

ΚΑΝΙΓΓΟΣ 31  
106 82 • ΑΘΗΝΑ  
ΤΗΛ: 2103304120-1  
FAX: 2103825322  
e-mail:obes@obes.gr  
<http://www.obes.gr>

31 KANIGOS STR  
106 82 • ATHENS  
TEL: 2103304120-1  
FAX: 2103825322  
e-mail:obes@obes.gr  
<http://www.obes.gr>

**PRAXIS**  
**FROM LAW TO PRACTICE**  
**PREPARATORY MEETING ATHENS 8.02.13**  
**GOLDEN CITY HOTEL**

**REPORT**

**Introduction.**

The aim of the preparatory meeting was:

- to inform trade unionists on the aims and proceedings of the PRAXIS project
- to sensitise trade unionists on their rights, deriving from national and European Law, regarding information and consultation
- to exchange views and experiences between trade unionists as far as the situation concerning information and consultation in Greece is concerned
- to prepare the next steps and events of the project.

**Proceedings**

1. Twenty seven persons, including experts, trade unionists from many sectors all over Greece and lawyers participated in the preparatory meeting.
2. In the beginning the President of OBES, Mr Zisis Trakaniaris, made a presentation of the project, its aims, its methodology and the activities preview.
3. Then, the survey questionnaire was distributed and explained. Those trade unionists of the participants that had not already answered to the questionnaire were kindly requested to answer it.
4. Participants presented themselves.
5. Mr Katsampanis has presented ppt slides and asked participants to interrupt him at any time they felt it proper, in order to openly discuss the subject and ask for the intervention of experts.



6. Main issues discussed during the ppt presentation and after it finished were the following:

### **Confidentiality.**

Trade unions have the right to ask for the Court to decide, whether a piece of information is valid or not. Yet, cases of Article 6 have extremely seldom been discussed in the Greek Courts.

The same is valid for companies listed in the stock exchange market. Confidentiality is often used by employers as a pretext in order not to provide information at all or to provide information that can publicly be found (e.g. balance sheets).

In the case for example of CITIBANK, the management does not provide any information, because it always says it is confidential. The bank is not profitable because the management has decided so, by excluding its core activities. The trade union has been informed that 16 bank branches will be closed, but the management has not provided the trade union with any information about the respective business plan. The management is bound that it will not close the Development Dept for the next 1.5 year.

### **Difficulty to find useful information.**

Trade unions have to use their own sources of information as well, in order to have a clear picture of the situation in the company.

Company-based trade unions have the characteristic that they have as members both white- colours and blue -colours and they can get information on what is going on in the company as a whole. This resolves also the problem of where to find and how to pay experts (e.g. economists) to analyse information given by the employer, which has been raised by many participants.

It has been reported by Shelman that they had asked the Chamber of Economists for an Economist to be used as an expert and it took a lot of time to receive an answer. A discussion was opened up, on who can or should be member of a company-based trade union (if managers, excluding those legally representing the company, can participate in it).

Mr Hatzisavvidis, the ex President of OBES has recalled the case of a 120-day-strike in LARKO (a mining and pyrite processing company) in 1977. In the beginning in the trade union participated only blue-colours. After the trade union accepted as members the white colours as well, except those that legally represented the company, it became very powerful. It had access to first hand information. After achieving the economic goals set for the strike, the trade union has put and wan issues like protection of the environment from the deposition of slag on the seaside.



## **Validity of decisions.**

Decisions that have not been made, following proper information and consultation procedures are not void as originally preview in the draft Directive 2002/14. Mr Katsampanis has showed the participants the respective paragraph promoted by the European Commission *“In case of serious breach by the employer of the information and consultation obligations, where such decisions would have direct and immediate consequences in terms of substantial change or termination of the employment contracts or employment relations, these decisions shall have no legal effect on the employment contracts or employment relationships of the employees affected. The non production of legal effects will continue until such time as the employer has fulfilled his obligations or, if this is no longer possible, adequate redress has been established”*, which was not adopted in the final text of the Directive, possibly because of political reasons.

## **EWC.**

Where there is a EWC, even at national level, as a rule things are better concerning information and consultation. Yet, in many cases, information provided previously to the EWC meeting is very superficial and access to substantial information takes place (if this is the case) only during the meeting, when the EWC members do not have the time to form a valid opinion.

