EU processes has been inconceivable to Italian political elites, no matter how painful the process at hand. Tied into this are historical circumstances. Unified as a country since only 1870, and followed shortly after by a 21-year reign under Mussolini and a civil war from 1941-43, it is unsurprising that much of the modern Italian national identity paralleled the European ideal (Sancton 1997). This idea is particularly evident with EMU and Italy’s entry into the euro zone. Large deficits and public debt in the mid-90s made it likely that Italy would join EMU at a later time than the first-wave of euro-zone countries, putting it in company with Greece. Italian governments – under both centre-right and centre-left coalitions – sought to enact painful budgetary cuts and economic reforms in order to make the 1998 goal of EMU entry. The dominant policy

discourse throughout these reforms emphasized the need for responsible public finances in the name of Europe above and beyond all other considerations. The fear of being left behind in the European integration process was powerful enough to surmount most opposition to budget cuts and social insurance reforms. Combined with this were a number of opinion surveys that indicated high public support for adopting the euro currency (Sbragia 2001, 92). Political debate and discourse, then, relied heavily on the idea of Europe as such a valuable goal that virtually all societal interests should be secondary in importance. Prime Minister Amato in 1992 stated: “Without membership Italy would become Europe’s Disneyland” and with the explicitly stated need to meet EMU, political discourse was able to garner a general consensus on the need to reform fiscally (Della Sala 1997, 26).

Alberta Sbragia finds two overarching explanations for why Italy acquiesced to such austere reforms; firstly, the fear of being left out of EMU was so great as to spur consensus on conceding any dramatic fiscal measures necessary. Not only was full EU and EMU membership highly advantageous to Italy, but the costs of being left behind would be debilitating both economically and psychologically. Secondly, EU membership and integration provided an invaluable context for imposing much needed economic reforms. The opportunity arising with EMU built on the “history of using the external constraints of the EU to favor those authorities wishing to have a more responsible budgetary and macroeconomic policy” (Sbragia 2001, 91). As well, “for the Italian case, the lack of confidence in national institutions made Europe a very attractive referent” (Ibid, 93).

Perceptions of EU influence on Italian industrial relations were notably positive across organizations. A CISL representative said, generally, that European cross-industry social dialogue has had a beneficial impact on social dialogue at the national level because employer and worker representatives from the various Member States have had to be regularly engaged (Interview I3). The same representative stated that various framework agreements have, at times, helped provide a foundation for negotiations and have even accelerated discussions at national level, meaning that the framework in question has shaped the agenda for discussion and provided starting points of negotiation for labour and management, respectively. European level instruments such as joint texts and joint opinions have introduced objectives at the national level and shaped the discussion on domestic policy agenda topics on areas like employment and labour market reform through things such as the Lisbon Strategy of 2000 and the Europe 2020 growth strategy (Interview I3). This perception is shared by Confindustria: “It [the specific topics contained in the directives and frameworks that arose out of European social dialogue] has reinforced the national agenda a lot. In many cases it produces effects on the national level. The agreements were stated as references for the social dialogue on the national level. The Italian social partners always tried to enrich and complement the results of the European social dialogue with their own specific regulations. There is a close link between the European and the national levels. There is an interaction and a mutual relationship as the Italian social partners also contributed to the European social dialogue.” (Voss 2011, 17) A CEEP

representative with links to Italian industrial relations stated that for public administration concerns in Italy, “being a player at European level is used more and more to get reform accepted at the national level,” through mechanisms like benchmarking, comparing, and arguing for the necessity of change (Interview B6). Engagement at the European level augments the abilities of social partners to advance domestic reform, because of the source of legitimacy each of the European social partners provides to each national-level affiliate, and because of the support that European-level interest confederations – information support, non-financial resource support, and ideological support – lend to the country-level interests that comprise them.

In line with general academic arguments about Italy’s relationship to the EU in terms of legitimization and modernization, many interviewees emphasized the role of the single currency and the preparations for EMU as essential for understanding changes to the Italian wage bargaining system in the 1990s and the inflation and wage agreements within. The end of wage indexation in 1993 was not the result of pressure from Confindustria – who, typical of most employer associations, had long pushed to abolish the *scala mobile* (the automatic pay adjustment mechanism) in favour of linking wages to performance at individual or group levels in the interest of flexibility and competitiveness – but was rather undertaken in a tripartite, concertative manner because of the need to introduce anti-inflation policies to meet EMU criteria (Pedersini 2010). Unlike Ireland, the right to collective bargaining in Italy is protected by the constitution, and collective

bargaining agreements are extended to any employees working for an employer that is covered by the agreement (EIRO 2005). The National Statistical Office (Istituto nazionale di statistica, ISTAT) carries out a regular survey of sectoral bargaining, which focuses on wage dynamics. Surveys have shown that the sector remains the most important level for wage bargaining in Italy, rather than the national level, and like many countries in northern and western Europe, this produces a larger than average area of coverage under wage agreements (Ibid). The complementary bargaining at company or territorial level is often aligned with the sectoral level in order to avoid discrepancies; should points of conflict between company level and the sectoral framework occur (such as an objection by workers within a company as to what they are earning compared to the sectoral average), the framework rules that define the sectoral agreements have ultimate authority (Ibid). A push toward more decentralization of agreements at the company level has support from the government, Confindustria, and UIL and CISL – but firmly objected to by CGIL (Ibid). The difference in trade union opinions in Italy is interesting; while it is logical for Confindustria to support decentralized negotiation, as it seemingly in line with a general employer preference for having flexibility as an option to enhance competitiveness, and while CGIL objection to decentralization is also seemingly in line with a general labour preference for more large-scale binding agreements that inhibit the power of employers to renegotiate agreements on plant level, UIL and CISL support for a certain amount of

decentralization contradicts the more expected trade union platform of advocating centralized bargaining practices in order to maintain union strength.

Italians perceive a positive effect of European legislation on working conditions has been positive: “The parental leave directive is an example of a successful negotiation in the framework of social dialogue. The implementation of the directive also provided for fathers’ rights under this kind of provisions. In some countries these measures have represented a completely new and innovative right for workers,” (CISL in Voss 2011, 19). Italian social partners reported comfort with being able to implement EU law in line with respective national conditions: “The fix-term directive has been implemented by an agreement of the social partners’ (except CGIL) in 2001 and afterwards by a legislative act,” (Ibid, 20); and, “the framework always is a point of reference,” (Confindustria in Voss 2011, 20). There also exists an equal perception that social partners in Italy have been able to strengthen social dialogue domestically as a result of EU initiatives with autonomous framework agreements:

“Italy had a very early start with telework and was the first country to implement this agreement; *it was a very important agreement because it opened a new season for the social dialogue due to its direct implementation.* The Secretary Generals of the Trade Unions and the Presidents of the Employer Organizations signed an agreement for the implementation that is valid in all sectors and in all companies. It has the same effects as a law.” (Confindustria, Ibid, italics mine)

The comments taken together offer a picture of the import of EU social dialogue in a supportive role, there to reinforce the dynamics within Italian social dialogue. This is emphatically the case with Confindustria: “[Europe 2020] is a

political statement that has no technical or practical value. It is of great value but not in a regulatory way...It is a scientific and political analysis that supported the discussions [on temporary work and youth employment]...the most important was the project on restructuring. As an Employer Organization, we had the opportunity to discuss models and see best practice in national seminars but also to confront ideas on a European level and to learn from the experience of others,” (Confindustria, Ibid, 33-34).

In contrast to some Irish perceptions that recommended stronger mechanisms for EU enforcement and monitoring of social policy, Italian social partners focused more on the need to maintain autonomy and work on autonomous agendas, meaning the ability of domestic social partners to introduce topics of negotiation and implement the results of that negotiation in a bipartite manner. Each side (labour and management) perceives the value of autonomous dialogue differently, however; while Confindustria emphasizes the importance of autonomy to “work on being more flexible and with less ritual” (Ibid, 28), the more moderate trade unions stated that, “social dialogue is a tool through which social Europe can be enforced and consolidated in a framework of solidarity and growth,” (Interview I2).

Argument

The beginning of the chapter highlights three processes that are significant at the European level. The first process – the interaction between national and

European levels – is primarily visible through the growing norm of social dialogue. This is implicitly evident through the EU model of negotiation and dialogue between major social partner confederations offering a prominent example of “best practice” for EU Member States. A CEEP interviewee stated that “some Member States have been able to use European social dialogue to boost the capacity-building of social dialogue at the national level, where previously no autonomous bargaining existed. This is just as much so for employers as for unions, even if it started more with unions,” (Interview B6). This is more explicitly the case with the advent of social pacts to solve economic problems, in particular those economic problems to do with EMU entry and then public debt and deficit control once in the euro-zone.

While the EU recognizes the right to collective bargaining as part of the fundamental rights of European citizens, the economic construction of the shared currency encourages, if not forces, collective bargaining to effect wage moderation for the purpose of competitiveness and macroeconomic growth – very different principles from wage indexation systems of previous eras, which prioritized working conditions and worker prosperity. More generally, the burgeoning system of industrial relations at the EU level serves to reinforce, complement, and accelerate parallel processes of social dialogue at national levels by creating an important new lobbying opportunity. Social partners in Member States, in order to get their interests represented through the European level confederations, must be cohesive and capable enough to participate in their respective arenas. Substantively,

the growth of legislation and framework agreements at the European level either introduces new areas of discussion or reinforces existing agendas among the national level.

In Ireland, the introduction of social partnership in the late 1980s had numerous parallels to the growth of the EU's Single Market. The Irish economic miracle and the growth of EU social dialogue complemented and reinforced one another procedurally (with a formal style of labour-management negotiations) and substantively (using social partnership to effect economic recovery, growth, and competitiveness). In Italy, the interaction between the European and national level provided direct opportunities for Italian governments to restructure public spending and wage-inflation systems, by the perceived need to be a part of EMU. The example of European social dialogue as a necessary complement to the general neo-liberal character of the Single Market is arguably reinforcing the agenda of the current technocratic 2012 Italian government, in that social partners are consulted for major economic policies, and social partners that are not keen to commit to prioritizing goals of competitiveness and economic growth over working conditions (i.e., CGIL) are self-selecting themselves out of negotiations.

The second process, the differences and/or interaction between bipartite social dialogue and tripartite concertation, is evident in the increasing autonomy of European social partners and the celebration of this autonomy by the Commission and social partners alike. The independence of social dialogue is frequently referred to in official reports and European level interviewees as a valuable asset – a style of

labour-management negotiations that is seemingly characterized as offering more freedom and room to maneuver than social dialogue tethered to governing institutions. Interview comments reveal that this autonomy is not preferred by all actors. Whereas business and employers appreciate the results of autonomous dialogue, in that things like agreements and joint opinions offer non-threatening mechanisms for suggested practice, trade union representatives assert that many such mechanisms are not binding enough, and do not offer a concrete degree of protections for workers and industry alike. In Ireland, the potential end of social partnership with the recent financial crisis is taken by employers as a new possibility to concentrate on enterprise-level bargaining – an approach often utilized by many strategies relevant to EU competitiveness. In Italy, the context of autonomous social dialogue is often a necessity dictated by political circumstances and weak governments, but one that finds useful validation through comparison to EU processes. Using social dialogue at the European level – either by mimicking the example domestically or by utilizing the lobbying opportunities present at EU level – is initially attractive to all national social partners because of the opportunity to boost an interest group’s own capacity.

The recent experiences of both countries illustrate how social *dialogue* has become a process that governments tend to recommend in order to enhance economic adaptation during hard times. The distinction between social ‘dialogue’ rather than ‘partnership’ or ‘concertation’ is not simply semantic – the prominent EU example of social dialogue is a process that is highly coordinated but is

employed in a circumscribed bargaining realm. Autonomy itself is a double-edged sword for trade unions; while bipartite negotiation ostensibly begins on a more even playing field, in that government is not directly exercising its own policy prescriptions, the *results* of bipartite negotiation are often implemented through voluntary agreements. As a result, autonomous negotiation between social partners is a tool that is largely preferred by more employers than unions, as it offers further avenues for non-binding mechanisms that allow higher flexibility for interpretation in different member states. While flexibility in interpretation and implementation might well be a necessity in the EU project, where very different domestic conditions need to tailor agreements to their own national contexts, non-binding autonomous agreements are more threatening to labour movements and trade unions, which generally tend to prefer legal underpinnings of protections.

The third process, the interaction between sectoral and cross-sectoral social dialogue, is the most complex and least visible in terms of impact at the national level. The degree of social dialogue that takes place at either level in Member States does not appear to have any great relationship to how social dialogue at the European level is organized. The legacy of social partnership in Ireland has shaped the tripartite organization of industrial relations and has limited the amount of decentralization to coordinating activity at sectoral and company levels. In Italy, the interaction of (occasional) national level pacts, sectoral agreements, and RSUs within individual enterprises, is seemingly more related to internal politics and the opportunity structures available to employers and unions alike. What is visible as a

trend in decentralization at the EU level that has ramifications at the national level is the increase of legislation emanating from Europe to do with individual workers rights. Implementation of these rights, as noted by Irish interviewees, increases the legalistic quality of industrial relations in a Member State, and (arguably) indirectly encourages decentralization through the practical available mechanisms of implementation – working conditions that better apply directly to the contexts of local plants and enterprises rather than national level deliberation.

Taken together, the above three processes support a synthesis of neo-liberal capitalism with European social models. The emphasis on growth and competitiveness trumps concerns about working conditions and individual wages, while the emphasis placed on civil society and avenues for valid worker representation offer a distinctly European cushion to some of the neo-liberal ideals present in the Single Market. The concept of worker information and consultation itself, discussed in detail in the following chapter, is another important example of how European integration ‘hybridizes’ single market liberalization with a particular conception of the worker and related protections.

CHAPTER 5: EU Directive on Information and Consultation of Workers /

Employees (DICE)

Introduction

This chapter describes the independent variable of the EU Directive on the Information and Consultation of Workers (2002/14/EC), outlining the content and mandate of the directive and providing an analysis of its influence on domestic industrial relations systems. The chapter begins with a description of the content of the directive and the accompanying rationale behind its inception. Following are descriptions of the implementation of the directive in Ireland and Italy, respectively, utilizing multiple sources: observatory reports, first- and second-hand interviews with domestic social partners and government representatives, and news reports. Then, the chapter provides an analysis of the impact of the directive on the industrial relations system of each country since implementation.

This directive is a key piece of EU legislation in the area of industrial relations. While numerous EU Directives and framework agreements exist on various aspects of worker protections – such as working time, parental leave, transfers of undertakings – DICE deals with the rights of workers to be informed and consulted on numerous areas of business and conduct, and the corresponding obligations of employers to provide those rights. Information and consultation is in the general realm of EU social policy in that it deals with the communicative context of working conditions. The actions necessary with the information and consultation of workers are also deeply enmeshed in the general and specific

relationships between labour and management; as such, the implementation of this Directive necessarily brings into focus the overarching context of industrial relations at the supranational and national levels.

The central argument of this chapter is that the Directive is an important stepping stone for the longer-term decentralization of organized interests to do with labour and management in EU Member States. While the specific and immediate impact of the Directive did not have a great deal of immediate effect on either case study, the longer term implications of implementing the Directive are that company-level means of representation for employees and employers, respectively, will be standardized across the EU for all businesses and undertakings over a certain size, and that the mechanism of ‘worker consultation’ introduced by the Directive standardizes the procedure of formal communication and dialogue between employees and employers. In Ireland, the implementation of DICE created statutory worker rights for the first time, while mandating forms of worker representation that are *not* based out of trade unions or union representatives. In Italy, the information of workers has been an existing part of certain sectoral collective agreements, but the consultation of workers introduces a definitively new variable in industrial relations. ‘Consultation’ as labour law invokes and standardizes (ideally) two-way communication between workers and employers, for the immediate purpose of avoiding industrial conflict and for the larger goal of maintaining an adaptable workforce – part of the EU mission toward “flexicurity”. Taken together, these implications point to a central effect of the growing body of

employment law in the EU: the increasing use of social dialogue at the national level for the purpose of making businesses more productive, while at the same time fostering an increased reliance on company-level sources of worker representation. DICE provides a fundamental example of EU efforts to use social policy to *enhance* productivity, rather than using social policy as a way of softening the *effects* of enhanced competitiveness.

