



SOME DEVELOPMENTS ABOUT RESTRUCTURINGS IN EUROPE

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on the European database EIRO**

**See also J. PELISSIER, A. SUPLOT, A. JEAMMAUD, *Droit du travail*,
Paris, Dalloz, coll. « Droit Privé », 22^{ème} édition, 2004, 1353 p.**

FRANCE

SOCIAL PARTNERS AND COLLECTIVE BARGAINING

1. Job security

The main drivers of job security bargaining over the past few years have been the 1998 and 2000 35-hour week laws (see above under 'Working time'). The 35-hour week legislation provides for two kinds of working time reduction agreement : "offensive" job-creating accords and "defensive" job-safeguarding ones. Current favourable economic conditions partially explain why the vast majority of agreements concluded so far on the reduction of working time have been "offensive" in nature. Fewer than 10% of agreements are of a defensive nature, in that they provide for job retention and include job security clauses.

An increasing number of mass redundancies during 2003 returned the issue of job security and / or the quality of measures on redeployment, outplacement and training contained in redundancy plans to the top of the industrial relations agenda. Major restructuring plans were announced by companies such as *GIAT* Industries (arms manufacturing) and *Alstom* (engineering), while high-profile bankruptcies included *Air Lib* (civil aviation), *Metaleurop* (metalworking) and *Daewoo-Orion* (cathode-ray tubes). Some cases of restructuring were accompanied by innovative company-level bargaining. For example, in May 2003, a 'methods agreement' was signed between trade unions and management at *GIAT* Industries, setting out a procedure and timetable for consultations over a major restructuring plan involving large-scale job losses which the company announced in April 2003.

In March 2003, the government launched intersectoral negotiations among social partners on the compensatory employment-related measures to accompany restructurings. Several meetings were held during 2003 and the talks were planned to end in early 2004. The debates were marked by the vehement opposition of the trade unions to a draft plan for amending the legislation on restructuring proposed by the *Movement of French Enterprises (Mouvement des Entreprises de France, MEDEF)*, a major employers' confederation. The plan suggested to anticipate the changes affecting companies and to improve 'the management of restructuring' and stressed the implementation of a lifelong training policy. To this end, larger firms should be obliged to draw up a forward management plan covering staffing levels and skills and consult the works council on this issue on an annual basis. *MEDEF* also advocated to reduce the time spent on informing and consulting the works council in the event of redundancies and to raise from 10 to 20 the number of redundancies within a company, which was leading to a legal requirement on the employer to produce a 'social plan' as well as to limit employees' opportunities to use the courts and shortening collective redundancy procedures.

Time-consuming collective bargaining at national level on the safeguarding of employment when redundancies were made failed in the autumn of 2004. The government was thus set to legislate in order to amend an Act passed in 2001, just before the end of the previous Parliament. This topic had become a 'hot potato' at a time when companies seemed less restrained in making workers redundant in France and creating jobs in countries where wages were lower.

2. Background : a decline of unionisation

A Ministry of Labour survey¹ has calculated the level of unionisation among French employees at 8.2%. This rate exceeds 15% among public sector workers and drops to scarcely 5% in the private sector. These rates are thought to have been stable for around a decade.

2. 1. Legislative developments

The current economic downturn has resulted in the rise in the unemployment rate and in the number of redundancy plans (*plans sociaux*), which usually accompany workforce reductions. The number of redundancies in the first half of 2002 was up by 36% on the same period in 2001 and the deficit of the *UNEDIC* unemployment insurance fund deficit was forecast to reach EUR 3.5 billion in 2002.

In this context, in October 2002, the government appointed Claude Viet to the new position of 'Redundancy Supremo'. His role was to set up an interministerial body to coordinate government's action addressing the impact of company restructuring and its effect on employees.

Shortly before the end of the previous term of Parliament, a 'social modernisation' law was passed, which strengthened (among other measures) the monitoring powers of employee representative bodies with regard to collective redundancies. This fiercely-criticised law was suspended in December 2002 for 18 months pending substantial amendments aiming at

¹ Thomas Amossé, Mythes et réalités de la syndicalisation en France [Myth and Reality in Unionisation in France], *Premières informations, premières synthèses*, Paris, DARES, October 2004, n°44-2.

restricting its scope. The government wanted social partners to reach an agreement on the issue, but commentators believed that there was little chance for this to happen.

The *Social Modernisation Act* (2002) aimed at strengthening the right of the employee representatives facing a restructuring process.

When job losses are announced, the works council can put forward “alternative proposals”. It also has a “right of opposition” to the restructuring plan and to the reduction in staffing numbers as well as to the ways the plan is to be applied. However, this simply means that there is an opinion of opposing the proposals floated, not the redundancies themselves. In order to do that, a mediator has to be appointed to make recommendations if the workplace closing down has more than 100 employees. The judge at a special hearing is responsible for ensuring that there is a genuine two-way debate on the proposals of the works council and those of the mediator.

But a law passed on 3 January 2003 suspended these innovative provisions of the *Social Modernisation Act* and now the former regime less ambitious applies.

The suspended law had preserved a provision of the *Social Modernisation Act*, which was relevant in case of restructuring process having an impact on sub-contractors : when a project of restructuring or reduction of employment had an impact on the activities or the level of employment of a subcontractor, the employer had to inform immediately the subcontractor. The employee representatives had also to be informed on the risks they would have to face. The law paved the way for “method agreements” (*Accords de méthode*).

The *Accords de méthode* provided by the law on 3 January 2003 intended to promote collective bargaining in the framework of economic redundancies.

These agreements negotiated at the enterprise level are considered as experimental agreements concluded between social partners, when an employer plans to dismiss people on economic grounds (10 employees on a 30-day-period).

They are experimental in so far as they have to be concluded within a delay of 24 months from the date of the promulgation of the law (until the 3 January 2005) and for a maximal 2 year-period.

The *Accords de méthode* organise the modalities of information and consultation proceedings before the works council. It can also determine the conditions under which a social plan can be subject of an agreement.

The *Accord de méthode* can derogate from legal provisions on economic redundancies : on the one hand, it can provide a specific time schedule for information and consultation proceedings ; on the other hand, it can determine the conditions under which an intervention is allowed or a social plan to be implemented. It can also define the role of an expert in the field of restructurings, etc.

The *Accord de méthode* are valid when signed by one or more trade unions representatives in the firm, who have had the majority of the vote at the outcome of the first round of the last election of the works council (*syndicats majoritaires*). It is also submitted to a consultation of the works council.

The other main legislative development in 2003 was a government's proposal for a new law on vocational training and social dialogue, which was nearing adoption in Parliament at the end of the year. While implementing the social partners' intersectoral agreement on training (see above under 'Training and skills development'), the law would introduce major changes to the legislative framework for collective bargaining - see below under 'The organisation and role of the social partners'). Furthermore, a law introducing a new *Minimum Employment Income Scheme (Revenu Minimum d'Activité, RMA)* and decentralising the existing *Minimum Integration Income (Revenu Minimum d'Insertion, RMI)* benefit and assistance programme for people facing labour market difficulties was passed by Parliament on 10 December 2003 and came into force on 1 January 2004.

As indicated above, many changes in employment and industrial relations norms involved a combination of legislation, collective bargaining and consultations (*e. g.* on pensions, vocational training and social dialogue). This absence of clear boundaries between the respective jurisdictions of Parliament and the social partners involved is a persistent feature of French industrial relations.

The respective role of the law and social partners in employment-related decision-making as well as the representativeness of social partner organisations was a hot topic in 2003. A draft law on social dialogue and collective bargaining reform was debated in Parliament and nearing adoption by the end of the year. It would alter the current rules granting priority to the law and sector-level agreements in favour of a greater role being granted to the decentralised levels of bargaining. Under certain conditions and on certain subjects, company-level agreements could deviate from rules set at what was previously considered higher levels - agreements at sectoral and intersectoral levels and legislation. Furthermore, the signature of one or more unions with representative status was currently enough to validate a collective agreement, but the new law provided that collective agreements had essentially the support of (or not be opposed by) a majority of trade unions representatives in order to be valid.