It has been noted that there are differences in the national legislations, which produce problems and inequities. Information has to be provided in written. In many multinational companies, there is the phenomenon to centralize some administrative services (e.g. purchases) and transfer them to a country that suits them from a financial and a legal point of view.

Here was given the example of Heineken that has relocated its purchases department in Poland. In this case, there was the phenomenon that there were redundancies in subsidiaries but also some employees all over Europe have been relocated in Poland. These relocated members of staff did the same job in the same country, yet they were paid in a different way. There was an information/consultation process with the EWC. Solutions adopted were different in each country. In Poland and Hungary there were redundancies, in Greece there was a transition period of 3 years and then transfer to another department, in France employees had to opt for doing another job or being fired. Those that have been relocated in the Purchases Dept in Poland have agreed to conclude to a common average salary after 5 years of transitory period.

Another problem is that many companies do not have a EWC or countries do not participate with representatives in the EWC. In the case of OTE, although it has subsidiaries in Romania and Bulgaria the EWC was never established. There were never sent representatives from OTE neither from its subsidiaries, when Deutsche Telecom acquired OTE.



### **Written information.**

Trade unions should ask for written information in written. Information has to go beyond a generic picture of the company as the balance sheet and the profit and loss account (generally open to the wide public). It should include information e.g. on orders, sales, production and data concerning intra-group transactions. The trade union has to be very specific on the kind of information it asks, especially when appealing to the Court for decision.

Workers/employees have to develop a culture of searching for information and of using this information once they have it. It is noteworthy though, that Courts tend to pay attention to the economic evidence at first place and to the information/consultation process at a second place.

It is also noteworthy that positions expressed by the company management are not binding it, so it is good at least to have them in written.

### **Power of consultation.**

Consultation cannot guarantee that there will not be any redundancies but information may be used to grow the alliance of workers with their trade union. If the trade union has evidence (through written correspondence) that it has tried to help the company manager to face the situation and the company management has denied it, this can also be used in the Court.

In the case the employer wants to impose unilateral decisions, such as job rotation, he/she has first to undergo a consultation process. This process is valuable both if the trade union achieves in altering the decision and in the case the trade union gets important information. The role of experts (mainly economists) is very crucial in order that the trade union fully understands what the information provided really means.

In the case the management wishes to amend the working regulations, there should be consensus of the workers. If there is no consensus, then the management has to make recourse to the Organisation of Mediation and Arbitration, or in case of failure of that to make use of a Law of 1955 or the employer can submit the amendment to the ministry of Employment.

In other EU countries like in France, in Germany and in Spain consultation is effective. Even in Greece, when process is followed up to the end, in many cases the employer accepts a compromise and things do not go to Court.

Greek Courts do not have great experience on this matter. In the case of OTE, the trial had political characteristics as well. The commonest subject concerning information and consultation that Greek Courts have dealt with is the subject of job rotation, where information and consultation must precede the decision or else it may be declared void.



## **Obstacles to effective application in practice of the rights given by the Law.**

In big organisations there are employees/workers with many different types of work contracts. Those that have precarious contracts and are paid with the minimum salary preview in the national Collective Agreement do not have the time and do not feel secure to participate in the trade unions.

### **Dissuasive sanctions.**

Sanctions have to be proportionate and dissuasive. Even old trade union members, once sanctions for employers in praxis are not dissuasive, hesitate to ask for information, because they fear that they will lose their jobs.

The case of Praktiker was reported, in which the ministry of Employment has given a written opinion of several pages that the employer has to provide the trade union with written information, yet the company management denies doing so.

Trade unions should be in the shoes of the company management and ask themselves, whether the company management enters a consultation process because the trade union is powerful or because it expects to get something in return.

### **Reconciliation process.**

There are several possibilities to use a reconciliation process before making recourse to the Court. These include the Mediation and Arbitration Organisation, the Body of Labour Inspectors and the General Secretary of the Ministry of Employment.

There have been recorded in praxis very different attitudes of the Labour Inspectors. In some cases, it was reported that they said that what is needed for Greece is growth, so we have not to pay attention to minor issues (such as if the company management infringes the Directive 2002/14). Nowadays however, Labour Inspectors keep stricter to their duties. Labour Inspectors do not have solely advisory role but they can impose penalties as well. Labour Inspectors may be called as witnesses at Court. Their reports are much respected by Courts. There has also to be noted, though, that the conditions of their work are not good either. They are not given by the State money to pay for their transport to the companies (they have to use their private cars and pay for their gasoline using their own money).