EU Directive on the Information and Consultation of Workers

Content of the Directive

Council Directive 2002/14 established a general framework for informing employees and consulting with them in the European Union. It applies to all undertakings employing at least 50 employees or EU establishments employing at least 20 employees.¹⁹ Member States were obliged to implement the directive into national law by March 23, 2005; Ireland and the UK, with distinctively voluntarist industrial relations systems, were given until 2007 to implement the directive to account for the absence of any prior statutory worker information mechanisms. Employee information and consultation covers three areas: economic, financial and strategic developments, such as (but not limited to) changes in operations, prices,

¹⁹ Within the body of the Directive, an “undertaking” is defined as any public or private undertaking carrying out an economic activity, whether or not operating for gain, which is located within the territory of the Member States – this is different from an “enterprise”, which means a unit of business defined in accordance with national law and practice, and located within the territory of a Member State, where an economic activity is carried out on an ongoing basis with human and material resources. Essentially, an enterprise is any form of business, whereas an undertaking can be an enterprise as well as any form or organization or group that retains employees for its (profit or non-profit) purposes (EUR-Lex 2002, Article 2(a) and (b)).

services, and the general financial health of an undertaking or enterprise; the structure and foreseeable development of employment, and related measures; and any decisions likely to lead to substantial changes in work organization or contractual relations (Europa 2009a). In this context, information refers to the transmission of data by the employer to the employee representatives in order to enable them to acquaint themselves with and examine the subject matter at hand. Consultation is defined as a process of exchange of views and establishment of dialogue between the employee representatives and the employer (Eurofound 2008).

The practical arrangements for providing sufficient information and consultation are to be determined by Member States, which can entrust management and labour to make voluntary arrangements and even modified arrangements, as long as the general framework of the Directive is respected. Like many EU Directives, this flexibility in implementation is necessary when accounting for the many different forms of employment law, business cultures, and industrial relations systems across EU Member States. The principles of Article 1 in the Directive illustrate the EU's explicit commitment to subsidiarity and proportionality²⁰:

- “The practical arrangements for information and consultation shall be defined and implemented in accordance with national law and industrial

²⁰ “Subsidiarity” is the principle stemming from Article 5 of the TEC that action should not be taken at the EU level unless it can be shown that the objectives of the action can be better achieved at that level than at the national level; put another way, decisions should be taken as close as possible to the citizen. “Proportionality” is a related principle which implies that the means should not exceed the ends within the decision-making/legislative process of the EU (Dinan 2010).

relations practices in individual Member States in such a way as to ensure their effectiveness.” (EUR-Lex 2002, Article 1(2))

- “When defining or implementing practical arrangements for information and consultation, the employer and the employees’ representatives shall work in a spirit of cooperation and with due regard for their reciprocal rights and obligations, taking into account the interests both of the undertaking or establishment and of the employees.” (Ibid, Article 1(3))

The practical arrangements which Member States are required to determine for information and consultation incorporate a process of nine sequential stages:

- Transmission of information/data (Article 2(f))
- Acquaintance with and examination of data (Article 2(f))
- Conduct of an adequate study (Article 4(3))
- Preparation for consultation (Article 4(3))
- Formulation of an opinion (Article 4(4)c)
- Meeting (Article 4(4)(d))
- Employer’s reasoned response to opinion (Article 4(4)(d))
- Exchange of views and establishment of dialogue (Article 2(g))
- Discussion (Article 4(4)(b)), “with a view to reaching an agreement on decisions” (Article 4(4)(e))

The underlying rationale of the mandated practical arrangements is to provide employees and their representatives with adequate protection and guarantees to enable them to perform their duties, as well as to provide employers with reasonable confidentiality arrangements to prevent “serious” harm to the functioning of the undertaking or enterprise (Europa 2009a). In essence, the Directive sets minimum principles, definitions, and arrangements for information and consultation within each EU Member State while providing Member States with suitable flexibility in implementing the practical arrangements, given the range of industrial relations practices within EU countries.

The significance of this directive is in two parts. First, the requirement of a framework for worker information and consultation is a specific formality that

directly emphasizes the need for a particular kind of worker protection – that which is qualitatively distinct from wealthy industrialized countries outside of Europe and the EU. Second, the willingness of the EU to put forward this recommendation in a directive rather than a framework agreement – so that national legislatures are obliged to implement the directive into domestic law and are monitored on the status of implementation by the Commission, rather than prompting social partners to craft an autonomous bipartite agreement – is notable for the assertion of a particular form of worker-employer relations within a Union that contains diverse forms of industrial relations. Requiring employers to inform and consult workers through legislation is arguably a significant step in using the context of ‘Social Europe’ to shape the dynamics of labour-management along more formal lines. Although the degree of flexibility allotted to Member States in implementing the directive was quite high, the fact of requiring workers in certain undertakings and establishments to be informed and consulted sets a stricter tone for communications between employers and employees – one that in large part reflects a continental model of industrial relations in Western Europe (see below).

This model is visible in the directive itself and in the language used surrounding the directive. A statement from the Commission’s Directorate-General on Employment, Social Affairs & Inclusion website reads: “Social dialogue helps to improve risk anticipation and make work organization more flexible. The EU Directive establishing a general framework for informing and consulting employees (2002/14/EC) plays a key role in promoting social dialogue...Management and

labour play a key role in deciding those arrangements [for information and consultation].” (Europa 2009a). The statement explicitly establishes the EU’s perceived value of increasing the flexibility of work and work arrangements, and ties the use of social dialogue to achieving this value. Eurofound asserts that “Directive 2002/14 is highly significant since it is the first EC law stipulating a general obligation to inform and consult employees. Arguably, it establishes a European social model of mandatory employee representation and mandatory information and consultation of employee representatives,” (Eurofound 2008a). When considering this stipulation of the Directive in the context of international competition, multinational corporations, and general concern for productivity, the EU is visibly distinct for not only requiring worker information and consultation systems but also for recommending that social dialogue be the means by which to achieve those systems. This speaks to a vision of productivity that combines a certain level of social responsibility – “flexicurity”, in EU parlance²¹ – that is much less visible in either North America or Japan.

The directive had more implications for some Member States than others. Ireland and the UK, most notably, had no prior statutory provision for employee information and consultation other than previous EU directives on European Works Councils, collective redundancies, and transfers of undertakings. In recognition of this, Ireland and the UK were given a deadline of 2007 by which to implement

²¹ The term ‘flexicurity’ is generally defined as the balance between labour market flexibility and security for employees against labour market risks. The term is most often used within the EU for the European Employment Strategy and related EU labour market endeavors when contextualizing efforts to combine economic growth and social cohesion. See Chapter 2 for more detail on flexicurity.

DICE – an additional two years over the 2005 deadline in effect for other EU Member States – in recognition of the extensive legislative reform likely needed to accommodate DICE. By contrast, Austria, Germany and Slovenia had no need to implement DICE because existing national legislation on employee information and consultation already went beyond the requirements of DICE (Eurofound 2009, 2).

The initial premise of worker information and consultation stems from existing (and very different) traditions in French and German plants, which each in their own forms had long standing statutory works council systems. The variety of adaptive responses to the directive depended in large part on existing structures of employee information and consultation, existing employment legislation, the strength of trade unions and works councils, and the legacy of industrial action in particular sectors (Ibid, 2-3). Although the directive left considerable latitude to the Member States to tailor its implementation according to national policies and concerns, the influence of a continental (German) model of employee information and consultation on the content of DICE is arguably shaping social dialogue among EU Member States. At the very least, one could say that the directive (in combination with other related directives to do with employment law) is reducing the amount of divergence in industrial relations across the EU.

Background of the Directive

Previous to DICE, a number of directives related to general consultation of workers had already been adopted in the EU. Directive 98/59/EC provided for informing workers in advance of collective redundancies, depending on the size of the workforce and the number of proposed redundancies; Directive 77/187/EEC (later amended in 1998) provided for the safeguarding of employee's rights and obligations in the event of a transfer of an undertaking, business, or part of a business; and Directive 94/45/EC on European Works Councils, which provided for plant-level works council in larger European level companies with operations in at least two Member States and with a number of employees over a certain threshold. Despite these provisions, the Commission published a Communication in 1995 emphasizing the need to redefine the EU's legal framework in order to establish more binding rules on general worker information policies. In this Communication, the Commission set out various options for action to be taken and encouraged the EU social partners to begin to outline arrangements for a general framework (Eurofound 2008a). In June of 1997 the Commission then launched the second phase of consultation with the social partners on the basis of Article 3(2) in the Maastricht Treaty's Agreement on Social Policy (also Article 154 of TFEU). ETUC and CEEP were willing to begin social dialogue and autonomous negotiations on the topic, but BE (then UNICE) declined, "as it considered the project to be at odds with the principle of subsidiarity and felt that the subject concerned the internal organization and management of companies and therefore came under companies' own management prerogatives." (Eurofound 2009). In line

with Article 155(2) of TFEU, where the social partners decide against pursuing autonomous negotiations between themselves and instead request that the Commission take its proposal to the Council, in order for the Council and European Parliament to negotiate legislation between themselves, the Commission presented a proposal for a Directive in the absence of consensus among the social partners.

The political impetus for generating a Directive came from multiple sources. Member States and domestic social partners from both sides of labour and management were vocal about some of the weaknesses of Directive on EWCs, in particular how communication between EWCs and employers ought to be specifically implemented – employers arguing that the information of workers could be used as an obstacle to making workers redundant, and workers arguing that the mechanisms for information were not strong enough. The political party PES (Party of European Socialists) was quick to argue that more legal rules for worker information were necessary in order to keep employers accountable (Interview B8). The Commission's rationale for going forth with the directive is found in the legal body of the directive itself. The introductory body of the published directive reminds that Article 136 of the Treaty on European Union (TEU) states that a particular objective of the Community and the Member States is to promote social dialogue between management and labour, and that Point 17 of the Community Charter of Fundamental Social Rights of Workers holds that information, consultation and participation for workers must be developed along appropriate lines (EUR-Lex 2002, p.0029). Introductory elements also state that:

- “(6) The existence of legal frameworks at national and Community level intended to ensure that employees are involved in the affairs of the undertaking employing them and in decisions which affect them has not always prevented serious decisions affecting employees from being taken and made public without adequate procedures having been implemented beforehand to inform and consult them.
- (7) There is a need to strengthen dialogue and promote mutual trust within undertakings in order to improve risk anticipation, make work organization more flexible and facilitate employee access to training within the undertaking while maintaining security, make employees aware of adaptation needs, increase employees’ availability to undertake measures and activities to increase their employability, promote employee involvement in the operation and future of the undertaking and increase its competitiveness.” (Ibid, p.0029-0030)

Reiterated throughout the body of the directive are the concepts of “anticipation”, “prevention” and “employability”, all used in the context of prioritizing employment while enhancing competitiveness through the mechanism of social dialogue. Put another way, the development of the EU’s single market need to be balanced against social values on which Member States societies’ are based: “Entry into the third stage of economic and monetary union has extended and accelerated the competitive pressures at European level. This means that more supportive measures are needed at national level.” The Commission further states that existing legal frameworks for employee information and consultation at Community level and at some national levels tend to adopt “an excessively a posteriori approach to the process of change,” and neglect risk prevention or genuine anticipation of employment developments (Ibid, p. 0030).

The conclusion of the introductory body of the directive states that the purpose of the directive is to establish minimum requirements throughout the EU on employee information and consultation, without limiting Member States from

providing employee information and consultation mechanisms that go further than the minimum requirements. The Commission states that the objective of the directive is to establish a framework on employee information and consultation “*appropriate for the new European context described above, and therefore...be better achieved at Community level,*” (Ibid, italics mine). In respect of the subsidiarity and proportionality principles, the Commission emphasizes not only the need to account for the particular variants of national employee-employer relations and channels of communication, but also the specific mechanisms of information and consultation at sectoral and company levels: “Member States may entrust management and labour at the appropriate level, including at undertaking or establishment level, with defining freely and at any time through negotiated agreement the practical arrangements for informing and consulting employees,” (Ibid, Article 5 p. 0032).

Taken together, Commission statements in the body of the EU directive offer a sensibility of providing businesses and employers a means of adapting to challenges in a manner that works *with* social policy provisions and not against them, by enhancing the everyday rights of workers and consequently broadening the possibility by which to avoid industrial conflict and/or action. In addition, the Commission also utilizes the EU’s own principles of subsidiarity and proportionality in recognition of the more decentralized options for information and consultation systems, by reinforcing the ability to have social partners and social dialogue at multiple levels within a society.

The European level

Despite the disinclination of BE to address the issue of information and consultation of workers through autonomous social dialogue during the second phase of Commission consultation, the formation of the directive on the information and consultation of workers was a relatively smooth process, according to most perspectives. Almost all interviewees at the European level referred to the growth – in both scope and content – of legislation concerning employee protections (including the information and consultation of employees) as being largely beneficial. ETUC interviewees on the whole stated that this accumulation of legislation was beneficial because it provided “stepping stones” for enhanced workers protection in the Single Market (Interview B3), while industry largely felt that such legislation was beneficial because it helped to reduce ambiguity in a number of areas concerning the information of workers, and thus reduced the potential for conflict (Interviews B5 and B7). A CEEP interviewee stated that most EU labour laws were designed to allow Member States a fair amount of flexibility in implementation – a feature very reassuring for employers and businesses (Interview B6).

At the same time, the most contentious legislative proposals within the EU had to do with EWCs. ETUC interviewees offered the viewpoint that BE preferred to concentrate its opposition in the area of EWCs, and as such decided to let the opportunity to hash out an autonomous framework requirement in the more general area of worker information and consultation pass (Interview B4). BE, not entirely

in contrast, stated that the businesses and employers represented by BE were in favour of DICE, as it was less controversial than legislation on EWCs and that it filled a need for trust between management and labour: “a good method of improving workers’ perceptions of policy,” (Interview B5). In addition, the context for implementation of the directive – where operational arrangements are left up to the Member States – was an approach favoured by BE, as it left room for national policies, practices, and idiosyncrasies in the execution of national legislation (Ibid).

From the perspective of ETUC, DICE was generally speaking a positive development for furthering legal coverage for employees and for the implications of setting the stage for amending the existing EWC directive with sharper language in an amendment.²² At the same time, ETUC expressed a number of concerns about weaknesses with DICE: that information and consultation arrangements do little to protect employees against job losses (mainly ensure only that employees receive advance warning); that DICE legislation is limited to enterprises and undertakings above a minimum size employee threshold, leaving many companies and services not covered; and more generally, that traditional trade union-based systems of representation could potentially be undermined by the possibility for employees to opt for direct representation (Interviews B1 and B4; European Parliament 2008). BE instead emphasized that the improved communication

²² The initial 1994 Directive on EWCs was amended with Directive 97/74/EC to extend the implementation of EWCs in Ireland and the UK, and with Directive 2006/109/EC to Bulgaria and Romania. The initial 1994 Directive was recast with Directive 2009/38/EC, after much controversy and debate between ETUC and BE, and ushered in lower threshold requirements for the number of employees needed for a EWC to form and stronger requirements for the information and consultation of workers within European multinational businesses (Europa, 2009b).

between management and labour under DICE was valuable, but that actual business decisions should belong to management themselves in order to avoid placing undue burdens of obligation upon employers: “[the directive] can help with social consequences but should not affect nature of decisions or goal of competitiveness,” (Interview B5).