The new legislation was inspired by a 'common position' on collective bargaining reform agreed in July 2001 by employers' organisations and four trade union confederations - *CFDT, CFE-CGC, CFTC* and the *General Confederation of Labour-Force Ouvrière (Confédération Générale du Travail-Force ouvrière, CGT-FO)*. However, not all the signatory unions of the 2001 document approved the new law. *MEDEF*, the largest employers' association, backed the draft legislation and had amended its own internal organisation to adjust to more decentralised bargaining.

2004 was characterised by significant legislative changes in terms of validity criteria for collective agreements signed by social partners. Agreements signed by trade unions with representative status may now be challenged by other representative unions that have a majority of support in the agreement field of application. Flexibility has also been introduced, through the law of 4 May 2004 on social dialogue, which allows companies not to apply strictly the minimum norms set out in agreements reached at higher levels. These amendments, however, did not go as far as the employers wanted in terms of introducing flexibility around sector-level norms and placing limits on the principle of norms decided upon at a higher level setting the parameters for bargaining at lower levels.



The legislative changes referred to above relate to the validity of collective agreements. In the near future, *MEDEF* should publicise its own strategy in the area of bargaining. It has severely criticised what it views as the government's inertia in terms of structural reforms.

The employers' association wants sweeping changes in the Labour Code, particularly with respect to flexibility in employment contracts and employee representation in companies. The unions came together to oppose these plans, but the government may circumvent this opposition by using legislation.

GERMANY

COLLECTIVE BARGAINING AND SOCIAL PARTNERS

1. Training and job security : trade unions' concessions

Although trade unions and employers' associations agreed a joint recommendation for an "employment-oriented bargaining policy" within the framework of the *Alliance for Jobs* (see below), the two sides continue to have rather differing views on the effects of collective bargaining on employment. Employers see the issue of wage restraint as most important for safeguarding and promoting employment. By contrast, the unions hope to secure and create jobs, especially for younger workers, through the conclusion of attractive early retirement schemes for older workers.

More explicit agreements on job security have been concluded at company-level. In June 2000, for example, the rail workers' trade union *Transnet* and the board of *Deutsche Bahn AG* agreed to extend the company's "pact for jobs" until the end of 2004 and to a new social fund to finance extra payments for staff, linked to the railway company's privatisation and reorganisation.

The most outstanding agreement dealing with job security in 2001 was the so-called '5000 x 5000' project at *Volkswagen*. *Volkswagen* management had proposed creating 5,000 new jobs, with the employees concerned receiving fixed monthly pay of DEM 5,000. The new employees were to work in a new VW subsidiary, *Auto 5000 GmbH*, which would not be covered by the *VW* company agreement but would have rather flexible working conditions (see above under 'Working time'). After a heated dispute between *VW* and *IG Metall*, the bargaining parties finally reached a compromise according to which pay and working conditions were below the *VW* company agreement but basically adhered to the collectively agreed standards of the branch-level agreements in metalworking.

New collective agreements on further training were signed in chemicals. They provide a framework for voluntary works agreements on further training and recommend the systematic planning of a wide range of training activities at company level, including special initiatives for different groups of employees, such as older employees, shiftworkers or parents.

As mentioned above, in a number of company agreements concessions by the trade unions on issues of pay and conditions (in particular working time) were linked to management commitments to maintain existing job levels (amongst others, at *Siemens*, *DaimlerChrysler* and *Deutsche Telekom*) or to reduce staff without compulsory redundancies (amongst others, at the retail company *Karstadt* and car manufacturer *Opel*).

2. "The favourability principle": a controversial debate

In 2000, the controversial debate related to the German collective bargaining system continued. In February 2000, the main employers' and business associations' representatives demanded changes in the *Collective Agreement Act* in order to redefine of the so-called "favourability principle" (*Günstigkeitsprinzip*), whereby departures from regulations laid down in collective agreements were possible only when they were in favour of the employees. According to the employers, it should be legally possible for companies to diverge from

collective agreements in order to safeguard or promote employment. Both trade unions and the government, however, had clearly rejected this demand.

3. The influence of the “Alliance for jobs” on collective bargaining

The 2000 collective bargaining round was very much influenced by the national tripartite *Alliance for Jobs* forum (*Bündnis für Arbeit*), which adopted a joint statement on an "employment-oriented bargaining policy" in January 2000. This was the first time in German history that a national tripartite institution had issued recommendations for a forthcoming bargaining round.

The *Alliance's* joint statement (of a non-binding nature) called for a "longer-term collective bargaining policy". In March 2001, the national tripartite *Alliance for Jobs* adopted a joint statement on training, which recommended that trade unions and employers' associations should conclude new collective agreements to secure and improve further training at company level. In June 2001, the collective bargaining parties in metalworking concluded a new collective agreement on further and continuing training for the region of Baden-Württemberg, which entitled employees to determine their training needs in annual consultations with their employer, with the latter paying for the subsequent training. The parties also agreed to set up a new agency which would assist companies and employees in improving the maintenance, adaptation and upgrading of skills. The metalworking employers' associations in other regions, however, had refused so far to conclude similar agreements on further training.

A far-reaching agreement on further training was also concluded at the new *VW* subsidiary Auto 5000 GmbH. The *VW* agreement provided that every employee should receive on average three hours per week of training, with half of the training time paid by the company and the other half in the employees' own time. Every employee should have the right to an individual training plan which combines work process-related training (training on the job) with broader training (training off the job), including training in social skills.

However, there had been continuing criticism of the *Alliance* among both the employers' associations and the trade unions. Within the employers' camp, more positive evaluations seemed to dominate, mainly because of the *Alliance's* disciplining effects on pay developments. Within the unions, there had been considerable controversy over the usefulness of the *Alliance* following the decision of two *DGB*-affiliated trade unions, the *Media Union* and the *Commerce, Banking and Insurance Union* to opt out of the *Alliance*.

The *Alliance for Jobs*, discontinued its work in February 2003. The *Alliance* ended its work after the unions withdrew their support in a conflict with the employers, which had proposed a six-point plan including moderate wage demands on the part of the unions as well as the extension of opening clauses in collective agreements.

4. Trade unions : organisational change (mergers)

The most important change in the organisation of German social partners in 2001 was the creation of the *Unified Service Sector Union* (*Vereinte Dienstleistungsgewerkschaft, ver.di*), which was completed in March 2001. *Ver.di* now represents almost 3 million workers in some 1,000 different occupations, most of them in public and private services. There were five unions involved in this merger : *the Public Services, Transport and Traffic Union*

(*Gewerkschaft Öffentliche Dienste, Transport und Verkehr, A-TV*), the German White-Collar Workers' Union (*Deutsche Angestellten-gewerkschaft, DAG*), the Post Workers' Union (*Deutsche Postgewerk-schaft, DPG*); the Commerce, Banking and Insurance Union (*Gewerkschaft Handel, Banken und Versicherungen, HBV*) and the Media Union (*IG Medien*).

With most *DGB*-affiliated trade unions concerned about ongoing membership decline, some unions had started to set up new programmes for membership recruitment. While *ver.di* founded the 'connexx' project to attract high-skilled employees in the media industry, the *Construction Workers Union (Industriegewerkschaft Bauen, Agrar, Umwelt, IG BAU)* - the union with the most dramatic membership loss - decided to concentrate its efforts on recruitment in fields linked to construction.

Organisational developments within employers' associations had been closely related to the ongoing restructuring process of the German branch-level collective bargaining system. Since the 1990s, a number of individual companies had withdrawn from employers' associations and thus refrained from industry-wide collective bargaining.