In the case of the WIND telecommunications company there are 1100 employees and a trade union, founded 6 years ago, which operates through 15-20 general assemblies per year. The first consultation process was in 2008 about work-time and voluntary exit from the company. The trade union has gone to the Labour Inspectorate, which said that it is a matter of management privilege. The trade union then made recourse to the Legal Dept of the General Workers' Confederation, which made recourse to the Legal Dept of the Ministry of Employment and had as result a written opinion of the Ministry sent to the Labour Inspectorate, which issued a fine to the company. Yet, there is the case that the Labour Inspectorate has accepted for the same company that



information procedure has been respected on a subject that emerged in 2012, when information given took place in 2010.

### **Problems encountered by the trade union movement.**

The biggest enemy in a period of recession is unemployment. The trade union movement achieves things, mainly when there is a thriving economy. During crisis employers are in a position to impose measures with negative impact for the employees/workers. Most vulnerable are those with precarious job contracts, paid with minimum salaries/wages.

Under these conditions it is positive to sign collective agreements. In OTE (the telecommunications company acquired by Deutsche Telecom) the trade union has signed a contract in 2012, which previews reduction of salaries by 11% but securing all work positions up to the end of 2014. The management has called the trade union to inform it about the introduction of modernization measures. Following that it has distributed to all employees/workers lap-tops, where everyone has to on-line record the work he/she has accomplished and to take over more work. Workers/employees are so terrorized that they do not stay home even if they are ill, because they fear that they will be fired thereafter.

In the sugar producing factory there are many seasonal workers. They encounter serious health and safety problems, yet when the trade union descended on strike, most of the workers have declared that they are ill or in regular holidays.

In Lafarge concrete company, there are two types of workers: those covered by the collective agreement and those having individual work contracts. The management has inner information on the future changes of the legislation and tries to impose measures not infringing the letter of the Law. Two-three years ago, the management launched informal redundancies, by offering 3-4 salaries additional to severance to those that resigned from work. Now, they do not pay any overtime. When those that work overtime go to check out, the time written on their cards by the clock is without overtime. Before negotiating for collective agreement the general management has made a statement that staff costs have to be cut by 13 million Euro/year.

### **Role of trade union movement under the new conditions.**

The trade union movement and most of all the company based trade unionism is necessary in order to form something new and a better future for Greece. Company-based trade unions know better the situation of a company and can negotiate better agreements.

In periods of crisis trade unions have to find new ways of fight. Traditional ways, such as strikes, may be risky for the preservation of employment and/or may be neutralized through social automation (workers or social groups taking position opposite to the one of those on strike because the strike has a negative effect on them).



Companies, all the more multinational companies, are afraid of defamation. Spreading of information on how the company behaves to its staff, especially in cases of companies that advertise their corporate social responsibility, is a powerful weapon for trade unions to achieve compromise from the company management side. An example given by participants is the case of the trade union of Shelman in Komotini, which following a strike has posted information on the blogs and the employer redressed.

Trade unions have to realize that their main enemy is unemployment. On the other side, their main weapon is a know-how and an exchange of experience as well as to realize that everybody (trade union members included) is a consumer as well and this gives them power.

The trade union movement has to find innovative alternative practices. It has, though, to pay attention to the thorough planning of these practices in order to make no mistakes that will turn them into bad practices.

### **Conclusions concerning information and consultation process.**

The culture of getting information from the management at a time, when workers can process it in order to form opinion and suggestions that may influence decisions remains still to be developed in Greece.

There is always the possibility to follow a reconciliation process through consultation. In this case the minutes have to be signed by both parties. When things evolve to a labour dispute, which means a conflict dimension (e.g. concerning job rotation or relocation of activities) then the trade union may ask a Court for preventive measures. The application of measures is suspended till the Court decides (it usually takes around 3 months) and information/consultation process is finished.

**Conclusions for PRAXIS final Conference.** Initiatives like this preparatory meeting are very useful because they allow the exchange of information and ideas and the development of solidarity. Labour Inspectors and decision makers should be invited in the final conference as well.

