

Agora

N° 92

JULY 2024

THE MAGAZINE OF THE EUROPEAN
AND INTERNATIONAL PUBLIC SERVICE

DEMOCRACY AT WORK



**BUILDING A DEMOCRATIC
WORKPLACE: INSIDE THE
2024 STAFF COMMITTEE
ELECTIONS**



**OUVRONS LA FONCTION
PUBLIQUE EUROPÉENNE
À LA DIVERSITÉ
SOCIO-ECONOMIQUE**



**DEMOCRACY AT WORK:
THE PRIZE OR
THE PRICE TO PAY**



**Union
Syndicale
Fédérale**

**Union Syndicale
Institutions du Service public
européen et international**
Av. des Gaulois, 36
1040 Bruxelles
Tél.: 02 733 98 00
Fax: 02 733 05 33

Editor in chief:
Carlo Scano

Editorial Assistant:
Asmayani Kusirini

Publisher: DexVillie
www.dexville.be

Image cover: Chris -
AdobeStock.com

Distribution: 10.000 ex.

Distribution:
European and International
Public Service Institutions



SOMMAIRE

- 3 Editorial
- 4 **L'équilibre entre justice et démocratie :**
une réflexion sur l'État de droit en pratique
- 10 **Democracy at Work:**
The Prize or the Price to Pay
- 14 **Building a Democratic Workplace:** Inside the
2024 Staff Committee Elections at the EU Council
- 19 **Ouvrons la fonction publique européenne**
à la diversité socio-économique
- 24 **L'ingérence des employeurs :** l'autre combat
des syndicalistes pour la démocratie au travail

- 27 **Democracy and Democracy at Work:**
Two Sides of the Same Coin
- 37 **How Global Cultures Shape Democracy at Work**
- 44 **La mode de la démocratie à la Commission**
- 46 **The Heavy Burden of Legal Costs**
- 49 **FRONTEX:** Transitioning to a More Democratic
Workplace Has Started
- 50 **La Coopération au Développement :**
Évolution, Nouveaux Acteurs et Démocratie



4 **L'ÉQUILIBRE ENTRE JUSTICE ET
DÉMOCRATIE : UNE RÉFLEXION SUR
L'ÉTAT DE DROIT EN PRATIQUE**



27 **DEMOCRACY AND DEMOCRACY
AT WORK: TWO SIDES OF THE
SAME COIN**



24 **L'INGÉRENCE DES EMPLOYEURS:
L'AUTRE COMBAT DES SYNDICALISTES
POUR LA DÉMOCRATIE AU TRAVAIL**

"It always seems impossible until it is done"

Nelson Mandela

EDITORIAL

Democracy, the foundation of our political systems, is a series of mechanisms and balances through which power is distributed among people, ensuring that government reflects the collective will. However, as society evolves, the application of democratic principles also changes. Increasingly, we see a growing movement advocating democracy not only in government, but also in the places where many of us spend much of our lives: the workplace.

'Democracy at work' refers to the integration of democratic practices within organisations and companies. This concept envisages a workplace where decision-making is decentralised, employees have a real voice and power is distributed more fairly. It is a radical departure from the traditional hierarchical models that dominate most industries today. Because if we truly believe that democracy is the most effective model for making collective choices, there is no valid reason for its realm to stop at workplace borders.

At its core, workplace democracy empowers employees by allowing them to influence decisions that affect their work and well-being. This can manifest itself through various practices, such as worker-owned cooperatives, where workers share ownership and management responsibilities, or through more inclusive decision-making processes in conventional companies. Such practices not only align with values of equity and justice, but also have practical benefits. Research consistently shows that when employees feel valued and involved, productivity, innovation and job satisfaction tend to increase.

However, implementing democracy in the workplace is not without its challenges. It requires a significant cultural change and a willingness on the part of management to relinquish some control. There are also practical concerns about how to balance efficiency with decision-making based on the participation of all. Despite these challenges, the potential benefits make this venture worth pursuing.

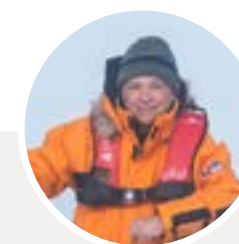
The push for democracy in the workplace also parallels broader social trends. While we sadly see increasing attacks on rights in the areas of social justice and equality, extending

democratic principles to the workplace becomes a natural extension of these aspirations. It is about ensuring that the values we uphold in our political systems permeate every aspect of our lives, including where we work.

In conclusion, although the road to fully democratic workplaces may be long and fraught with obstacles, the pursuit of this ideal is both noble and necessary. By fostering environments where every voice is heard, we can create workplaces that are not only fairer, but also more dynamic and innovative. Democracy at work is not just a lofty ideal; it is a practical path to a fairer and more prosperous future for all.

Implementing these concepts in the European and international civil service would help create a more equitable, participative, and productive working environment, while improving the quality of public services offered to citizens. However, it is not easy to find mechanisms to transpose these concepts into the hard regulatory and working reality.

There is only one way to do this: and that is called '*social dialogue*', which has been in great difficulty for some time, for example within the European Commission.



CARLO SCANO

Secretary for Organization and
Member of the USB Board, Member
of the US Federal Committee

TRADUIRE /
TRANSLATE



L'ÉQUILIBRE ENTRE JUSTICE ET DÉMOCRATIE : UNE RÉFLEXION SUR L'ÉTAT DE DROIT EN PRATIQUE



LA PAIX NE PEUT EXISTER SANS JUSTICE, LA JUSTICE NE PEUT EXISTER SANS ÉQUITÉ, L'ÉQUITÉ NE PEUT EXISTER SANS DÉVELOPPEMENT, LE DÉVELOPPEMENT NE PEUT EXISTER SANS DÉMOCRATIE, LA DÉMOCRATIE NE PEUT EXISTER SANS LE RESPECT DE L'IDENTITÉ ET DE LA VALEUR DES CULTURES ET DES PEUPLES

-- Rigoberta Menchú Tum
(Prix Nobel de la Paix 1992)

Dans le cadre de l'exercice de mon mandat de professeur invité à la He2B, j'ai le plaisir d'enseigner le droit à des étudiants en informatique. Vu leur parcours et les métiers auxquels ils se destinent, nous y abordons l'entrepreneuriat, le droit du travail, les réflexes en droit contractuel ou encore la protection des données. Cependant, avant de découvrir des branches du droit très pratiques, le programme inclut l'apprentissage d'un premier module obligatoire et consacré à l'Etat de droit. Chaque année, je les sens réticents à absorber et à étudier cette matière particulièrement indigeste. Aucun d'eux n'a une réelle idée de ce que cela peut bien signifier. Il me faut donc

ruser et, ensemble, nous construisons une définition de notre société démocratique et de l'Etat de droit qui la façonne.

Je ne jetterai pas la pierre à mes étudiants. Je n'étais pas plus éclairée qu'eux au même âge sur ce que cette notion très théorique offrait en pratique, en dehors du seul principe des élections et du bénéfice du droit de voter. D'ailleurs, du haut de mes 21 ans, présentant mon examen de droit du travail en Master 1, le Professeur m'interrogeait : « Qu'est-ce que l'Etat de droit selon vous ? ». Je vous assure que l'étudiante que j'étais, qui avait eu la tête plongée dans ses syllabi depuis sa sortie de l'adolescence, à qui jamais le moindre cours de citoyenneté, de sociologie ou encore de politique n'avait été enseigné, a difficilement su comprendre quel était le lien avec le cours sur lequel elle était supposée se faire interroger. Une fois fini l'examen, j'ai naturellement facilement dirigé la critique et la raison de cet échec sur le Professeur, l'accusant d'être plus philosophe que juriste.

Durant les jours qui ont suivi, après avoir avalé la pilule et rassurée d'avoir tout de même réussi haut la main mon année, j'ai décidé de renverser cet échec et de le transformer en une force en pre-nant le temps de me pencher sur la question qui m'avait laissée l'air pantois. Et cela a été une révélation pour l'étudiante que j'étais. Alors que j'avais envisagé toutes les voies possibles au sortir de mes études (criminologue d'abord, notaire ensuite, fiscaliste enfin), cet été a été décisif pour ma carrière professionnelle. En fin de Master, je quitte la Belgique et je reviens le jour de mes 23 ans, décidée plus que jamais à devenir avocate et à me spécialiser en contentieux.

Certains s'interrogeront certainement sur la pertinence de ce propos par rapport au sujet phare de cet Agora : *la démocratie au travail*. Je leur répondrai qu'il y a mille manières d'aborder un tel article et que son contenu découle très certainement de la réponse que j'ai finalement réservée à la question posée par ce professeur et qui aujourd'hui plus que jamais, fait sens pour l'avocate que je suis devenue.



Après cet épisode universitaire clôturant mon cours de droit du travail, répondre favorablement à l'invitation de contribuer à ce numéro spécial était une évidence.

Mon premier réflexe a été de chercher la définition de « démocratie » pour m'inspirer. Le Larousse définit de trois manières cette notion, sa troisième composante est celle qui se rapproche le plus de la manière dont la plupart d'entre

nous définit la démocratie au travail : « *système de rapports établis à l'intérieur d'une institution, d'un groupe, etc., où il est tenu compte, aux divers niveaux hiérarchiques, des avis de ceux qui ont à exécuter les tâches commandées.* »

Ensuite, je me suis tournée vers Curia et la jurisprudence de nos juridictions européennes. Rares sont les arrêts prononcés par le Tribunal ou la Cour de Justice de l'Union européenne, dans la matière de la fonction publique européenne, qui incluent la notion de démocratie. Sur le site du Tribunal administratif de l'Organisation internationale du travail, il est même impossible de trouver un jugement se référant à un tel mot-clé.

ALORS QUE POURRAIT BIEN SIGNIFIER CETTE NOTION ?

La démocratie au travail ne saurait signifier autant sur le lieu du travail que lorsqu'elle s'envisage à l'échelle d'une collectivité publique. En effet, exiger que la relation d'emploi soit la concrétisation d'une démocratie reviendrait à chambouler le rapport de force entre l'agent ou le fonctionnaire et l'institution. Le lien de subordination d'une occupation d'emploi empêche de considérer le travailleur et l'employeur sur un même pied d'égalité. Il existe toutefois des moyens de ramener un peu de démocratie au travail : droit de grève, liberté d'expression, processus électoral, consultation du personnel, respect des procédures de désignation d'un comité du personnel, procédure législative, ... C'est donc par la collectivité que la démocratie s'exprime.



L'Etat de droit vise à définir les contours procéduraux et substantiels de l'exercice du pouvoir, qu'il soit législatif, exécutif ou judiciaire, devant inévitablement aussi limiter certaines des prérogatives qu'il comporte. L'Etat de droit est nécessaire, il est le pilier de notre société, il assure l'ordre et la sécurité, il préserve les libertés en imposant des obligations, il crée l'équilibre et façonne les interactions. Ainsi, au nom de l'Etat de droit, les principes démocratiques trouveront eux-mêmes leurs limites, surtout si la revendication se heurte à la hiérarchie des normes ou à la répartition de compétences entre autorités¹. Pour autant, la démocratie est également protégée par l'Etat de droit qui la fait même progresser, car elle a sa place à tout niveau, dans tous les domaines du droit et aussi au travail. Ramenée au droit de la fonction publique, il s'agira, dans chaque cas d'espèce, de s'assurer que l'atteinte aux principes démocratiques n'est pas abusive en ce que celle-ci serait sans commune mesure avec l'avantage que s'attribue l'employeur.

Ma pratique juridique me confronte quotidiennement à des discours nuancés et à des idéologies qui, même si elles se rapprochent de certaines valeurs communes, diffèrent en

raison de la richesse de cultures qu'offre la fonction publique européenne. Je constate que les personnes avec lesquelles je discute ne partagent jamais la même vision d'une même situation.

Alors que certains constateront du micro-management, se plaindront de management par la peur, percevront une décision comme arbitraire, qualifieront certaines promotions d'injustes, s'offusqueront de l'absence de consultation des représentants du personnel avant d'imposer une nouvelle règle, vivront ce qu'ils estiment être une coupure hiérarchique, subiront des représailles, ou encore estimeront leur liberté d'expression ou leur droit de représentation violés.

D'autres y verront un management inclusif ou encore paternaliste, une présomption de légalité, des encouragements à assumer de nouvelles responsabilités, une large marge d'appréciation de l'autorité, des réunions de management par lesquels les supérieurs assument leur rôle d'intermédiaires, des conflits interpersonnels, ou encore un encouragement à la déloyauté...

1 C'est en ce sens que la Cour de Justice jugeait que la démocratie ne peut justifier de conférer à des partenaires sociaux un droit d'initiative législative contraignante pour la Commission et/ou le Conseil, Affaire C-928/19 P, ECLI:EU:C:2021:656.

L'on pourrait penser de l'avocat qu'il doit être particulièrement schizophrène à défendre un jour une vision et le lendemain son contraire. Seulement, personnellement, ce n'est ni une vision ni une idéologie que je défends, c'est un Etat de droit. C'est cet Etat de droit qui permet, dans une organisation démocratique, d'offrir des libertés à chacun, lesquelles trouvent leur limite là où commencent celles des autres. Le droit existe pour offrir ces libertés dont la démocratie est à l'origine, tout en en constituant elle-même une. Le droit les met en œuvre. Le droit les contrôle également. Ces trois facettes d'un même prisme sont essentielles pour offrir un équilibre et répondre à ce que chacun définit comme étant équitable, comme représentant ce qui est « *juste* ».

JUSTICE ? EN QUOI DONC JUSTICE RIMERAIT-ELLE AVEC DÉMOCRATIE ?

Car la justice clarifie l'importance que revête la démocratie au sein des agences et des institutions² et en précise les contours dans le cadre de la mise en œuvre de leurs prérogatives de législateur. C'est ainsi que l'avocat général Sir Gordon Slynn³ rappelait à la Cour son rôle de garant de l'équité et de la démocratie dans le cadre de réformes statutaires tout en apostrophant qu'il ne revient pas au juge de l'Union d'imposer la procédure qui visera le mieux à l'assurer, ce dernier devant exclusivement s'assurer que le système choisi respecte les valeurs de l'Etat de droit que la Cour de Justice doit protéger.

La justice offre également de préserver la démocratie en contrôlant l'équilibre des droits et libertés respectifs (et réciproques) lorsque les institutions assument le rôle de pouvoir exécutif. C'est en se fondant sur les valeurs démocratiques que l'avocat général Dámaso Ruiz-Jarabo Colomer⁴ rappellera que la liberté d'expression est un des piliers de cette démocratie. Mais parce qu'elle est à ce point importante, elle requière comme corollaire d'être soumise à des restrictions que les institutions sont en droit d'imposer au nom de la démocratie-même.

La Justice est, de plus, essentielle car elle permet de renforcer la démocratie par le droit. L'avocat général Tamara Čapeta⁵ est revenu le temps d'une affaire sur l'importance de l'Etat de droit dans le domaine de la fonction publique européenne, laquelle ne saurait s'affranchir d'une règle aussi importante que celle du principe de prévisibilité et de protection juridique. Sans prévisibilité, l'accès à la justice est réduit.

Et l'accès à la justice, à cette Justice garante de l'Etat de droit, est, en cette matière plus qu'en toutes autres, mis à mal trop souvent par le fait qu'il s'agit d'assurer le contrôle par les institutions du respect des droits de leur personnel dans la mise en œuvre d'une mission essentielle qui leur est conférée par les Traités.



Pour autant, la réalité n'est jamais évidente et convaincre que sa vision est celle qui se rapproche le plus des valeurs démocratiques n'est pas évident.

2 Cette notion vise toutes les entités de l'Union ou internationale qualifiées d'employeurs au sein de la fonction publique européenne et internationale.

3 Affaire C-146/85, ECLI:EU:C:1987:264, au sujet de la modification d'un règlement électoral et de l'absence de respect du processus électoral.

4 Affaire C-272/99 P, ECLI:EU:C:2000:579, la Cour se penchant sur un contexte disciplinaire.

5 Affaire C-54/20 P, ECLI:EU:C:2021:1025, la Cour analysant sa compétence juridictionnelle.

A titre illustratif, je résumerai les reproches les plus fréquemment rapportés dans le cadre de consultations et qui sont une réalité du quotidien :

- Accéder à l'information est plus que jamais difficile : pas de compilation de textes, par institution et par matière. Il suffirait pourtant pour chacune de compiler les textes (directives, décisions, guides, informations administratives, décisions à portée générale ou simples instructions) par chapitre du Statut et de les mettre à jour. A la Commission, il pourrait s'agir de donner aux avocats un droit d'accès (même limité) à l'IntraComm, de manière à assurer que le justiciable ne doive pas lui-même compiler les documents importants pour s'assurer que l'avocat consulté saura répondre à ses questions et qu'il pourra défendre son dossier. En faire de même pour ses agences exécutives ne serait pas non plus déraisonnable à solliciter.
- Disposer des éléments pour inverser la charge de la preuve relève parfois de l'utopie : la présomption de légalité et la foi attachée aux actes et décisions des institutions sont trop souvent brandies par les institutions dont la protection est renforcée par les règles d'accès à l'information, sans compter la complexification générée par l'interprétation bien souvent trop restrictive des règles en matière de protection des données personnelles.
- Le principe d'impartialité objective semble très souvent bafoué : l'autorité qui légifère sur des règles générales est parfois celle qui les met en œuvre et encore celle qui les contrôle au stade de la phase précontentieuse. Dans les petites agences, c'est souvent encore elle qui a le pouvoir de représentation en justice pour défendre la légalité de sa propre position.