In September 2004, the *Trade Union for Building, Forestry, Agriculture and the Environment (Industriegewerkschaft Bauen-Agar-Umwelt, IG BAU)* announced the foundation of a *European Migrant Workers' Union (Europäischer Verband der Wanderarbeiter)*. The aim was to organise migrant workers of all nationalities who work for a limited period of time in one or several Member States of the European Union (other than their own), especially in industries such as construction or agriculture.

5. Legislative developments

On 19 December 2003, Parliament passed a package of labour market laws, including a change to the statutory protection against dismissal and a restructuring of the unemployment benefit system.

With effect from 1 January 2004, statutory protection against dismissal, a system of restrictions on the lawfulness of termination of employment by the employer, laying down for example the valid grounds for dismissal and - applies only to employees who are employed in companies or enterprises that take on more than 10 employees on a regular basis (apprentices are not counted and part-time employees are only counted proportionally). Previously, the statutory protection against dismissal covered employees in all companies with more than five employees. Employees in companies with more than five but not more than 10 employees will keep their statutory protection if employed before 1 January 2004.

ITALY

COLLECTIVE BARGAINING AND SOCIAL PARTNERS

1. A resumption of dialogue among the three main trade union confederations

In May 2000, *Confindustria* named as its new president Antonio D'Amato. Mr D'Amato's programme stressed the need for modernisation in order to increase the competitiveness of Italian firms. In his opinion, reforms should include a deregulation of the labour market, a substantial cut in tax rates and a thorough transformation of the welfare system.

The relationships between unions in 2001 were characterised by a certain degree of disagreement. However, from autumn 2001, the opposition to some government's initiatives in the field of labour and social policy led to a united reaction by the unions and reduced the emphasis on their different points of view.

2004 saw a resumption of dialogue among the three main trade union confederations (*CGIL*, *CISL* and *UIL*), and between them and the employers' associations. On 10 March 2004, more than 6,000 delegates from *CGIL*, *CISL* and *UIL* took part in a joint assembly in Rome, the first such event for 10 years. The unions agreed on the necessity of resuming united action to oppose government policy, which they consider to be ineffective, and of supporting a united platform on economic, incomes and social policy. The resumption of dialogue took concrete form in an agreement aimed at re-launching the economy of the south of Italy, signed in November 2004 by the three trade union confederations and 13 employers' associations. The agreement proposed a set of measures, distinguishing them between medium/long-term actions and short-term ones, to be submitted to the government and the local institutions.

2. Innovative collective agreements

Among the collective agreements signed in 2003, a significant feature of the first sectoral agreement for the railway industry was that it established a 'participatory' industrial relations system for the sector. This would be based on joint committees (a *National Observatory and Equal Opportunities Committee*) and information and consultation procedures at both national and company level. The parties, moreover, have committed themselves to activating the procedure for the establishment of a *European Works Council*, or an information and consultation procedure.

An agreement signed on 29 January 2004 by the *Unitary Federation of Chemicals Workers (Federazione Unitaria Lavoratori Chimici, FULC)* - which brings together the sectoral trade unions affiliated to the three main union confederations (*FILCEA-CGIL*, *FEMCA-CISL* and *UILCEM-UIL*) - and the sectoral employers' federation - *Federazione Nazionale dell'industria chimica (Federchimica)*, affiliated to *Confindustria* - strengthened collaboration between companies and trade unions by implementing the worldwide Responsible care programme in the chemicals industry on the basis of a joint approach that enables workers and their representatives to participate actively in actions to improving and assess results.

3. Training, skills development and job security

3. 1. Training

The shortcomings of the Italian training system were at the centre of an extensive debate in 2000, which prominently involved the social partners. The social partners considered that a wider use of vocational training, in connection with work traineeships, could help reduce the unemployment rate, especially among young people. The October 2000 agreement on immigrant workers in the Veneto region recognises the importance of training as a key factor in the access to employment and represents a particular example of joint efforts of the social partners in this field.

A number of agreements concluded during 2001 contained provisions designed to improve training and skills development provisions. For example, the new accord concluded in February in the schools sector introduces training leave and allocates 1% of the total paybill to continuing training.

According to a report on the Italian training system published by the *Institute for the Development of Vocational Training (Istituto per lo Sviluppo della Formazione Professionale dei lavoratori, ISFOL)* in September 2003, the intersectoral continuing vocational training funds now being slowly created with the purpose of providing financial support for in-company training - cover only 25% of private companies.

The new collective agreement for the metalworking sector has introduced paid leave for workers who left school early to study for upper-secondary education certificates, while foreign workers may use the 250 hours of paid leave to attend courses in the Italian language. One of the sections of metalworking national sectoral joint body will be concerned with training and will collaborate with *Fondimpresa* - the intersectoral joint body set up by *Confindustria, CGIL, CISL and UIL* to manage the funds set aside for vocational training - as regards the metalworking sector.

The part of the renewed national collective agreement for building workers concerned with vocational training gives the existing bilateral training system new responsibilities in the design of courses. The partners intend to turn current 'building schools' into national training agencies managed by the sectoral vocational training fund (*Fondo per la formazione professionale, Formedil*). Moreover, as regards workplace safety - a crucial problem given the high rate of lethal accidents in the building industry - the agreement increases the number of hours of training granted to health and safety representatives.

The new national collective agreement for industrial managers stipulates that the bipartite body for continuing training (*Fondirigenti*) must identify the training and skills-updating needs of managers, as well as monitoring the effectiveness of the training delivered. Moreover, *Fondirigenti* has created an experimental employment agency for the retraining and redeployment of unemployed or redundant managers.

Finally, the only agreement in Italy regulating the employment conditions of all employees working in a shopping centre, which was concluded in 2004 in Tuscany, included provisions on the delivery of training courses on organisational and logistical aspects of the shopping centre to all workers and on their rights and duties.

3. 2. Job security

In terms of restructuring processes involving job losses, "proactive" measures, such as reskilling, outplacement and reindustrialisation, may supplement more traditional "passive" tools, such as the use of the *Wages Guarantee Fund*. An example was the April agreement on the closure of the *Goodyear* Latina plant (tyre manufacturing), which was reached with the mediation of the Ministry of Labour.

The social partners' efforts to conclude agreements to foster employment creation and job security continued in 2001 at all levels. An example of an agreement at 'territorial' level was the 'social pact' for Catania, a town in Sicily, which was signed in February 2001. The agreement aimed at helping to create new companies and to facilitate the access to the labour market of people facing difficulties, as well as to enable the stabilisation of 'precarious' employment.

Another interesting agreement was signed in January 2001 by the Ministry of Industry and the *FIM*, *FIOM* and *UILM* metalworkers' federations in order to support the mobility of workers between the South and the North of the country, with a view to coping with the increasing recruitment difficulties that many northern firms were experiencing. The agreement aimed at setting up a system to support companies seeking personnel and at promoting South-North mobility and investment in the South. The arrangement would be temporary, allowing workers to gain professional experience in northern plants before returning to work in a plant that the company concerned had meanwhile built in the South. The system would be applied on an experimental basis to Franco Tosi, an electro-mechanical company located in the North.

In October 2001, an innovative agreement was reached at *Electrolux-Zanussi*, in which management and unions agreed to move the company's entire production chain for clothes-dryers from Nuremberg (GERMANY) to Catania (ITALY), under the condition that the company would be able to relocate the dryer operation to another country after 2005, should this become more economically convenient. The company committed itself to hiring 320 new employees on a fixed-term basis for the duration of the project. Moreover, the agreement planned the implementation of joint training initiatives to support the employability of workers hired on fixed-term contracts and assistance to the workers in finding employment after the expiry of their temporary contract.

Job security issues had been addressed mainly in the framework of reorganisation processes and through an increased effort at supporting the diffusion of training initiatives (see below under 'Vocational training').

At company level, restructuring and reorganisation had been prominent themes, owing to the difficult economic situation, namely in some industries. This applied particularly to the airline *Alitalia*, which had been hit by the international civil aviation crisis that followed the terrorist attacks on the USA on 11 September 2001.

