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FROM LAW TO PRACTICE- PRAXIS

BUCHAREST CONFERENCE on 7 & 8.03.13

RIN CENTRAL HOTEL

REPORT

Introduction.

Objective of the transnational Conference was:

- To provide trade unionists with information on the aims and activities preview in the framework of the PRAXIS project.
- To sensitize trade unionists on the rights they have following the European and national laws as far as information and consultation are concerned.
- Trade unionists from Romania and Greece to exchange opinions and experiences as far as the situation concerning information and consultation in their respective countries are concerned.
- To give trade unionists of the 2 countries the opportunity to understand the tools they have referring to information and consultation through practical exercises-cases studies.

Conference proceedings 7.3.2013

1. The Romanian Minister of Social Dialogue Mrs Doina Pana has opened the Conference.
2. Mr Valentin Mocanu, ex vice Minister of Labour as representative of Fratia and Mr Zisis Trakaniaris, president of OBES have greeted the Conference.
3. In the Conference participated 28 persons including from the Romanian side 18 trade unionists, representatives of Romanian workers' Confederations, representatives of Employers' Associations, lawyers, the professor Nikolai



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Voirulesku, vice Rector and ex manager of ILO, who has studied the subject of information and consultation and the Director of the Ministry of Social Dialogue Mr Marian Copanjiu. From the Greek side participated 7 trade unionists, 2 experts and the General Director of the International Economic Relations Institute of the Association of SA and Ltd companies Mr Haralambos Tsardanidis.

4. The president of OBES Mr Zisis Trakaniaris has presented the project, its aims, its methodology and the activities preview in it.
5. Participants have presented briefly themselves, their organisations or the company they represent. One Romanian presentation was followed by a Greek presentation.
6. Mr Katsampanis presented the slides he had prepared and asked participants to interrupt him whenever they had something to ask or if they wished to discuss something in order that there is an open discussion and if the opinion of experts is sought.
7. Mr Valentin Mocanu has spoken about the Romanian law 467, which is the transposition of the Directive 2004/12, the procedures followed and its provisions. He has stressed the fact that the law, as well as the Directive anyway, has been the result of a balance of powers and they provide a general legal framework without specifying anything. The only weapon of workers, in order that powers are well balanced is a powerful trade union. The most immoral parametre of the legal system is that even if the verdict is positive for the workers, this decision may come too late, because it takes years.
8. Mr Tsardanidis has presented the Association of SA and Ltd companies, which has as members both big companies and SMEs. He has noted than in Greece there is actually an internal devaluation and a change of the production model, which bring social losses, recession and decline of internal demand. This situation favours frictions between employers and workers. Dialogue and consultation can help remediating this situation. The Association of SA and Ltd companies strives to enhance consent and for this reason it has founded the Hellenic Mediation and Arbitration Centre, which promoted the extra-judicial solution of differences. Differences between employers and workers were traditionally resolved through appealing to the Arbitrators Body. However, one has to admit that the economic crisis and hence the stabilisation programme have canceled in practice institutions such as the Arbitration Body, taking into consideration that in order to make an appeal to it, it is necessary that both the employer and the workers' representatives have to agree for that first.
9. Professor Nikolai Voirulesku has said that implementation of European Directives is facilitated by the existence of respective mentality and institutions. Before Romania acceded in the European Union, there were many efforts to harmonise its Law. Mentality, however, in many cases is still back. Meetings as this Conference occur very seldom.
10. Main subjects discussed during the presentation of slides were the following:



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Economic crisis- trade union movement and information-consultation

The member of the Board of the trade union of Heineken-Amstel Mr Tsimekas has emphasised on the fact that along with the economic crisis changed the distribution of labour in the EU. The poor South produces and the rich North consumes. The economic crisis, through a crisis of values, culture, social model etc. can bring something new. Nowadays, in the region of Patras and not only there, there are primitive situations, where the minimum level of living is threatened and the European acquis is canceled. Employers and employees face common problems, which are mainly focused on who will consume what we produce. We, workers have to take advantage of EU Directive as long as they exist.

The vice President of the Romanian Democratic Trade Unions MERIDIAN Mr Ion Albu, has said that information and consultation constitute a very important mechanism for resolving differences. Especially, in periods of economic crisis information on the negative impact of crisis and consultation are included in the strategy to overpass it. In most cases though, information is pumped when overdue, from other sources.

Mr Marian Copanjiu, Director of the Romanian Ministry of Social Dialogue, when it was said that cases where information and consultation have to be studied in order to extract conclusions, asked himself: in good periods there are positive examples but what about in periods of crisis?

Mr Ioan Pera, consultant of an Employers' Association has noted that in Romania too there are dismissals. Nobody likes firing people. We always had dialogue. You have problems in Greece and we have in Romania. When there is no crisis, there is money and there is dialogue and all is good. Problems start when there is economic crisis.