- L'accès à la justice devient un luxe que seuls les hauts gradés acceptent de s'offrir mais non pas sans concession : cette matière qui n'est pas enseignée à l'université, qui s'apprend par la pratique et qui se maîtrise avec le temps, n'est pratiquée au quotidien que par une poignée d'avocats qui s'y retrouvent dans les méandres du droit de la fonction publique européenne. Il leur faut jongler entre les droits individuels, le disciplinaire, le règlement financier, la mobilité, les évolutions de carrière, l'invalidité ou encore la couverture d'assurance et les pensions. Les procédures sont longues et pointilleuses, et, par conséquent, coûteuses. Mais surtout, outre ses propres frais d'assistance, l'agent ou le fonctionnaire prendra le risque de souffrir d'une condamnation au remboursement des frais de défense de son employeur. A ce coût financier s'ajoute une crainte constante qu'aucune mesure de rétorsion ne sera prise contre lui pour avoir osé revendiquer.



Quand l'une de ces situations se couple à une sensation d'apparence de préjugé et à une absence d'écoute de l'administration, elle génère un sentiment légitime d'injustice profond chez le travailleur qui peut très rapidement se transformer en une négativité impactant tant son moral que sa performance. Il ne sera pas difficile d'en conclure que ni le travailleur ni l'administration n'en sortiront gagnants.

Alors pourquoi faut-il encore consacrer, au premier quart du 21ème siècle, un Agora entier à réfléchir à cette notion qui devrait être déjà solidement ancrée dans notre société et au sein de nos administrations européennes ?

Car il est important de rappeler les valeurs défendues par notre Etat de droit et de se souvenir que la démocratie à toute sa place non seulement au sein de l'Union européenne mais aussi dans ses propres relations avec le personnel. Le Tribunal et la Cour se doivent encore, environ toutes les décennies, de mettre à jour les concepts et d'éclairer sur les rouages de la démocratie, et d'inviter à analyser cette notion en n'oubliant pas de l'inclure dans un Etat de droit qui, au nom de la démocratie, justifie aussi que cette dernière soit encadrée.

Il est également bon de prendre du recul, de rééquilibrer sa vision de la justice et de comprendre que la multiculturalité aussi riche puisse-t-elle être, créé également des frictions. Depuis le début de ma décennie de pratique de la matière, j'ai assisté à des batailles syndicales toujours nourries par la conviction ultime que les institutions devraient exiger d'elles-mêmes une rigueur dans l'application des valeurs qu'elles ont pour mission de voir déployer au sein des Etats membres. Transmettre par l'exemple, grandir par l'humilité, se renforcer par la cohésion. Je ne choquerai personne en indiquant qu'il y a bien sûr, au sein de nos institutions, de très bons élèves mais aussi de moins bons. Il est toutefois regrettable de devoir constater qu'au jour des présentes, certaines institutions publiques piétinent encore la démocratie avec une nonchalance et une assurance qui fait craindre le pire. Pas seulement pour leurs travailleurs, mais aussi pour l'équilibre sociétal, économique et global que l'Etat de droit permet d'assurer à plus grande échelle.

Avec l'aide des représentants du personnel et au travers de chacun de mes dossiers, j'ai à cœur de rétablir le dialogue, d'œuvrer de créativité pour convaincre de l'importance de la démocratie au travail. Je suis souvent accueillie favorablement par les interlocuteurs administratifs, je m'époumone de temps à autres, mais je ne désespère jamais. La démocratie signifie l'inclusion et l'intervention, la discussion et la négociation. Elle ne signifie pas exiger ou imposer. Nous avons tous à gagner à comprendre que la communication est la clé d'une relation d'emploi saine et fructueuse.

Un travailleur entendu est un travailleur qui se sent respecté, un travailleur qui se sent respecté est un travailleur heureux, qui est heureux est plus enclin à se montrer loyal et dévoué, qui est respecté et compris trouvera toujours les moyens de se rendre utile et performant. L'employeur a tout à gagner à comprendre son travailleur et à œuvrer avec lui à l'accomplissement de leur mission commune. Le législateur l'a même consacré à l'article 151 du Traité sur le fonctionnement de l'UE.

J'ai décidé d'embrasser ma carrière avec cette ambition de porter ces valeurs et de les faire respecter et je poursuivrai sur cette lancée aussi longtemps que je serai portée par cet Etat de droit.



NATHALIE DE MONTIGNY

Nathalie de Montigny, avocate, spécialiste en droit de la fonction publique européenne. Elle conseille et assiste également ses clients en droit économique. En 2018, elle fonde son cabinet d'avocats LEXENTIA. Elle enseigne le droit européen à ses jeunes confrères au Barreau de Bruxelles et organise également différents cycles de conférence en droit national ou européen, au bénéfice du personnel des Institutions européennes.

TRADUIRE /
TRANSLATE



DEMOCRACY AT WORK: THE PRIZE OR THE PRICE TO PAY



Democracy at work is a necessary condition for genuine political democracy. You cannot expect workers to be active citizens and subordinate workers at the same time. Research and history have taught us this, and it's time we acted on this lesson.

"I come before you finally as one who believes that the greatest issue confronting the country today is the preservation of political democracy". While this might well apply to today's situation, it was in 1939 that Robert Wagner spoke these words to the US Senate. He was defending a series of amendments to the famous Wagner Act, which established the right to strike and collective bargaining in the US.

According to Senator Wagner, "The price of political democracy in the modern world must be industrial freedom. (...) The struggle for a voice in the industry through the processes of collective bargaining is at the heart of the struggle for the preservation of political as well as economic democracy in America. Let men become servile pawns of their masters in the factories of the land and there will be destroyed the bone and sinew of resistance to political dictatorship".

These words are even truer today than when they were written! In this article, I argue that political democracy does indeed need democracy at work. We know this from research and historical experience, but on this day when democracy faces existential challenges, we seem to have forgotten this lesson.

NO DEMOCRACY WITHOUT DEMOCRACY AT WORK

Let's jump from 1939 to 2020. In that year, two researchers in the US and China conducted an experiment¹. They recruited a number of factory workers in China and university staff in the US

for an experiment regarding work organization. In both contexts, workers were randomly assigned to two groups. The first group was asked to continue working as they'd always done. The second group had a slight change to their traditional work process: they now had one 20-minute meeting a week to discuss work goals, ideas and problems. The line managers had to sit there, listen and keep quiet for six weeks.

The researchers monitored how the workers in both settings felt about democracy and authority in general, and the results were pretty clear: after just six weeks of a 'democratic infusion', the workers had a slightly lower belief in the value of authority and obedience, a higher belief in a positive world, and, importantly, more participation in society outside work. For example, they reported being more involved in political news but also in family decisions. What is more, these changes in attitudes were evident not only a week after the end of the experiment, but also a month later!

The results of this relatively small-scale experiment are supported by a wealth of research based on large international surveys. In 2018², researchers from the UK looked at data from over 14,000 workers from 27 countries (the European Social Survey) to examine the relationship between democracy at work and political participation in society. Basically, they compared workers who have very little influence and say in the way their work is organised with those who have much more autonomy. Their analysis clearly showed that workers who have more say in their jobs are better democratic citizens. They are more likely to vote, sign petitions, attend demonstrations and generally take an interest in politics.

¹ <https://www.nature.com/articles/s41467-020-16383-6>

² <https://journals.sagepub.com/doi/abs/10.1177/0019793917746619>

DEMOCRACY AT WORK, IN OTHER WORDS, GOES HAND IN HAND WITH POLITICAL DEMOCRACY

But why is this the case? For an explanation, we need to go back to research from the 1970s. In her book "Participation and Democratic Theory", Carole Pateman, a British feminist and political scientist, explored the same question. According to her, there are three main reasons for the observed 'spillover' from work to democratic participation. First, it's about self-identification. People are what they often do.

If your job situation forces you to drive to work, you'll start to identify as a car commuter. If, for reasons beyond your immediate will, your job gives you more and more management tasks, you'll start to identify as such. The same applies to democracy. If you're always expected to obey authority, you'll generally identify as a subordinate. If, on the other hand, you're expected to speak up, express opinions, debate and compromise, you'll identify as an active, critical citizen. Centuries earlier, Adam Smith³ understood this when he wrote that *"the understandings of the greater part of men are necessarily formed by their ordinary employments"*.

Secondly, it's about skills. Democracy is not easy. Forming an opinion, defending it while respecting others, reaching a compromise and keeping your word doesn't come naturally. It's no wonder that we, as a society, force children to spend years in education, where, among other things, they are expected, to learn these competencies. But learning doesn't stop there, and if these skills are not trained and developed after school, they will be forgotten. Democracy at work, participation in the organisation, is the main 'school of democracy' where workers learn to be active democrats.

But even identification and skills may not be enough. According to Pateman, the third important ingredient is belief in one's ability to make a difference. And that belief comes with

³ <https://la.utexas.edu/users/hcleaver/368/368SmithBk5Ch1Pt3Art2table.pdf>



experience. You can have all the skills you want, but if you don't believe that what you do will make a difference somewhere, you're unlikely to get involved. Democracy at work is the area where citizens learn that their actions, ideas, opinions and exchanges can actually influence the situation and improve the working context.

NO DEMOCRACY AT WORK, WITHOUT A COLLECTIVE VOICE

So do we need to run to employers to convince them of the benefits of participative meetings, suggestion boxes and quality circles? Do we need a general 'my door is open' campaign to motivate workers to speak up?

This could certainly help, but it will be largely inefficient and ineffective. All these ideas ignore a very important feature of workplace reality: that power is unbalanced.

Indeed, the difference between an employee and an employer is not just in name and title, it is a real difference in power. The employer has the legal right to give orders, to sanction, to correct and, ultimately, to dismiss employees. And while the employee relies on the job for a large part of his or her income, the employer does not.

This power asymmetry means that an 'open door' may work for an idea to change the tea sets in the kitchen, but not for complaints about supervisors, problems with overtime policies or unequal pay in the organisation.

For real voice and open participation, for democracy at work, individual voice is not enough. We need a collective voice. Participation that is individual, but also collective, through representatives who can speak for the group, are protected from dismissal and are less likely to face retaliation.



A TRADE UNION, IN OTHER WORDS

The trade union collectivises workers' concerns, partly rebalancing the unequal power relations and thus enabling real participation and democracy at work. And indeed, research⁴ shows that employees who are union members generally experience more democracy at work, are more likely to be interested in politics and have a more positive view of democracy in general. A German⁵ study looked at data from 2001 to 2019 and found that workers in companies with a works council (a form of collective voice) were more likely to be interested in politics than workers in companies without a collective voice.

DEMOCRACY AT WORK = DEMOCRACY IN THE COUNTRY

What is true at the individual level also seems to be true at the national level. My colleague Sigurt Vitols has developed a cross-country index called the European Participation Index⁶. It basically measures the degree of democracy in the workplace at the country level. As such, it combines measures such as union density, collective bargaining coverage, employee representation in companies and employee representation on company boards.

Research⁷ using this index reveals at least two interesting observations. First, there is a very strong correlation between this measure and the so-called "democracy index" developed by the economist. This second index doesn't look at the workplace at all, but focuses on political democracy and tries to measure

things like electoral freedom and pluralism, civil liberties, the good functioning of government, political participation and culture.

The correlation shows that countries with strong workplace democracies also seem to have robust political democracies, with fair and free elections and high voter turnout.

However, the second observation of the European Participation Index is less positive. Over the years, workplace democracy in Europe has been under constant pressure. Relatively fewer workers are members of trade unions, fewer people are covered by collective agreements and more companies are trying to keep the union or works council out of the door.

A grim development, not only for workers, but for our democratic societies as a whole! Si la durée hebdomadaire était réduite à 32 heures.

TURNING EU TIDES?

But perhaps the tide is turning? Isn't the European Union changing course with directives like the one on adequate minimum wages, platform work, due diligence and the plans for European Works Councils?

Indeed, after decades of deliberate undoing of democracy at work, it would seem so. For the first time in history (as far as I know), civil servants and social partners in most EU countries will have to consider action plans to promote collective bargaining. An unprecedented opportunity to restore democracy at work.

But there are two caveats. The first is procedural and political. The minimum wage directive is a commitment to effort, not to results. Countries are obliged to promote collective bargaining, but if their plans are not effective, there is little or no leverage.

The second relates to the theme of this article, the value of democracy at work for our democratic societies. In its recitals, the Directive provides a rationale for its interventions as such, referring to the value of collective bargaining for workers and employers, to create a level playing field, to reduce in-work poverty, etc.

What's missing is an argument for democracy at work (and collective bargaining) for democracy's sake. The idea that it's not only useful, but also simply fair and logical, for workers to participate in the governance of companies, sectors and economies is largely absent.

LESSONS FROM HISTORY

And this absence stands in stark contrast to some of the earlier foundational institutions of our democracies. For a long time, democracy at work was seen not only as an economic instrument, but above all for its intrinsic value and contribution to peace and democracy.

After the Second World War, the world came together and signed the Philadelphia Declaration, which stated unequivocally that "universal and lasting peace can be established only if it is based on social justice". The same text underlined the fundamental rights of freedom of association and collective bargaining, as well as the need for worker participation in companies.

Similarly, in post-war Germany⁸, the Allies considered how to democratise German society in a sustainable way. One of their key measures was the introduction of co-determination, which gave employees, trade unions and works councils far-reaching rights to influence corporate decision-making. The idea was that trade unions would be a major stabilising factor and would prevent some companies, certainly the steel industry, from taking anti-democratic steps in the future.

⁸ https://strathprints.strath.ac.uk/54060/1/Zahn_HSIR_2015_German_codetermination_without_nationalization_and_British_nationalization.pdf

Later, in the late 1960s, participatory democracy (and democracy at work) were key demands of the May '68 movement. In Belgium, at least, this led to a major social debate about the role of the company, authority and the promises (and dangers) of workers' organisations. The argument wasn't instrumental at all, but clearly ideological.

And until the early 1990s, the European Values Survey had a particularly interesting question measuring how citizens thought companies should be governed. It appeared that only a minority thought the current model of shareholders appointing management was a good idea. Most preferred a system where workers and shareholders appointed management, while some others gave the state a greater role or even thought that employees alone should own companies and appoint management.

This kind of thinking has all but disappeared.

But it may be high time to blow the dust off some of these ideas. In a context where populism and anti-democratic attitudes are on the rise, and where voters are turning their backs on the democratic process, it seems high time to think outside the box and go beyond traditional pro-democracy education.

The price of political democracy is, after all, industrial freedom. The prize for workers, on the other hand, is democracy at work.



STAN DE SPIEGELAERE

Stan De Spiegelaere is a guest professor at the University of Ghent and Director of Policy and Research at UNI Europa. He writes this contribution in his own name.

TRADUIRE /
TRANSLATE



**"THE PRICE OF POLITICAL
DEMOCRACY IS, AFTER ALL,
INDUSTRIAL FREEDOM. THE PRIZE
FOR WORKERS, ON THE OTHER
HAND, IS DEMOCRACY AT WORK."**

⁴ <https://journals.sagepub.com/doi/abs/10.1177/0143831X17744028>

⁵ <https://onlinelibrary.wiley.com/doi/pdfdirect/10.1111/apce.12451>

⁶ <https://journals.sagepub.com/doi/10.1177/10242589241252412>

⁷ <https://www.europeanparticipationindex.eu/>



BUILDING A DEMOCRATIC WORKPLACE: INSIDE THE 2024 STAFF COMMITTEE ELECTIONS AT THE EU COUNCIL

INSIDE THE 2024 STAFF COMMITTEE ELECTIONS AT THE EU COUNCIL

In the recent Staff Committee elections at the General Secretariat of the Council of the European Union, democracy at work was vividly demonstrated. Since 2021 the Staff Committee of the General Secretariat of the Council of the European Union (Council), has modified the duration of its mandate from two to three years. In March 2024, new elections were held, and the results are now in. Union Syndicale won 17 of the 30 possible seats securing a majority for the current Chair, Frances McFadden and the US Council section. It has been a valuable learning process.

A Returning Board is chosen at a General Meeting of all staff with the responsibility of overseeing the election process, including verifying the list of electors and checking the eligibility of the candidates. At the Council, only active members of staff can be candidates for the Staff Committee. A quorum of two-thirds of staff is needed for the election to be valid. While it is always a challenge to reach the quorum, the process is strongly supported by both the Council hierarchy and staff representatives. With an impressive 70% voter turnout, the staff showed their engagement and dedication to shaping their work environment.

The elections for 2024-2027 presented a new challenge, not just for the Union Syndicale but for the democratic processes within the Council, especially as this was only the second

election held entirely through electronic voting, and this time in the new hybrid working environment.