An agreement signed in March 2002 enabled the company to avoid 2,500 redundancies which had been previously announced through :

- the provision of incentives to encourage retirement of older employees ;
- the reduction of labour costs as a result of a two-year pay freeze ;

- the use of solidarity contracts in order to distribute the impact of reducing labour costs among the largest possible number of employees by means of a corresponding reduction in working time.

Other firms badly hit by the economic slowdown included those belonging to the so-called 'new economy'. In 2002, some of these companies implemented restructuring. Interestingly, but not unexpectedly, this difficult situation favoured an increase in unionisation rates and in the importance of the role of trade unions and industrial relations in a sector in which the predominant practice had previously been individual management of the employment relationship.

However, the most high-profile case of industrial restructuring in Italy in 2002 was in the most traditional and representative sector of 'old economy' manufacturing : car making. *Fiat Auto* was struck by a deep crisis and the measures to be taken to re-launch the company were at the centre of a fierce confrontation between company management and the unions, which also led to the involvement of the government. In October 2002, after a first agreement had been reached with the *Italian Metal-Mechanical Federation (Federazione Italiana Metalmeccanici, FIM)*, affiliated to *CISL*, and the *Union of Italian Metal-Mechanical Workers (Unione Italiana Lavoratori Metalmeccanici, UILM)*, affiliated to the *Union of Italian Workers (Unione Italiana del Lavoro, UIL)* - but not the *Italian Federation of Metalworkers (Federazione Impiegati Operai Metallurgici, FIOM)*, affiliated to the *General Confederation of Italian Workers (Confederazione Generale Italiana del Lavoro, CGIL)* - *Fiat* issued a second industrial plan which planned an investment programme of around EUR 2.6 billion per year from 2003 to 2005 and a substantial utilisation of 'social shock absorbers' (measure to cushion the effect of restructuring, such as the Wages Guarantee Fund and the 'mobility procedure' -, affecting some 8,000 employees. The industrial plan was considered unacceptable by all the unions because, according to *FIM*, *FIOM* and *UIL*, it envisaged the closure of a number of *Fiat* plants and the shedding of more than 8,000 employees.

Eventually, *Fiat* and the government reached a 'programme agreement' on company reorganisation, which planned some measures to support the revitalisation of the market and the introduction of a specific law to provide around 2,400 employees with income support until they reach retirement age. The agreement was rejected by the unions because they believed that the impact on employment was still excessive and that the guarantees provided for the company's revival were insufficient.

In an uncertain and turbulent economic environment, numerous companies drew up business plans for restructuring and reorganisation during the course of 2004. A prolonged situation of economic crisis once again highlighted the need for reform of the 'social shock absorbers', measures to soften the effects of restructuring for workers (on the agenda for years but still not implemented). While awaiting a new legislative framework, company restructuring and reorganisation gave rise to the most significant measures concerning job security. These plans involved both large industrial groups and individual companies of significance in their sector.

In October 2004, an agreement was reached by the government, trade unions and the airline company *Alitalia* on economic recovery and re-launching. The tripartite agreement ended long and difficult negotiations and contained important provisions regarding a new corporate structure along with measures to assist workers as the company's restructuring proceeds. The agreement provided for the extension of the social shock absorbers, which

apply in industry to the entire air transport sector. Redundant workers will thus be able to receive for 24 months an allowance from the extraordinary Wages Guarantee Fund (*Cassa Integrazione Guadagni Straordinaria, CIGS*) equal to 80% of their previous income and, after this period, a 'mobility allowance' (*indennità di mobilità*) for a maximum of three years, according to age. Income support for workers will be paid from a special solidarity fund (*Fondo speciale di solidarietà per il sostegno al reddito dei lavoratori del trasporto aereo*) financed by a contribution of 0.375% of the total annual pay bill of firms, while workers in the sector will contribute 0.125%. During restructuring, workers who benefit from the *CIGS* and mobility allowance would be involved in all the necessary training and outplacement measures to foster their redeployment to other companies.

As part of the industrial restructuring plan for the troubled *Parmalat* group on 3 November 2004, an agreement on industrial relations was signed by the main unions in the agro-food sector and by the group's special administrator. The agreement laid down guidelines for regulating employment relationships and relations between the new owners and the trade unions, safeguarding jobs, and providing social protection for all the group's employees.

In February 2004, the steel multinational *ThyssenKrupp*, the owner of the *Acciai Speciali Terni* company (*AST*), announced its intention to close the department producing electrical steel, putting 900 jobs at risk (500 workers employed in the department and 400 employees of subcontractors working in the same factory). The decision provoked immediate protest by the *AST-TK* workforce in Terni and the mobilisation of the entire local community. A series of meetings between government's representatives, the social partners and the company's owners produced some preliminary results : *ThyssenKrupp* undertook to postpone the meeting of its supervisory board to decide the fate of electrical steel production at Terni ; the 150 fixed-term contracts at the Terni steelworks would be renewed; and the investments already foreseen for the area would be realised, with a view to increasing the company's commitment in the development of the site. The agreement was again discussed within the last months of the year, when *ThyssenKrupp* management decided to revise its business plan further and confirmed its decision to close the electrical steel department. In an attempt to resolve this further dispute, the trade unions and the *ThyssenKrupp* management scheduled a series of meetings that began in January 2005.

4. Legislative developments : reforming the labour market

During 2001, no modifications of the legislation on collective dismissals and industrial restructuring took place. Reform of the 'social shock absorbers' had been on the government's agenda for a number of years, but its linkages to the labour market and the pension system reforms had hindered any progress, since negotiations with the social partners on these two issues had proved particularly difficult.

The law (2003-276/03) reforming the labour market comprises most of the proposals made by Marco Biagi and applies some of the measures envisaged by the July 2002 'Pact for Italy' (a national agreement on the labour market, the tax system in the South of Italy).

The law aims at improving efficiency of job placement services and at increasing labour market participation by introducing new forms of employment contract. Social partners expressed conflicting opinions on the content of the reform law. From September 2003,



interconfederal talks (*tavoli interconfederali*) were held on matters that the law explicitly left to collective bargaining.

The 2004 state budget law approved in September 2003 provided for the creation of a special fund to encourage employee participation in companies (*Fondo speciale per l'incentivazione della partecipazione dei lavoratori nelle imprese*). The fund would be established at the Ministry of Welfare and would receive an initial allocation of EUR 50 million. It would support programmes for the implementation of collective agreements or company rules aimed at enhancing worker participation in the company's decision-making processes and/or financial results.

By the end of 2004, more than a year since legislative decree 276/03, all statutory instruments implementing the labour market reform law were enacted, including some amendments of the various rules, and collective bargaining had begun to address some of the innovations set out in the decree.

BELGIUM

COLLECTIVE BARGAINING AND SOCIAL PARTNERS

1. Training and job security

1. 1. Training

Since 2000 the social partners confirmed their commitment on continuing training. In practice this meant that, up until the end of 2002, companies would increase their spending on such training to 1.6% of pay costs. The intersectoral negotiators expressly requested the individual sectors to give priority in their agreements to training for certain target groups (such as older workers, women, unskilled workers, and occupations experiencing labour shortages). A new feature of the agreement was that part-time workers would be entitled to paid education left for vocational training. There would also be additional training possibilities for workers over the age of 45.

The intersectoral agreement for 2003-4 maintained existing early retirement schemes and company contributions of 0.10% of paybill for the training and employment of 'at risk' groups and 0.05% for the financing of 'accompanying plans'. It also promoted employment by a variety of means. In the draft intersectoral agreement for 2005/6, the social partners sought to maintain for another two years these employers' contributions of 0.10% and 0.05%, asking for them to be confirmed by the government. In talks over the 2005-6 agreement, the social partners persuaded the government to make available the sum of EUR 7 million per year in order to enlarge the scope of the system of compensation payments for workers, which became redundant because of their employers' closure/bankruptcy. The scheme would be extended to smaller firms - those with between 10 and 20 employees from March 2005 and those with between five and 10 employees from March 2006.