Another concern noted by trade unions was also a feature welcomed by businesses and employers – the directive’s prescription to allow Member States to choose alternative thresholds for the number of employees in a company or organization in some cases, creating some uncertainty over the coverage of employees depending on their work status within the company (i.e., temporary, contract, part-time). In general, this juxtaposition of perceptions between representatives of management and labour is reflective of not only the specific interests surrounding the content of DICE, but also of interests between the two groups more broadly for all EU-level initiatives in the field of social policy and employment: “Employers don’t want EU to regulate but to give frame and scope so that it [framework or directive] can be adapted for social partners at enterprise level...trade unions want to expand definitions so that each [Member State] does things exactly the same way, but binding like this is not practical,” (Interview B5). Neither CEEP nor UEAPME had any divergent viewpoints from BE for this directive, each organization stating that they were satisfied with both BE’s stance on the directive and the resulting content of the directive (Interviews B6 and B7).

During the final stages of negotiation for DICE, the EP adopted a series of amendments to the Council's common position on the (then) draft directive. These amendments came from the "Ghilardotti Report", named after a MEP from the Party of European Socialists (PES), and contained provisions for penalties, stricter definitions, recommendations for enhanced social dialogue in SMEs that do not meet the threshold of employees needed to apply the Directive, and provisions for the implementation of the Directive in public administrations (European Parliament 2002). The Ghilardotti Report was, according to an ETUC Interviewee, developed in consultation with some ETUC lobbying efforts (Interview B1). Most of the proposed changes were welcomed by trade union bodies, but criticized by employers' organizations. The bulk of the amendments – to do with more specific definitions on key words and more explicit protections for employee representatives – were adopted, while three amendments failed to pass. The failed amendments were: the proposal that Member States should provide more stringent sanctions when employers seriously breached their information and consultation obligations, particularly when regarding employee termination, and to enable employees' representatives to have such decisions suspended; to require Member States to prevent undertakings from reducing the size of their workforce or changing their structures with the aim of being exempt from the directive's parameters; to reduce the period of the directive's implementation for Member States from three years to two years (European Parliament 2008, 14).

A notable amendment that *was* approved was the EP's specification that "agreements [within the Member States] must be between the 'social partners' (rather than 'management and labour')" (Ibid). The semantic emphasis in this amendment is important because it seemingly encourages social dialogue *in addition to* mandating information and consultation systems. Requiring 'social partners' to help transpose the Directive in Member States allows for practical arrangements to take place at whichever level (national, sectoral, company) is appropriate for the Member State in question while still building consensus between the two points of view (management and labour, in aggregate form) ahead of the fact. Put another way, the "social partner" emphasis speaks to a longer-term, co-responsibility for economic prosperity between social actors (see quote below).

In late 2008, three years after the directive came into force in most EU Member States (and one year after the deadline for implementation of the directive in Ireland, the UK, Bulgaria and Romania), the European Parliament's Policy Department on Economic and Scientific Policy published a report on the impact and assessment of the directive on information and consultation, at the request of the EP's Committee on Employment and Social Affairs. Its most prominent recommendations were to: advocate more monitoring and comparative EU-wide research regarding information and consultation practice in the Member States, with the particular aim of improving enforcement; encourage the Member States to work individually and together to ensure more effective enforcement of EU legislation at national level through best practices and accessible labour courts,

with resort to the European Commission infringement procedures where they feel national governments are not acting correctly; and to promote the wider economic and employment benefits of the EU social model, “with the information and consultation of employees at its heart, and raise public and political awareness of the EU’s strong performance in terms of competitiveness, productivity, and its ability to combine modern and effective quality business practices with social justice and democracy at the workplace through the effective use of legislation.” (European Parliament 2008, vi) The report also provides an overview of the directive’s implications for industrial relations practices in Europe. From the perspective of potential institutional convergence resulting from EU mandates:

“...the EU is seen to be creating a solid basis for the long-term development of collaborative industrial relations within Member States, and across the EU as a whole – shifting away from reactive responses to difficulties such as redundancies, towards a more positive, forward-looking, approach to cooperation between employers and employees inside businesses.” (Ibid, 16)

At the same time, the actual impact of DICE has limited visible convergence mechanisms because of the fairly general breadth of the legislation and the variation in transposition to national legislation. Systems of workplace representation are complex and vary considerably within as well as between Member States: “even such a wide-ranging directive such as 2002/14 will not harmonize the mechanics of workplace representation across the European Union. This complexity is difficult to capture in concrete analytical terms, not least because comparative studies on workplace industrial relations are very often

limited to a study of the institutional arrangements and not the actual practices,” (European Commission 2006, 7).

With DICE, there is scope for national implementation to tailor the directive’s provisions on a number of important issues to reflect national practice. Member States were allowed – but not required – to enable the social partners to negotiate information and consultation arrangements that depart from and even fall short of the standards established by the directive (European Parliament 2008, 9). An early report from the European Trade Union Research Institute (ETUI/REHS) found that as a result of the freedom allotted to Member States to implement the Directive according to national particularities, significantly different arrangements have been put in place by different EU countries. Of big concern was the role of worker representatives. The Directive allowed for the possibility of workers’ representatives to be drawn directly from the workforce, or to be represented (most likely, and usually, by trade unions). This was seen by trade unions in some countries as a potential source of conflict and difficulty – the room for employers to create channels of worker representation that are independent of unions could potentially threaten the foundation and rationale for union membership. The ETUI report also criticized the vague wording of the directive with regards to the lack of support available for employee representatives, stating that this lack of support could be a further source of conflict between representative bodies and overarching unions in the future, if representatives did not have to be drawn from union lists (Schomann, Clauwaert and Warneck 2006).

The Domestic Level

Ireland

At the time of the Directive's publication at the EU level, an article in the Irish newspaper *The Sunday Business Post* stated that:

“The European Information and Consultation Directive will have far-reaching implications for employers in Ireland. According to [Tony] Dundon [college lecturer, Department of Management, NUI Galway], it will also bring about a fundamental shift in the industrial relations system. The directive will change the ‘voluntarist’ system of industrial relations currently operating in Ireland, providing the social partners with an opportunity to implement a ‘competitive’ information and consultation system for all stakeholders, says Dundon.” (26 March 2003)

Ireland introduced new legislation titled “Employees (Provision of information and Consultation) Act 2006” to do with worker information and consultation in July of 2006, despite having until 2007 by which to do so. From a legal perspective, this transposition of DICE is significant as it is the first time Ireland has had statutory provisions for employee information and consultation rights. The Act initially established a right to information and undertakings in Ireland with at least 150 employees as of September 2006, and incrementally reduced the employee threshold to undertakings with at least 50 employees as of March 2008. The main features of the Act are:

- A 10% employee trigger mechanism is required for negotiations setting up an information and consultation structure, through applications either directly to the employer or to the Labour Court in confidence, unless employers volunteer to introduce information and consultation arrangements;

- Trade unions are not the sole channel for employee representation (as intended in the EU Directive);
- If a negotiated settlement is not possible, standard fallback rules providing for elected representative Information and Consultation Forums (along the lines of employee representative works councils);
- Potential for employers to avail themselves of direct form of information and consultation, to suit local circumstances, or a mix of direct and representative, so long as employees are agreeable to this;
- Provision for the Labour Court to issue binding determinations. (Dobbins 2009, 1)

By all accounts, the most controversial aspect of the Act refers to the first bullet point – that negotiation to set up an information and consultation structure must be triggered by the workers themselves, unless the employer sets one up on a voluntary basis. This “trigger mechanism” is allowed for in the language of the original EU Directive in order to account for the vastly different employment situations in each Member State (Europa 2009a). The trigger mechanism takes the form of a written request from at least 10% of employees of the undertaking, subject to a minimum of 15 employees and a maximum of 100. Once employees make such a request, an employer must enter into negotiations to agree to some form of information and consultation procedure, or introduce the standard rules as transposed from DICE. (Ibid)

Another element of controversy during the drafting of the Act was also the provision for direct information and consultation arrangements through plant-level representatives. Irish trade unions argued that information and consultation should take place through independent representative channels (that is, independent from the working environment itself), intending those channels to be filled by unions. The Directive itself at the EU level had not intended for trade unions to be the sole

representative channel, and – according to interviewees from ICTU and DETE – this was a point heavily reinforced by big employers and powerful employer lobby groups in Ireland during transposition, such as the American Chamber of Commerce in Ireland (Interview E1 and E3). Section 6 of the Act defines employees’ representatives as being “employees of the undertaking, elected or appointed for the purposes of the Act” (Ireland 2006, 7). The employer is obliged to arrange for the election or appointment of representatives. Where it is the practice of the employer to conduct collective bargaining negotiations with a trade union or excepted body that represents 10% or more of the employees in the undertaking, the Act provides that employees who are members of that trade union or excepted body are entitled to elect or appoint from their members at least one employees’ representatives (Ibid). However, employees are free at a later stage to exercise their rights through representatives of their choosing, should they so wish.

The transposition process began with the Irish government publishing a consultation paper on how the Directive should be transposed into Irish law. The main social partners and other interested parties then made submissions to the government. IBEC’s immediate concern was that the Directive could potentially open the door for de-facto union recognition in previously non-union firms – this concern was reiterated by IBEC stressing the need for direct forms of employee involvement with information and consultation, in order to avoid creating a role for external trade union officials. IBEC’s objection to de-facto union recognition was part of a larger goal to avoid placing any kind of restriction or obligation on

business and management that would have an adverse impact on investment decisions, such as frightening away foreign investors who are opposed to collective representation. A great deal of foreign investment in Ireland comes from U.S. multinationals: “in recent decades, this factor [U.S. multinationals] has had a significant influence on Irish Government policy,” (Dobbins 2008, 3). The American Chamber of Commerce in Ireland submitted a position to the government, parts of which stated:

“Any implementation of this legislation must take into account the structure and practices of voluntarism in Industrial Relations in Ireland. The existence of such an approach has added to the attractiveness of Ireland as a location for many multinationals. The implementation of this legislation should be designed to support such an approach rather than hamper it in any way...Representatives from outside the workforce should not be invited to be representatives. The purpose of the Directive is to ensure that employees are informed and consulted and this is best done directly. Furthermore there may be difficulties in the areas of confidentiality and corporate governance where non-employees are given access to company information” (Ibid)

In light of the above concerns, employers and businesses together lobbied heavily to request the ‘trigger mechanism’ – that employees should have to make a request for information and consultation rights, and show a minimum level of support, before management has to actualize the practice. Employers also suggested that organizations which already have a good relationship between employers and employees should not have to replace their current practice, in order to avoid placing an unneeded heavy burden on the functioning of undertakings (Ibid).

ICTU, representing the trade union perspective, was emphatic that Irish legislation should provide strong supports for collective representation, and that the

statutory fallback mechanisms should not be watered down at the behest of employers.²³ Trade unions definitively wanted the opposite consideration that the employers did; to bolster the traditional single channel of collective representation through trade unions alone. The unions feared that if there was a dilution of the standard rules, employers could simply bide their time until the fallback mechanism is triggered. “At the time, the ICTU viewed the Directive as potentially acting as a catalyst for the diffusion of enterprise-level union-management partnership.” (Dobbins 2008, 4)

Eurofound’s analysis stated that Ireland had enacted a minimalist interpretation of the Directive, and that the Government had transposed into Irish law only the measures it deemed necessary to comply with the terms of DICE and nothing more (Ibid). IBEC’s position was mostly positive, applauding the government’s decision to facilitate local agreements (as a “welcome acknowledgement of our voluntary tradition”) and to prioritize flexible implementation in light allowing employers to adjust to new market conditions (IBEC statement in Dobbins 2008, 5). ICTU’s response toward the final legislation was more critical:

“A current example of pro-business sentiment is the approach of the Government to the transposition of the EU Directive on Employee Information and Consultation. On all of the key issues the legislation now going through the Oireachtas [parliament], this comes down heavily in favour of the submission made by IBEC, the Chambers of Commerce and the American Chamber of Commerce. We shall end up being in the most unfavourable position in Europe as regards this

²³ The statutory fallback mechanisms in Ireland is an elected or appointed information and consultation forum, to include representatives from trade unions that represent at least 10% of the workforce (Eurofound 2009, 20).

Directive. A significant opportunity to enhance workplace cooperation has been sacrificed to appease business interests.” (ICTU statement, Ibid)

An ICTU interviewee stated that the transposition and implementation of DICE in Ireland was hugely disappointing, as it did not result in the type of union recognition that trade unions had hoped for. The interviewee expressed disappointment that the Act didn't result in collective bargaining at the national level, and as such ignored the Irish situation (up until that point) of social partnership. The Act also left no provisions for certainty at the national level: “if it's voluntary, then no one has to comply.” (Interview E1)

Interviews with the Industrial Relations Unit of the Irish Department of Enterprise, Trade and Employment (DETE) described the “open-ness” of DICE and the resulting lack of prescription for domestic transposition, leaving lots of room for argument between ICTU and IBEC given that there was no existing precedent for the information and consultation of workers in Ireland beforehand. Legally speaking, “it's left up to parties to make own agreements on how they will work consultation...there are the ‘Standard Rules’ to fall back on, but otherwise it's not prescriptive, just a framework...the Act allows a lot of flexibility depending on company and nature, it's left to parties to decide, so it's still quite voluntarist and not set in stone,” (Interview E3). DETE also emphasized the extent of redress procedures available under the Act; monitoring provisions that offered strong protections for employees and that mollified some of ICTU's criticisms of the legislation (Ibid).

Whereas in practice, the Act may have had little direct effect on the everyday actions of workers and managers, the larger context of DICE's transposition into Irish law has potential for longer-term, far-reaching effects. Eurofound (writing in 2008) stated that the Directive had very little impact on industrial relations practices in Ireland on the ground – attributable to the perceived minimalist nature of the Act, a certain degree of apathy among the social partners in the face of more pressing priorities, and the lack of knowledge about the Act among workers (Dobbins 2008, 5) There still remain, however, two unquestionable developments from DICE that pose larger significance for Irish labour law: the creation of statutory worker rights for the first time, and the precedence of creating forms of worker representation that are not based out of trade unions or union representatives.

“At the time of its adoption, the 2002/14/EC Directive was expected to have its biggest impact on the ‘voluntarist’ industrial relations systems of the UK and Ireland (since these were, at the time, the only EU MS without a generally applicable system of information and consultation through works councils or similar bodies established by law or by central collective agreement) and thereafter in the new Member States...but the review...suggests that it could be a gradual, evolving process, that will depend on the wider development of workplace representation and bargaining, and that this could be a medium to long term process, which depends partly on what the countries can achieve themselves, and the amount of support they can obtain from other Member States where good practice is much more securely established.” (European Parliament 2008,30)

Italy

“In Italy, the relationship between information and consultation has long been a critical issue in industrial relations, in that the process often goes no

further than the first stage, and because a shared concept of consultation as understood at EU level did not exist. The introduction in Italy of legislation information and consultation rights fulfils, thirty years later, what the trade unions and government envisaged in the second half of the 1970s, with such rights seen as part of a wider process of industrial democracy.” (Muratore 2009, 5)

DICE was implemented in Italy by legislative decree no.25/2007 in March 2007. Perhaps because of pre-existing statutory bodies for worker information, the Directive received little attention in Italy both after EU approval and after transposition in the national legislature. In contrast to Ireland, this decree did not involve major new legislation or set new precedents, but instead involved extensions and adaptations to pre-existing provisions on worker information and consultation regulations. In effect, the decree filled a legislative gap in an area that had previously been regulated by collective bargaining alone, on numerous specific issues and in numerous sectors. The decree filled those legislative gaps by systematically recognizing information and consultation rights from a legal point of view, and by affecting all employers and all dependent employees covered by collective bargaining, excluding only freelance workers. The stipulations of DICE were that Member States could choose whether to apply the Directive to undertakings with at least 50 employees or to establishments with at least 20 employees; Italy chose to apply the decree to “all enterprises employing at least 50 workers”, in response to negotiation between the social partners and with regard to the specific circumstances of SMEs (Ibid, 1). The decree grants information and consultation rights to workers’ representatives as defined by regulations and by

collective bargaining, which in practice delegates such rights to RSUs (unitary workplace union structures) and local trade unions (Ibid).²⁴

The decree assigns responsibility for the concrete application of information and consultation rights to collective bargaining at the national level, but without excluding territorial and company-level bargaining frameworks on the precise definitions and practices of worker information and consultation. The issue that provoked such disagreement in Ireland – the tension between employers wanting to transpose legislation that avoided de-facto union control and emphasized direct employee representation, and unions that wanted to mandate independent union representation for worker information and consultation – was not a part of the Italian landscape in crafting the legislation, in large part because of the pre-existing RSUs that, in many sectors, already provided for some form of worker information and already had union representatives to do so. The key features that *were* a part of DICE implementation in Italy are: the tardiness of the Italian decree in relation to deadlines set by the EU; the autonomy of the main Italian social partners in drafting the decree; and the introduction of the concept of ‘consultation’ as understood by the EU into Italian industrial relations.