Since the pandemic hit, the question was raised of how to conduct the Staff Committee election for a small institution of approximately 3000 staff. The move to electronic voting became inevitable and, with the increased use of teleworking, electronic voting looks likely to remain the choice for holding elections.

So how do you canvass a dispersed population? We realised we needed to reach out to staff using the electronic media available. We formulated an approach and drafted a roadmap for the elections. Early on, we decided we would only succeed if we could offer staff a diverse team and ambitious programme. We looked for candidates from a wide range of services, nationalities and categories. We involved them in the drafting of our programme, gathering ideas and drawing on their diverse experience and knowledge. From the outset of the election campaign, we involved all candidates from our list in multiple meetings.

As a result, we are delighted to have assembled a highly motivated and dedicated team to form the Staff Committee for the next three years.

Most of the 30 members of the Staff Committee will remain in their current posts and receive a dispensation from their normal duties to attend Staff Committee meetings. Only 3

posts are set aside for secondments to the Staff Committee to manage the files and services. These posts are usually reserved for the Chair and two or three other members of the Bureau to be divided as full-time or half-time secondments. Three detachments are very little for the work of a committee of 30 colleagues, however, by joining our forces we will bring our projects forward and address the most important elements of social dialogue within our institution.

Today, we have the occasion to speak with two prominent figures who have played a crucial role in this victory and will lead the new Staff Committee. Frances McFadden and Kerstin Reinhardt shed light on the challenges and triumphs of fostering democracy at work, the strategies that led to their success, and their vision for the future of the Council's staff representation.

HOW DO YOU DEFINE DEMOCRACY AT WORK, AND WHAT SIGNIFICANCE DOES IT HOLD WITHIN THE CONTEXT OF THE COUNCIL AND ITS STAFF COMMITTEE?

Democracy at work refers to the implementation of democratic practices within the workplace, ensuring that the staff is informed and consulted, and can actively participate in decision-making processes.

The right of staff to be informed and consulted is anchored in the Charter of Fundamental Rights of the EU, EU law and

international human rights declarations. At the Council, these principles are structurally implemented. However, this remains without any impact as long as the opinion and the interest are not taken into account in the decision-making process. At the Council, this still remains a challenge.

Concerted efforts are needed to fully implement the recommendation on strengthening social dialogue in the EU, adopted by the Council in June 2023. Therefore, it is important to strengthen the role of the Staff Committee and the trade unions. We need appropriate timeframes to thoroughly discuss staff-related decisions and timely responses from the Administration to staff reps' suggestions. By joining our efforts, we can work towards a workplace environment where democracy is not just a concept but a reality, with the staff's views duly acknowledged and integrated in during the decision-making processes.

HOW DO YOU PLAN TO PROMOTE A CULTURE OF OPEN DIALOGUE AND CONSTRUCTIVE FEEDBACK AMONG STAFF MEMBERS TO FACILITATE DEMOCRATIC DECISION-MAKING?

To promote a culture of open dialogue and constructive feedback among staff, we need to utilise all available communication tools, establish clear communication guidelines and ensure a safe and confidential atmosphere. We also need to bring the different staff groups and categories together to encourage mutual understanding and respect.



- In our communication with staff, we will make **use of all available communication tools**, including emails, phone calls, and, most importantly, face-to-face interaction. This multi-channel approach will ensure that everyone has the opportunity to contribute to the dialogue in the manner that suits them best.
- In addition, we will establish **clear rules for our dialogue** with staff, emphasizing the importance of listening with empathy, respecting different viewpoints, and preventing polarization and marginalization. This is essential for having respectful and constructive discussions.
- Our top priority in this process is to cultivate an environment where staff feel **safe and confident** in expressing their opinions. Confidentiality will be central to our dialogue processes.
- Last but not least, we will focus on building **strong connections between different staff groups and categories** to encourage mutual understanding and respect.

Only by combining these aspects can we ensure an open dialogue and constructive feedback between staff in which everybody feels heard and respected.



IN WHAT WAYS DO YOU INTEND TO EMPOWER STAFF MEMBERS TO ACTIVELY ENGAGE IN DISCUSSIONS AND INITIATIVES RELATED TO THEIR WORKING CONDITIONS AND RIGHTS?

Apart from active and regular communication with all staff, we also offer them the opportunity to directly express their agreement or disagreement with certain decisions. This is mainly done through general meetings of staff that are organised by the Staff Committee or the trade unions.

For example, in 2023, the trade unions negotiated new rules on working time and leave with the Administration. Following the negotiations, the trade unions organised a General Meeting of staff, at which they explained the outcome of the negotiations, presented the pros and cons of the future rules, and asked the staff for their agreement. The subsequent direct vote supported the negotiation outcomes, so the trade unions were able to sign the agreement.

This was a very positive example of collaboration between the unions within our institution and the participation of staff in the decision-making process. We would like to continue this way, encouraging good collaboration between the unions, the staff and the institution. This benefits everyone, both the staff and the institution.

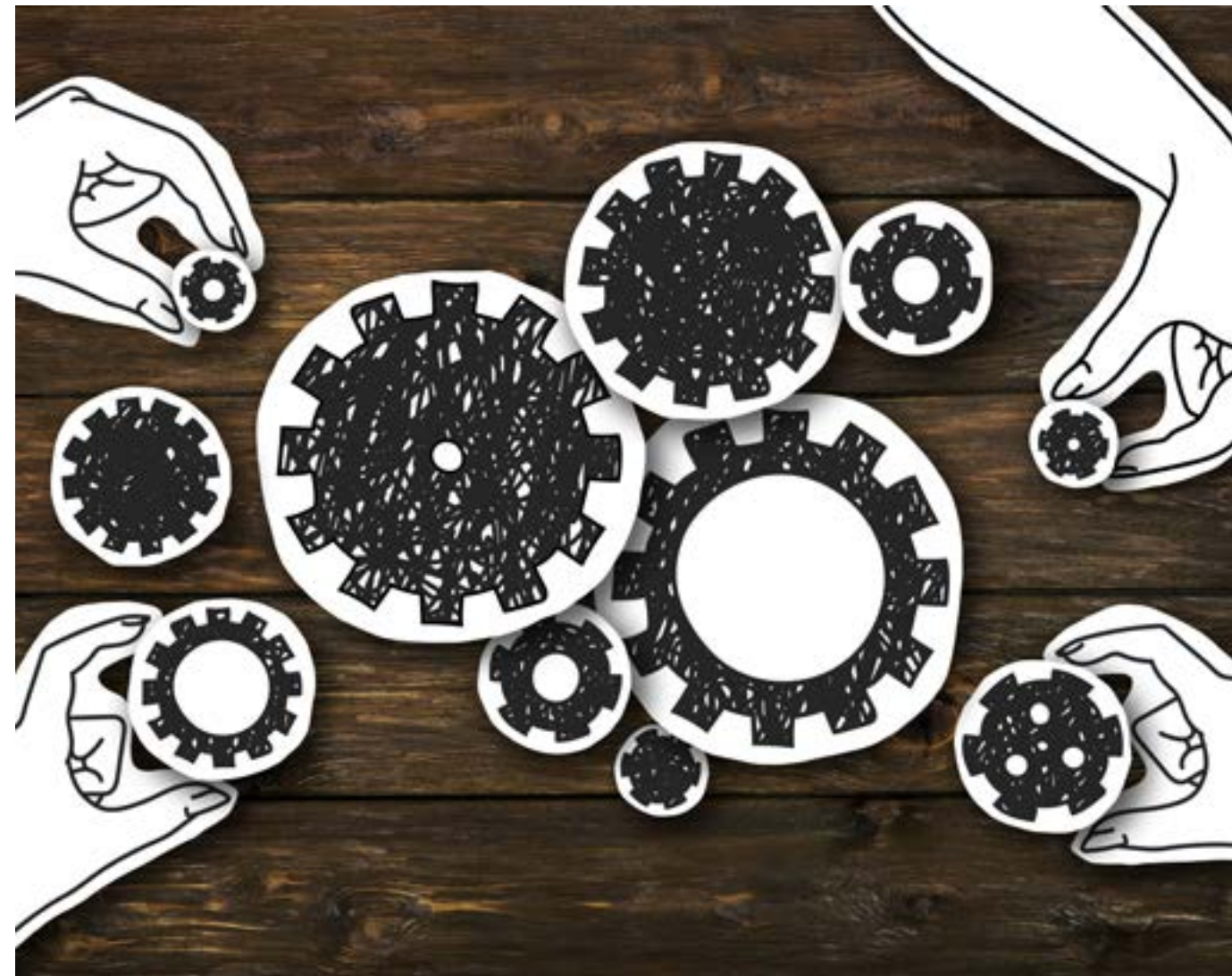
WHAT MECHANISMS DO YOU PLAN TO ESTABLISH TO ENSURE THAT THE VOICES OF ALL STAFF MEMBERS, INCLUDING THOSE FROM DIVERSE BACKGROUNDS AND DEPARTMENTS, ARE HEARD AND CONSIDERED IN DECISION-MAKING PROCESSES?

To ensure an effective social dialogue, we need to work on two fronts. First, we must hold regular open discussions with all staff groups to enable them to express their opinions. And second, we must make sure that these opinions are taken into account in the decision-making processes, which requires active communication with the Administration.

With the newly elected Staff Committee, we are happy to have an excellent team representing ethnic and national diversity, gender diversity and a good range of departments, grades and categories. Together we will intensify our contacts with the different staff groups, in particular through the service representatives and the different staff-led networks, such as the AST/SC, LGBTI+ and Ethnic Diversity networks. Managers will be encouraged to participate in discussions with both the Staff Committee and the general staff to foster a sense of inclusivity and collaboration.

We will also continue engaging actively in the discussions of the joint committees and at our monthly meetings with the Administration. Clear communication and strong negotiations by the trade unions are necessary to ensure that the voice of the staff is heard, respected and taken into account in the decision-making process.

Good communication with both the staff and the Administration is a permanent commitment.



HOW WILL YOU ADDRESS ANY POTENTIAL BARRIERS OR RESISTANCE TO DEMOCRATIZING THE WORKPLACE WITHIN THE COUNCIL, AND WHAT STRATEGIES DO YOU HAVE IN PLACE TO OVERCOME THEM?

Studies have shown that **democracy at work makes companies more resilient and successful**. Staff members whose opinions are respected are far more engaged and better motivated. So, it is in the interest of our institution to support the democratisation of our working procedures.

However, there are still some barriers:

1. Resistance from leadership: Consulting staff on certain decisions adds an extra step to the decision-making process and, naturally, requires more time. Additionally, the Administration may fear losing control over decision-making. We need to engage management through dialogue, and by highlighting the benefits of democratisation such as increased employee engagement, innovation, and productivity. We also need to remind managers of the Council's Recommendation on strengthening social dialogue in the EU, adopted in June 2023, and urge them to fully implement the recommended rules.

2. Hierarchical structures: Hierarchical structures and a traditional organisational culture can hinder democratisation efforts. We need to foster a culture of trust, openness, and respect for diverse viewpoints, encourage bottom-up feedback mechanisms and recognise and reward collaborative efforts. Constructive criticism should be encouraged rather than suppressed.

3. Employee structure: Our well-qualified staff are the greatest asset of our institution, and it is in the institution's best interest to use this potential in the decision-making process. However, staff shortages and the growing number of temporary and contract agents complicate active staff participation. Many staff members simply do not have enough time to actively engage in social dialogue. Temporary and contract agents are in a precarious situation, as they might be sceptical and fear a negative impact on their career or even the ending of their contract if they express their opinions too strongly. Therefore, we need to foster a positive culture of trust between the Staff Committee and these staff groups. The Administration should understand constructive criticism as an opportunity for the institution to grow and improve.

4. We need to continuously address these issues and ask for improvements. Here as well **communication is key to solve the problems**.

FINALLY, LOOKING AHEAD, WHAT ARE YOUR LONG-TERM GOALS FOR THE TRADE UNION, AND HOW DO YOU PLAN TO ACHIEVE THEM?

Union Syndicale is the most representative union at the Council and recently secured a majority in the Staff Committee. However, this is not merely a victory, it carries with it serious duties and responsibilities.

The consolidation of our representativeness is an ongoing challenge. We must keep pace with the times.

To stay attractive to our current members and appeal to younger generations, we need to review our policies and adapt our communication methods and services to meet the evolving needs of employees. Last year, we produced a video highlighting the new challenges we face and how unions can address these challenges and so remain indispensable partners for the members we represent.

Consolidating our representativeness and preparing our union to face the future work environment's challenges are our main goals for the years ahead.

The views expressed are the authors' and in no way reflect the views of the Council or European Council.



KERSTIN REINHARDT

Vice-president of the Staff Committee at the Council of the European Union



FRANCES MCFADDEN

President of the Staff Committee at the Council of the European Union

TRADUIRE /
TRANSLATE



OUVRONS LA FONCTION PUBLIQUE EUROPÉENNE À LA DIVERSITÉ SOCIO-ÉCONOMIQUE

Au cœur des institutions européennes, où sont prises des décisions cruciales et engageantes pour la vie et l'avenir de millions de citoyens européens, une question est souvent négligée : celle de la diversité sociale des fonctionnaires et autres agents en service dans les différentes Institutions et Agences de l'U.E..

Par diversité sociale on entend ici la cohabitation de personnes de différentes origines sociales. L'origine sociale désigne le milieu ou la classe sociale dans lequel une personne est née et qui a façonné ses années formatives de la vie: ses origines, son éducation ou son point de départ dans la vie. Celle-ci ne doit pas être confondue avec le statut socio-économique, qui se réfère plutôt à la position sociale actuelle d'un individu. Ce dernier concept nous intéressera moins ici, dans la mesure où constater l'homogénéité du statut économique des agents de la fonction publique européenne serait une banalité, puisqu'ils appartiennent justement à un même corps professionnel.

Alors que l'Union européenne (UE) est confrontée à des défis sans précédent, qu'il s'agisse de la montée du populisme ou de la crise de confiance des citoyens dans les institutions, il est plus important que jamais d'assurer une représentation socio-économique diversifiée au sein de son personnel. Toutefois, cette question reste largement ignorée dans les stratégies de la Commission européenne en matière de ressources humaines (RH), par exemple.

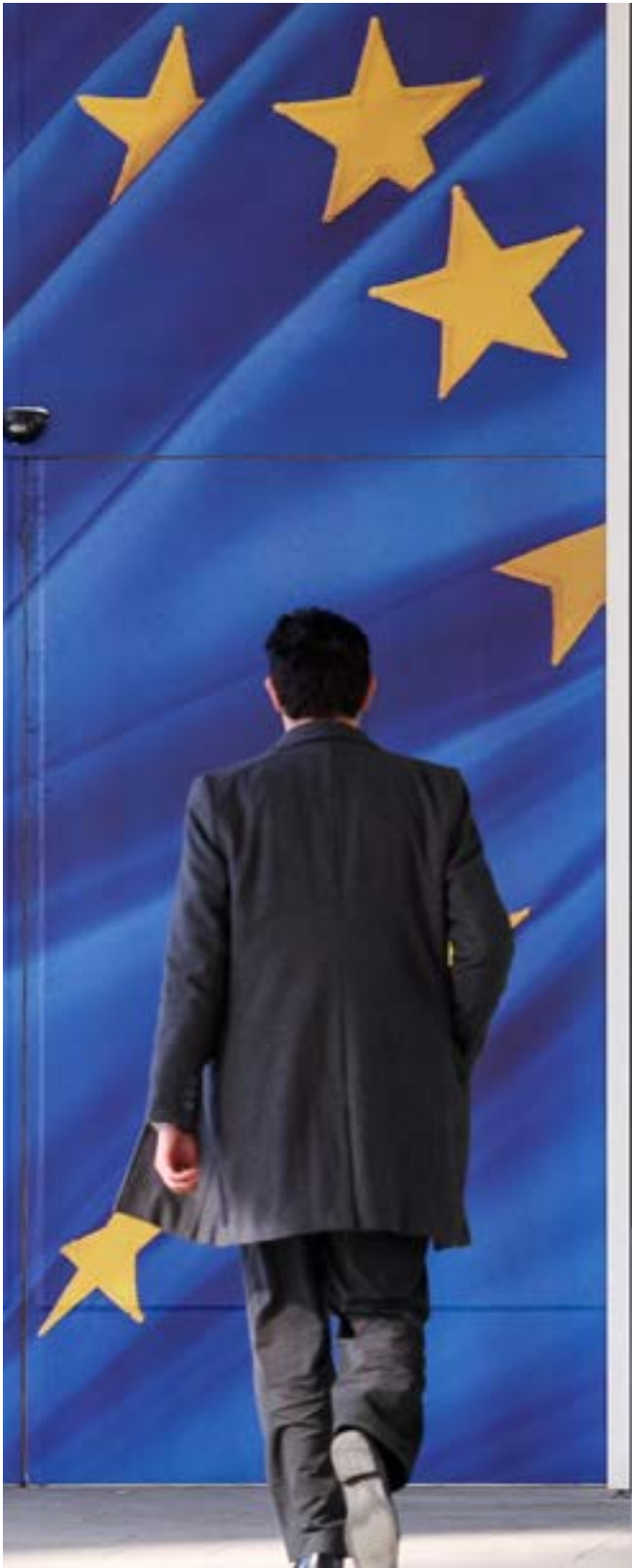
La composition sociale des fonctionnaires européens (je me réfère ici en particulier aux fonctionnaires de catégorie AD) pose des défis majeurs en termes de légitimité démocratique et de représentativité. En effet, bien que l'absence de données rende

le diagnostic difficile, il ne semble pas absurde d'affirmer que l'origine sociale des employés de la Commission est relativement homogène et peu représentative de la société européenne dans son ensemble. L'on pourra évidemment citer de nombreuses exceptions individuelles (encore heureux), mais l'honnêteté force à reconnaître qu'une majorité des collègues que l'on croise au bureau ont grandi dans des milieux à capital économico-culturel relativement élevé. Combien de collègues qui ont été scolarisés au sein des écoles européennes avons-nous croisés ? Beaucoup trop, par rapport à leur poids réel dans la population européenne (il ne s'agit aucunement ici de jeter le discrédit sur les collègues en question, mais plutôt de constater une anomalie statistique dont ils ne sont personnellement pas responsables). Alors que l'UE s'efforce de promouvoir l'égalité des chances et de garantir la participation de tous les citoyens à la vie démocratique, l'absence de diversité sociale au sein de son propre personnel compromet cette mission fondamentale.