1. 2. Job security

In December 2001, management and trade unions at the Belgian telecommunications operator *Belgacom* signed an agreement on the implementation of a new restructuring plan, affecting 3,000-4,000 employees. The agreement, which provided for a combination of retraining, working time reductions and voluntary redundancies, was welcomed for its innovative measures.

On a more general level and in the context of measures to provide job security by increasing employability, the 2001-2 intersectoral agreement provided for new reductions in employers' social security contributions in 2002, if several conditions were met, including a positive evaluation of employers' efforts with regard to employment and training. As with the 1999-2000 agreement, the 2001-2 intersectoral agreement also provided for 0.10% of total paybill to be allocated to the employment and training of people from 'risk groups' .

In July 2002, the social partners involved in the *National Labour Council* concluded a collective agreement laying down the rules for a right to outplacement assistance for workers over the age of 45 who had lost their jobs. The agreement, which implemented earlier legislation on this issue, came into force in September 2002.

A new intersectoral agreement (2002) promoted employment by a variety of means, including : greater flexibility in the 'Rosetta' recruitment plan, full maintenance of the 'Plan + 1-2-3' employment scheme for small and medium-sized enterprises (SMEs). A lowering from 57 of the age which a reduction in social security contributions in respect of older workers was applied and a sum of EUR 71 million to be spent on reducing social contributions in favour of enterprises was confirmed. The Rosetta plan constrained private sector enterprises with at least 50 workers to take on young workers to make up 3% of the average workforce. The new agreement provided that students on alternating classroom-workplace training schemes, disabled workers and immigrants counted twice towards this quota.

2. Merger of unions

One of the main developments of the period was the merger (2001) of two unions affiliated to the *Confederation of Christian Trade Unions (Confédération des Syndicats Chrétiens/Algemeen Christelijk Vakverbond, CSC/ACV)*. *CSC/ACV Transport and Communications (CSC/ACV-Transcom)* was established on 1 April 2001 following a merger between the *Christian Communications and Culture Union (Syndicat Chrétien des Communications et de la Culture/Christelijke Vakbond van Communicatiemiddelen en Cultuur, SCCC/CVCC)* and the *Christian Transport and Diamond Workers' Union (Centrale Chrétienne des Ouvriers du Transport et des Ouvriers Diamantaires/Christelijke Vervoerarbeiders en Diamantbewerkers, CVD)*.

On the employers' side, the *Federation of Belgian Enterprises (Fédération des Entreprises de Belgique/Verbond van Belgische Ondernemingen, FEB/VBO)* acquired a new member in 2001, the *Belgian Producers of Construction Materials (Producteurs Belges de Matériaux de Construction)*. With this new addition, *FEB/VBO* now represents over 30,000 enterprises, 85% of which are small and medium-sized companies, employing about 2 million workers.

2. 1. Legislative developments

A government's bill adopted by the Chamber of Representatives in May 2002 sought to co-ordinate all existing law relating to company closures. It covered a wide range of issues, including information for workers and redundancy payments, and the competences of the *Redundancy Payments Fund (Fonds d'indemnisation des travailleurs licenciés en cas de fermeture d'entreprises/Fonds tot vergoeding van de in geval van sluiting van ondernemingen ontslagen werknemers)*, particularly related to enterprises in the not-for-profit sector.

SWEDEN

COLLECTIVE BARGAINING AND SOCIAL PARTNERS

1. The “Norrköping model”

The announcement made by the Swedish-owned *Ericsson* electronics group in the spring of 2001 of a massive programme of redundancies in Sweden and elsewhere (see below under 'Company restructuring') focused attention on a particularly innovative project agreed in 1999 to find new jobs for 587 workers made redundant at the *Ericsson* Telecom plant in Norrköping. The 'Norrköping model', widely regarded as having been very successful, brought together the company, trade unions, the *Proffice* temporary work agency and various local government and labour market bodies.

In redundancy situations, local collective agreements often included a variety of education and training programmes for workers who are faced with redundancy. The adjustment agreements also contained arrangements for further education and training.

The issue of training and skills development seemed certain to be included in the main bargaining round in 2001. More focus on training and skills development had been a union demand for some time - many of the three-year agreements concluded in 1998 mentioned the issue, though usually in the form of general declarations stating that all workers were entitled to recurrent training and that the employers should map out the training needs for each employee. Meanwhile, a draft reform of individual skills development was presented in December 2000 (see below under "Legislative developments").

2. A particular issue: cross border working

There had been a continuing discussion among the social partners on which collective agreements should be applied in situations involving workers of different nationalities and cross-border working. The general view in Sweden was that Swedish collective agreements should be applicable to foreign workers coming to Sweden. Neighbouring countries, such as Denmark and Lithuania, had divergent views.

In February 2004, the European Court of Justice (ECJ) issued its judgment in a case referred to it by the *Danish Labour Court (Arbejdsret)*, which related to industrial action notified to a Danish shipowner by a Swedish trade union in Sweden in 2001. After examining the question of jurisdiction, ECJ ruled that the case should be handled in Denmark. This may lead to serious consequences for Swedish industrial conflict rules, according to *LO*.

A recent case involved *L&P Baltic*, a Latvian construction company, which was currently carrying out work in Sweden. However, it had refused to observe the relevant collective agreement and to pay Swedish wages to its workers, who were Latvian nationals. Consequently, in November 2004, the *Swedish Building Workers' Union (Svenska Byggnadsarbetareförbundet)* launched a boycott of the company, which was in charge of building some school premises in Waxholm, near Stockholm. The case seems likely to end in the courts.

3. The debate about unions' mergers

As in other member states, this debate is related to the decline of trade unions members. According to figures published in spring 2001, the total membership of Swedish trade unions kept on declining in 2000, with overall union density down to 79% from 84% in 1994. Losses were recorded among the affiliates of the blue-collar *LO* confederation, while the white-collar *TCO* and especially the graduate *Swedish Confederation of Professional Associations (Sveriges Akademikers Central-organisation, SACO)* experienced small increases. Research indicated that unions had failed to attract younger workers.

The discussion of a number of trade union mergers – e. g. between the *TCO*-affiliated *Swedish Union of Local Government Officers (Sveriges Kommunalt-jänstemannaförbund)* and *Financial Sector Union of Sweden (Finansförbundet)* - continued into 2000. However, no mergers took place in 2000. At the end of December, the *Social Insurance Employees' and Insurance Agents' Union (Försäkringsanställdas förbund, FF)* - which is affiliated to the mainly blue-collar *Swedish Trade Union Confederation (Landsorganisationen, LO)* and has 13,000 active members working in social insurance offices - announced its application for membership of the *TCO* white-collar workers' confederation. This was the first time in Swedish trade union history that a blue-collar worker union had expressed the desire to leave *LO* in order to join a white-collar confederation.

The main development in 2001 in terms of the organisation of trade unions was the collapse of merger plans drawn up by four white-collar unions. These unions, all affiliated to the *Swedish Confederation of Professional Employees (Centralorganisation, TCO)*, had been working for about three years to conclude a merger creating a new union with 460,000 members. However, in December 2001, the council of one of the unions involved, the *Salaried Employees' Union* narrowly rejected the proposal to accept the merger, on which the other three unions agreed.

On the employers' side, the main event in 2001 was the merger of the main central private sector employers' and industry organisations - the *Swedish Employers' Confederation (SAF)* and the *Federation of Swedish Industries* - to create the *Confederation of Swedish Enterprise*. The new organisation represents some 46,000 firms in 52 member associations.

During 2002, work on possible mergers between trade unions and employers' organisations advanced, albeit slowly in most cases.