The deadline for transposition of DICE for most EU Member States (excluding Ireland, the UK, Romania and Bulgaria) was March 23, 2005. In July of

²⁴ Trade union density in Italy (trade union members as a percentage of all employees) is approximately 35.6%, employer organization density (percentage of employees employed by companies that are members of an employer organization) is approximately 50%, and collective bargaining coverage (percentage of employees covered by collective agreements) is approximately 80% (Eurostat in Pedersini 2010, 2). By contrast, trade union density in Ireland is approximately 31.4%, collective bargaining coverage is approximately 44%, and percentages for employer organization density are not available (Eurostat in Dobbins 2009, 1).

2006, the European Commission lodged a complaint against Italy for failing to meet the deadline; in March of 2007, the European Court of Justice censured Italy with infringement proceedings for non-compliance with the Directive. Eurofound states:

“The reason for this delay was not just the usual slowness with which Italy transposes EU norms. The Italian State justified the tardiness of the directive’s transposition on the ground that it was necessary to respect bilateral dialogue between the social partners, as well as their autonomy from the political sphere. The Directive affects crucial components of the Italian industrial relations system, profoundly innovating that part of collective bargaining which regulates information and (at times) consultation rights – that is to say, trade-union relations and rights,” (Muratore 2009, 3)

By contrast, an interviewee who was formerly an employee with the Italian Ministry of Labour and Social Affairs (*Ministero del Lavoro e Politiche sociali con delega alle Pari opportunità*) expressed a more dismissive opinion: “It [the decree] was late because it was late...there is no appropriate reason...they are comfortable with the infringement from the EU,” (Interview I5).

The main Italian social partners played a central role in transposing DICE into national legislation through autonomous, bipartite collective bargaining, resulting in a signed common opinion given to the government on the transposition of the Directive. The signatories comprised Confindustria and all related employers’ associations, CGIL, CSIL, and UIL. The resulting legislative decree was almost exactly in line with the social partners’ common opinion, including only specifications on the administrative sanctions applicable to those breaching information and consultation rights. Likely because of this near exclusively

bipartite procedure, all main social partners expressed positive opinions of the decree (and of the EU Directive that initiated the decree), perceiving it as an important step to improving communication between management and labour and, from the trade union perspective, helping to ameliorate the effects of the market. Confindustria expressed some criticism of the government's addition of administrative sanctions (to be implemented as fines), arguing that such penalties could discourage employers from properly initiating discussion with worker representatives on the new rights arising from the decree. All trade unions applauded the provisions of the decree, stating their general approval of legislation for worker rights. CISL and UIL both stated that the exercise of such rights could help foster a climate of participation in industrial relations, rather than one of antagonism (Muratore 2009, 4; Interview I1).

Trade unions were especially satisfied by the introduction of prior workforce *consultation* on corporate decisions within the decree's general body on worker information rights. Previous to the implementation of the EU Directive, existing mechanisms for worker information and employee representatives in Italy were designed to funnel information in a one-way direction from employers to employees, without any mandates for collaboration. The definition of "consultation" as stipulated by the EU Directive²⁵ necessarily included a more thorough, two-way manner of communication between labour and management: "Information and consultation rights are seen as a positive means to address...in a

²⁵ Article 2(g) defines 'consultation' as "the exchange of views and establishment of dialogue between the employees' representatives and the employer" (EUR-Lex 2002).

non-conflictual and socially shared manner, problems that are otherwise difficult to manage by the firm alone...[the rights are] therefore important, not only to prevent and resolve critical issues, but also to safeguard industrial relations against a management style exclusively founded on power relations and conflict.” (Muratore 2009, 4) CSIL and UIL emphasized the room for involvement of workers’ representatives in the decisions of firms, stressing the language of “co-decision” and “co-determination” (Ibid). In this manner, the distinction that employers in Ireland placed on *informing* employees from *consulting* employees – in that employers emphasized the need for employers to be the ones making the decisions concerning restructuring, redundancies, transfers, and corporate crises – was not visible in Italy, despite the fact that the decree introduced the legal concept of consultation for the first time (Ibid, 5).

The Italian experience with the transposition of the EU Directive also differed from the Irish experience in that there was no discussion of a “trigger mechanism”, as Irish employers had successfully lobbied for. The Italian decree legislates that employers are required by law to establish information and consultation bodies, guaranteeing the right for workers regardless of employee ‘trigger’ or interest, and providing for administrative sanctions in the absence or violation of that right. While the lack of debate over the process of transposition may speak in part to the way in which the decree was composed in Italy – in that the bipartite autonomous process of crafting a common opinion encouraged consensus on the content of the decree – it should also be noted that the economic

conditions underpinning each country are significantly different. Whereas Ireland depends on a great deal on U.S. multinational companies and foreign direct investment, Italian industry is characterized more by small- and medium-sized enterprises, many of which are family-owned and operated.²⁶ As such, the implications for worker information and consultation are significantly different between the two economies. For Ireland, the introduction of law proscribing specific workers rights for industries and businesses, many of which are large and foreign-owned, has greater potential impact on the ability of those businesses to move their operations elsewhere, where worker protections are less. Free capital and its ability to move from country to country poses a greater threat to local actors, in terms of job creation and investment opportunities (as evidenced by the heavy lobbying on the part of the American Chamber of Commerce in Ireland). For Italy, the economic investments and the political culture of small, locally-owned businesses would presumably find less threat in accommodating an additional layer of regulations for employers – employers who have next to no mobility to move industry to avoid such regulations, and who have ‘grown up’ in the Italian industrial relations culture.

A final notable component of the Italian experience in transposing the EU Directive is that while information and consultation rights are assigned by Italian law to RSU structures, the establishment of these union bodies is mandatory *only*

²⁶ Eurostat reported with its 2002 Structural Business Statistics survey that the percentage of firms with less than 20 employees for Ireland was 10.8% in manufacturing and 42.3% in market services; for Italy, the figures were 40.9% for manufacturing and 66.0% for market services (European Parliament 2008, 40).

for employers which voluntarily apply a collective agreement of any level. The consequence of this is that there are no information and consultation bodies in undertakings that are *not* covered by collective bargaining. As well, “in the undertakings covered by collective bargaining, the implementation of the Directive has added very rarely any substantial rights other than those already obtained by trade unions themselves through collective agreements,” (Pallini 2011, 1). Only employers who apply a collective agreement of any level are obliged to establish an information and consultation body, if the union representatives at plant level (RSUs) require it; put another way, an undertaking that is not covered by a collective agreement is not obliged by law to establish an information and consultation mechanism. According to the Italian National Statistics Institute (Istituto nazionale di statistica, Istat), collective agreements covered practically all of the public sector and almost 90% of private employees in 2010, for a total of around 13 million workers (Pedersini and Coletto 2011). This statistic indicates that there are still gaps (albeit relatively small ones) in the provision of information and consultation rights to Italian workers, a fact that could perhaps trigger a complaint in the European Court of Justice for legislation that contradicts the intention of DICE (Interview I5). Just as importantly, the limitation of information and consultation rights to those employers who are covered by a collective agreement also indicates the strength of trade unions in resisting independent plant-level worker representation. The prior existence of RSUs made transposing the EU Directive relatively straightforward, in that there were representative bodies for

employees already at undertaking level. It also meant that trade unions did not have to argue with employers as strenuously over what facet of representation would be provided to employees, as was the case in Ireland. All of these points are worth noting given the often political and adversarial nature of Italian industrial relations

To date, the visible impact of implementing DICE in Italy is low, which Confindustria and CSIL each attribute to a short span of time since transposition by which to measure the effects of the Directive. However, some sectoral renewals of collective bargaining agreements (such as metalwork) have included claims for information and consultation rights regarding decisions concerning employment and organizational change (Interviews I1 and I3; Eurofound 2009, 29). As well, the transposition itself of the Directive utilized a qualitative shift towards more autonomous action by the social partners in Italy: “this was a good example of how the bipartite way can go well...encouraging...” (Interview I1). According to trade union interviewees, the agreements implemented by Council Directives are the most efficient and have the biggest impact because they directly influence legislation and as a result must be abided by, as opposed to framework agreements which are sometimes limited in application (Interview I2). For this particular Directive, European legislation has had a positive effect by introducing more regulations that went beyond the statutory RSU bodies in Italian workplaces. Despite the relative ease of transposing and implementing EU Directive 2002/14/EC, all social partner interviewees acknowledged a “pressure” toward decentralization of collective bargaining. This was welcomed by Confindustria as a

“logical” part of business regardless of EU legislation, and dismissed by trade unions as pressure resulting from the lobbying efforts of employers to have more control over collective bargaining (Interviews I1 and I3).

Analysis and argument

The development of the EU Directive 2002/14/EC has the potential to significantly improve the quality of workplace relations in EU Member States. The content of the Directive introduces a solid basis for the long-term development of collaborative industrial relations within Member States and across the EU as a whole on a broader framework that is not simply on an ad-hoc basis: “[the legislation shifts] away from reactive responses to difficulties such as redundancies, towards more positive, forward-looking, approach to cooperation between employers and employees inside businesses,” (European Parliament 2008, 16). The Directive is crafted in appropriately general terms to account for the different institutional cultures across Member States, and allows Member States – and employer and employee representatives – considerable flexibility regarding the practical arrangements for implementing its provisions. There is scope for national implementing provisions to tailor the Directive’s stipulations on a number of important issues to reflect national practice. Member States are allowed to enable the social partners to negotiate information and consultation arrangements that depart from and even fall short of the standards established by the Directive.

Research expert perspectives on DICE, coming from a 2006 European Seminar on labour law and employee representation in the workplace found that the Directive created a universal right to information and consultation in the workplace for companies above a minimum size, but the issues to be included are not defined very precisely. As well, the Seminar concluded that the Directive created some potential uncertainty for existing trade unions-based systems of representation since other forms of worker representation are possible under the legislation, and that linked to this is the issue of who is granted collective bargaining rights at the workplace – the trade unions or worker representatives in some other form – given “the move towards more decentralized forms of bargaining in Europe,” (Ibid, 18; Van Gyes 2006).

The impact of the Directive has to be understood in the context of each Member State’s industrial relations system. National systems vary a great deal across the EU in general, and between Ireland and Italy more particularly. These variations are visible with institutional structures, the powers and politicization of social partners, the importance of collective agreements, the extent to which national systems already addressed issues of workplace information and consultation prior to the arrival of EU legislation, and the legal systems of each country (to include the general culture of respect for the law in general, and the more specific presence or absence of appropriate mechanisms at national level, such as labour courts or arbitration systems) (European Parliament 2008, 56). This being the case, the transposition and implementation of DICE in Ireland had much

greater impact given that it created a regulation for worker information and consultation for the first time, as well as creating recourse to the Irish Labour Court should these rights be breached. The adoption of the “trigger mechanism” reflects the voluntarist legacy of Irish industrial relations in implementing the Directive while at the same time the Irish government’s consultation of the social partners after first draft of the legislation reflects the evolution of social partnership in Ireland. The opinions expressed by Irish social partners offer a picture of an industrial relations system that is heavily shaped by foreign investment and multinational capital flows. In Italy, the combination of the prior existence of RSUs, the overarching economic context of a country with many SMEs (indicating that numerous firms and undertakings are too small to meet the threshold of needing to obey the regulations of the EU Directive), and the manner of transposing the Directive by autonomous bipartite social dialogue made for a comparatively smooth – if delayed – transposition and implementation of the Directive.

Some issues are, however, shared between the countries. While trade unions in general welcomed the Directive as an opportunity to strengthen the rights of workers, there was concern that existing union systems of representation could be undermined by the possibility of opting for direct representation in both Ireland and Italy. In both places, there was a further concern that this could lead to a fragmentation or decentralization of collective bargaining rights to the company level. Each of these concerns was perceived as positive potential developments on

the part of employer associations in each country. For both IBEC and Confindustria, the room to utilize direct worker representation instead of union bodies or union lists offered the enticing possibility of agreeably raising the bar on legislated worker rights without having to burden businesses with trade union obligations (if there were previously none). As well, although employers in general tend to minimize any changes required to worker rights and protections in domestic legislation (as stated by BE), the potential to use the implementation of the Directive as a way of further decentralizing collective bargaining away from the national level would benefit industry as it would offer increased flexibility in adjusting to market conditions.

In this sense, social policy in the EU to do with rights and regulations of workers and employers is indeed a way of creating a minimum floor of protections for workers, but is done with an eye to protecting the economy as whole rather than the specific employment opportunities for specific workers. This speaks to the larger context of changes in overall labour market policies in the direction of “flexicurity”, where the emphasis shifts from protecting specific jobs to protecting long-term employment prospects and income through wider support and retraining (European Parliament 2008, v). Just as relevant, social policy in the EU to do with industrial relations places an emphasis on social dialogue and related mechanisms to garner consensus and avoid industrial conflict. The goal of DICE is indicative of this trend; furthermore, the emphasis on consulting social partners in the implementation of the Directive (as included in an amendment by the European

Parliament) contributes to the institutionalization of social dialogue as a legitimate instrument of policy-making. This institutionalization has the paradoxical potential to reinforce or invigorate the role of national peak-level unions and associations, while at the same time enhance or create a role for bargaining and negotiation at company levels. In effect, the Directive offers an empirical example of the EU's emphasis on 'consultation' being the social complement to various forms of neo-liberal deregulation related to business and investment interests.

CHAPTER 6: Argument and Analysis

Introduction

This chapter analyzes the data from the previous two empirical chapters (Chapters 4 and 5) in order to argue that: 1) the effects of Europeanization are visible in the realm of industrial relations in both Ireland and Italy, and; 2) these effects are part of a larger trend of adapting free-market capitalism to a distinct EU model. First, the chief points of ‘convergence’ in the Irish and Italian systems of industrial relations are the general decentralization of representation away from national-level peak federations and the reduction of power of trade unions relative to that of employer’s organizations. Both of these trends are a response to deepening single market integration and to the recent global financial crisis. Second, the area of industrial relations offers a significant example of how the EU as a whole is conditioning its neo-liberal integration project with a distinct, and somewhat paradoxical, trajectory of enhancing flexibility through regulatory structures. This is found through analyzing the type and quality of social policies that accompany the pressures on businesses to be ready to quickly adapt and respond to increased exposure to the EU and a the global market as a whole.