Les décisions prises par des personnes issues de milieux socio-économiques homogènes se caractérisent malheureusement souvent par un manque de compréhension des préoccupations et besoins des populations les plus marginalisées et défavorisées. Cette déconnexion peut exacerber les tensions et les divisions au sein de la société, en affaiblissant les fondements mêmes de la démocratie.

Par ailleurs, l'écart entre le niveau de vie des fonctionnaires et les réalités quotidiennes des citoyens peut exacerber les tensions et divisions sociales, minant in fine les fondements démocratiques de l'UE. Une telle déconnexion alimente le mécontentement et le scepticisme envers ces institutions.

Or, la diversification des élites administratives est un élément essentiel à la croisée des idéaux de méritocratie républicaine, de démocratisation et de promotion sociale. Dans l'État membre que je connais mieux (la France), cet objectif se voit même conférer une valeur constitutionnelle, par l'Article 6 de la Déclaration des Droits de l'Homme et du citoyen de 1789 : "Tous les citoyens (...) sont également admissibles à toutes dignités, places et emplois publics, selon leur capacité, et sans autre distinction que celle de leurs vertus et de leurs talents".



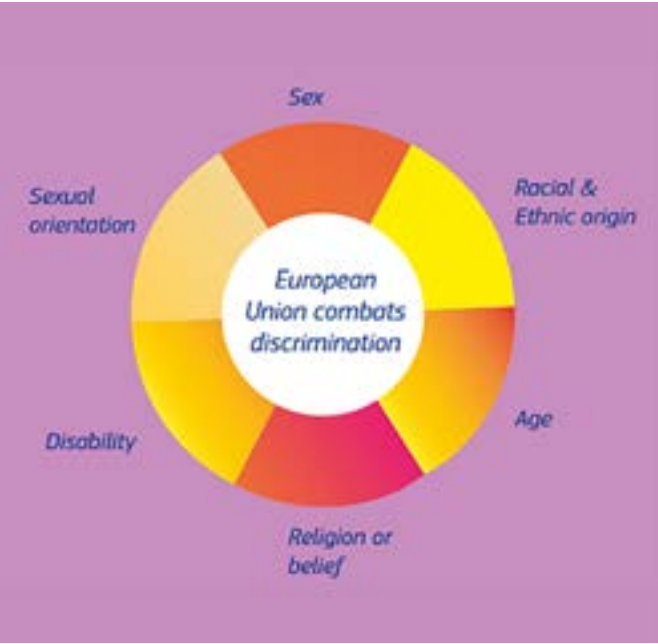
En outre, en raison des crises économiques et sociales auxquelles l'Europe est confrontée, il est plus important que jamais de veiller à ce que les institutions européennes puissent s'appuyer sur un large éventail de perspectives et d'expériences. Une main-d'œuvre plus diversifiée sur le plan socio-économique apporterait à la table un éventail plus large de compétences et d'idées nouvelles, ce qui rendrait les institutions mieux équipées pour relever les défis complexes de notre siècle.

Des études démontrent que des équipes socio-économiquement diversifiées sont plus innovantes et mieux à même de comprendre et de répondre aux besoins d'une population diversifiée¹.

Cet argument est néanmoins à manier avec précaution, car il serait dangereux de ne faire de l'égalité des chances qu'une question d'intérêt, plutôt qu'un impératif de justice et de promotion sociales. Il n'en demeure pas moins que l'efficacité du service public est un objectif partagé de tous.

Or, si des efforts tout à fait appréciables ont été déployés par la Commission pour accroître l'égalité hommes-femmes ou l'équilibre géographique par exemple², peu d'attention a été accordée à l'origine sociale de ses employés.

À cet égard, il est tout à fait significatif que le plan d'action 2023-2024 de la Commission européenne pour la diversité et l'inclusion sur le lieu de travail n'identifie même pas les inégalités socio-économiques comme axe de travail. Seules sont mentionnées les inégalités de genre, d'ethnie et de "race" (sic), de religion ou de croyance, d'âge, de handicap, et de questions liées à l'orientation sexuelle.



1 Voir notamment le rapport de l'OCDE de 2011 Public Servants as Partners for Growth, ou le working paper de l'OCDE de 2018 Next generation diversity and inclusion policies in the public service: Ensuring public services reflect the societies they serve

2 On peut notamment se référer à l'engagement pris par la Commission de garantir l'égalité totale entre les hommes et les femmes à tous les niveaux d'encadrement d'ici 2024, que l'on retrouve notamment dans le document "Une Nouvelle Stratégie de ressources humaines pour la Commission", C(2022) 2229 final: https://commission.europa.eu/document/download/3d1dc4df-7995-44b8-bf08-396930fb8c9d_fr?filename=C-2022-2229-FR.pdf



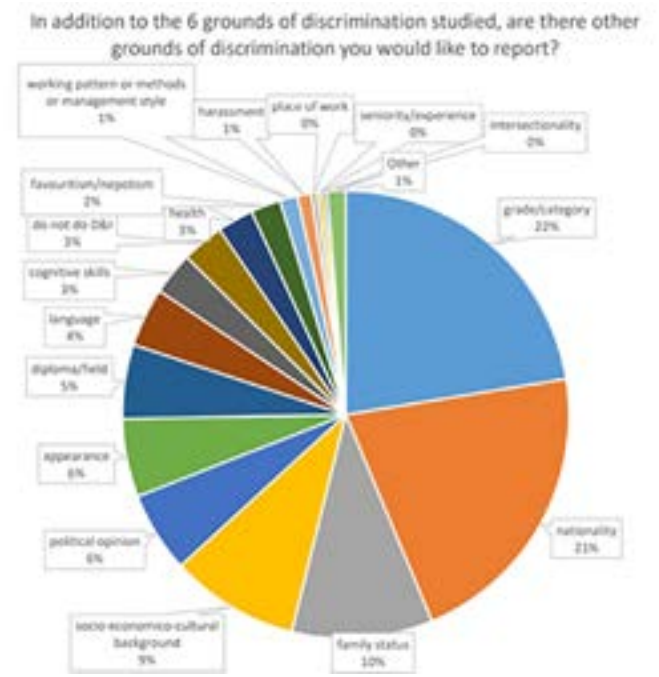
Il est par ailleurs très difficile de trouver la moindre statistique à propos de la diversité d'origine sociale du personnel de la Commission, si tant est qu'elle existe. Pourtant, l'origine sociale demeure l'un des facteurs puissants pour expliquer les inégalités. Ainsi, une étude de juillet 2018 de l'organisme gouvernemental France Stratégie, avait démontré, qu'en France, un enfant de cadre supérieur a 4,5 fois plus de chances qu'un enfant d'ouvrier d'appartenir aux 20 % les plus aisés, et surtout que les facteurs comme le sexe, l'âge ou l'ascendance migratoire "ont un effet faible, voire négligeable, par rapport au poids de l'origine sociale"³.

Il ne s'agit ici aucunement de nier ou de minimiser la réalité (et même la violence) des autres types de discrimination, mais simplement de pointer un angle mort dans la prise en charge du sujet de l'inclusion. Ces facteurs de discrimination peuvent d'ailleurs parfois se superposer à des origines sociales défavorisées, et ainsi se cumuler.

Dans la même veine, dans son enquête de 2021 auprès du personnel sur la diversité et l'inclusion au travail, la DG HR de la Commission européenne n'a pas cru bon de demander l'avis de son personnel sur leur perception de la diversité socio-économique, en se limitant aux 6 catégories sus-mentionnées.

3 Clément Dherbécourt, "Nés sous la même étoile ? Origine sociale et niveau de vie", France Stratégie, Juillet 2018: <https://www.strategie.gouv.fr/sites/strategie.gouv.fr/files/atoms/files/fs-na68-nessouslamemeetoile-05-07-2018.pdf>

Pourtant, les employés eux-mêmes semblent en partie conscients du problème, puisqu'à la question sur les catégories de discrimination qu'ils aimeraient voir mesurer à l'avenir, 9 % ont répondu « la diversité socio-économico-culturelle », en la plaçant en quatrième position.





Comme souvent sur ces questions, l'on rétorquera que la Commission et les autres institutions européennes sont tributaires des inégalités sociales perpétuées par les structures socioéconomiques en place, et notamment par les systèmes éducatifs des États-membres. Ce qui est absolument vrai : une stratégie RH ne peut pas pallier elle-même la panne de l'ascenseur social européen. Mais elle peut faire sa part, en mettant en place une politique ambitieuse d'inclusion et d'ouverture. Pour résoudre ce problème, les Institutions européennes devraient prendre un certain nombre de mesures.

Premièrement, elles devraient collecter des données sur l'origine socio-économique et le parcours de ses fonctionnaires et autres agents afin de mieux comprendre l'état actuel de la diversité au sein du personnel qu'elles emploient. En effet, il faudrait établir un juste diagnostic, pour déterminer au mieux le remède et la posologie à administrer. Ces données devraient ensuite servir à fixer des objectifs visant à accroître la diversité socio-économique et à suivre les progrès accomplis au fil du temps.

Deuxièmement, la Commission devrait œuvrer à la suppression des obstacles à l'entrée pour les personnes issues de milieux moins privilégiés. Il pourrait s'agir d'initiatives telles que des bourses d'études sur critères sociaux pour des programmes universitaires dans les affaires institutionnelles notamment européennes. Par exemple, les bourses d'étude qui sont actuellement octroyées par l'UE pour les masters communs Erasmus Mundus (des programmes d'étude associant au moins trois établissements d'enseignement supérieur de trois pays différents, dont au moins deux doivent être des États membres de l'UE et des pays tiers associés au programme) sans aucun critère social pourraient être utilisées à cette fin. Des quotas de place pour les stages

Livre Bleu et les concours EPSO réservés à des candidats issus de milieux sociaux défavorisés et/ou en reconversion professionnelle, des programmes de mentorat et des actions de sensibilisation auprès des écoles et des universités dans des territoires défavorisés sur le modèle du programme Back to School.

Enfin, les Institutions, notamment la Commission devraient s'efforcer de créer un environnement de travail plus inclusif et plus favorable pour les travailleurs de tous horizons. Il pourrait s'agir d'initiatives telles que la sensibilisation sur ces sujets, via l'organisation de formations et d'ateliers. La question d'adapter l'environnement de travail doit également être posée, notamment via une réflexion sur l'implantation géographique des locaux des Institutions (notamment les Institutions européennes), pour rapprocher leurs employés de réalités sociales et territoriales que l'on peut parfois perdre de vue depuis le quartier européen de Bruxelles. Il y a également un enjeu de visibilité, dans la mesure où cela permettrait à un certain nombre de citoyens européens de mettre une image concrète sur l'Union européenne.

Soyons honnêtes : cette question a peu de chance de crever l'écran, encore moins de résoudre à elle seule le problème de confiance des citoyens dans les institutions européennes. Et c'est bien normal, tant elle est éloignée des préoccupations de la plupart des citoyens. Il n'en demeure pas moins que faire entrer les catégories socio-économiques défavorisées dans les lieux de pouvoir est indéniablement une question de démocratie et de justice sociale. Il serait temps que nous nous en ressaisissions, en rendant enfin la Commission représentative de ceux qu'elle est censée servir.

En conclusion, la diversité sociale des agents de la fonction publique européenne est une question importante mais trop souvent négligée. Or, il ne s'agit pas seulement d'une question de représentation statistique, mais également d'un impératif démocratique et d'une garantie d'efficacité et de légitimité. En accroissant la diversité socio-économique en leur sein, les Institutions européennes et internationales peuvent démontrer leur engagement à comprendre les besoins de tous les citoyens et à y répondre, tout en veillant à ce qu'elles soient mieux à même de relever les défis complexes auxquels le continent est confronté. Il est temps que la Commission européenne notamment prenne des mesures afin qu'elle reflète enfin véritablement la diversité de la population européenne, en se faisant ainsi la garante d'une Europe plus inclusive, plus juste et plus démocratique pour tous ses citoyens.

PAOLINO ZOTTAREL

Il s'agit d'un "nom de plume". L'auteur, en service à la Commission européenne depuis 2022 (et adhérent à l'Union Syndicale Bruxelles depuis la même année) souhaite que son nom réel ne soit pas publié. Nous respectons son choix.

TRADUIRE /
TRANSLATE



L'INGÉRENCE DES EMPLOYEURS : L'AUTRE COMBAT DES SYNDICALISTES POUR LA DÉMOCRATIE AU TRAVAIL

Depuis 50 ans, l'Union Syndicale se bat pour donner des droits aux personnels des institutions européennes et internationales : soit pas la négociation de protocoles d'accord, d'accords-cadres ou directement par l'intégration de dispositions dans le Statut de la FPE, l'instar du droit de grève et d'association.

Comme évoqué dans le **numéro 91 d'Agora**¹ consacré aux 50ème anniversaire de l'Union Syndicale Fédérale, c'est au début des années 70 que l'Union Syndicale, aux côtés de la FFPE, fait intégrer la reconnaissance du fait syndical dans le Statut des fonctionnaires et agents. Et pour autant, l'Union Syndicale et ses représentants n'auront de cesse que de devoir gérer l'ingérence des administrations, à tel point que cela en est devenu, à côté de la défense du personnel, l'autre combat des syndicalistes pour la démocratie au travail.

En mai 2015, lors du 14ème Congrès Fédéral qui s'en tenu à Dubrovnik en Croatie, l'Union Syndicale Fédérale (USF) fait adopter par les membres du Congrès une résolution relative à l'accès à la justice pour le personnel des organisations européennes et internationales. Le Congrès constate qu'un recueil de droits fondamentaux et sociaux commun applicable au sein de la plupart des organisations internationales fait toujours défaut et que, par conséquent, les membres du personnel sont privés d'une protection systématique par les droits fondamentaux tels qu'ils sont respectivement gravés dans le marbre de la Convention européenne des droits de l'Homme, la Charte des droits fondamentaux de l'UE, les conventions de l'OIT, le droit du travail et social basé sur les articles 151 à 155 du Traité sur le fonctionnement de l'Union Européenne (TFUE).

¹ https://unionsyndicale.eu/agora_article/histoire-sociale-de-lunion-syndicale-federale/

La résolution est adoptée sans débat à l'unanimité. Elle s'inscrit dans un contexte où les Organisations-Membres (OM) de l'USF ont face à elles des administrations qui malmènent les syndicalistes et les représentants du personnel : en les attaquant en justice directement, voire personnellement ; en les licenciant ; en tentant de modifier les accords-cadres ou les protocoles codifiés sans concertation préalable.

Les considérants de la résolution ne rentrent pas dans le détail des éléments bafoués ou simplement ignorés par les administrations. Toutefois, il est fait clairement référence à la Charte fondamentale des Droits de l'Homme et aux conventions de l'OIT que la plupart des États dans le monde ont ratifié. Notamment la Convention 87² sur la liberté syndicale et la protection du droit syndical entrée en vigueur dès 1950, et ratifiée depuis par 158 pays, dont l'intégralité des pays constituant l'Union Européenne.

L'attaque antisyndicale récurrente à laquelle les syndicalistes des institutions européennes ont à faire face, et qui affecte directement l'organisation-même des syndicats, est la « Règle des 6 ans³ » qui veut limiter la durée du détachement⁴ d'un agent des institutions de l'UE syndical à 6 années consécutives. En 2015, c'est le Secrétariat Général du Conseil

² https://normlex.ilo.org/dyn/normlex/fr/?p=NORMLEXPUB:12100:0::NO:P12100_ILO_CODE:C087 page consultée le 23/5/2024

³ Ou « Règle des 10 ans » selon les institutions. À noter que la mise en application de cette règle a longtemps été suspendue à la Commission européenne.