Among unions affiliated to the blue-collar *LO* confederation, in January 2002, the *Swedish Municipal Workers' Union (Kommunal)* merged with the *Agricultural Workers' Union (Lantarbetareförbundet)* ([SE0203101N](#)). In October, the *Swedish Metalworkers' Union (Svenska Metallindustriarbetareförbundet)* and the *Industrial Workers' Union (Industrifacket)* announced that they were starting to co-operate on a possible merger ([SE0212101N](#)). The *Graphical Workers' Union (Grafiska Förbundet Mediafacket, GF)*, the *Electricians' Union (Elektrikerförbundet, SEF)* and the *Union for Service and Communication Employees (Facket for Service och Kommunikation, Seko)* kept on working on their 'SEGEL project' to examine the possibility of a merger to create a 230,000-strong union. The unions' members were somewhat divided in their views and a future merger was far from a certainty. Furthermore, the *Commercial Employees' Union (Handelsanställdas förbund, Handels)* and the *Transport Workers' Union (Transportarbetareförbundet, Transport)* were currently seeking to find ways of co-operating over a possible merger.

The two main employers' associations in the local authority and city council sector, the *Swedish Association of Local Authorities (Svenska Kommunförbundet)* and the *Federation of Swedish County Councils (Landstingsförbundet)* decided to propose a merger to their members in November 2002.

In May 2003, the two main employers' organisations in the municipality and city council sector - the *Swedish Association of Local Authorities (Svenska Kommunförbundet)* and the *Federation of Swedish County Councils (Landstingsförbundet)* decided to merge by 2007, in line with plans announced earlier.

On the trade union side, a merger had been planned for some time between three unions affiliated to the blue-collar *LO* confederation - the *Electricians' Union (Elektrikerförbundet)*, the *Graphical Workers' Union (Grafiska förbundet)* and the *Union of Service and Communication Workers (Facket för Service och Kommunikation, Seko)*. However, in April 2003, the *Electricians' Union* left the talks. The other two unions kept on discussing, hoping that the *Electricians' Union* would return to the table. Merger talks continued between two other *LO* affiliates, the *Metalworkers' Union (Svenska Metallarbetareförbundet, Metall)* and the *Industry Workers' Union (Industrifacket)* and the matter is now to be decided on by the unions' members, with 2006 a possible date for the merger.

Two *LO*-affiliated trade unions, the *Swedish Metalworkers' Union (Svenska Metallarbetareförbundet)* and the *Swedish Industrial Labour Union (Industrifacket)*, decided to merge from the beginning of 2006. The new trade union would have around 470,000 members.

At the end of November 2004, four more *LO* unions announced that they had decided to co-operate in order to form a new trade union. The four trade unions were the *Building Workers' Union (Svenska Byggnadsarbetareförbundet, Byggnads)*, the *Building Maintenance Workers' Union (Fastighetsarbetareförbundet, Fastighets)*, the *Swedish Electricians' Union (Svenska Elektrikerförbundet, SEF)* and the *Painters' Union*. The first proposal for a potential merger was to be issued in the summer of 2006. The planned union would have about 220,000 members and would be the third-largest union within *LO*. The largest trade union within *LO* is the *Municipal Workers' Union (Kommunalarbetareförbundet)* with about 600,000 members. The second-largest is the *Swedish Metalworkers' Union*.

4. Legislative development

Job security in Sweden is regulated in special legislation dating from 1982 - the *Employment Protection Act (anställningskyddslagen)*. Some of the provisions contained in the Act are optional and it is thus possible to negotiate on some issues. A minor change to the Act was decided in October 2000, when Parliament voted down the government and reinstalled a former exception to the redundancy selection criteria system, based on the "last in-first out" principle. Under the amendment, small companies were permitted to exempt two of their workers from this provision. The rule applies only to companies with 10 or fewer employees.

In the area of individual skills development, a proposal from a commissioner who started work in January 2000 was presented in December 2000. The proposed reform was based on the idea that employees should have an individual skills development account, which did not have to be linked to a particular place of employment. The rules surrounding



such an account would be similar to those which applied to individual pensions provision and each individual should have their own account in a bank or insurance company of their choice. The scheme was planned to begin in January 2002.

In July 2000, the government commissioned the *National Institute for Working Life (Arbetslivsinstitutet)* to conduct a study to examine a possible overhaul of some important aspects of the legislation governing job security. The study should be carried out in the light of changes in the Swedish labour market and economy, such as the growth of "atypical" work. The government wanted to find out whether or not the existing rules met employees' demands for security and had an influence within the framework of a flexible and effective labour market. The study was to be carried out with the support of the social partners.

In May 2001, Parliament amended the *Employment Protection Act* to give all employees the right, but not the obligation, to remain in employment until the age of 67. It was thus not permitted to conclude collective agreements providing for obligatory retirement before the age of 67 (the average retirement age set out in collective agreements was currently 65 years). This proved controversial, with two of the three main trade union confederations stating that the new right to retire at age 67 overruled the collectively-agreed retirement age of 65 and therefore constituted unwarranted interference by the government in collective bargaining. In November 2001, the *Swedish Trade Union Confederation (Landsorganisationen, LO)* and the *Confederation of Salaried Employees (Centralorganisation, TCO)* reported the case to the *International Labour Organisation (ILO)*, arguing that this move was in breach of *ILO Conventions* on the right to collective bargaining.

SPAIN

COLLECTIVE BARGAINING AND SOCIAL PARTNERS

1. Training, skills development and job security

1. 1. Training

The year 2000 saw the negotiation by employers' associations and trade unions of the third *National Agreement on Continuing Training*, which was signed in December and introduced changes in the administration and funding of continuing training. This agreement abolished the *Foundation for Continuing Training (Fundación para la Formación Continua, FORCEM)*, the bipartite foundation that had previously been negotiating continuing training, replacing it with a tripartite foundation in which the public administration would participate.

The continuing training system was based on the extensive involvement of the social partners and collective bargaining in managing all levels of continuing training. In August 2003, the government adopted a reform of the system, which was to come into effect at the beginning of 2004. The aim was to streamline the system, to reduce bureaucracy, to clarify the competences between central state and regions, and to introduce a flexible funding system in which companies would take most of the initiatives. The reform entailed a certain loss of influence for the social partners.

2004 was the first year of a new system of subsidies for continuing training, under which companies would automatically obtain a subsidy when informing the *State Foundation for Training in Employment (Fundación Estatal para la Formación en el Empleo)* that they would organise continuing training courses. These subsidies had mainly been taken up by large companies and access to training in small and medium-sized enterprises (SMEs) had decreased. The new system could also put an end to the rapid expansion of continuing training among occupied people, critics argued. A change to the system is being planned for 2006, including the unification of continuing training (for employees) and occupational training (for unemployed people). The level of education of employees has risen in recent years, particularly in the higher education segment, according to the *INE* survey of the active population.

1. 2. Job security / temporary work

The main development in the area of job security in 2000 was the negotiation, mainly in company agreements, of clauses on maintaining employment, converting temporary jobs into open-ended posts, limiting temporary recruitment and regulating the operation of temporary employment agencies. This phenomenon did not affect the more problematic sectors and companies and did not have a very significant impact on Spain's high temporary employment rate. According to the *EPA* labour force survey (second quarter of each year), temporary employment has fallen only slightly. At the time of the 1997 labour reform (which sought to promote employment stability), the rate of temporary employment was 33.6% of the active population ; in 1999 it was 32.7%, and in 2000 it was 32.1%. In 2000, there were promising agreements on employment at both sectoral and regional level. An agreement in the textiles sector introduced significant improvements to the quality of employment and the participation of workers' representatives, while the *Balearic Islands Pact*

for *Employment* introduced measures that favour shorter working hours, social cohesion and productivity.