The chapter proceeds in four parts. First, the chapter summarizes the findings from Chapters 4 and 5 to compare areas of significance and divergence across the two case studies. Second, using Caporaso’s (2008) model of Europeanization’s influence and interaction, this chapter argues that the Europeanization of industrial relations in the EU is visible due to the influence of

the supranational level on Member States. Third, this chapter posits that the evidence to date points to a ‘hybrid’ of liberalization with social protections as a large-scale attempt to respond competitively to the pressures of globalization with a distinctly formal approach of creating new labour laws and strengthening the role of key organized interests. This ‘hybridization’ is interesting because it doesn’t simply demonstrate a compromise between the Anglo emphasis on deregulation and other contrasting models from the postwar-Western-European variety (“social capitalism”, “protected capitalism” – see Chapter 2); instead, this hybrid offers a unique approach of ‘regulating deregulation’, in that the central (neo-liberal) goal of taking advantage of the opportunities in the single market in order to gain competitive advantage on international markets is sought after by using social policies to encourage businesses to be as adaptive and competitive as possible. This is distinct from other large industrialized democracies outside of the EU that generally adopt similar social policies as a way to attend to the *effects* of businesses trying to be competitive, rather than using such policies and labour law as a way of increasing competitiveness. Finally, the last section of this chapter summarizes the points made in the first three sections to respond specifically to the hypotheses laid out in the first and third chapter of this dissertation, and as such to purposefully answer all parts of this dissertation’s research questions. These hypotheses are: (1) how European-level trade unions and employers’ organizations as new political actors have influenced domestic interest *configurations*; (2) how negotiation at the supranational level affects the *strategies* of central actors in domestic industrial

relations systems; and (3) if and how pressure from the European integration project modifies the *institutional legacies* of domestic IR systems.

Empirical Findings

Taken together, the empirical findings in both chapters reveal a number of shared trends between Ireland and Italy, despite the very different institutional and economic circumstances. The first trend is that of the norm of social dialogue growing in importance, reinforced by the Commission and social partners at the EU level, and particularly as a means of responding to adverse economic circumstances. The mechanisms for social dialogue at the EU-level are celebrated (through publications issued by EU official agencies) as being a big accomplishment with regard to a more inclusive and representative civil society. This, in turn, is reflected in the way in which domestic interest groups and governments alike have applauded social partnership in Ireland – at least until 2009 – as a means of generating economic progress through formally agreed wage moderation schemes. While the 2009 collapse of social partnership in Ireland over proposed wage cuts to public employees seemed to initially suggest a lack of institutionalization of social partnership in the face of crisis, the most recent Irish government elected in May 2011 has put together a “rebranding” of “social partnership” into “social dialogue” (EIRO 2011). Comments made by Prime Minister Enda Kenny (below) indicate that Irish industrial relations are heading into a new phase – seemingly characterized by a smaller bargaining realm and less

proscribed formality – in response to the financial crisis. The comment below contextualizes the shift from partnership to dialogue as one that is less formal, more autonomous, and more consultative than binding:

“Mr Kenny told the Dáil (parliament) in late March [2012] that his government: ‘values dialogue with the social partners, whether within the framework of a formal agreement or otherwise, and recognises the contribution that social dialogue can make to maximising common understanding across all sectors of society as we respond to the many challenges facing the country,’...Mr Kenny agreed that social partnership arrangements had been key to stabilising industrial relations in Ireland, but said they had extended into a range of areas ‘which was probably never intended in the beginning’. In that sense, he said, ‘a one size fitting everything approach did not work as effectively as it should have’.” (Ibid).

Similarly, Italy has in the past two decades relied upon social ‘concertation’ – the method of shaping public policy in which the government and social partners together determine fundamental economic and social goals and where the government then delegates a portion of its authority and accountability to the social partners for their implementation – during times of key socio-economic challenges, to include the tumultuous build-up to EMU entry in the late 1990s as well as the present-day economic crisis. Concertation (and the Irish corollary of ‘partnership’) is based on the concept of policy coordination and control and the involvement of public authorities, and is therefore distinct from the concept of social ‘dialogue’, which relies on more autonomous dialogue and decision-making by consensus between unions and employers (EU Commission 2011b). Italy’s use of concertation has been in the form of tripartite pacts targeted toward combining social policies (pension or wage adjustment) with macro-economic policies (fiscal measures,

improved training, etc.), but such pacts have been inconsistently utilized over the past 20 years.

While the politicization of Italian trade unions has frequently led to rifts between the more moderate CSIL and UIL and the less moderate CGIL, the relatively weak role of government (relative to that of Italian organized interests) has still allowed social partners to fulfill a very active role in shaping the direction of policy (Ibid). Many areas of employment law and reform have been left to the social partners to negotiate autonomously, such as with the 2002 Directive on the Information and Consultation of Employees. With the recent financial crisis still unfolding in Italy, accompanied by the sudden replacement of Prime Minister Silvio Berlusconi with the technocrat Mario Monti in late 2011, concertation is continuing through government direction of labour reform. An important difference, however, between prior Italian examples of concertation and the current Monti 'crisis' administration is that discussion on the 2012 reform is beginning with government delegating specific topic for the social partners to negotiate in a more autonomous manner, thereby initiating debate in a manner more akin to EU style social dialogue than tripartite concertation. The Monti administration has to date spent several months negotiating with employers, unions and political parties over a package of proposed labour reforms that include measures to make it easier for companies to fire employees. While CGIL has voiced strong opposition to the content of the reforms, arguing that the measures would lead to an "avalanche of layoffs", the design of the proposed labour reforms has not only met with approval

from all parties, but has been closely watched by EU officials. In a statement from Brussels, Laszlo Andor, the European Commissioner responsible for employment, social affairs and inclusion, said it was a positive thing that the Italian government has "invested much time" in the dialogue with the trade unions over labour reform, "otherwise it would not be good practice." Andor added, "it is too early to pass judgment [on the contents of reform]...The general direction is worthy of support," (*Agenzia Giornalistica Italia*, 21 March 2012).

Taken together, the experience of each country suggests that the recent debt crisis has opened up a window of opportunity for change in the style and method of industrial relations. The pressure exerted by the EU on Ireland and Italy – both members of the Euro-zone – to contain their respective debts, have encouraged the new government administrations in each country to shift to a style of policy-making that adopts the formality and consultative aspects of EU social dialogue and loosens the obligation to bind legislation to the opinions of the social partners. If debt crisis era responses can be seen as a test of the strength of social partnership (Ireland) or social concertation (Italy), then each country is responding to the test by moving away from previous incarnations of bargaining toward a more EU-friendly model of social dialogue.

A second shared trend between the two countries is that of gradual decentralization of collective bargaining away from national and/or sectoral levels to the company or plant level. This trend, according to all interview and academic sources, is much more in line with the interests of business and employers rather

than with the interests of workers and unions. While employers argue that collective bargaining and negotiation in general ought to be dealt with at a localized level that serves the contextual needs of the company or industry in question, unions argue that maintaining collective bargaining at the national or sectoral interests is necessary in order for employees to have the bargaining strength to demand fair working conditions without fear of direct employer retribution.

This argument was contained in the Irish implementation of DICE, where IBEC lobbied for worker consultation representatives to be able to come from the company level, thereby removing the necessity for union representation at plant-level. As well, the very recent debates over how social pacts ought to move forward in Ireland following the 2009 collapse of social partnership have included government statements on the decreasing value of national pacts concerning wages and inflation: “[Minister for Foreign Affairs Eamon Gilmore said that] while social partnership was a very formal structure dealing with pay and wider economic issues, the new discussions would deal with industrial relations and allow for the various social partners to put forward their own ideas on improving the economic situation... The Tánaiste said that while a return to social partnership structures of the past was unlikely, there were ‘real benefits for a country like Ireland from effective social dialogue in terms of *greater certainty for investors*, maintaining industrial peace and strengthening social solidarity’,” (*Irish Times*, 6 October 2011, italics mine). Government statements on the reinvigoration of social partnership have stressed the need to re-open dialogue between unions and employers without

recreating a formal system of national-level wage negotiation, preferring instead to “jointly respond to common problems” on an ad-hoc basis (Ibid). The central implication of reinstating dialogue between social partners without the formal framework of social partnership is that unions would lose a certain degree of bargaining power without the national-level rules of social partnership to protect their bargaining rights. In support of this implication, an ETUI report on collective bargaining in EU Member States holds that the company level has become the new key level for collective bargaining following the collapse of social partnership (ETUI 2011). Given the pressures of the financial crisis and the need to attract foreign direct investment, it is reasonable to assume that Irish social dialogue in the near future will maintain the course of decentralization and avoid a return to national pacts for the collective bargaining of wages.

All of which raises an important question: why does labour continue to participate? The “business unionism” explanation has a few variants (see third trend, below). One argues that since socialism as an ideology has fallen increasingly out of favour with the end of the Cold War, the underlying philosophy supporting the creation of worker unions has changed from a platform for worker protection in the face of exploitation by management to a more pragmatic platform for a channel of worker communication with employers. Another variant argues that unions themselves have begun to run themselves like businesses, with less internal democracy and more authoritative structures, and as such have become organizations more concerned with sustaining themselves over the members they

represent (Frege and Kelly 2004). Both arguments are helpful for understanding what is likely the case for the EU and many of its Member States – labour continues to participate in the EU’s legal conception of social dialogue, autonomous bipartite negotiation, and the overall context of the Single Market simply because it is a way of staying in the game and maintaining a presence. This trend is not exclusive to European labour, either at the domestic or supranational level; the heightened pace and intensity of economic globalization and capital flows have placed similar pressures on labour groups and organizations around the world (Ibid). Simplistically speaking, present-day market forces – either globally or within the EU – constrain labour’s choices to adopting an extreme (and likely marginalized) stance, dropping out of negotiations entirely, or gradually recontextualizing and reshaping the position of labour interests to work with the forces of economic integration rather than against it. At least for the specific cases given in this dissertation, the last choice appears to be that of major domestic trade union confederations.

In Italy, a central example of the trend of decentralized industrial relations comes from Fiat. In 2010, the automotive giant began allowing its Italian plants to *not* join employer associations and instead negotiate agreements on working conditions at plant-level rather than at the sectoral level:

“The move to abandon the traditional framework of employer associations and industry-wide bargaining was seen by many commentators as a potential disruption in the Italian bargaining system. Should the example of Fiat be followed by a significant share of Italian firms, the present two-tier bargaining system would be questioned and, as a consequence, the role of employers’

associations would certainly need to be redefined. Moreover, the division among trade unions revitalised the debate on how to measure representativeness, and whether legal extension measures should be introduced, with a view to avoid disputes around the applicability of certain contracts. Some regulatory initiatives, especially in the field of representativeness, may be expected in the near future. However, despite the importance of the debate and the interest shown in the Fiat case within the business community, there have not yet been any significant repercussions, or attempts at imitation.” (Eurofound 2011d)

As of November 2011, Fiat continued the course of defining its own autonomous track and announced its unilateral withdrawal from all existing collective agreements (EIRO 2012). According to *The Economist*, this decision was explicitly undertaken so that Fiat could negotiate directly with workers at factory level. Italian laws governing collective bargaining at sectoral level have, according to Fiat, inhibited decisions regarding productivity and flexibility, and have also contributed to Fiat being 15-20% less efficient than its competitors elsewhere in Europe (*The Economist*, 5 November 2011). In doing so, Fiat has renounced industry-wide, national labour standards, and has instigated an important challenge to the Italian norm of industrial relations taking place most frequently at the national or sectoral levels (Ibid). While it remains to be seen whether the Fiat exemption remains an anomaly in Italian industrial relations or whether other Italian firms opt for a similar route in the near future, the example of Fiat is significant because of the size and stature of the company and because of statements made by Fiat explicitly linking decentralized bargaining to competitiveness and productivity.

A third trend is that the unions in each country display either passivity (Ireland) or incoherence (Italy) in cultivating a labour-oriented response to business interests. In Ireland, ICTU's expanding membership – to include smaller, regional union bodies – has helped interject more divergent interests into the national-level union federation. As well, the reliance of the Irish economy on foreign investment and U.S. multinational companies was a big factor in shaping the *context* of social partnership between 1987-2009. Agreements at the national level during this time were heavily shaped by the overarching goal of productivity, and this goal influenced the compromises made by trade unions: “social partnership has helped to restructure the labour movement so that ‘business unionism’ has become the new dominant perspective of labour leadership. The boom has also strengthened the bargaining power of the rank and file and has laid the basis for new conflicts about the future direction of the labour movement,” (Allen 2000, p.7). In Italy, despite CGIL being the trade union federation with the largest membership, its objection to many proposed adjustment schemes (to do with either wages, pensions, or the ability for companies to fire employees) has not consistently resulted in a stalling or modification of concertative talks; rather, as evidenced with the breakdown of negotiation in 2002 and 2009, CGIL has instead been marginalized outside of the social partner framework, leaving CSIL and UIL to conclude negotiations on significant national-level pacts. In either country, the dual rising pressures of EU single market integration and globalization at large have shaped the context for economic adaptation in a manner that has significantly weakened the traditional

ideological stance of unions – that of promoting the need for improvements in working conditions and increases in wages.

Where the two countries diverge is in the amount of reliance upon the EU model for example and justification. Interestingly, on this point the evidence is somewhat counter-intuitive. Although Ireland's economy is heavily dependent on outside investment, that investment comes in large part from *outside* the EU. The social partners within Ireland do not look toward Brussels or the EU-level for validation of procedural style or legislative substance for the Irish framework of social partnership as much as the Italian social partners do. Irish social partnership and the related national economic and/or recovery programs began very much as a localized phenomenon, in response to economic circumstances and as a way of avoiding repeats of large-scale industrial action. While the EU level mirrored the example of Irish social partnership in terms of timing, as the Commission deepened and institutionalized the roles of the social partners and of social dialogue in general from 1985 onwards, interviewees were quick to assert that Irish social partnership developed organically in response to local conditions. The EU level has had import by offering a parallel example of industrial relations that Irish social partners could use for reinforcement and validation. When asked about the influence of the EU level on Irish social partners, IBEC stated that Irish ministers often cite domestic social partner agreements as a big source of stability for the Irish economy, and that the "European project has fed well into this [validating social partner agreements as a source of economic stability]," (Interview E2). ICTU

stated that “No one is about to let politicians get away with ‘Europe is making me do this’ anymore,” and that the Commission “used to be workers’ friend, now it’s more on the employers’ side, but also offered that the influence of the EU is embedded in all areas and is very much a presence in the issues up for discussion and in the economic health of the country (Interview E1).

In Italy, the fallout from the 1992 *Mani Pulite* corruption crises and the resulting reorganization of the Italian electoral system and political parties left Italian officials very much attuned to the need to undertake large-scale economic reforms in a direction that would maintain Italy’s role as an important economy within the EU.²⁷ A straightforward differentiating economic factor between the two countries is that although Ireland is heavily reliant upon foreign investment, a great deal of that investment comes from outside of the EU. By contrast, Italy’s reliance upon Italian SMEs for production and exports²⁸ makes the Italian economy much more entwined and dependent upon the European single market for revenue. This dependence, combined with the widespread norm of viewing the EU level as a modernizing and validating force (see Chapter 4, Italian sub-heading), has cultivated stronger ties – or at least a stronger *perception* of ties – between Italian social partners and the EU level. A prominent example of this is the value of

²⁷ Italy holds the rank of fourth largest economy in the EU (after Germany, France and the UK) and third largest economy in the euro-zone (after Germany and France) (Eurostat 2011).