⁴ Par commodité nous utilisons ici le vocable « détachement », mais cette disposition est également appelée « mise à disposition », « dispense d'activités de service » ou encore « exemption de service ». Il s'agit d'une quotité de temps de travail, concédée par l'employeur, que l'agent utilise à l'exercice d'un mandat ou d'une activité syndicale.

(SGC) qui tente de réviser l'accord-cadre et d'y insérer cette limitation. L'employeur n'arriva pas à ses fins, notamment parce que la mise en œuvre de cette clause ne touchait qu'une seule personne : le délégué de l'Union Syndicale au Conseil,

et la disposition a pu être considérée comme une attaque personnelle discriminatoire envers un syndicaliste. Quelques années plus tard (mai 2021) c'est la Commission européenne qui décide, unilatéralement et sans concertation, de remettre en vigueur cette règle qui était suspendue depuis 201⁵. Malgré les protestations du président du Comité central du Personnel de l'époque (R&D)⁶, la Commission parvient à ses fins car le paysage syndical y est très différent : les syndicats y sont très nombreux (pas moins de 13 à l'époque) et les syndicalistes détachés depuis plus de 6 ans le sont également. Ainsi, en quelques mois de mise en œuvre, l'Union Syndicale perdra le temps syndical d'experts élus par le personnel (CLP et CCP), mais aussi d'experts dirigeant l'organisation syndicale (président de la Fédération USF, responsable de la communication de l'USB, etc...). Cette réglementation, clairement de l'ingérence anti syndicale va à l'encontre des conventions 87 et 98 de l'OIT sur le droit d'organisation des travailleurs, mais également de la charte des droits fondamentaux et de la jurisprudence que l'Union Syndicale s'est attachée à construire avec le conseil d'avocats très réputés en la matière, en ce compris Me Levi, Me Louis, Me de Montigny.

UN MONDE DU TRAVAIL BASÉ SUR LES CONVENTIONS DE L'OIT

Le Comté de la Liberté Syndicale (CLS) de l'OIT a souligné que le droit des organisations d'élire leurs propres représentants librement et sans ingérence des pouvoirs publics est une condition indispensable pour qu'elles soient en mesure de promouvoir efficacement les intérêts des travailleurs.

5 Note du 19 mai 2021 de la directive de la DG Ressources humaines et sécurité adressée à l'attention du président du Comité central du personnel et présidents des syndicats représentatifs du personnel : *With this note I would like to inform you that the extension of the suspension to the duration of limit of six years of the statutory exemptions laid down in Article 4, paragraph 5 and subparagraph 5.1 of Commission Decision C(2011) 3588 of 27.05.2011 on the human and financial resources allocated to the Staff Committee of the European commission, has not been further extended. Hence, the limit came into in force on 16.05.2021.*

6 Note du président du CCP au Commissaire, (consultée aux archives de l'US)

Le CLS a identifié les principales ingérences dans les affaires des syndicats, à savoir, l'ingérence dans les élections des représentants des organisations syndicales et professionnelles, l'ingérence dans leur procédure d'enregistrement et de dissolution et l'ingérence dans les activités de financement et de fonctionnement...

L'article 3 de la Convention 87 de l'OIT établit le droit des syndicats d'élaborer les statuts et règlements administratifs, d'élire librement leur représentant, d'organiser leur gestion et leurs activités et de formuler leurs programmes d'action. Le paragraphe 2 interdit aux autorités publiques toute intervention de nature à limiter ce droit ou entraver l'exercice légal⁷.

Dans son jugement n°106 du 4 mai 2012⁸, le Tribunal Administratif de l'Organisation internationale du travail, (TA-OIT) a rappelé que le principe de la liberté syndicale (...) exclut toute ingérence d'une organisation internationale dans les affaires de son syndicat ou des organes de ce dernier. (NDR : sur le principe de liberté syndicale voir aussi le jugement 2100, au considérant 15). Le tribunal a rappelé que les syndicats doivent pouvoir librement conduire leurs propres affaires et régir leurs propres activités ainsi que la conduite de leurs membres dans le cadre de ces affaires et activités, et qu'il n'y saurait y avoir de véritables libertés syndicales si des déclarations aux prises de décision d'une OSP peuvent mener à des menaces disciplinaires.

Dans son jugement n°911 du 30 juin 1998⁹. Le TA-OIT a rappelé que l'octroi de facilités à une organisation syndicale n'est pas un privilège qui peut être retiré au gré de l'institution. Lorsque celle-ci fournit des facilités : « non pas par pure courtoisie, mais parce qu'il est dans son intérêt, bien compris que les fonctions dont (le syndicat) s'acquitte soient remplies pleinement de manière compétente. Le tribunal a constaté que c'est l'intérêt de l'institution qui doit présider à l'octroi des facilités qui ne peuvent être retirées que si l'intérêt de l'institution en exige leur retrait.

7 <https://www.ilo.org/fr/media/322551/download.cf.paragraphe.855,859.et.466>

8 https://webapps.ilo.org/dyn/triblex/triblexmain.detail?p_judgment_no=3106

9 https://webapps.ilo.org/dyn/triblex/triblexmain.detail?p_judgment_no=911



LA CHARTE DES DROITS FONDAMENTAUX DE L'UE

Les articles 20 et 21 de la Charte des droits fondamentaux de l'Union européenne¹⁰ exigent que des situations comparables ne soient pas traitées de manière différentes ou que des situations différentes ne soient traitées de manière égale, à moins qu'un tel traitement ne soit objectivement Justifié. D'autre part, l'article 52 de la Charte précise que toute limitation de l'exercice des droits et libertés reconnues doit être prévue par la loi et se doit de respecter le contenu essentiel desdits droits et libertés.

Des limitations ne peuvent être apportées que si elles le sont dans le respect du principe de proportionnalité et si elles sont nécessaires et répondent effectivement à des objectifs d'intérêt général reconnus par l'UE ou au besoin des protections des droits et libertés d'autrui.

Les articles 27 et 28 de la Charte établissent les droits à l'information et à la consultation des travailleurs au sein de l'entreprise et le droit de négociation et d'actions collectives.

LE STATUT DE LA FPE : POUR SORTIR DES ZONES GRISES ?

L'article 24 ter du Statut¹² reconnaît aux fonctionnaires le droit d'association, notamment d'être membre d'une organisation syndicale et professionnelle de fonctionnaires et autres agents européens. L'article 1er, dernier alinéa de l'Annexe 2 du Statut prévoit que les fonctions assumées par les membres du Comité du personnel et par les fonctionnaires siégeant par délégation du Comité dans un organe statutaire ou créé par l'institution sont considérées comme parties de service qu'ils sont tenus d'assurer dans leur institution. Cette disposition est applicable par analogie aux fonctions exercées en vertu d'un mandat syndical, plus précisément des détachés ou mis à disposition d'un syndicat.

En application de l'article 3 de la Convention 87 de l'OIT, de la jurisprudence du Comité de la Liberté Syndicale de l'OIT et de la Charte des droits fondamentaux, une institution de l'Union européenne ne peut s'ingérer dans le fonctionnement d'une organisation syndicale qu'elle a reconnue et, notamment, dans son mode de fonctionnement et de désignation de ses représentants et, donc, de ses détachés ou mis à disposition.

Une institution peut légalement demander aux organisations syndicales d'assurer une représentativité aussi large que possible du personnel. Par contre, elle violerait le droit fondamental de la liberté d'organisation des organisations syndicales en imposant des règles limitant la durée du détachement qui ne serait pas nécessaire et ne répondrait pas effectivement à des objectifs d'intérêt général reconnus par l'Union européenne.

Dans son arrêt du 17 décembre 2015, dans l'affaire Seigneur / BCE (FP-95/14)¹¹ le Tribunal de la Fonction Publique (TFP) a rappelé (point 59) que le « *choix de pouvoir prétendre de dispense de temps de travail aux fins d'exercer un mandat de représentation du personnel est un droit fondamental qui découle des articles 27 et 28 de la Charte* ». Il a rappelé au point 61 que « *l'exercice de ce droit fondamental ne serait en conséquence être restreint par une réglementation qui place les représentants du personnel dans une situation défavorable et discriminatoire par rapport aux autres membres du personnel, alors que ces limitations ne sont ni nécessaires, ni ne répondent à un objectif d'intérêt général ou besoin de protection de droit et de liberté d'autrui.* »

10 https://www.europarl.europa.eu/charter/pdf/text_fr.pdf

11 <https://eur-lex.europa.eu/legal-content/fr/TXT/?uri=CELEX:62014FJ0095>

La limitation dans la durée des détachements ne semble ni nécessaire, ni répondre à un objectif d'intérêt général reconnu par l'UE. Tout au contraire, elle viole le droit fondamental d'exercice d'un mandat de représentation du personnel découlant des articles 27 et 28 de la Charte. En outre, cette limitation est manifestement illégale en ce qu'elle exclut des concertations et négociations les membres des organisations syndicales les plus expérimentés et les plus compétents et viole ainsi le principe de traitement et de non-discrimination.

IL APPARTIENT AUX INSTITUTIONS DE NE RIEN FAIRE QUI PUISSE ENTRAVER L'EXERCICE DE LA LIBERTÉ SYNDICALE

Enfin, dans son arrêt du 18/01/1990, (Maurissen & Union Syndicale / Cour des comptes, C-193/87¹³), la Cour de justice s'est expressément référée aux principes généraux du droit du travail pour constater que les organisations syndicales doivent pouvoir jouer le rôle qui leur appartient en représentant le personnel sur toutes les matières intéressant le personnel. Elle en a conclu (point 12) qu'« il appartient aux institutions (...) de ne rien faire qui puisse entraver l'exercice de la liberté syndicale reconnue par les dispositions précitées de l'article 24 bis. ».

12 <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1962R0031:20140101:FR:PDF>

13 [https://eur-lex.europa.eu/legal-content/fr/TXT/?uri=CELEX:61987CJ0193\[01\]](https://eur-lex.europa.eu/legal-content/fr/TXT/?uri=CELEX:61987CJ0193[01])



CONVENTIONS DE L'ORGANISATION INTERNATIONALE DU TRAVAIL (OIT) PROTÉGENT LES DROITS DES SYNDICALISTES

Ces conventions constituent un cadre international pour la protection des droits des syndicalistes. Cependant, leur mise en œuvre dépend de la ratification et de l'application par les États membres de l'OIT.

- **Convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948** : Cette convention garantit le droit des travailleurs et des employeurs à établir et à rejoindre des organisations de leur choix sans autorisation préalable, et établit une série de garanties pour le libre fonctionnement de ces organisations sans ingérence des autorités publiques.
- **Convention (n° 98) sur le droit d'organisation et de négociation collective, 1949** : Elle protège les travailleurs contre les actes d'antisindicalisme, garantit le droit de négociation collective et interdit les discriminations en matière d'emploi.
- **Convention 190** : Adoptée lors de la Conférence internationale du Travail de 2019, cette convention vise à éliminer la violence et le harcèlement dans le monde du travail, y compris le harcèlement antisindical.



EMMANUEL WIETZEL

Enseignant, formateur syndical à la Confédération Générale du Travail et Euro.formateur du réseau ToT de l'European Trade Union Institute (ETUI), ancien responsable du secteur Asie-Pacifique du collectif international de l'UGICT-CGT, grand supporter du service public et du dialogue social, passionné par la construction européenne et l'histoire du mouvement syndical international. Directeur administratif de l'Union Syndicale depuis 2017.

TRADUIRE /
TRANSLATE



DEMOCRACY AND DEMOCRACY AT WORK: TWO SIDES OF THE SAME COIN

Some reflections about democracy at work

This article shares some thoughts on the link between democracy and democracy at work. Division of labour and functional complexity are bound to create hierarchy and social stratification. At the same time, individuals cannot sustainably be bound together if they are not being taken care of and left without a say. That is why social contracts are needed also at the level of companies in order to restore balance and fairness in employment relations. Democracy and democracy at work are two sides of the same coin.

Democracy is probably the most important and valued feature of our Western and European societies; however, it stops operating at the place where we spent most of our lives: work. Why should it be so?

DEMOCRACY AND HIERARCHY

THE VALUE OF DEMOCRACY

The absence of democracy in the workplace could be quite surprising in our democracies. Indeed, if democracy is seen as valuable, it must be because it brings something positive to society and the individuals who compose it. Surely, what is valid for society at large should be also applicable to its individual components, including sub-segments of societies like companies which are themselves organised. For instance, collective deliberations help foster better decision-making

because the buy-in of the players involved is more easily secured. Similarly, the information of everyone is better factored in when individuals are allowed to have a say. This is the fundamental argument used by Condorcet to explain the rationale for having parliaments: everyone has an angle on what the truth is, if we aggregate all our information together, the law of large numbers applies, individual mistakes cancel out and we have a less biased estimate of where the truth is.

Translating these arguments to the workplace, it does make sense to let workers have a say because they might know better than their manager the specific functioning of their line of business, how production works, where are the bottlenecks and how those could be better overcome. In a world where rationality is limited, the top management cannot be expected to know every detail about what is going on in their companies. Micro-managing tasks would lead the top management to confuse the trees with the forest and divert their attention away from the big picture and the strategic orientation of the company, which should be their essential tasks. That is why it might be better to let workers have a say on how production should be organised.

NEED FOR COORDINATION AND HIERARCHY

At the same time, what makes the value of democracy also constitutes a source of weakness. Debates can take ages and

delay necessary decision-making. Some voters might be given a say on topics for which they have little expertise or do not understand so well. Not everybody is equally equipped in terms of knowledge or intellectual capacities. Sometimes we have to accept that decisions are better made by the person who knows best. The one person-one vote does not necessarily bring the best decision in all cases. Also, decisions need to be implemented for them to produce their effects, without having people questioning them all the time. In an organisation where every individual has to play its part, some level of collective discipline needs to be accepted as well. It is not possible to let everyone do everything they want. Decisions cannot be constantly reverted if our collective organisation wants to have some form of direction. Besides, an organisation made of a large number of individuals is not spontaneously working in a coordinated manner. Teams need to be formed, depending on the nature of the job to be performed, the amount of needed involved. A division of labour might be necessary, with some workers specialising in some tasks and some in others. Each team should be given a clear direction to ensure that its works match the work done by other. A hierarchy is to some extent necessary to coordinate all parts. Division of labour and the need to have some social hierarchy or at least stratification somehow puts a limit to the capacity of workers to be completely free of their activity. They also need to accept to be commanded by someone else and to receive instructions.

TRADE UNIONS AND THE FUNDAMENTAL IMBALANCE OF THE LABOUR CONTRACT

LABOUR LAW AND CONSENTED SUBORDINATION

It does therefore make sense that workers renounce to their capacity to decide autonomously of what they will do when they offer their workforce to an employer. One could argue that this is actually what the working contract is all about: the worker offers his/her productive capacity to an employer for a given period of time (his/her working hours), against a corresponding remuneration (the wage). There is therefore a subordination link which is – as strangely as the concept looks like – consented by the worker. On the hiring end, the employer is the one paying. They should be free to decide of how they will dispose of their money, and of the working time they could buy from the workers. After all, if the money invested does not bring any return, it is their money which will be lost – the worker would have been paid nevertheless. This is, in a nutshell, the basic for the existence of a labour contract, and at the same time the basic of existence for labour law. It is about consented subordination, to produce some work during a specific period of time, in exchange of a payment that will help the worker to meet his own personal needs (having a roof for his family, bringing food home, financing some costly leisure activities, etc).

WORKERS ARE ALSO CITIZENS ENJOYING FUNDAMENTAL RIGHTS

There are however limits to the power that can be granted to the employer. By consenting to their own temporary subordination, the workers are not renouncing to their fundamental rights as individuals. They should only be instructed to perform tasks



or activities which match the contract agreed. The contract itself cannot be about performing unlawful activities. Some boundaries must also be set regarding what can be requested. Workers should not be expected to put the integrity of their bodies at risk, for they have a fundamental right to preserve it. How can we be sure that the employer will not abuse of the subordination state of their employees?

TRADE UNIONS AS A TOOL TO REBALANCE THE CONTRACTUAL RELATION

This is a fair question to ask, as the contractual relation between the employer and the employee is typically not a balanced one. Indeed, capital holders are so to say already incorporated into a collective entity when they enter the labour market to find employees: shareholders have already joined their efforts, and a multiplicity of them can be represented by one person. Labour, on the other hand, is not. Individual workers seeking employment individually apply for jobs. Therefore, the contractual relationship is almost by construction at risk of becoming inequitable. The employee needs the job to feed his family. If he/she refuses the conditions imposed by one employer, he/she might not be able to find better ones with another employer, because there are much more individuals looking for jobs than there are employers looking for employees. Therefore, the contractual conditions are not really negotiable, or only at the margin, and can easily turn to be unfair or at the disadvantage of the employee.

Furthermore, within the workplace, the employer can abuse its dominant situation to request the performance of duties

which are not part of the contract, for instance unpaid overtime or working practices which can endanger the health of the workers. Sometimes, the abuses can go up to exposing the employees to inappropriate behaviours or sexual harassment. The more vulnerable the worker (for instance a single mother responsible for a young child), the more difficult it is to resist abusive demands made by the employer because the consequence of losing one's job might be too difficult to bear. We saw this mechanism even happening for wealthy celebrities which everyone would think were protected from imbalances in employment relations (#meeto). In that context, the reality of economic domination undermines the mere values on which our democracies are based, such as respect for the individual, equality in rights, or simply freedom, to quote a few.