Subjects deriving especially from crisis requiring information of trade unions and consultation with employers

The Secretary of OBES Mr Margaritis said that in Thiva, where he lives, there are 10-15 industries, which are closed and circa 5000 jobs have been lost, while the phenomenon of part time employment and renting employees grows.

In Agfa Greece some employees do not participate in the trade union because they have different work contracts.

In NEOSET there are dismissals and reductions of salaries, without ever the President of the company accepting to meet the trade union in order to inform it or consult with it. The vice President of OBES Mr Ninos has said that information and consultation cannot be recalled only when the threat of dismissals is very close. Trade unionists should be trained and some common agreed grounds and rules of co-existence with employers should be established. Neither employers can exist without employees nor employees without employers.



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Professor Voirulesku agreed that crisis creates difficult conditions both for employees and employers. The obligation for information and consultation exists in the EU. Information has to be provided to workers and their representatives. This does not happen because there is lack of good faith between employers and employees. This rupture began in Romania since 1990.

Employers' attitude concerning information and consultation

NEOSET is a Greek company producing flexible furniture that used to have a production plant in Romania as well. At the time, it was pioneering and very successful. Lately it has faced fierce competition by IKEA and has not made decisions for restructuring on time. The employer has always refused to inform employees or discuss with them or with their representatives. He still refused consultation even when employees, in order to keep the factory open, proposed to work for free for one day per week for a period of 6 months.

Mr Tsimekas said that on the one side employers wish to earn money and on the other employees wish that companies operate to assure their jobs. Therefore, there is common ground for consultation. There are however cases, in which employers refuse information and consultation.

Time in which information and consultation take place

The problem of information taking place afterwards or without ensuring that workers/employees will have enough time to form an opinion seems to be common in many cases both in Romania and in Greece. In Agfa company salaries have been fixed and working contracts have changed from indefinite time to fixed-time (1 year) without prior information of the trade union. The representative of the Romanian subsidiary of the Gaz de France has also complained that information and consultation usually take place after the decision is made and changes have occurred.

Mr Katsampanis said that in the analogous case of Praktiker in Greece, information has never taken place.

Mr Radu Godeanu said that information and consultation are very important and that they should begin prior to making the decision.

From the Romanian side there was the observation that the Directive 2002/14 itself mentions, when information and consultation should take place: when there are problems due to external causes. In periods of economic crisis we cannot but accept the changes of the situation and give our consent to solutions, such as reduction of working time or decrease of salaries.



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Mr Samartzis noted that even when the company had no problems and was successful employers did not accept to discuss with employees. Now, that there is crisis, they should accept employees to participate in the crisis management.

Mr Tsimekas sustained that consultation has to be a continuous process because both employers and workers have policies and should preview things to come.

National-multinational companies

Mr Radulescu from Gaz de France said that national Laws do not preview sanctions in the way the Directive previews them. Even in cases of transnational consultation, in some cases a decision of the Court of Justice should be issued in order that the employer side is obliged to accept consultation.

Mr Katsampanis noted that the Gaz de France as well as Heineken have EWCs that meet at least twice a year. Transposition Laws of Directive 2002/14 do not have such provisions.

O κ. Ioan Pera said that we have to make a distinction between national and multinational companies. National companies think of their employees, because they have personal relations with them. We are not against multinational companies. However, multinational do not make decisions nationally. Here we have to stress that employees are better organized than the employers. When of course things come to the Parliament to decide, then decisions are made with the aim to achieve a balance.

Mr Katsampanis said that it is difficult to distinguish national companies; half of the capitals since in the Greek stock market are foreign.

Mr Ninos observed that there are different velocities and this stands for employers as well as for employees. Differences are not only due to the different size, namely between SMEs and big companies but within the same group as well. Trade union federations cover the interests of employees of SMEs as well. Big multinational think more about flexicurity, this meaning the reduction of labour cost without compromising the image of the company as far as corporate social responsibility is concerned. There should be common principles, which will guide the labour Laws to be amended.

Professor Voiculescu said that some points of the Law 3846/10 are not coherent with the European legislation or with that of the ILO. Nowadays, there is also the subject of flexicurity.

Mr Katsampanis said that the labour movement should intervene, while laws are in the process of being formed.

Mr Ninos referred to the example of Heineken, where with the thought that centralisation of procurement would bring reduction of costs (ordering 1 million cans



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per month is different from ordering 1 million cans a day) the management decided to abolish all peripheral accounting and purchasing departments and substitute them with a centralized one in Poland. The implementation of this decision has been cancelled twice because the management did not bring sufficient evidence. In France for example they had first to find jobs for the persons dismissed. This picture is not valid for all companies though. In Carrefour the respective subject has not even been defined as a subject for consultation. Trade unionists have to assess the situation every single time.

Mr Katsampanis added that Vodafone has closed the accounting departments and told the employees that they could, if they wished so, to go to work in Hungary with salaries of Hungary. In an analogous situation in Praktiker there was not even prior information.

Sanctions

Mr Katsampanis said that in the Directive 2002/14 was not finally included the article that preview that in cases of infringement of the Directive, decisions made by the management would be void.