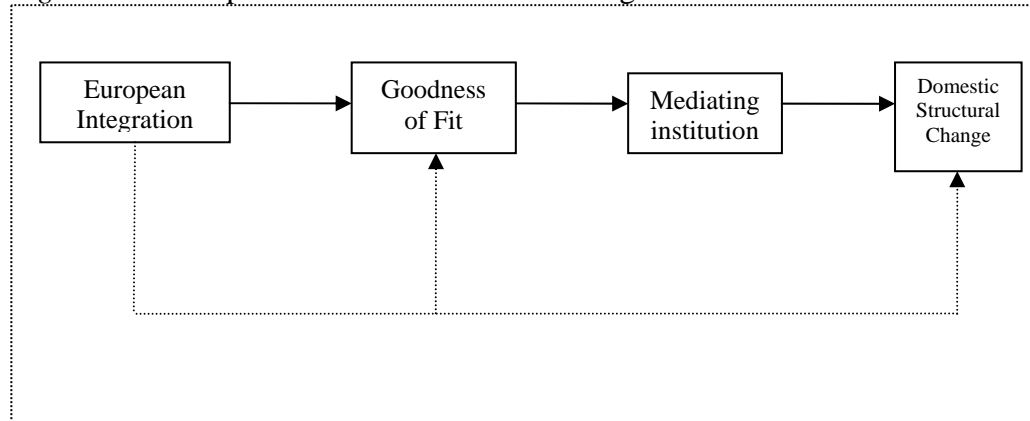
²⁸ The European Commission DG on Enterprise and Industry states: “There are approximately 65 SMEs per 1000 inhabitants in Italy, which is substantially above the EU27 average of ca 40. In line with this, the relative importance of SMEs for the Italian economy exceeds by far the EU average, as illustrated by a considerably above-EU-average share of persons employed and value added accounted for by SMEs. It should be noted, that this elevated importance is mainly due to the micro enterprises, while medium enterprises are, in fact, underrepresented vis-à-vis the EU average,” (EU Commission 2008).

UEAPME for Italian social partners on either side of labour and management. Given the higher than average reliance of the Italian economy on local SMEs, Italy has cultivated very strong representation in UEAPME, with an individual Italian SME presence in Brussels (Interview B7). Similarly to Italian employers representing public administrators using CEEP to boost the capacity of public employers in Italy, and to help argue for particular reforms needed nationally (Interview B6), SMEs have used Italian membership in UEAPME to reinforce the interests of small enterprises at home, and to validate arguments by referring to the EU-level (Interview B7).

Model of Europeanization

In Caporaso's (2008) model of Europeanization, the idea of Europeanization is endogenous to the evolution of integration theory; meaning, that the 'big push' which Europe needed and received from the member states to begin the initial process of integration has given way to self-sustained growth. This growth is what creates the basic concept of the EU being able to exert influence in varying ways on the member states it comprises. Technically, Caporaso's model below – derived from Risse et al (2001, 6-12) – is close-looped, since the domestic outcomes feed back into the process of Europeanization, but for research purposes the analysis is basically terminated with domestic adjustments.

Figure 6.1: Europeanization and domestic change



Source: Adapted from Risse et al. (2001, p.6).

For the purposes of this dissertation, the beginning of the model is the EU's evolving governmental system in the area of industrial relations. As outlined in previous chapters, successive EC/EU treaties have assigned various competencies to the European social partners in areas relating to social policies, and these competencies have helped elevate the decision-making power of the European social partners and their autonomy from the Commission in negotiating with each other. This form of European integration manifests itself in the polity of social dialogue, which contextualizes how actors interact and what boundaries they assign to their interactions; this speaks to the “goodness of fit” in the second part of the model. The ‘style’ of EU social dialogue – where European social partners have the right to be consulted by the Commission as a result of their representativeness; where both bipartite and tripartite dialogue is used; and where social partners have the ability to either reach autonomous agreements which they implement themselves or to transform joint actions into legislation – embodies a particular form of consultation and negotiation that relies on consensus, formality, and a

certain degree of technicality. This ‘technicality’ could also be contextualized as technocracy, or a more functional and less political approach to negotiation, in that the formality surrounding the process of EU social dialogue and the emphasis on bipartite autonomy serves to separate political actors from interest groups. The European model is also notable for the financial support given to social dialogue initiatives, in particular the key area of capacity-building for social partners organizations.

The degree of fit between the European model of social dialogue and the respective Irish and Italian models differs a fair amount. In the Irish case, social partnership was firmly tripartite in nature with regular contact between government departments and representative social partners. As well, social partnership agreements went beyond single-issue social policies relevant to employment and dealt with long-term strategic national economic plans that covered wages, industrial action, housing, transport, education, and varying other services. The partnership agreements (seven in total between 1987 and 2009) bound all actors to the negotiations agreed upon for a specific length of time. The ultimate goal driving each partnership agreement had been the overall economic and social health of the country – with productivity in the workforce comprising an explicit part of this goal. While the fit between the Irish system and the EU system is visible in the formality of dialogue and the framework of developing advance consensus on action, the ‘misfit’ is visible in the degree of involvement of the Irish government and in the substance of social partnership agreements. While some autonomous

deliberation did take place with regard to specific areas within each national social pact, the style of social dialogue remained firmly tripartite. The content of each social pact dealt with a range of issues relevant to the Irish economy and working conditions and grouped these issues together in successive pacts – the product of which resulted in larger binding frameworks for negotiation rather than the issue-by-issue dialogue utilized at the European level.

In Italy, there is arguably more misfit than fit visible in comparing the Italian case with European social dialogue. Italy is technically more of a voluntarist system, in that legal institutions governing the conduct of industrial relations are few – similarly to Ireland, this is a notable difference with the treaty-based procedure of the EU. However, the central tripartite agreement of 1993 was an important event in creating a systematic framework for collective bargaining and workplace representation. The timing of this agreement came right after the *Mani Pulite* corruption scandal and the signing of the EU Maastricht Treaty (where the EMU convergence criteria was agreed upon); the significance of this timing is that the weak, technocratic government at the time needed the support of employers and unions in order to legitimate reforms in the midst of political crisis (Ebbinghaus and Hassel 1999, 20). As in Ireland, this agreement sought to systematize bargaining procedures in general and incomes policy more specifically; but unlike Irish social partnership, the Italian 1993 agreement did not introduce tripartism as an institutionalized feature of industrial relations. Instead, Italy has frequently used (or attempted to use) tripartite negotiation to achieve certain objectives in the areas

of income policy, welfare, pensions, and labour market reform, but tripartism has remained an ad-hoc solution and has declined in use during the 2000s. The use of formalized concertation mechanisms has varied according to government administrations throughout the 1990s and 2000s, and the break in the trade union front with CGIL refusing to sign national pacts in 2002 and 2009 has contributed to less of a systematic framework of tripartite negotiation. In this sense, the central differences between Italy and the EU level are the comparative lack of formality with Italian industrial relations, and the higher degree of politicization and fragmentation among the social partners.

At the same time, Italian social partners have also been able to exercise a certain degree of autonomy in developing frameworks and joint actions for domestic labour-related issues and in implementing EU Directives to a greater degree than what Irish social partners have been able to do. In terms of social partners building up their own capacity to participate in social and economic agreements at various levels, autonomous action by the social partners is an important exercise; at the EU level, the Commission has called upon and encouraged EU social partners to develop autonomous work programmes and frameworks of joint action. At the Italian level, the lack of formal institutional structures outlining social concertation has not inhibited the autonomous capabilities of the social partners: “The social partners in Italy have always been sufficiently strong and self-reliant enough to engage in bipartite social dialogue, while the government's role has always been rather weak. Resort to tripartite social

pacts (or social dialogue) at the national level was only deemed necessary by the government – which always took the initiative – when the national political and economic situation was too critical to be dealt with by the government alone,” (EU Commission 2011b).

Consequently, the adaptational pressure owing to “misfit” in each country is visible in the following: for Ireland, the EU exhibits pressure on social partners to negotiate more in the direction of a regular bipartite framework; for Italy, the EU exhibits pressure on social partners to negotiate according to a more formal process and with more attention to consensus and avoiding industrial action. Arguably, this ‘pressure’ from the EU level varies in intensity and in form according to economic circumstances, such as pressure to open privatize certain sectors in Member States or pressure to reduce deficit and debt loads in order to maintain EMU. Each country is notable for using national social pacts to attend to critical economic situations (such as high debt, high unemployment) and/or to cope with pressures arising from European integration (such as economic pressures arising from EMU or the need to implement European employment guidelines). During times of adverse economic circumstances, the potential for each country to take action to ease the pressures of ‘misfit’ is greater, as a direct means of coping with competition in the Single Market. The recent economic crises provide examples of this: Irish government statements on needing to reinvigorate negotiation in a looser framework of social dialogue in order to stimulate economic recovery; and Italian

government efforts to enact large-scale labour market reforms in consensus with the major social partners.

Substantively, other important areas of fit/misfit are in the amount of complementarity between the notion of worker information and consultation, and in the degree of decentralization for collective bargaining. The EU Directive on the Information and Consultation of Workers was significantly more work for Ireland to transpose and implement than it was for Italy. Ireland had no prior mandates for either worker information or consultation, whereas Italy had existing provisions for worker information to some degree in RSU bodies. In both countries, however, a visible amount of institutional and cultural maneuvering was undertaken in order to create or adjust the mechanisms for worker information and consultation bodies enough to fit with the stipulations of the EU Directive.

In terms of what level collective bargaining takes place at in each country, the adaptational pressure exerted here arises from the consequences of the Single Market rather than from direct official EU provisos. During the build-up to EMU, and in the immediate aftermath of adopting the shared currency, economic integration created new pressures to improve competitiveness that produced the somewhat paradoxical development of a renationalization of collective bargaining. This was seen through the rising use of national social pacts in Ireland and Italy and elsewhere in the EU (see Chapter 2) – pacts which included commitments for collective bargaining to follow a policy of wage restraint on the grounds of improving competitiveness. In the years following the adoption of the euro, and in

particular the recent years of the global financial crisis and the European debt crisis, the use of national social pacts has given way to rising employer preference for coordination at the enterprise level. The preference itself is nothing new, but the ability of employers to be able to translate this preference into greater probability of action has increased:

“Employer preference for coordination at the enterprise level might be seen as part of wider employer pressure towards more decentralized bargaining arrangements. Increasingly, management has been looking to develop organization-based employment systems, in which remuneration, working hours and working and employment practices are determined according to the business and production requirements of the organization...Employer preference for avoiding any sector-level coordination of the bargaining agenda and outcomes might stem from a desire on the part of MNCs to be able to continue to secure the advantage that mobility of capital across the EEA provides in terms of ‘regime shopping’.” (EIRO 1999, p.17)

The example of Fiat in Italy is one important instance of the decentralization of collective bargaining to enterprise / plant level as a response to international competitiveness. As well, the discussions surrounding the implementation of DICE in Ireland relate in that the potential consequences of allowing for company-level representation of worker information and consultation systems are such that mechanisms of collective bargaining would rely less and less on existing trade union structures at the sectoral and cross-sectoral levels.

The third part of Caporaso’s model identifies institutional mediating factors at the domestic level: “Domestic cultural factors that are cooperative vs those that are oppositional would, almost by definition, have a facilitating (obstructive) effect,” (Caporaso 2008, 30). The first set of mediating factors are formal and

informal institutions; for industrial relations, this is a question of whether domestic institutions, political culture, and interest groups are poised to take advantage of the change in Brussels or not. In terms of the style and content of EU social dialogue – admittedly, a very broad and loose source of pressure that exists as example more than direct criteria – Italian mediating factors are slightly more facilitating than those of Ireland. This is visible in the general bipartite framework of Italian social concertation, the perception of the EU level as a modernizing and legitimizing force, and in the explicit willingness of the Italian social partners to utilize the EU level as a force to boost their own capacity (as evidenced by some of the interviewee statements). The Irish case is not exactly a contrasting example of obstructive mediating factors, but in comparison to Italy the factors are relatively less facilitating. The (prior) institutional element of social partnership relied on tripartite rather than bipartite negotiation (a notable factor that could arguably inhibit the capacity of the Irish social partners); Ireland is generally well-regarding of the EU level (as evidenced by prior Eurobarometer polls) but is less *reliant* on the single market for foreign direct investment than Italy is, due to Irish dependence on American MNCs; and interest groups did not rely on the EU level or the EU social partners as a referent to the extent that the Italian interviewees did.

In terms of DICE, Italy was in a position of definitely lower adaptational pressure than was Ireland. Institutionally, Italy already had mechanisms in place for worker information (if not consultation) with RSU bodies across different sectors – these existing mechanisms, although imperfect, helped create a more favourable

perception towards DICE on the part of all actors. As Ireland was without any prior institutional mechanisms for worker information and consultation, the implementation of DICE was again a situation of high adaptational pressure to 'fit' EU legislation. The political culture within the government appeared to be one of straightforward acceptance, accepting the need to transpose and implement DICE and indeed meeting this need well ahead of deadline. Interest group responses to DICE were split and as such brought into focus the major debates surrounding the directive. Unions welcomed the content of the legislation but protested the qualification of non-union actors being allowed to represent workers at plant level; employers did *not* welcome the directive, but immediately sought ways to adapt the directive so that worker protections would not inhibit the potential capacity for management to enact decisions geared toward the overall productivity of the enterprise.

The second set of mediating factors is veto power, which can be exercised through the capacity to obstruct, slow down, and amend legislation as well as the power to simply reject legislation (Ibid, 31). A key example of veto power is with a coalition government, which can have more potential veto players than governments with a single dominant party. Another relevant example is the presence of multiple large (or at least powerful) union federations or employer associations, as in Italy. While numerous examples exist of Italian actors subverting or ignoring pressures from the European level (see Héritier 2001, p.45 on the subject of road haulage), Italy has also just as frequently exhibited a broad

permissive consensus on the value of “Europe” that has overcome the interests of powerful groups and political parties (see Sbragia 2001, p.80). The relative weakness of government administration against the strength of interest groups is subject to this consensus. As well, the fragmentation of interests into multiple (and sometimes conflicting) federations instead of into a single peak organization – specifically, that of CGIL frequently dissenting from the shared front of trade union opinion – has helped modify the balance of power that might otherwise have furthered a climate of trade union resistance to EU initiatives related to the single market. A very salient example is that of CGIL frequently dissenting from the shared front of trade union opinion during concertative efforts to create new economic social pacts.

In Ireland, veto power is immediately visible with the examples of social partner efforts to amend the transposition of DICE. IBEC sought to reduce the power of unions to act as the sole representative bodies for worker information and consultation, and successfully lobbied for the ability for management to undertake certain decisions central to competitiveness without having to respect the provisions of DICE. This example also supports Caporaso’s contention that “mediating institutions are endogenous with respect to Europeanization”, as key institutions or actors can be “empowered to act by the very challenge that they were supposed to meet,” (Caporaso 2008, 32-33). IBEC’s lack of enthusiasm over the EU Directive was perhaps mediated by the overarching general direction of single market integration – which, according to statements made by officials and

observers, has helped shaped the evolution of social partnership in a generally more business-friendly direction.

The last part of the model deals with the outcomes of Europeanizing forces, either through institutional adaptation or larger-scale domestic structural change. Outcomes should be assessed according to the domestic context: “Outcomes are not expected to be identical, except in the improbable case where adaptive pressures and mediating institutions are identical. Convergence is neither theoretically predicted nor empirically likely. The process of Europeanization involved a continual arbitrage between national differences, different adaptational pressures, difference mediating institutions, and outcomes,” (Ibid, 31). Despite the above qualifier, however, the evidence in this dissertation provides an argument that *some* convergence in the industrial relations systems of Ireland and Italy is taking place as a result of Europeanizing forces stemming from EU social dialogue. This is visible in the similar strategies each country has used to respond to the external pressures (external to the domestic level) of EMU, financial crisis, DICE, and the increased institutionalization of social dialogue at the EU level. The build-up to EMU stimulated the use of national social pacts in each country to attend to the economic reforms necessary to enter the euro-zone; the recent financial crisis provoked the collapse of government and ushered in a change of administration in each country; DICE introduced the concept and institutionalization of *consultation* of workers – a novel idea for the treatment of workers in each country; and as a secondary response to the financial crisis, both Ireland and Italy are currently

seeking to implement large-scale labour market reforms that utilize a method of negotiation markedly closer to the model of EU social dialogue than what was previously used in each country. This is evidenced by Irish governmental statements on the need to “re-brand” social partnership into a less restrictive form of “social dialogue”, and by the current Italian technocratic administration’s efforts to delegate a certain portion of reform efforts to the social partners during the euro-debt crisis.