THE VOICE OF WORKERS INSIDE AND OUTSIDE THE WORKPLACE

Overcoming this imbalance of power is the reason d'être of trade unions. By creating solidarity between all the workers and ensuring that they can act and speak with one voice, trade unions restore the balance of power and have the capacity to bring more fairness in the labour and contractual relations, protect workers from abuses in the workplace, and make sure that their vulnerability is not taken advantage of to ask them to accept behaviours or demands that should not be accepted. Therefore, the key function of enabling workers to have a voice is contributing to bringing to life the humanitarian principles that underpin the democratic nature of our societies. Trade unions help prevent some become more equal than others.

This equalisation role played by trade unions not only works within the workplace but also outside the workplace. There is ample and consistent research showing a strong link between the strength of trade unions and the size of social inequalities (see also next section). It is also shown that the level of engagement within a trade union correlates positively with the level of political engagement within our societies.¹ To some extent, the decline of trade union power and the decline of adhesion to democratic standards unfortunately observed by political scientists over the last decades correlate very well. In other words, the strength of democracy in the workplace is also a good indicator of the strength of democracy at all, for the two phenomena are two faces of the same coin.

It is worthwhile stressing that the link between democracy and democracy at work was captured from the very beginning of the labour movement. As mentioned by Grumbrell-McCormick and Hyman (2019), Sydney and Beatrice Webb gave the title of Industrial Democracy to their 1897 book on British trade unionism, because they viewed trade unions as essential elements of democracy whose conception had to be widened "so as to include economic as well as political relations".²

¹ See for instance D'Art, Daryl & Turner, Thomas. (2007). Trade Unions and Political Participation in the European Union: Still Providing a Democratic Dividend?. *British Journal of Industrial Relations*. 45. 103-126. 10.1111/j.1467-8543.2007.00604.x.

² Grumbrell-McCormick, R., & Hyman, R. (2019). Democracy in trade unions, democracy through trade unions? *Economic and Industrial Democracy*, 40(1), 91-110. <https://doi.org/10.1177/0143831X18780327>



HOW FAR SHOULD DEMOCRACY IN THE WORKPLACE GO?

COOPERATIVE OWNED BY EMPLOYEES

Once we agree about the value of democracy in the workplace, it remains to be determined what should be the exact modalities. How do we place the right cursor between the value of autonomy and the need for some coordination? How far should democracy go? It might not be possible to vote every time that a task needs to be performed. However, the organisation of the company itself does not need to abide to the standards of profit-making organisations.

Some workers have attempted the cooperative structure. The Mondragon Corporation, a voluntary association of 95 cooperative structures intervening in finance, industry, retail, education and training, with 70 000 workers and more than 11-billion-euro turnover, is being often presented as a successful example able to provide an alternative to capitalist organisations.³

³ Nick Romeo, August 27, 2022, New York Times, How Mondragon Became the World's Largest Co-Op, <https://www.nytimes.com/business/currency/how-mondragon-became-the-worlds-largest-co-op>

Not all cooperative structures have met similar success, however. In a world where the companies' survival depends on their capacity to face competition at the global level, from countries where workers do not necessarily enjoy strong rights, sometimes because low-cost production countries are not even democratic at all, the conditions of employments of workers are unfortunately an adjustment parameter.

NEGOTIATION RIGHTS AND BOARD LEVEL REPRESENTATION

For that reason, it matters that we can also rely on a legal system setting fair rules for the games, be it globally or nationally. At the national level, minimum participation standards such as the right of workers to elect representatives at the companies' supervisory board, and to form trade unions and works councils, are objectives that should be part of a democracy at work agenda. At the international level, Free Trade agreements would be well advised to include labour provisions to ensure that unfair treatment of workers is not used as a competition variable.

The new agreement between the US and Mexico (USMCA) which came into force in July 2020 as a replacement for NAFTA is a very good example of how democracy in the workplace

can be protected or even exported thanks to well-managed free-trade agreements. In the case at hand, American trade-unions managed to impose enforceable measures against abuse of labour rights in the treaty, in particular the so-called Rapid Response Labour Mechanism (RRLM) allowing time effective complaints against individual companies. Thanks to this Treaty, many workers in Mexico could get access to more favourable collective agreements and get freed from the government-controlled (and corrupted) trade unions that were representing them before.⁴

In Europe, board-level representation of workers is a widespread practice and a key component of the European social model.⁵ This level of representation, or even weaker forms of participation such as legal obligations to negotiate on wages or other aspects of working conditions, do not typically happen because of spontaneous good will but because they are forced by the society via specific laws.

⁴ See for instance Martin Myant. [2022, March 17]. Making labour provisions in free trade agreements work. In ETUI, The European Trade Union Institute. Retrieved 21:56, May 26, 2024, from <https://www.etui.org/publications/making-labour-provisions-free-trade-agreements-work>

⁵ See for instance Jeremy Waddington, Aline Conchon. [2020, November 05]. Board Level Employee Representation in Europe. In ETUI, The European Trade Union Institute. Retrieved 13:55, May 26, 2024, from <https://www.etui.org/publications/books/board-level-employee-representation-in-europe>

THE RISE OF THE WORKING-CLASS SHAREHOLDER

When law is not sufficient to provide for a suitable workers representation, it is also possible to use the mechanisms of the market economy to arrive to similar results. There is no need to work in a cooperative for workers to be able to own company shares, be it their companies or companies hiring other workers. One major channel of influence is taking place through the role of pension funds, such as California Public Employees' Retirement System (Calpers). These new players proved to be very powerful in using capitalism own instruments to push for better consideration of the workers' interests – for instance when they voted against the appointment of corrupt Board members in Walmart.⁶ In Europe, the reluctance of trade unions to engage into funded pension schemes might limit the room for leveraging this type of power, however.

THE VALUE OF DEMOCRACY AT WORK FOR SOCIETY AT LARGE

RESTRICTION OF PROPERTY RIGHTS AND SOCIETAL INTERESTS

To some extent, laws imposing workers' participation will impose some limitations to the property rights of shareholders, in the sense that they give a say to workers on how to dispose of the company's assets whereas these assets are not the properties of the workers but only that of the company. The consequences that decisions taken at the company level can have on the lives of the companies' workers are such that they are deemed to justify a restriction of the fundamental right of property.

This interesting feature does not only arise for the protection of workers. The law also serves to put a frame to the usage of individual freedom to associate with other individuals (and form a corporation), considering the need to protect the most vulnerable and secure a good balance of power. That is why, even among capital holders themselves, the law saw the necessity to protect minority shareholders, via the so-called loyalty obligations in Germany for instance (which foresee that a majority shareholder has to give priority to the interests of the company over their own interests). This represents, to some extent, the benefit of living in a democratic society able to impose rules on the strong to ensure that the weak remain protected.

In the same vein, Board level representation of employees and all the legal measures which force employers to give a say to their workers acknowledges the impact that these companies can have on their lives.

DEMOCRACY AT WORK AS A BARRIER AGAINST MANAGERIAL CAPTURE

However, workers' representatives are also performing an important function as counter-power within the companies, which can even serve to preserve the shareholders' interests.

⁶ See David H. Webber, "The Rise of the Working-Class Shareholder: Labor's Last Best Weapon" – April 2, 2018

Indeed, as formalised by the so-called principal-agent model, the management of the companies are not necessarily the owners of the companies but are themselves employees expected to serve the companies' interests. They are however placed in a situation where they can make use of their own position to further their own interests at the expense of the shareholders' interests (leveraging what Crozier used to call their area of strategic uncertainty). It will be very difficult for shareholders, however, to identify that they are being abused by the management they appointed because they will not by default have direct access to the internal information. The top management of the company is in a position to misrepresent or even hide crucial information to the shareholders, as regular CEO corruption cases show. This is where having a counterpower within the companies itself can be useful to prevent managerial capture.

BIG TECH AND THE LACK OF INTERNAL CHECKS AND BALANCES

When such a counterpower mechanism does not exist, the consequences could be possibly very detrimental for society

at large. Specifically, the development of technology triggered the apparition of Tech giants which, even if they belong to private individuals rather than to the state, do de facto have an important public function in our democracies because they have an influence on the circulation of opinions (social networks), ongoing elections, or simply are at the heart of building the society of tomorrow (artificial intelligence). However, experience shows that one cannot rely on such companies and in particular their Human Resources department to self-regulate their own abuses of power internally. For instance, when they were affected by cases of sexual harassment, the same typical reaction of not helping the victims but sacking them to contain the damages was observed. That is where regulation is necessary to make sure an adequate system of checks and balance is implemented from within these companies. Exactly as for the movie industry, in the absence of trade unions able to serve as counterpower in the workplace, the abusers will strive. When the said companies play a key role in our democratic life and the formation of public opinion, the internal capacity to resist to undue pressure – which can also arise from foreign forces – is crucial to preserve the well-functioning of our democracies.



DEMOCRACY AT WORK AS THE CURE TO CAPITALISM

OVERCOMING THE DILEMMA BETWEEN CAPITALISM AND COMMUNISM

Somehow the extent to which democracy in the workplace will impose itself is a precondition for the survival of our democracies as we know them. Currently, the political left is still trying to find a new ideological model, between the Charybdis of Capitalism and the Scylla of Communism. The fall of the Soviet Union led some of the progressist forces to place their hopes in the free market and economic liberalism – for there was no apparent alternative in sight – only to realise later on that such choices contributed to the explosion of social inequalities that we observed since the 1990s. It is telling, in that regard, that most of the solutions looked at by prominent economists and institutions to try to rebalance the rise of social inequalities are not looking at the strengthening of the trade union power, and the increase in workers' participation, whereas research and empirical evidence is unanimous in pointing to their fundamental role in that regard. Some economists, however, are pointing to the value that trade unions can play in building more equality and also a better society. Such is the case of Richard B. Freeman from the so-called Harvard School of Labour Relations, who initiated already back in the 1980s a stream of research showing the usefulness of trade-union for the economy, when the previous mainstream view was to only see them as a source of ineffectiveness in the labour market.⁷ Richard D Wolff, from the University of Massachusetts, Amherst, founded the non-profit organisation "Democracy at Work" in 2012 to advocate economic democracy as a way to provide a genuine basis for democracy⁸. Along with this tradition, Thomas Piketty recently called for increasing workers' representation in companies boards for big companies as a way to reduce social inequalities.⁹

DEMOCRACY AT WORK: GOING BEYOND THE SOLE DISTRIBUTION OF WEALTH

From that angle, it is important to understand that democracy in the workplace is not only about sharing the cake, ie enforcing a better redistribution of the return on production and wealth. Ensuring that workers could get a fair wage has of course always been a crucial objective of the labour movement. Thereafter, differences of views arose as regards whether workers should have an interest in the organisation of production. Some trade unions are very keen to make a difference between the employer and the unions and see workers' participation as a factor of collusion which could corrupt the union from the inside.¹⁰ Some did even accept to

recognise the so-called "management rights clause"¹¹, as long as workers would reap the benefits of such collective contracts and profits. However, increasingly, attention was also paid to the conditions of production themselves, and the fact that they were also impacting the health and safety of the workers, the integrity of their bodies, their right to dignity as a person. Therefore, unions increasingly came to recognise the weakness of the "Fordian" social pact, illustrated by Walter Reuther and the collective agreements negotiated under his leadership of United Automotive Workers Union with General Motors, and thereafter Ford and Chrysler (who stayed in history as the so-called "Treaty of Detroit").¹² The need arose to avoid workers' alienation by the production process, and to have them recognised as human beings who deserve to have a say. This is somehow a key aspect of the project behind democracy at work. It is not only about changing the distribution of wealth. It is also about changing how wealth is produced and how the power is shared within the organisations producing wealth or public goods and services.¹³

THE SPECIFIC CASE OF INTERNATIONAL ORGANISATIONS

The situation of international organisations is a very good illustration of the reach of the concept of democracy at work. In international organisations, the employer is also a legislator. This further creates imbalances and also makes the issue of democracy at work more palatable. There is a manifest democratic deficit, because the legislator is not elected and can decide on domains which are normally within the remit of the elected parliament, including restrictions on fundamental rights, without having electoral accountability. Therefore, negotiation and participation aiming at securing the consent of the workers who will be bound by these "laws" (as the contract contains legislative provisions which can be unilaterally changed by the employer without the workers consent) are essential elements to restore the social contract. By construction, this type of democratic deficit happens in organisations which are placed outside of the democratic order because, in our current global order, democracy belongs to the national level. There is no global democracy for the time being and the prospect of having one is very remote. However, the purpose of the international institutions is precisely to foster peace, prosperity, and at (least tacitly) democracy in the world. This is the reason d'être of the United Nations System but also of all international institutions of a financial nature, like the European Bank for Development and Reconstruction or the European Central Bank (the latter being also a political project, beyond its economic aspects). In order to ensure that these institutions properly perform their mission, internal mechanisms should be in place to prevent them from being open to abuse and managerial capture. If the legislative power and – for many of them – also the judiciary power are in

⁷ See a retrospective overview in Richard B. Freeman "WHAT DO UNIONS DO? THE 2004 M-BRANE STRINGTWISTER EDITION Working Paper 11410 <https://www.nber.org/papers/w11410>

⁸ <https://www.democracyatwork.info/>. Also see Richard D. Wolff "Democracy at Work: a Cure for Capitalism", Haymarket Books, 2012

⁹ <https://politicalinequality.org/2023/05/06/piketty-policy-institutions-and-a-brief-history-of-equality/>

¹⁰ This in fact also explained the reluctance of German trade unions to the emergence of Works Council in the 1920s. See Emil Frankel, The German Works Councils, Journal of Political Economy, Oct., 1923, Vol. 31, No. 5 [Oct., 1923], pp. 708-736

¹¹ This is the American capitalist version of the unilateral decision-making power of used by public sector employers in Europe to justify that they can unilaterally amend employment contracts, that is: the right to self-organisation of the employer.

¹² Reuther is an important and controversial trade union leader who is credited for having obtained impressive results in terms of benefits for the workers he represented but at the same time signed a form of "Faustian pact" with General Motors by accepting to let them organise production as they see fit, which would ultimately also damage workers wellbeing.

¹³ See also Danièle Linhart « La Comédie humaine du travail, de la déshumanisation taylorienne à la sur-humanisation managériale », Toulouse, Erès, 2015, 158 p.

the hands of management, it is to be feared that the same cause will produce the same effects: concentration of power will lead to abuses, as Montesquieu said.¹⁴

Furthermore, international organisations are also made of experts with – on average – a high education level. Their expertise is even, in many cases, the reason why the organisation was created in the first place and given some independence vis-à-vis the political world (that is certainly the case of the European Central Bank). Therefore, it is very striking that, on the one hand, when it is about performing their own work, the workers are recognized a high level of competence and autonomy, whereas, on the other hand, they would not be recognized any autonomy at all when it would be about deciding how the same work should be organised collectively (which includes allocation of tasks hiring, promotions, definition of wages, setting of resources needs, etc). There is therefore, in the case of international organisations, a very substantial gap between the legitimate aspiration of the employees, and the reality of the autonomy and – we would dare say – dignity that they are granted and recognised as employees. This discrepancy is once more at the root of the high burnout rate observed in the organisation.¹⁵

TWO ENEMIES FROM WITHIN: THE LACK OF UNION DEMOCRACY AND WORKERS' ENGAGEMENT

Even when workers manage to achieve some elements of democracy at work, it is important to recognize that they are not only facing hurdles from the employers but that they are also facing hurdles from themselves. Sometimes our worst enemies lie among our friends. Two different aspects are at stake. One can be characterized as the Orwellian “animal farm” scenario. The other one deals with the phenomenon of voluntary servitude as described by La Boétie.

THE ORWELLIAN FARM

Once workers' representatives manage to gain access to power, they might start to adopt similar behaviours to the abusive employer they were previously fighting. This phenomenon is well documented, and there are plenty of examples of corruption to find in the trade union movements. Some elected members of Works council using the credit card of their company to finance private leisure activities. Some elected representatives having a say in promotions can use this power to place friends instead of well-deserving workers. Elected representatives could steal money from the Works Council budget. Elected representatives could be willing to sign less advantageous collective agreements in exchange for some hidden retribution from the employer like promotions. We need to be very honest about this. As trade unionist, we should not deny this reality but to the contrary face it as an intrinsic and fundamental component of our fight for more democracy. It is de facto often used against trade union to argue that they would not be representative or only there to fight for their

own interests. We won't be able to overcome it if we do not recognise it as a constitutive difficulty of our “line of business”.

To some extent, it is the nature of power that it is leading to corruption when it is left without control. That is what we learned from the founding fathers of modern democracy. Does this mean that our efforts to bring more democracy and checks and balance in the workplace is by definition bound to fail? Absolutely not! Indeed, the main difference between an employer appointed by shareholders and a workers representative elected by workers, is that workers can sack the later, whereas they cannot sack the former. Between a corrupted manager and a corrupted trade unionist, we are still better off with a corrupted trade unionist because we have at least the possibility to outvote him/her in the next election! Hence, the key and crucial aspect of accountability, namely electoral accountability, remains as an incentives and mechanism to keep control of our representatives and ensure they do not take a different path than the one they should.