One of the most significant features of collective bargaining during 2001 was the major presence of employment as an issue of bargaining : around 83% of collective agreements contained clauses referring to employment. The conversion of temporary contracts into permanent ones seemed to have lost momentum, possibly because, from 2000, reductions in social security contributions for the conversion of temporary contracts into permanent ones were discontinued. On the other hand, there were more clauses regulating the use of temporary recruitment or limiting the use of temporary employment agency workers. Some of these clauses even established a maximum ratio of temporary contracts to permanent contracts in companies or provided for compensation for employees at the end of temporary contracts. Compulsory retirement is gaining ground in collective agreements, but is rarely combined with 'hand-over contracts' (allowing older workers to take partial retirement with a new part-time employee filling the hours vacated).

The intersectoral agreement for collective bargaining (2002) signed in December 2001 sought to exchange wage moderation for commitments to maintain jobs. The pact also recommended employers to recruit young people, women and persons over the age of 45 (who were eligible for reductions in social security contributions). It also agreed to avoid the abuse of temporary employment, of which Spain had the highest rate in Europe (31%). The agreement included alternatives to 'quantitative' workforce flexibility (*i. e.* hiring and firing), such as internal flexibility, functional mobility between occupational groups, suspension of contracts, and shorter working hours instead of dismissal and uncushioned redundancies.

In Spain (2002), 30.99% of workers were employed on temporary contracts and the already high unemployment rate started to rise during 2002, standing at 11.41% in the third quarter. The year also saw increased levels of industrial restructuring and job losses. Lack of job security was one of the main problems perceived by Spanish workers.

During 2004, the temporary employment rate rose to 31.2% and, since the most recent labour market reforms, open-ended employment contracts provided less protection for workers (such as lower compensation for dismissal, more possible reasons for dismissal and less strict criteria for eligibility). An increase in subcontracting was thought to be the phenomenon that most contributed to unstable employment. Relocation of production and restructuring were other major causes for concern, especially in particular sectors and regions such as Catalonia and Andalusia.

Table 5. *Occupied people, employees and types of contract, 2003-4, 3rd quarter*

.	2003	2004	% change
Total occupied	16,817,800	17,240,400	2.5
Employees	13,730,300	14,076,500	2.5
- <i>With open-ended contracts</i>	9,510,000	9,684,000	1.8
- <i>With temporary contracts</i>	4,220,200	4,392,600	4.1
Others	24,400	18,500	-24.2
Unemployed	2,115,00	2,031,300	-3.9
Inactive	15,298,200	15,156,600	-0.9
Participation rate	55.31%	55.98%	-
Unemployment rate	11.17%	10.54%	-
Temporary employment rate (employees)	30.7%	31.2%	-

Source: National Institute of Statistics (*Instituto Nacional de Estadística, INE*), *Survey of the Active Population*, 3rd quarter, 2003-4.

In October 2002, the regional government of Navarre and the *CC.OO* union confederation signed an agreement to promote stable recruitment and reduce temporary employment. This pioneering agreement reinforced the systems of control of temporary recruitment and promoted collective bargaining on the conversion of temporary contracts into open-ended ones.

2003 saw a continuation of redundancies and lay-offs as companies around the country continued to restructure. In early February 2003, *Michelin*, the French-based manufacturer of tyres for cars and industrial vehicles, presented a redundancy procedure aimed at reducing the workforce at its Spanish plants by 1,300 over the next three years. The company proposed to carry out this workforce reduction through a 'competitiveness plan' that it was negotiating with the trade unions, whereby 1,000 workers would go into early retirement and the rest would be redeployed to other plants. Several of *Michelin's* Spanish factories were relatively near each other (in the Basque Country and Castile), which could facilitate the mobility of the second group of workers.

In June, *Telefónica de España* - the Spanish fixed-telephony business of the *Telefónica* group - announced plans for a workforce reduction of around 11% in the short term, in order to deal with market difficulties and improve competitiveness. The company subsequently entered into negotiations on a redundancy procedure with the trade unions.

2. The organisation and role of social partners

The most significant changes were in other areas, notably the issue of the unionisation of self-employed workers, which *CC.OO* and the *General Workers' Confederation (Unión General de Trabajadores, UGT)* supported in 2000. This was still an incipient tendency, but it was a first step towards the organisation of an expanding group of workers, who were highly diversified and suffering from a loss of influence in terms of professional status and

individual bargaining capacity. Another important development in 2000 was the establishment of new forms of worker representation to monitor the correct administration and application of agreements at the workplace. Such new structures were included in the agreements in the textiles sector and the temporary employment agency work sector and other smaller agreements. The aim was to overcome the weakness or non-existence of traditional workers' representatives in many companies.

3. Towards a reform of collective bargaining

In the early summer of 2001, the government consulted the social partners over a reform of collective bargaining. The social partners gave their views on this issue, although no agreement could be reached on concrete reforms during the year, apart from some limited measures included in the intersectoral 'agreement for collective bargaining, 2002' (see above under 'Collective bargaining'). Other areas where social dialogue involving the national-level social partners ran into difficulties over the year included civil service pay, social security and labour market reform, though agreements were reached on pensions and bargaining in 2002.

In December 2003, the central social partners agreed a third consecutive framework agreement for lower-level collective bargaining.

In July 2004, the new Socialist government and the main social partner organisations signed a declaration laying down the agenda for future social dialogue among them. The focus was on competitiveness, stable employment and social cohesion, and specific issues for discussion included labour market policy, training, the minimum wage, employee involvement and collective bargaining reform.

The 2002-4 intersectoral framework agreements for lower-level bargaining recommended greater internal flexibility in companies in order to prevent external flexibility, which tended to involve restructuring and job losses. In general, in 2004 there were fewer 'adjustments' of employment levels, particularly in industry and services (see table below).

Years	Total	Agricultural	Non-agricultural			
			Total	Industry	Construction	Services
2003	83,481	2,536	80,945	55,424	1,169	24,352
2003 Jan-Sept	62,845	1,804	61,041	45,341	723	14,977
2004 Jan-Sept	41,854	1,809	40,045	27,157	915	11,973

Source: MTAS, *Boletín de Estadísticas Laborales*, December 2004.

4. Legislative developments

Two important laws were passed in 2001. The first one was Law 12/2001 on *Urgent Measures for the Reform of the Labour Market (Ley de Medidas Urgentes de Reforma del Mercado de Trabajo)* aimed at increasing employment and at improving its quality, which limited temporary recruitment slightly and fostered part-time employment.

Law 36/2002 on measures for the establishment of a gradual and flexible retirement system was passed during 2002, thus giving effect to pension reforms agreed in 2001.

A general strike staged by trade unions on 20 June 2002 in protest against the government's legislative reform of the unemployment insurance system led to the partial interruption of many bargaining and dialogue processes. However, though trade union action in opposition to agricultural benefit reform continued throughout the year, other bargaining activity returned almost to normal.

On employment security, the *ANC 2002* set the objectives of maintaining and increasing employment, fostering its stability and helping to avoid traumatic adjustments. In addition to wage moderation, the agreement called for a proper use of the different types of recruitment and for mechanisms of internal flexibility within companies. The proper use of different types of recruitment meant that companies' permanent needs should be met by recruiting workers on open-ended contracts and temporary needs by recruiting workers on temporary contracts. The needs of training or integration in employment should be met through appropriate recruitment. The *ANC* also stated that collective bargaining had to take advantage of 'the labour regulations to adopt formulae that avoid the unjustified use of successive temporary contracts'. The agreement recommended the creation of national sectoral 'observatories' on employment and competitiveness to provide the social partners with information that could allow them to anticipate changes.

The *ANC 2002* sought to pursue a balance between flexibility and security, favouring internal flexibility within firms over external flexibility (though changes to occupational classifications, management of working time, continuing training and functional mobility). It thus proposed the adoption of wide occupational classification structures which could favour functional mobility within each category. The *ANC 2002* promoted lifelong learning and the improved 'professional qualification' of workers, to ensure their employability, as a key element of adaptation for companies, and in view of a society based on knowledge and information.