Notably, this is convergence in very broad form – the exact context of responses and detail of implementation still varies in detail according to domestic context. Taken together however, and with acknowledgement of the very different political and economic circumstances in each country, the responses undertaken in Italy and Ireland offer insight into what could collectively be termed as empirical evidence of some Europeanization of industrial relations systems.

A ‘Hybridized’ Capitalism

That the EU seeks to become a stronger and more internationally competitive economic actor is not a new revelation; nor is it a new idea that most European countries in and out of the EU have more robust welfare states and strong social protections than other industrialized countries around the world. The manner in which EU policy seeks to reconcile these two characteristics, however, goes beyond a simple economic trade-off of higher taxes in exchange for the guarantee

of more social protections from the state. In efforts to implement this reconciliation, a 'hybrid' form of capitalism is emerging at the supranational level.

The 'hybrid' comes from intertwining of some of the more neo-liberal elements underlying the logic of the single market (privatization, deregulation, competition) with a set of labour laws and regulations at the supranational level that attend to the rights of workers (the right to paid and unpaid leave, the right to worker consultation, the right to request more flexible working arrangements). The 'hybrid' does *not* come from a combination of liberal capitalism and social welfare, as the term "social capitalism" has been often used to connote (see Chapter 2) – simply because it *can't*. The European Union is not a state and is also not a conventional federative entity with a single executive holding some source of authority over its constitutive parts. This fact alone immediately limits the power of the EU institutions over its population; in particular, there is no supranational ability to tax. As such, the traditional political conception of creating a welfare state to manage social protections is not directly applicable to the EU Social Model. Consequently, the EU has developed "Social Europe" in the areas in which it *does* have authority – economic policies relating to competition and productivity, in particular those areas to do with employment. Social Europe is primarily found in legislation relating to labour laws and the protections available through employment. The 'hybrid' of capitalism that emerges with European integration is thus a new model which implements social welfare through objectives related to production.

The European Employment Strategy (EES – see Chapter 2) and the EU concept of “flexicurity” are both emblematic of this. The EES encourages Member States to align their labour market goals toward the objective of increasing employment for all citizens. This is at first an obvious point, but there are important differences between the objective of increasing employment and the employability of the workforce, and other objectives of either reducing unemployment or of creating more full-time employment opportunities. The first objective prioritizes increasing participation in the workforce, whether it be on a part-time, temporary, or contractual basis, and thus necessarily *de*-prioritizes other elements such as unemployment support or long-term job security. Similarly, “flexicurity” – the balance between flexibility and security for employees against labour market risks – emphasizes the security dimension through elements such as training opportunities for all and smooth transitions between different labour market situations (i.e., from school to work, from one job to another, from unemployment to work and from work to retirement) (Eurofound 2008b, 1), rather than the more traditional Western European welfare state notion of achieving security through restrictions on redundancies, high pensions, and thorough unemployment benefits. All taken together, the term “hybridization” captures a shift in the European social model away from social welfare and toward active labour market policies.

An important component of ‘hybrid capitalism’ is the flexibility and security of industrial relations. Numerous EU efforts and statements have trumpeted the importance of social partners and social dialogue. The ‘flexicurity’

approach highlights the “flexibility and security of labour relations *within* companies,” (Ibid, italics mine) – significant because of the identification of the company level as the place where effective social dialogue ought to take place. In line with the hybrid model of assigning the responsibility of security to the realm of employment instead of to the government, EU flexicurity policies implicitly and explicitly highlight the company level rather than the sectoral level or cross-sectoral level as the appropriate place for productive industrial relations. In doing so, the supranational level fosters a climate of decentralized industrial relations that generally favours employer interests. According to the EU Commission, “adaptation requires a more flexible labour market combined with levels of security that address simultaneously the new needs of employers and employees. This entails a shift from job security to employment security for workers and the possibility for companies to adapt their workforce to changes in economic conditions. In the latter case, companies should be able to recruit staff with a better skills match, who will be more productive and adaptable leading to greater innovation and competitiveness,” (EU Commission 2007).

Achieving a more flexible labour market requires negotiation itself to be more adaptive to the current competitive climate. But whereas straightforward neo-liberal logic might likely recommend a slow degradation of industrial relations systems altogether towards pure voluntarism, the EU prescribes by example a formal process of autonomous bipartite social dialogue that produces “soft law” mechanisms of joint texts and framework agreements and “hard law” mechanisms

of EU directives. Both of these mechanisms cultivate a trajectory of enhancing the flexibility of business through regulatory structures designed to generate advance consensus on economic policy and avoid industrial action. DICE is a prime example of this strategy; formal legislation requires businesses to create information and consultation bodies for workers in order to (ideally) allow management to increase its ability to respond to market forces more quickly. Simply put, the EU Social Model is slowly moving toward a new form of capitalism that uses social policies (in the form of labour laws) to help make business more competitive, rather than using social policies to attend to the negative effects of heightened competition.

Research Question and Hypotheses

The three questions posed at the outset of the dissertation were: (1) how European-level trade unions and employers' organizations as new political actors have influenced domestic interest *configurations*; (2) how negotiation at the supranational level affects the *strategies* of central actors in domestic industrial relations systems; and (3) if and how pressure from the European integration project modifies the *institutional legacies* of domestic IR systems.

In terms of configurations, European-level social partners as new political actors have not had any visible affect on the actual number, type, or compositions of social partners and major relevant interest groups in Ireland and Italy. The central unions and employer organizations in each country have more or less

remained the same over time, and have not gone through any fundamental changes or internal alterations as a result of EU-level influence or access. One exception to this finding is the presence of UEAPME at the EU level. UEAPME offers an important source of information, assistance, and legitimacy for individual SMEs and for the existing domestic associations that represent SMEs. ISME in Ireland stressed that the specific role of SMEs in the European labour market needs to take higher priority in European discussions on recovery, growth and job creation, and that the inclusion of UEAPME in the constellation of employers organizations at the EU level has been one of the most important developments of EU social dialogue (ISME in Voss 2011, 18). In the aftermath of the financial crisis in Ireland, ISME states that SMEs have to double their efforts to become more visible and influence policy-makers, as small enterprises lack the resources of big businesses, and that the EU level is a critical area of opportunity for getting SME interests on the agenda in general (Ibid 18-22). As ISME is not accorded social partner status at national level in Ireland, UEAPME at the European level has become the primary recipient of ISME lobbying. In Italy, where SMEs comprise such a significant amount of the general workforce, UEAPME offers an important source of legitimacy and capacity-building for Italian employer associations representing SMEs.

Negotiation at the supranational level affects the *strategies* of central actors in domestic industrial relations systems in two ways. First, the large trade union federations in Ireland and Italy have each adapted their *raison d'être* to

accommodate the overarching EU goal of competitiveness. This is generally visible in the acknowledgement that wage restraint is necessary for businesses to remain competitive within the EU and in the larger global economy and in the use of national social pacts to try to negotiate consensus on difficult labour market reforms. This is specifically visible in the evolving “business unionism” of ICTU in Ireland and in the pressure currently being put on Irish social partners to redefine their negotiation procedures outside of the realm of social partnership. This is also specifically visible in the actions of the Italian UIL and CSIL to conclude concertative talks on various labour market issues and reforms with employers and government even after the (very large) CGIL dissented from concluding the talks. The repeated fragmentation of union responses in Italy is, arguably, giving rise for employers to have more room to press their interests. Second, the strategies of the social partners in each domestic industrial relations system have slowly adapted toward negotiations centering on how to deal with collective bargaining at the level of enterprise. This is a development that has been ushered in through competitive pressures stemming from economic integration, and has been championed by employers associations and business interests. While trade unions ostensibly oppose the shift toward levels of bargaining that are decentralized from the national or sectoral levels, unions have concentrated on arguing for their involvement at enterprise levels (DICE, EWCs) rather than protest the general trend of decentralization.

Pressure from the European integration project has modified the *institutional legacies* of Irish and Italian industrial relations systems by the example of bipartite, autonomous social dialogue. This example is not one that has been wholeheartedly swallowed by each country, by any means. Instead, where this pressure is visible is in the response to the financial crises in each country. The pressure on all actors – government, social partners, interest groups, banks – to respond with substantive and coherent reform packages has led each country to break away from previous patterns of negotiation. This is much more visible in Ireland, where the celebrated framework of social partnership was abandoned in 2009 and current discussions are focusing on what discussions between management and labour ought to look like in the future. In Italy, the current technocratic administration is attempting another round of tripartite concertation to enact large-scale labour market reforms. While this form of concertation is one that Italian governments have utilized in the past, with varying degrees of success, the central difference is that this set of reforms is in direct response to the European debt crisis and the style of negotiations is under close scrutiny by the European Commission.

Another important institutional legacy that each country has internalized is the formalization of worker consultation. This legacy speaks to the hybridization of free-market capitalism with social policies visible in the conception of “flexicurity”. As businesses demand the ability to respond to market forces more quickly and to have more room to maneuver internal operations, the EU has

instituted the policy of informing and consulting workers in efforts to soften the potential for insecurity that generally accompanies heightened flexibility. The implementation of worker consultation systems speaks to a re-shaping of security away from *job security* toward a more general *employment security* – meaning, that if workers are consulted on significant decisions ahead of time, workers have more time and opportunity to react, accommodate, or approve company policies.

In answering the above research questions, the dissertation's two research hypotheses are supported to varying degrees. The first hypothesis – that the development of EU-level, supranational interest confederations generate pressure over time in member states toward a form of social dialogue that is increasingly less political and binding than previous models – is supported through evidence on the Irish shift away from social partnership and toward social dialogue, and through the reliance of Italian social partners on the EU level for ideas, affirmation, and reinforcement of style and substance. The second hypothesis – that EU legislation related to worker-employer relations generates pressure over time on domestic systems of industrial relations to decentralize collective bargaining to the individual company level – is visible with the transposition and implementation of the EU Directive on the Information and Consultation of Workers. The content of DICE did not attend to decentralization explicitly, but its provisions at the very least have made decentralization a smoother and more visible option for all actors.

CHAPTER 7: Conclusion

The purpose of this dissertation was to analyze the impact of the EU on the industrial relations on two of its member states – Ireland and Italy. The broad purpose speaks to the potential effects of the EU’s sui generis, supranational governance on the domestic political and economic systems of the countries that comprise it; the specific purpose examines what effects EU social dialogue and EU legislation pertaining to labour and employment issues have had on Irish and Italian systems of bargaining and negotiation between management and labour.

The academic context for this dissertation is the area of ‘Europeanization’. Europeanization has largely been considered as a conceptual process that speaks to the complex effects of European integration on the behavior of EU member states. It considers the direct effects of EU regulations on domestic political systems as well as the indirect effects of the unintended consequences of such regulations. This dissertation utilizes the concept of Europeanization being a process of domestic adaptation in response to pressure from the European level, rather than any strict form of political integration – what Radaelli (2003) calls a change in the logic of behavior of EU member states. Using Caporaso’s (2008) model of the Europeanization process, the argument of this dissertation is that the pressures of European integration on member states are visible in the industrial relations systems of domestic economies. Specifically, the European-level social partners’ implementation of the EU model of “Social Dialogue” motivates a gradual shift toward a similar style of interest representation among member states.

The first research question driving the dissertation was asking how European-level social partners (ETUC and the major employers' associations, specifically) have, as new political actors, influenced domestic interest configurations. Strictly speaking, the actual configurations of social partners in Ireland and Italy, respectively, have not noticeably changed, and have only been slightly altered as a result of EU-level policies or general pressures stemming from European integration. In the Irish case, the central social partners – ICTU representing workers and trade unions, and IBEC representing employers and employer associations – have remained the chief actors within Irish negotiations and collective bargaining. Local and sector-specific unions and employer associations have also remained organized in the same configurations consistently over time. One central change to the configuration of Irish domestic interests is that ICTU and IBEC each maintain a representative in Brussels that acts as an important point of communication and information transfer of EU activities. Another change is that many smaller, local Irish unions that were not affiliated with ICTU in the early 1990s have become ICTU affiliates in recent years, as the benefits of being involved in centralized negotiation became more tangible with regard to domestic economics and with regard to ICTU's interaction with ETUC at the European level. In the Italian case, the central social partners have also remained the same – Confindustria as the main employers association, and CGIL, UIL and CISL remaining the chief federative trade union organizations – and there has been little to no change in the presence of, or affiliations of, different unions and businesses

within the Italian bargaining context. One change to the Italian situation is the repeated marginalization of CGIL, the largest and most politically left-leaning trade union federation of the three, out of discussions to do with important social and economic policies. Research based on news articles and interviewees with trade union representatives showed that this marginalization is largely self-selected by CGIL and is somewhat related to questions of power and authority between the unions themselves. However, it is also arguable that as the economic pressures of deepening European integration are felt throughout different social and political realms, CGIL's resistance to the evolving "business unionism" practices (see Chapter 6) increasingly employed by the other two large union confederations – a resistance that derives from the central ideological underpinnings of why CGIL exists – is in part an overarching response to the economic pressures of the EU. The Single Market, EMU and the adoption of the euro, and the recent debt crisis have all shaped the topics of industrial relations toward employment, flexibility, and adaptation and away from protection, benefits, and security. These topics help create a climate that is difficult for CGIL to remain a full participant within.

The second research question driving this dissertation asked how negotiation at the supranational level affects the *strategies* of central actors in domestic industrial relations systems. The most visible shift in strategy as a result of European-level influence comes from the EU Social Partners' emphasis on "flexicurity", a term which reflects the overarching aim of the EU's Single Market to heighten the adaptability of employers and business in order to remain

competitive while creating and/or maintaining a reasonable degree of security in employment opportunities and related social protections. The significance of flexicurity policies is that it reflects the limitations of what EU authority holds over the economies of Member States, thus shaping political discussions related to flexicurity around employment goals and targets rather than some of the more traditional areas of discussions between domestic social partners, such as around wages, pensions, or job security. Put another way, as the EU is a regulatory supranational body that derives its authority from member states, and as such has limited or no direct jurisdiction in domestic matters of taxation and public spending, the realm of EU authority is concentrated in areas to do with labour laws and employment creation. Policy-making at the supranational level has consequently been directed at creating employment targets with the EES and related employment-generation strategies, and at establishing a floor of regulations amongst member states dealing with worker rights and protections. The significance of this focus is that the EU does *not*, because it cannot, involve itself in the more specific policy areas to do with collective bargaining, wage adjustment, taxation, and welfare state entitlements. The main EU Social Partners (ETUC, BE, CEEP and UEAPME) as a result have logically aimed their efforts at dialogue and negotiation dealing with the specific instruments that arise out of the EES and directives and framework agreements that target employment practices.

Taken together, this form of negotiation affects the strategies of domestic social partners through one direct mechanism and one indirect mechanism. First,

the presence of EU social partners and the avenues of support they can potentially offer domestic social partners – to include access to information, analyses of competing alternatives, and platform guidelines on how to approach issues relating to industrial relations at European and domestic levels – directly impacts the tactics management and labour each respectively take in their efforts to negotiate on domestic social and economic policies. This is seen through domestic social partners using the language of EU social dialogue to create their own platforms or reinforce their existing stance, as evidenced with Italian SMEs relying on UEAPME to help bolster their own negotiation platforms in Italy. Using the resources of ETUC for domestic trade unions or BE, CEEP and UEAPME for domestic employers and business shapes and re-shapes the language of debate in member states to necessarily complement the resources being used. Over time, social partners in EU member states are likely to internalize the emphasis on employment goals over unemployment protections or on employment security over job security, for the sake of being able to continually rely on EU Social Dialogue and EU social partners as a source of tools and support.