UNION DEMOCRACY

This weakness is somehow connected to the second hurdles that we will consider in the next section. There is no democracy without the engagement of each and every individual in it. If the rank-and-file do not care, if they do not vote, if they make no effort to try to stay informed and engaged with their union, if they are not ready to challenge within internal elections the trade union leadership who might have failed them, then the democratic nature of the union is at risk of vanishing.

In the United States, this tradition is called “Union Democracy”. It is represented among other by the so-called “Labour Notes” movement, which is a core component of the American labor movement organised around a journal advocating for so called “troublemaker unions”.¹⁶ The narrative goes as follows: once trade unions become powerful, they tend to be dominated by powerful bosses who might have a tendency to forget about the interests of the rank-and-file they represent, and capture the trade union organisation to serve their own personal interest or, at minima,

a comfortable lifestyle. They would systematically eliminate the oppositions from inside and progressively put in place a system where workers are losing control of the organisation which is supposed to defend them. Only “loyalists” could emerge from within the ranks and, that way, the union leadership could stay unchallenged. The typical success story would be one of a group of rank-and-file activists who decided to challenge the status quo and form a team to regain control of their local union. Once successful, they would then set up hard strikes able to bring successful collective agreements which would then raise again the desire of workers to join the union and support their effort to regain control of the whole union federation. Democracy would reborn from the engagement of the rank-and-file.

VOLUNTARY SERVITUDE

However, the lack of individual engagement of workers can also result from some form of voluntary servitude, as La Boétie would call it. Indeed, the interests of the employers are very often internalised by the workers themselves.

The psychological mechanisms are very complex. To take the extreme example of a dictatorship like North Korea, where every little sign of dissent can generate disastrous consequences for your own family and children, it might just be psychologically easier to merely accept the lies of the regime as truth than to live in a situation of constant schizophrenia. Lying to oneself or simply making the conscious or unconscious choice of ignoring visible pieces of information for the sake of enjoying some form of peace of mind can become an understandable strategy when facing extreme levels of oppression. This mechanism can also be at play with less extreme forms of oppression when a vulnerable worker is highly dependent on his/her employer to provide for his/her family. Collaborating with a powerful abuser sometimes become an easier choice than fighting him/her and face disastrous personal consequences.

¹⁶ <https://labornotes.org/>



Sometimes, the employee might even identify himself/herself with the employers, and for good reasons. This is typically the case of workers of organisations serving the common good: policemen, nurses, firefighters, and international organisation employees. To some extent, when the professional identity is very closely matched with the personal identity because workers derive some pride in contributing to a larger cause that their employer is supposed to serve, it is very difficult for workers to put themselves in a situation where they would challenge the doings of their employer. They care about preserving their employer's reputation as it is a component of their reputation. In such cases, employees engaged with their employer might even turn against the elected representatives who are fighting for them, because they have internalized the employers' preferences.

In fact, employee engagement strategies are part of the modern human resources toolkit.¹⁷ Employers themselves are very active in fostering and developing employer-organised networks, sometimes under the guise of fostering diversity. The internalisation of the employer's preferences often goes with the denial of the existence that a difference of interests exists. We would all be part of the same team. The objective would be shared (we would only have a difference of assessment regarding the means to employ to get them). The class struggle would belong to different times and no longer exist, because society would not anymore be made of industrial workers risking their lives in coal mines, etc.¹⁸ This narrative serves as a powerful vector, not only disengaging workers from the labour movement, but – even worse- for engaging them against their elected representatives. Employers like to play on this divide-and-conquer game. Unions and workers themselves however also bear a responsibility.

Indeed, union members themselves forget that they ARE the union. Thanks to the benefits secured in the past, some workers have been led to adopt a form of consumerist attitude, believing that it is enough to pay their union fees or to vote in works council elections, in order to expect from a very restricted set of union volunteers that they would do all the work (and take all the heat) for them. This situation is a standard challenge faced by all unions and illustrate that democracy is a living concept. It does not exist without the involvement of rank-and-file, be in democracy at large or democracy in the workplace. The moment when the workers or the electorate are inclined to think that they can opt out of participating to democracy is the moment where democracy stops to exist. When that happens, we can all start to fear the worst.¹⁹

¹⁷ See for instance “Deloitte Becoming irresistible: A new model for employee engagement” Deloitte Review Issue 16, <https://www2.deloitte.com/us/en/insights/deloitte-review/issue-16/employee-engagement-strategies.html>

¹⁸ Incidentally, this denial of the difference of interests often results in a high level of burnout, when workers engaged in their work came to realise that their employer is not as keen as they are to have it performed as well as it should, for instance by refusing to dedicate the necessary resources. Therefore, the professions with the highest professional engagement and who have the highest tendency to opt for a model of professional workers representation (as opposed to joining a trade union representing different sector of activities) are also those experiencing the highest risk of burnouts: teachers, nurses, policemen, etc.

¹⁹ The high level of support nowadays reached by the far right in the electorate is a testimonial to that situation. The far right is not a supporter of the trade union movement, but many workers who feel left behind and lost faith in trade unions or the political left turned their hopes to these non-democratic forces. See Sophie Binet, interview with Mediapart, 17 May 2024: « Face à l'extrême-droite, il est minuit moins le quart » <https://www.mediapart.fr/journal/politique/170524/sophie-binet-face-l-extreme-droite-il-est-minuit-moins-le-quart>

¹⁴ For more details, please see Carlos Bowles, speaking notes for ECON Hearing, 26 October 2016, [https://www.ipso.de/documents/2016-10-26\(CBtoECON\)EPhearing-CBspeakingnotes.pdf](https://www.ipso.de/documents/2016-10-26(CBtoECON)EPhearing-CBspeakingnotes.pdf)

¹⁵ See Carlos Bowles, Agora #90, “BURNOUT RISKS AT THE ECB: A SHORT HISTORY”, October 2023



CONCLUSION: DEMOCRACY AT WORK AND THE FUTURE OF WORK

This article could only briefly touch upon very fundamental questions which should be considered with more depth. Our democracies are at risk. Democracy at work is not only a necessary component of a democratic society but also a political path that could help restore social progress and find an alternative societal and political project after the collapse of the communist dreams.

At the same time, these optimistic prospects are very much threatened by the emergence of a new society where existing workers might have difficulty finding their place, because they are threatened by globalisation, the lack of a visible political project for workers, but also the changes induced by technological progress (platform economy but also the development of artificial intelligence). An important part of the legitimacy of workers' claims to have both a share in the profits and a say in the organisation was grounded in the fact that they were the ones who were producing the wealth, thanks to their work. If most existing workers – including high skilled workers – are not anymore needed because their work can be automated by robots, it will be more difficult for them to argue that they should have a share in the profit and a say in the conditions of production. That is why a reflection is needed to further underpin conceptually the future of democracy at work.

One direction for a future-proof legitimization of democracy at work in a situation where robots could be performing most of the work previously allocated to workers might be to put forward the ownership of personal data on which all big technological companies are relying upon to train their algorithms. This data remains, after all, the property of all of us and we are entitled to also benefit from the profits derived from their usage. We should also be entitled to have a say on how they are used and

what for. Another direction could simply be to reaffirm the infinite value of every human being, combined with the fact that no innovation can remain forever the property of its inventors (as patent law provides). Even when robots will have taken over workers' tasks, we might still have a claim to benefit from the better life they can offer, in terms of increased leisure or better quality of life, most notably health. The companies that will have power over such crucial public goods should not be able to exert their power without being flanked by some form of checks and balance mechanisms.

Overall, even if work were to disappear, as (generally) did slavery, we will still need a democratic way of making collective decisions in our societies, if we want them to prosper and flourish to the benefit of everyone on earth.



CARLOS BOWLES

Carlos Bowles joined the ECB as a macro-economic forecaster in 2003. He earned his PhD in Economics at the European University Institute. He is currently chairing the ECB Staff Committee and also serves as IPSO's Vice-President. This article is written in his trade-union capacity.

TRADUIRE /
TRANSLATE



HOW GLOBAL CULTURES SHAPE DEMOCRACY AT WORK

Workplace democracy goes beyond geographical boundaries, embodying principles that resonate with workers globally. By incorporating democratic practices, companies and institutions worldwide are not only enhancing worker satisfaction and productivity but are also fostering environments of mutual respect and shared success. This article explores how various regions implement workplace democracy, providing specific examples to illuminate the universal appeal and effectiveness of these practices.

THE EUROPEAN MODEL: COLLABORATIVE AND CODETERMINED

In Europe, Germany stands out with its well-established system of "Mitbestimmung," or co-determination, where workers participate in management decisions through their representatives on company boards. This system not only empowers workers but also fosters a deeper sense of loyalty and responsibility towards the company. Such practices are supported by strong unions and labour laws that promote a balance of power, ensuring that employees at all levels have a voice in shaping the policies that affect their work lives. Such an example is Volkswagen's co-determination model, where employees participate in decision-making at the highest levels, ensuring worker interests are considered alongside **those of shareholders**¹.

¹ <https://www.volkswagen-group.com/en/corporate-governance-15789>

Similarly, Scandinavian countries like Sweden and Denmark exemplify a high degree of workplace democracy, often seen in their flat organizational structures and strong emphasis on employee autonomy. These countries score high on job satisfaction surveys, which many attribute to their democratic work practices, including extensive worker consultation and the promotion of work-life balance. Sweden's Spotify uses a flat organizational structure that minimizes hierarchy and maximizes inclusivity, promoting **transparency and innovation**².

Italy's cooperative movement, particularly in the Emilia-Romagna region, showcases another model of workplace democracy. Cooperatives like the Coop Italia grocery chain is owned and managed by their members, aligning business practices with the needs and **interests of the community**³.

THE NORTH AMERICAN APPROACH: EMERGING TRENDS AND CHALLENGES

In Across the Atlantic, the United States presents a contrasting scenario where traditional union power has waned, but there is a growing trend towards democratizing workplaces through worker cooperatives and collective bargaining agreements. Innovative labour arrangements,

² <https://hrblog.spotify.com/2024/02/27/a-culture-to-grow-in-to-the-manifesto-of-forward-thinking-company>

³ <https://report.coop.ch/en/about-the-report/>

such as employee stock ownership plans (ESOPs), offer a form of economic democracy by allowing workers to acquire a stake in their company’s success, thereby aligning the interests of employees and employers towards common goals.

In the United States, New Belgium Brewing provides a remarkable example of employee ownership, enhancing workers’ **commitment to the company’s goals**⁴.

However, workplace democracy in the U.S. faces significant challenges due to varied state laws and the often-contentious relationship between unions and management. Despite these hurdles, there are notable examples of successful union-driven initiatives that enhance workplace democracy, such as the United Auto Workers’ role in negotiating for better terms in employment contracts.

Canada’s Desjardins Group, a cooperative financial institution, empowers its member-owners to have a say in the direction of the company, demonstrating the effectiveness of **cooperative models in the financial sector**⁵.

ASIA AND WORKPLACE DEMOCRACY: VARIED EXPERIENCES

In Asia offers a diverse picture of workplace democracy. In Japan, the system of “Kaizen,” which focuses on continuous improvement through worker feedback and participation, highlights a form of democratic engagement at an operational level. Japan’s Toyota employs the “Kaizen” method, engaging all employees in **continual improvement**

4 <https://www.newbelgium.com/company/business-rehumanized/>
5 <https://www.desjardins.com/ca/about-us/investor-relations/desjardins-group-annual-report/index.jsp>
6 <https://businessmap.io/lean-management/improvement/what-is-kaizen#:~:text=Kaizen%20is%20integral%20to%20Lean,innovation%20in%20the%20manufacturing%20industry>

processes⁶. South Korea’s technology firm Naver supports a participatory culture where employees are actively involved in decision-making processes, reflecting a modern approach to workplace **democracy in a high-tech industry**⁷. Conversely, in places like China, where union activities are tightly controlled by the state, workplace democracy takes on a different form, focusing more on productivity and less on genuine power sharing.

In India, democratic practices are often influenced by the strong presence of unions in the formal sector, though many workers remain in informal employment where such luxuries are scarce. However, initiatives to bring informal workers into the fold through unionization efforts show promise for expanding workplace democracy. In India, the IT services giant Infosys has set benchmarks in employee participation by offering stock options to its employees, aligning the workers’ interests with **the organizational goals**⁸.

SOUTH AMERICAN INNOVATIONS

In Brazil, the worker health cooperative Unimed stands as the largest cooperative health system in the world, **owned and operated by its doctor members**⁹.

Argentina’s recovered factories movement, where employees take over and manage failing factories, exemplifies a more radical approach to workplace democracy. Companies like the Zanon ceramic factory is now **managed as cooperatives**¹⁰.

7 https://www.navercorp.com/navercorp /resource/NAVER Human Rights Policy_ENG.pdf
8 <https://www.infosys.com/investors/reports-filings/annual-report/annual/documents/infosys-ar-23.pdf>
9 [https://en.wikipedia.org/wiki/Unimed_\(organization\)](https://en.wikipedia.org/wiki/Unimed_(organization))
10 <https://participedia.net/case/5530#:~:text=The%20worker%2Drecovered%20enterprise%20movement%20was%20a%20grassroots%20reaction%20to,by%20over%2010%20thousand%20workers>

AFRICAN PERSPECTIVES

In South Africa, the Black Economic Empowerment (BEE) initiative encourages businesses to engage in fair practices and include diverse voices in decision-making. Companies like Telkom SA have incorporated these principles to create **more inclusive work environments**¹¹.

TAKEAWAYS FOR THE EU INSTITUTIONS

To practically implement global democratic practices, European public sector and EU institutions could consider specific adaptations from successful models abroad that enhance employee involvement and decision-making. For instance, inspired by the German co-determination model, EU institutions could introduce similar mechanisms where employee representatives are included on decision-making boards. This could be applied particularly in the management of EU agencies, promoting transparency, and ensuring that employee insights are considered in policy and administrative decisions.

Moreover, adapting the “Kaizen” method from Japan, EU public sector organizations could establish continuous improvement programs that empower all employees to suggest and implement changes in their workplace. This approach would not only improve processes but also foster a culture of ownership and accountability, vital for public sector efficacy.

Lastly, by looking at the flat hierarchy model of Sweden’s Spotify, EU institutions could reevaluate their organizational structures to reduce bureaucratic layers, thereby speeding up decision-making and increasing adaptability. Implementing such a model could lead to more agile institutions that are better equipped to meet the dynamic needs of European citizens, enhancing service delivery and public satisfaction.

11 https://www.telkom.co.id/data/image_upload/page/1604471533390_C.1.7%20Annual%20Report%20page%20249-267.pdf



BEST PRACTICES FOR FOSTERING DEMOCRACY AT WORK

The global examples highlight several best practices:

Institutional Support:

Governments and organizations can facilitate workplace democracy through supportive legislation and policies.

Education and Training:

Continual education on democratic practices benefits both employees and management.

Technology and Innovation:

Leveraging technology aids in maintaining transparent and inclusive communication channels.

Cultural Adaptation:

Tailoring democratic practices to fit cultural and regional specifics is crucial for their success and sustainability.



MITBESTIMMUNG

Mitbestimmung or co-determination, is a distinctive feature of the corporate governance model in Germany, allowing workers to participate in the management of the companies they work for. This system is based on the idea that workers should have a voice in the running of the companies and not just be passive elements of production.

KEY FEATURES OF MITBESTIMMUNG:

1. Board Representation: Under the German co-determination system, employees have the right to elect representatives to the company’s supervisory board. For larger companies (typically those with more than 2,000 employees), half of the supervisory board members are elected by the shareholders and half by the employees. This ensures that employees have a substantial say in major decisions and policies.

2. Work Councils: At a more localized level, workers can form and elect a works council, which represents employees at the workplace. The council has rights to information, consultation, and co-decision in matters affecting workers’ rights and working conditions.

3. Legal Framework: The system is supported by a series of laws, notably the Works Constitution Act and the Co-determination Act, which lay down the rules and procedures for worker participation in management decisions.

OBJECTIVES AND BENEFITS:

- **Improved Communication:** Mitbestimmung fosters a culture of communication and cooperation between management and workers.
- **Employee Satisfaction:** By involving employees in decision-making, companies can boost employee morale and loyalty.

SPOTIFY

is known for its innovative approach to organizational structure, which has been evolving since the company’s inception. Traditionally, Spotify has embraced a model known as “Spotify model” of management, which is characterized by its emphasis on autonomy, agility, and collaboration.