NETHERLANDS

COLLECTIVE BARGAINING AND SOCIAL PARTNERS

1. A pressure in favour of decentralisation of collective bargaining

Decentralisation of the collective bargaining was an important subject in 2000 in the banking and insurance sector, but also in building, construction and the public utilities. Overall, however, there has been no significant change in the relative importance of sectoral and company agreements.

This slight trend among some employers to conclude agreements at company level was encouraged by the government's threat (2004) no longer to extend collective agreements across a whole branch or sector.

The extension procedures have been questioned in the light of the declining representativeness of unions - 25% of employees are union members, while 78% of employees are covered by a collective agreement.

2. Collective bargaining on employability , job security, training

Job security tends to be linked to the issue of employability. Research published in 2000 showed that 32 Dutch collective agreements had established a direct link between performance and assessment interviews on the one hand and employability on the other.

Job security naturally featured in the social plans negotiated in companies to accompany redundancies, of which there were many during 2003 and 2004.

Unemployment increased further in 2004 and job security featured prominently in the 'social plans' drawn up in many larger companies carrying out restructuring exercises. For example, in November 2004, the telecommunications group *KPN* announced 700 compulsory redundancies in its fixed-line telephone services division, adding to 1,550 job losses made earlier in the year in the wake of restructuring. Concerns were raised by the works council and trade unions.

Vocational training is a topic that has been high on the agenda of the social partners since 2000, when they agreed that employers would invest more in employee training in return for unions moderating wage demands. The government supported this agreement by facilitating the training investment of employers through tax measures.

In October 2002, the bipartite *Labour Foundation* published a report on training efforts, in which it explicitly referred to the 'joint framework of actions for the lifelong development of competencies and qualifications' agreed by the EU-level social partners in March 2002. In addition, new policy instruments such as personal training plans and personal training budgets had been developed. Around 90% of companies had implemented training ; among small companies, this figure rose from 53% in 1993 to 85% in 1999. In 2001, around 5% of labour costs was spent on training.

Labour Inspectorate referred to by the *Labour Foundation* showed that half of all collective agreements included arrangements on the training of young employees by combining work with training. Further, more than half of collective agreements included arrangements for individual development plans, employability and the stimulation of career progress.

A total of 117 collective agreements, covering 97% of all employees covered by agreements, contained provisions relating to paid training in 2003 (according to the Labour Inspectorate). In 76 collective agreements, training/employability arrangements were provided for specific target groups, such as older workers, young people or unemployed people with inadequate qualifications.

3. The merger tendency of the unions

The tendency for trade unions to merge into larger bodies persisted in 2000 and the country's two largest union federations - *FNV* and the *Christian Trade Union Federation (Christelijk Nationaal Vakverbond, CNV)* - announced pending reorganisations, both to cope with financial problems and to change their internal structure.

In 2001, the liberal *VVD* party, which is part of the governing coalition, raised the issue of trade union representativeness, pointing out the relatively small number of employees represented by unions.

Employers' organisations did not join in the discussion inaugurated by the *VVD* on the representativeness of unions. There was several reasons for this. This debate could have led to question employers' organisations' own representativeness.

Serious financial problems afflicted *FNV Bondgenoten*, the largest trade union affiliated to the *FNV federation*. *FNV Bondgenoten*, which organises workers in industry and commercial services, was created by a merger of four unions in 1998.

In June 2003, *FNV* decided on major cutbacks and restructuring as a result of its poor financial position, with persistent stock market losses in recent years reducing the value of its investments.

4. Legislative developments

Since a few years there has been an ongoing debate on the composition and rights of the supervisory board. In the Netherlands, large companies must have a separate supervisory board. This board has the power to appoint and dismiss executive directors. It can also appoint its own members. Works councils and the general meeting of shareholders can nominate candidates and can also oppose proposed appointments of supervisory board members. However, this system is due to change and the majority in the Lower House of Parliament supports the reform proposals made by the tripartite *Social and Economic Council (Sociaal-Economische Raad, SER)*. The proposed system will have more in common with the German system, although important differences remain. The position of the shareholders will be strengthened in the new system.

In October 2004, a new law on supervisory boards in large companies took effect. The law changes the role of works councils in nominating members of supervisory boards (in large companies with shareholder equity of at least EUR 16 million and a workforce of at least 100 employees - As at the beginning of 2005, *the European Company Statute* had not been implemented.

As the *Dutch Works Councils Act* already largely covers most of the issues raised by the EU Directive on information and consultation, the Directive is not expected to have a significant impact in the Netherlands.

The Minister for Social Affairs in October 2004 sent to the Lower House of Parliament a proposal for a new Act on employees' involvement. The government wanted to increase the level of self-determination by giving employers and employees an opportunity to determine the structure of employees' involvement in their own organisation. Furthermore, the government wanted to make it possible for the works council, subject to its own approval, to restrict its legal powers. Trade unions and employers could, therefore, by means of collective agreement, establish a different structure of employees' involvement. Furthermore, works council would be able to establish the issues on which employees were consulted. In addition, elections to the works council would be simplified. The new Act also regulated the employees' involvement of flexible workers. Finally, the Act allowed the works councils of large companies general information on the pay structure in the company, such as the pay relationship between the board, management and categories of workers. It was foreseen that this obligation would be implemented for 2006.

Research found that employees were largely satisfied with the functioning of works councils in 2004. Some 80% of employees believed works councils' activities to be important ; 75% were of the opinion that councils functioned well ; 50% were satisfied with their relationship to the works council and 60% felt committed to the activities of the works council. Despite this high level of appreciation, employees did not show a great deal of interest in the activities of the works council².

² M. van Ewijk and M. van der Aalst, *Achterban over de ondernemingsraad*, Mu Consult, 2004 ; Ministerie van Sociale Zaken press release 04/215, *De ondernemingsraad over de achterban*, Leiden/Den Haag, 2004.

GENERAL INFORMATION REGARDING THE SYSTEM OF INDUSTRIAL RELATIONS / RESTRUCTURING OF ENTERPRISES

There are two principal channels through which employees can influence restructuring. The first is by using those rights that are based in systems of co-determination or social concertation. Some national systems of employees' representation grant employees the right to be informed well in advance of any restructuring that will have a significant impact on employment, and allow their representatives to negotiate a 'social plan' to deal with the consequences. This is the case in Austria, Belgium and Germany. Many countries in Europe have rights concerning employees' representation on company's supervisory or management boards, or boards of directors, which have the ability to discuss and decide on proposed cases of restructuring. This is the case in Sweden, Austria, Germany, the Netherlands, Denmark, Finland, Luxembourg and Norway. To varying degrees, and in various forms, these countries have systems of co-determination that are part of a tradition of dialogue and that promote a spirit of compromise when it comes to the extent and nature of restructuring. Employee representatives are commonly drawn from trade unions, which can also be influential through collective bargaining in these systems, of course. Indeed, the position of unions is in most cases strengthened by the institutions of co-determination.

The second type of system is where the source of employee influence over restructuring is primarily through trade unions and collective bargaining. In some countries, this channel is the primary way in which employees are able to exert pressure on management, despite the existence of works councils. This is the case in France, Italy, Spain, Portugal and Greece. In the remaining two countries, the UK and Ireland, which lack formal institutions such as works councils and do not have a strong tradition of social partnership, the influence of employees depends largely on the strength of unions at firm level. These two countries have a fairly minimalist legal framework, with the legal rights that employees enjoy coming mainly from EU Directives on collective redundancies (98/59/EC) or the transfer of undertakings (2001/23/EC) (however, these rights may be increased to some extent by the implementation of the recent EU Directive (2002/14/EC) on national information and consultation, which includes rights relating to restructuring plans). In countries where employees' influence is principally through unions and collective bargaining, management-employee relationships over how restructuring is dealt with tend to be more adversarial, and the ability of employees to influence restructuring varies considerably from sector to sector and firm to firm according to union's strength.