Second, negotiation at the supranational level indirectly affects the strategies of central actors in domestic industrial relations systems through the mechanism of EMU. This is visible with entry into EMU in the late 1990s and through the recent debt crisis, ongoing since 2009. The factors of monetary union, a shared currency and a single independent central bank contribute enormously toward guiding the approaches of labour and management in domestic settings,

through the limitation of policy instruments available to domestic actors and through the shared ideal of needing to uphold EMU. Entry into monetary union effectively cut off the tool of using inflation to adjust for budgetary issues, and as a result many EMU members began to use wages as a mechanism by which to compensate for other economic variables (Pérez 2002, Royo 2002). Both Ireland and Italy are on the whole (slightly more) enthusiastic EU members (as compared to the EU member state average; see the Eurobarometer levels in Chapter 4), and were so during the run-up to EMU in the mid- to late- 90s. The strategies of domestic social partners were thus readjusted to using collective bargaining as one important means of upholding (or at least attempting to) EMU convergence criteria. In Ireland wages were negotiated with respect to growth, rather than inflation. In Italy, social partners turned their attention to reductions in public spending in order to uphold Italian membership in EMU. The recent debt crisis highlights these processes, as Irish social partners and Italian social partners respectively focus their strategies on growth, competitiveness, and austerity by way of increased decentralized bargaining. The decentralization of negotiation in many ways reflects a growing trend in ‘business unionism’ as a response to debt crises, and could also be considered a reflection of ETUC’s limitations as a full worker representative body at the EU level.

The combination of the tools of the EU social partners at the European level and the circumscribed room for economic negotiation at the domestic level due to EMU constraints have affected the strategies of domestic social partners by

redirecting efforts at policies in line with the EU language of “flexicurity”. Employment growth, particularly growth in forms of temporary, contract, and part-time employment, is now emphasized over unemployment protections; employer adaptability is prioritized over worker compensation; and the security of employment over a worker’s lifetime is stressed over what is now a traditional idea of job security and protection from dismissals. To the point of ‘business unionism’ (Frege and Kelly 2004), it must be noted that this shift in strategy is one that has affected labour and labour organizations at all levels much more so than business and management.

The third research question of this dissertation asked if and how pressure from the European integration project modifies the institutional *legacies* of domestic systems of industrial relations. Legacies, in this sense, refer to the qualitative ‘type’ of industrial relations system, from the categorizations associated with the pluralist-corporatist spectrum. Guiding this question was the logic of Europeanization, and the notion of gradual adaptation of policy and political processes and incremental institutional change. Featherstone argued that evidence for Europeanization could be found in “the emergence of a European political agenda...[and] the forms of interest representation (for example, corporatism threatened by more open and competitive modes of representation),” (Featherstone 2003, 11). The answer to this question comes from the evolution of European Social Dialogue and its influence on the structure and substance of industrial relations in Ireland and Italy. EU Social Dialogue is both formal in its structure and

informal in its application. The formality stems from the treaty laws governing the right of the social partners to be consulted and for them to request the initiation of a framework agreement into a potential Council directive. The procedure for consultation is also legally supported, with specific timelines provided for the duration of dialogue as well as resources provided by the Commission to enable the infrastructure for social dialogue to take place. The informality is found in the autonomous, bipartite style of social dialogue, which allows the social partners to negotiate between themselves without interference or restriction from the Commission or EP. The informality also extends to the duties of the social partners; while successive EU treaties have stipulated that the social partners have the right to be included in discussions on social policies, there is no legal obligation for the social partners to participate thoroughly (meaning, to employ a nine month period with a set expectation for a resulting opinion) on every single social policy, nor is there the stipulation that social partners have the right to be consulted on economic policies related to the Single Market.

The effects of the structure and substance of EU social dialogue on the institutional legacies of Irish and Italian industrial relations are visible during the recent financial crises in each country. In both cases there was some form of dismantling of the negotiation procedure used previously to the financial crisis and some form of reorganizing dialogue between management and labour along more autonomous, bipartite lines. In Ireland, the structure of what had been 22 years of successful social partnership collapsed in 2009 after IBEC lost patience with

ICTU's lack of compromise on public sector wages. The social partners began to cautiously undertake negotiations once again in 2012, but public statements by government and social partners alike indicated that there would be no return to the prior model of Irish social partnership. Instead, negotiation on matters relevant to the social partners would be undertaken in an increasingly independent manner (i.e., independent from government), and in a less comprehensive framework (i.e., not in the context of undertaking three-year programs for wage setting and welfare provisions, but on a more ad hoc basis). Prime Minister Enda Kenney specifically stated in late 2011 that social partnership had been too formal and ambitious, and that industrial relations in the future would be organized – and “re-branded” – more along the model of “social dialogue” (EIRO 2011). In Italy, the escalating debt crisis led to Prime Minister Berlusconi's resignation in late 2011 and ushered in the technocratic government of Mario Monti. The social partners have been included in discussions surrounding key economic and social policies, but while the discussions themselves remain predominantly bipartite the actual content of dialogue is circumscribed. In relation to “business unionism”, the Monti administration has set the course for discussion and asked the social partners for their contribution regarding austerity measures, but not for their input on the validity of the measures themselves. Both events illustrate the potential power of the model of EU social dialogue on EU member states. When existing models of industrial relations are upended, the EU model serves as a powerful example for domestic actors to import, if only out of sheer efficiency.

Also related to the possible modification of the institutional legacies of domestic industrial relations systems are EU labour laws, in particular the 2002 Directive on the Information and Consultation of Workers. Generally speaking, the requirement that member states need to transpose EU directives relating to employment into national law either introduces or reinforces a baseline of labour law legislation domestically. This has been the case with directives on parental leave and part-time work. More specifically, the need to transpose legislation pertaining to the actual modes of discussion between labour and management, as was the case with DICE, creates a basic legal framework of social dialogue that definitively moves Ireland away from the categorization of ‘voluntarist’. DICE effectively mandated worker consultation systems in undertakings and enterprises over a certain size; the Irish transposition of this requirement created a law that is in direct contradiction to the institutional legacy of Ireland being a ‘voluntarist’ state of industrial relations. While Italy occupied a less concrete designation, with many legal attributes in public sector industrial relations and many voluntarist attributes in the public sector, the transposition of DICE has nudged Italy in a similar direction of becoming more formal in its approach to industrial relations.

Interestingly, although DICE and other related directives (European Works Councils being the central example) have introduced important qualifications for any member state that relies on voluntary (meaning non-legal) approaches to labour-management discussion strategies, it would not be accurate to say that a shift away from voluntarism is equal to a shift toward corporatism. Rather, the

combination of EU legislation and the example of EU social dialogue are together shaping the industrial relations of member states in a manner that is increasingly formal but is targeted towards an increasingly limited area of policy. Evidence toward this point, coming from multiple sources found in Chapters 4 and 5, offers support for the first hypothesis presented in the beginning of this dissertation: that the development of EU-level, supranational interest confederations generates pressure over time in member states toward a form of social dialogue that is increasingly less political and less binding than what already existed in certain member states, and yet this form is more structurally formal than what already existed.

The second hypothesis introduced at the beginning of this dissertation proposed that EU legislation related to worker-employer relations generates pressure over time on domestic systems of industrial relations to decentralize collective bargaining to the individual company level. Using DICE as evidence, it would appear that this hypothesis has a significant amount of support. In Ireland, the transposition of DICE triggered debate between social partners concerning the role of trade unions at company-level worker consultation forums. IBEC, representing employer associations and businesses, won this debate, thereby setting the stage for non-union company employees to act as worker representatives in consultation bodies. In Ireland, the automotive company Fiat in late 2011 chose to abandon its participation in sector-level collective bargaining and opt toward company level bargaining instead. Similarly to the Irish case, the transposition of

DICE helped make Fiat's transition to decentralized bargaining seamless, as the provision for independent worker consultation bodies removed the necessity of having to rely on union representatives at either the sectoral or national level. Another source of support for this hypothesis has been the combination of EU 'flexicurity' policies with the recent financial crisis. Flexicurity emphasizes the importance of employer flexibility and adaptability toward helping European businesses stay competitive, and the timing of the financial crisis has provided a huge source of momentum to this rationale. Decentralization to the company level offers employers the maximum amount of flexibility in dealing with workers while still maintaining the rubric of collective bargaining and social dialogue, thereby marrying the economic bottom line of needing to enhance competitiveness and profitability with the European social model of valuing representativeness and responsiveness.

The argument of this dissertation is that the EU has had significant impact on the domestic industrial relations systems of Ireland and Italy due to the mechanisms of the Single Market and EU social policies, as well as through the logic and consequences of EMU and the recent debt crisis. This impact is visible in shared trends toward decentralized bargaining, bipartite social dialogue, and a more circumscribed bargaining realm. It should be noted that this impact is inadvertent, or at least unintended – none of the relevant policies pertaining to economic integration or Social Europe were directly intended to have any substantial effects on labour-management relations in member states. This fits with the notion of

Europeanization being more a process of a conceptual change in the logic of behavior of member states, rather than a direct and intentional imposition of EU regulations upon domestic societies. The main actors involved in industrial relations in Ireland and Italy – government, trade union federations, and centralized employer associations – have seen fit to set agendas and organize interactions amongst themselves in a manner that best serves their own interests; their own interests now being symbiotically intertwined with the central features of European economic integration.

One important qualification to the notion of the inadvertent and unintended Europeanizing effect of the EU level on domestic industrial relations is DICE. This directive explicitly and intentionally set out to standardize relations between workers and employers in companies over a certain size across the EU. In doing so, critical issues were brought to the forefront in Ireland and Italy: the role of trade unions in an increasingly competitive and austere business environment, and the introduction of the concept of worker consultation being an important part of business adaptability. Simplistically, DICE leveled the playing field for the voluntarist-corporatist categorizations that have previously been applied to European countries, by establishing a legal precedent for how workers and employers ought to communicate in the more voluntarist countries and by minimizing the amount of formality applied to the use of worker representatives in a way that deviated from the more corporatist countries.

The argument of this dissertation highlights the flexibility of paths in path-dependent institutional analyses. None of the research findings suggest that industrial relations in EU member states are undergoing fundamental structural convergences that would make labour-management dynamics across the union resemble each other. But nor do the research findings indicate that each case study continues to diverge from other models because it is committed to its own politico-economic institutional path. What the evidence does suggest is that each member state is entrenched in its own politics and power struggles amongst established domestic groups but is also simultaneously entrenched and engaged with the dynamics of policy-making and articulation at the supranational level. The result is that countries' paths continue to diverge along independent courses but the EU itself has created an additional institutional path, or layer, that all member states share as a complement. The degree to which the EU path and the domestic path merge is what provided the impetus for a fundamental jump in domestic politics. Entry into EMU and the experience of the recent financial crisis have provided two such 'jumps', manifested as critical junctures for the re-shaping of industrial relations in member states.

On a broader scale, this dissertation speaks to the varieties of capitalism literature that addresses the politico-economic distinctions between different 'types' of capitalism in large, industrialized democracies around the world. Rather than address the specific characteristics that draw distinctions between particular countries, this dissertation argues that the EU is helping along a newer, 'hybrid'

form of capitalism that interweaves the more competitive open-market aspects of what is usually known as Anglo-American capitalism with some of the more socially-minded regulations familiar to continental, ‘Rhineland’ capitalism. This model is worthy of becoming a type of its own in its ability to use certain social protections to help *promote and achieve competitiveness and adaptability* among businesses and countries alike. The advent of legal requirements for worker consultation within DICE is one key component of this model; the concept of ‘flexicurity’ as a prescriptive business strategy is another. The central emphasis is that certain social protections pertaining to workers and employers is considered *necessary* for enhancing competitiveness, rather than considered as a salve to the negative fallout arising from enhancing competition, and that EU institutions are undertaking initiatives related to this emphasis rather than simply encompassing a variety of types of capitalisms within a shared treaty regime. A defining characteristic of this ‘hybrid’ capitalism stems from the sui generis nature of the EU itself; as the EU is not a political state and as such does not carry out the functions of taxation and welfare that a political state would normally do, the EU’s idea of “Social Europe” is limited to the areas of regulation wherein it has authority. The central area – indeed, almost the *only* area – is that of labour law and employment generation guidelines. Social policies are therefore restricted to employment policies, and industrial relations are the domestic institutions that are ripe for internalizing the pressures of Social Europe efforts. The Irish and Italian internalization of the process of Social Dialogue is a key indicator of this direction.

The importance of this research lies in its contribution to literature on Europeanization and the potential arc of governance in European integration. Europeanization, as a change in the logic of domestic behavior, is a tangible phenomenon that is most visible during times of crisis or opportunity, as witnessed with the various developments related to EMU. Studying this phenomenon in the field of industrial relations offers insight into a process that is neither strictly intergovernmental nor neo-functional, but appears to be much more social and sectoral according to the politics at hand. The strongest parts of the data come from direct interviews with social partners and analyses done by industrial relations observatories, and consequently the strongest parts of the argument are grounded in the observations on worker consultation and social dialogue. Future directions relating to this research lie in the extension of the research argument to other EU member states and comparisons with European countries that are *not* EU members (i.e., Norway, Switzerland). As well, expansion into the process of Europeanization and its contribution to theories of European integration offers another potential avenue for future research projects.

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APPENDIX A: Table of Acronyms

BE:	BusinessEurope (EU-level Employers' Association)
CEEP:	European Centre of Enterprises with Public Participation
CGIL:	Confederazione Generale Italiana del Lavoro (Communist legacy)
CISL:	Confederazione Italiana Sindacati Lavoratori (Christian Democratic legacy)
Confindustria:	Italian Business and Employers Confederation
DETE:	Department for Enterprise, Trade and Employment (Irish)
DG:	Directorate-General
DICE:	2002 EU Directive on General Framework for the Information and Consultation of Workers
ECB:	European Central Bank
ECJ:	European Court of Justice
EES:	European Employment Strategy
EIRO:	European Industrial Relations Observatory
EMU:	Economic and Monetary Union
EP:	European Parliament
ETUC:	European Trade Union Confederation
EU:	European Union
EWC:	European Works Council
IBEC:	Irish Business and Employers Confederation
ICTU:	Irish Congress of Trade Unions
IMF:	International Monetary Fund
NAP:	National Action Plan
OMC:	Open Method of Coordination
SEA:	Single European Act
SME:	Small and Medium Enterprise
UEAPME:	European Association of Craft, Small and Medium-Sized Enterprises
UIL:	Unione Italiana Lavoratori (Socialist legacy)
UK:	United Kingdom
US:	United States
WTO:	World Trade Organization

APPENDIX B: Interview Codes

Brussels (October-December 2008, with follow-up emails in 2009)

- B1: ETUC Representative on Social Dialogue
- B2: ETUC Representative on Collective Bargaining
- B3: ETUC Representative on Social Dialogue and Regional Union Federations
- B4: ETUI-REHS Representative on EWCs and Worker Representation
- B5: BE Advisor on Social Affairs
- B6: CEEP Advisor on Social Dialogue
- B7: UEAPME Representative on Social Affairs and Vocational Training
- B8: European Parliament, Advisor on Employment and Social Affairs Committee
- B9: European Parliament, Head of the Economic and Social Affairs (ECO-SOC) Committee

Ireland (February 2008, with follow-up emails in 2009)

- E1: ICTU, Policy Analyst
- E2: IBEC, Policy Analyst
- E3: Irish Department of Enterprise, Trade and Employment; Assistant Principal of Industrial Relations Unit

Italy (December 2008 in-person and November 2009 by phone calls)

- I1: Confindustria, Public Relations
- I2: UIL, Advisor on Social Affairs
- I3: CISL, Public Relations
- I4: Labour Market Analyst
- I5: Former policy analyst in the Italian Ministry of Labour