Mr Tsimekas observed that when there are agreements between companies, these agreements preview penalties in case one of the parties infringes what was agreed. Why are there not analogous penalties in case of infringement of Directives and labour Laws?

Romanian participants said that in the past, trade unions have been able to block mass redundancies. Now there are no such opportunities. You may block such decisions in Courts but you will have no chance if you appeal to the Labour Inspectorate, especially in the case of State-owned companies. In Romania the trade union movement is well balanced. We know that without employers we do not exist. But in many cases we see the same object, e.g. “flexicurity” in a different way. When the Romanian law concerning information and consultation passed from the Parliament, trade unions went out in the streets and in parallel, they informed ILO about it. Government calls it a regulatory law, we call it a de-regulatory one. If in Romania there was a consultation culture, everything would be different. The judge that at the end decides is not helpful at all. The Romanian law constitutes a negative example. The result is a big null.

Mr Katsampanis has posed the following subjects for discussion:

- If there were sanctions would the law be respected?
- If the law preview that consultation should at any case conclude to an agreement would things be different?



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- If the employer was obliged to give justified answers or else the decision would be void, would things be different?

Mr Mocanu has put the following question: Who defines how far can reach the sanctions? Can sanctions really help employees? Sanctions preview by the Law and their level are up to the legislator. I can assure you that as vice Minister of labour I had an open ear and listened to everybody. If employers were here they would consider existing sanctions as excessive. The final judge that decides is the government. One has to have in mind, that in the case of restructuring, information and consultation process cannot substitute decisions that are dictated by the laws of the market, the customers and the cash flows. It should be examined in every case if redundancies are dictated by objective situations or simply by the wish to maximize profits. By chance, I read today the results of a survey by a British consultancy company, which says that in 2012 persons that own more than 50 million have increased by 12%. For Romania, this figure is 35% and for North America 30%. That is to say, in many cases problems at company level are due to subjective causes. In these cases sanctions should play a corrective role.

Mr Radu Godeanu said that at least in Romania, because in Greece companies and workers face more serious problems, the behaviour of the employers plays capital role. First of all sanctions should not kill the companies. On the other side, articles 24 and 27 of Directive 2002/14 put the subject of confidentiality. I don't know if in Greece elected employees' representatives can have at the same time management positions.

Mr Tsimekas replied that the statute of most Greek trade unions forbids the participation of managers in them. Nowadays, with the economic crisis the saying "law is the right of the worker" tends to change to "law is the right of the employer". The interdependence that exists should be the basis of any dialogue. However, crisis offers bad employers the opportunity to pass whatever they want and to demand relations of subordination. Nevertheless, except from being workers, we are also citizens and consumers and we have responsibilities also in this title. Coca Cola has closed two factories in Greece and it has fired 400 workers. Yet, instead of sabotage, Coca Cola increased its profits in Greece.

Romanian trade unionists have said that Romanian Law previews sanctions for employers but also for trade unionists, e.g. if trade unionists engage in illegal strikes they will have to pay for the damages caused by these strikes. The right thing would be that if the employer breaches the Law, he should be punished. Balance does not mean the exploitation of the one by the other. We wish to have social dialogue.

Mr Ninos has informed the participants to the Conference that all workers' representative organs in Greece are elected. There are some employers that dismiss their employees in an abusive way. There should be sanctions for these cases. Others try to find some middle ground. Now, with crisis there is too much dialogue but there



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should also be decision making. For example, construction has nearly stopped in Greece. Maybe some workers should be oriented towards the primary sector.

The President of OBES Mr Trakaniaris has spoken about the example of Shelman, the company in which he works. The employer has succeeded in filing a strike as illegal and is asking 100.000 Euro from 5 persons. At court they have brought forged evidence.

Data provided in the information

Mr Cotea has declared that the whole process of information and consultation in multinational companies may be blocked by a problem: the management takes time to find evidence in a country, to compile documents, to translate balance sheets and to provide the data to the EWC.

Mr Tsimekas observed that the balance sheet is only a part of information. The company has to give workers' representatives more analytical data and pay technocrats to explain the balance sheet.

Mr Mocanu said that the balance sheet is not enough. Both the Directive and the national Law demand evidence on the evolution of employment. The balance sheet does not give this evidence. Information and consultation are based more on mutual understanding than on the law.

Mr Ion Albu said that where the trade unions of competitive companies of the same sector come together and elect representatives then there maybe a point of confidentiality. In a case the management of a company said: "we will give you the evidence but then you will decide for the salaries" and I said "Yes, but then will I have the right to punish those that brought the company to this point?" Courts of justice are not always fair.

Workshop on 8.3.2013

During the second day 8.3.2013, there were 25 participants. First of all Mrs Spiliotopoulou has presented the slides showing the findings of the survey, which was conducted in the framework of the PRAXIS project in Greece.

Following that there was a workshop, where participants examined analytically and discussed the Directive, the national laws and possibilities to act through case studies referring to various possible situations.



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