KEY FEATURES OF SPOTIFY’S ORGANIZATIONAL STRUCTURE:

1. Squads, Tribes, Chapters, and Guilds:

- **Squads:** These are small, autonomous teams that operate like startups. Each squad is responsible for a specific area of the product and is cross-functional, containing all the skills needed to complete their tasks.
 - **Tribes:** A tribe is a collection of squads that work in related areas, overseen by a tribe leader whose main job is to ensure that each squad is functioning smoothly and in alignment with the company’s goals.
 - **Chapters:** These are groups of people with similar skills or roles within the same tribe. They are led by a chapter lead, often with the objective of sharing knowledge and best practices.
 - **Guilds:** These are more informal, voluntary groups that can span across the entire company and connect people with similar interests or technical specialties.
- 2. Emphasis on Autonomy:** Each squad at Spotify is given a high degree of autonomy. The company believes that

autonomous teams can respond more quickly and with more innovation than those in a traditional hierarchical system. This autonomy allows squads to make decisions and experiment with ideas without waiting for higher-level approval.

3. Leadership and Alignment: While autonomy is a cornerstone of the Spotify model, leadership and strategic alignment are also crucial. Leaders are expected to set clear visions and contexts but without micromanaging how teams achieve their goals.

4. Agile Practices: Spotify has embedded agile methodologies into its workflow, utilizing aspects of Scrum, Kanban, and Lean methodologies. This agile approach helps teams stay flexible and responsive to change.

EVOLUTION AND ADJUSTMENTS:

Spotify’s organizational structure has evolved as the company has grown. The original setup with the described roles and structures aimed to maintain a balance between independence and accountability but has faced challenges such as scaling issues and inter-team coordination as the company expanded globally. In response, Spotify continuously adapts its structure, trying to find the best ways to sustain innovation and efficiency at scale.

The company’s commitment to maintaining a flat and flexible organizational structure, despite its size, highlights its dedication to innovation and employee empowerment. This structure supports a dynamic work environment where ideas can flow freely, and employees are encouraged to take initiative and ownership of their work.



- **Legal Framework:** The system encourages more responsible corporate decisions, as the interests of workers are considered alongside those of shareholders.
- **Economic Stability:** Some studies suggest that co-determination can lead to more stable and less volatile corporate performance.

In practice, Mitbestimmung has been praised for promoting a more collaborative and less adversarial relationship between labour and management, which can lead to innovative solutions and more sustainable business practices. However, it also faces criticism, particularly from those who argue that it can slow down decision-making processes or interfere with management’s ability to manage effectively. Despite these debates, it remains a central pillar of the German economic model.

THE SYSTEM OF KAIZEN

is a fundamental concept in Japanese management philosophy, emphasizing continuous improvement in all aspects of an organization. Derived from the Japanese words kai (change) and zen (for the better), Kaizen is both a personal and a corporate strategy that involves every employee from upper management to assembly line workers.

KEY FEATURES OF KAIZEN:

1. Incremental Improvement: Unlike radical changes or innovations, Kaizen focuses on small, ongoing positive changes that involve all employees. This approach reduces resistance and is more cost-effective than large-scale changes.

- 2. Employee Involvement:** Central to Kaizen is the idea that the people doing the work are best positioned to identify the room for improvement. Hence, it encourages open communication and suggestions from all employees, fostering a sense of teamwork and ownership.
- 3. Process Orientation:** Instead of focusing solely on results, Kaizen aims to improve the processes that lead to results. This might include streamlining operations, reducing waste, improving workflow, or enhancing efficiency.
- 4. Standardization:** Improvements through Kaizen lead to changes in processes, and once a better method is identified, it becomes the new standard. This standard is continually improved upon, creating a cycle of ongoing optimization.
- 5. Quality Improvement:** By continuously implementing small improvements, the quality of products and services improves over time, which can lead to higher customer satisfaction.

OBJECTIVES AND BENEFITS:

- Increased Efficiency:** By continually identifying and eliminating wasteful practices, Kaizen helps in reducing costs and improving efficiency.
- Enhanced Competitiveness:** Continuous improvement helps organizations adapt quickly to changes and challenges in the business environment, maintaining their competitive edge.
- Employee Morale and Engagement:** Engaging employees in the process of decision-making and improvements makes them feel valued and part of the organization’s success.
- Better Quality:** Incremental improvements in processes typically lead to enhancements in product and service quality.

IMPLEMENTATION IN THE WORKPLACE:

Implementing Kaizen in a workplace typically involves setting up systems to solicit and implement improvement suggestions from employees. This can include regular meetings, suggestion boxes, and leadership encouragement. Training and educating employees about the philosophy and tools of Kaizen are also crucial to its successful implementation.

In practice, many global companies outside of Japan, across various industries, have adopted the Kaizen methodology due to its universal appeal and proven effectiveness. This strategy is not just limited to manufacturing but can also be applied in service sectors, healthcare, and education, among others.



ISIDOROS TSOUROS

Isidoros assumed the role of Research Assistant at EUAA in 2019. With over 25 years of experience as a legal professional, he has had a distinguished career, being elected as the President of a Greek Law Bar Association on two occasions. In 2022, he was elected to the USB Executive Committee as a representative from the Agencies Section. This article reflects his trade-union perspective and is written in that capacity.

TRADUIRE /
TRANSLATE



FÁBRICAS RECUPERADAS

Argentina’s recovered factories movement, known locally as “fábricas recuperadas,” refers to a phenomenon where employees take over the management and operation of factories that were abandoned or were at risk of closure due to financial mismanagement or economic crisis. This movement gained significant momentum during Argentina’s economic collapse in 2001 and 2002.

KEY ASPECTS OF THE MOVEMENT:

- 1. Origins and Causes:** The recovered factories movement emerged in response to the severe economic crisis that hit Argentina in the early 2000s, leading to widespread unemployment and social unrest. Many businesses faced bankruptcy, and owners often abandoned their factories, leaving workers without jobs and unpaid wages.
- 2. Worker Self-Management:** In many cases, the workers, rather than accepting unemployment, organized themselves to take over and restart production without the involvement of the original owners or new investors. These worker-controlled factories operate under a cooperative model, where decisions are made democratically, and profits are distributed among the worker-members.
- 3. Legal Framework:** The legal status of these takeovers has been complex and contentious. Initially, workers occupied the factories without formal legal approval. Over time, some cooperatives have been able to negotiate temporary or permanent expropriation laws through local governments, allowing them to legally manage the factories.
- 4. Support and Advocacy:** The movement has received support from various social movements, human

rights organizations, and left-wing political groups. The National Movement of Recovered Companies (Movimiento Nacional de Empresas Recuperadas) is one prominent organization that advocates for the rights of these worker cooperatives.

- 5. Impact and Success:** The movement has had a notable impact on the Argentine economy and society. Many of these cooperatives have not only saved jobs but have also proven to be viable economic alternatives to traditional capitalist enterprises. They often focus on community and worker well-being over maximum profit generation.
- 6. Cultural Influence:** The movement has also influenced cultural production, inspiring documentaries, books, and academic studies that explore themes of worker rights, economic alternatives, and social justice.

EXAMPLES:

Some of the most well-known examples of recovered factories include:

- Zanon Ceramics:** Now known as FaSinPat (Factory Without a Boss), this ceramic tile manufacturer in Neuquén became one of the movement’s symbols after workers took it over in 2001.
- Hotel Bauen:** Located in Buenos Aires, this hotel was occupied and run by its workers after its closure in the wake of the financial crisis.

The recovered factories movement in Argentina represents a significant example of worker resilience and ingenuity in the face of economic adversity. It raises important questions about workers’ rights, the role of the state in supporting or regulating such initiatives, and the viability of cooperative models in various economic sectors.





LA MODE DE LA DÉMOCRATIE À LA COMMISSION

Comment est-ce que la Commission européenne applique sa prétendue démocratie et en particulier ses relations de dialogue social avec les « corps intermédiaires » ?

La Commission européenne est une Institution qui est régie par le Statut. Elle essaie depuis plusieurs années, à l'instar de la société de donner l'impression à ces employés qu'elle pratique la démocratie en interne et ce malgré le fait qu'elle n'applique pas un modèle de cogestion comme ce serait le cas d'une coopérative ou les travailleurs définissent le devenir de la société. Car en effet, la Commission est un employeur mais un employeur qui comme toute organisation de sa taille et surtout avec ses responsabilités ne peut dans les faits que choisir un modèle de hiérarchie militaire directif qui est propre à toute administration depuis la création des États-Nations au 19ème siècle.

En effet, que cela plaise ou non, le bras exécutif est là pour exécuter les décisions du pouvoir législatif. Bien entendu, les règles génériques qui s'appliquent à l'environnement du travail issu de l'OIT ou de la législation européenne correspondante doivent y être appliquée ne fus-ce que parce qu'elles sont inscrites dans la déclaration des droits de l'homme et du citoyen reprise dans la charte des droits fondamentaux. Cependant comme préambule clair il faut rappeler que ces droits ne sont pas la tasse de thé de l'actuelle Commission comme l'USF l'a récemment exprimé dans son tract « le monologue (a)social de la Commission von der Leyen¹ ».

¹ <https://usf-luxembourg.eu/wp-content/uploads/2023/02/Monologue-esocial-FR.pdf>

Comment est-ce que la Commission européenne alors applique sa prétendue démocratie et en particulier ses relations de dialogue social avec les « corps intermédiaires » que sont les syndicats et le comité du personnel. Leur rôle formel est de veiller au grain, de demander, de dégager et de s'assurer de la mise en place de solutions aux soucis rencontré par les travailleurs. Le tract précité exprime quelques cas évidents de non-respect des règles du dialogue social qu'elle devrait pourtant garantir au regard des règles internationales. Ces manquements ont été porté à l'attention de l'EPSU et ils ont aussi fait l'objet d'une réponse de déni de la part de l'Institution elle-même. L'histoire portera son jugement de cette attitude. Il nous paraît cependant intéressant de détailler plus avant les approches utilisées pour contourner le dialogue social et donner un vernis de démocratie interne. Étant conscient que ces mêmes approches sont mises en œuvre dans d'autres organisations par d'autres employeurs.

Les approches peuvent-être regroupées en trois groupes qui sont d'ailleurs souvent utilisé en combinaison :

1. L'utilisation d'enquêtes (surveys) : Elle permet d'éviter les corps intermédiaires alors que ce sont ceux par qui la consultation doit avoir lieu ou au moins qu'elle doit être entendue avec ces corps. Aucune des consultations de ces dernières années n'a obtenu l'aval des corps intermédiaires. A l'instar des mauvaises enquêtes d'opinion ou de consommateurs, leurs questions sont dirigées et formulées

d'une manière qui influence le répondant. Elles sont rarement exhaustives et quand elles le sont, elle insiste beaucoup sur certains aspects et passent presque sous silence les aspects et obligation légales des sujets qu'elles abordent. Enfin, leur taux de participation effectif (le plus souvent (très) faible) est extrapolé à l'ensemble de la population concernée et elles sont souvent formulées pour faire la promotion de ce qui est bien fait et en particulier de ce qui est populaire. Cerise sur le gâteau, plusieurs de ces 'surveys' ont permis aux mêmes répondants de la remplir à plusieurs reprises. Quand leur sérieux sur ces points a été mise en doute, aucune réponse méthodologiquement solide n'a été fournie sauf d'exprimer « : la prochaine enquête tiendra en compte vos commentaires ». Quant aux conclusions publique qu'en tire l'administration, elle met en avant les réponses positives, qui bien entendu reprend les réponses neutres (position du répondant ni positive ni négative, donc neutre), minimise ou tait les aspects négatifs. Plus simplement, les résultats de certains surveys lancé a à grand renforts de publicité (pour augmenter la participation) ne sont apporté à l'attention du personnel.

2. La consultation directe des équipes concernées par un aspect qui les touchent directement. Le meilleur exemple est l'aménagement des espaces bureaux d'une équipe, d'un service. Les membres de l'équipe concernées par un changement en général imposée et irréversible sont consulté individuellement à nouveau sans aucune implication des corps intermédiaires, normalement obligatoire.

3. L'organisation des méthodes de travail, à large échelle ou à l'échelle d'un service. Par exemple décider du jour ou tout le monde sera au travail pour des réunions ou pour soutenir

tout autre aspect lié au travail dans un nouvel espace bureau. Encore une fois, aucune implication ou même information des corps intermédiaires, même pas pour les entités d'une certaine taille comme une Direction Générale (plusieurs centaines de travailleurs).

Ce qui est intéressant dans les deux derniers cas est que les législations nationales et internationales sont très claires sur les obligations de l'employeur et en particulier celles préalable à leur mise en place. En effet, l'employeur doit avant tout se conformer à une analyse de risque. Analyse qui en général est inexistante, voire existe mais n'est pas à jour ou se limite à deux feuillets de considérations générales. Enfin quand il s'agit de faire le point sur les changements, notre employeur fait des '100 days assesment' tout aussi laconique et élastique.

Comme nous l'avons exprimé en préambule et il faut en être conscient, tout ceci dénote aussi d'un phénomène de mode. La démocratie participative fleuri dans chaque États-Membres, au niveau européen et notamment aussi sur les réseaux sociaux organisés. Ce phénomène est celui ou on veut donner à chacun le sentiment que même s'il ne choisit pas, il est entendu et il peut avoir une influence sur le cours des choses. En cela, la démocratie étant le système le moins imparfait qu'il soit, fourni bien à la majorité ce sentiment. Il faut l'avouer, ce phénomène accompagne la démocratie depuis sa création mais n'est pas une preuve de démocratie en tant que telle.

Cependant aucune des approches précitées ne peut intrinsèquement se parer d'être démocratique. En effet la démocratie désigne au-delà d'un système politique dans lequel le peuple est souverain, un système de valeurs qui est complètement en défaut ici. Alexis de Tocqueville², définissait d'ailleurs la démocratie plus aux dimensions culturelles et psychologiques qu'au système politique en lui-même.

Mais alors à quoi servent ces approches ? A remplir des 'to do lists' probablement et certainement à gagner du temps et à donner ce sentiment, ce vernis de démocratie. Entretemps ; comme nous l'avons exprimé, les corps intermédiaires perdent de leur crédibilité et viendra vite le temps ou on se demandera à quoi ils servent. C'est d'ailleurs peut-être un des buts recherchés. Nous retournerons alors dans un âge sombre avec des petites baronnies avec l'espoir que si cela arrive, des temps meilleurs seront au rendez-vous car la démocratie est dans notre culture et certainement dans celle de l'USF.

² https://fr.wikipedia.org/wiki/Alexis_de_Tocqueville



ARTY KYRAMARIOS

Président USF-Luxembourg
2024 – présent

TRADUIRE /
TRANSLATE





THE HEAVY BURDEN OF LEGAL COSTS

THE HEAVY BURDEN OF LEGAL COSTS: AN OBSTACLE TO JUSTICE FOR AGENCIES' STAFF

If you ask the modern version of the Encyclopaedia Britannica, which would be to say AI, to comment on the “right to justice cannot be a privilege reserved for those who can afford to pay exorbitant legal costs”, it would propose a vast literature to you¹.

With all due reservations about the reliability of Artificial Intelligence, we take it as a basis for developing our concept

In cases brought by their own employees before the Court of Justice of the EU, the main EU institutions entrust the defence of their interests to lawyers from their own legal service, which implies that even if the Court rules against the worker, the costs they will have to bear will remain limited and reasonable.

This is not the case for Agencies, especially Regulatory agencies which, not having their own legal service, entrust their defence to external lawyers, often from law firms known for high levels of fees and expenses.

Therefore, in the event that the losing party is the Staff member, the amounts that the Court may order them to pay can be extremely high, unbearable both for the worker (let's not forget that, in Agencies, the vast majority of staff are precarious, therefore with low salary levels) and for the Trade Union that should support them in the appeal.

In a fair legal system, the right to justice cannot be a privilege reserved for those who can afford to pay exorbitant legal costs: justice must be accessible to all. When legal costs become excessive, this principle becomes a distorted reality. In cases of labor disputes, where workers often find themselves facing “employers” with incomparably greater financial resources, the issue of legal costs becomes even more critical.



¹ The principle that “the right to justice cannot be a privilege reserved for those who can afford to pay exorbitant legal costs”

PRINCIPLE: THE RIGHT TO JUSTICE CANNOT BE A PRIVILEGE RESERVED FOR THOSE WHO CAN AFFORD TO PAY EXORBITANT LEGAL COSTS

The principle that “the right to justice cannot be a privilege reserved for those who can afford to pay exorbitant legal costs” is firmly rooted in international human rights law, which emphasizes the universality, indivisibility, and inalienability of human rights, including access to justice.

1. **Universal Declaration of Human Rights (UDHR)**

- **Article 7:** “All are equal before the law and are entitled without any discrimination to equal protection of the law.”
- **Article 10:** “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”

2. **International Covenant on Civil and Political Rights (ICCPR)**

- **Article 14:** “All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”
- **Article 26:** “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.”

3. **European Convention on Human Rights (ECHR)**

- **Article 6:** “In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

PRACTICAL IMPLICATIONS AND ENFORCEMENT

The enforcement of this principle requires robust legal frameworks and effective mechanisms at the national level to ensure that legal aid is available, accessible, and of adequate quality. International bodies, such as the United Nations Human Rights Committee and the European Court of Human Rights, play a crucial role in monitoring compliance with these standards and providing remedies where violations occur.

CONCLUSION

The principle that the right to justice cannot be a privilege reserved for those who can afford to pay exorbitant legal costs is well-established in international law. It is grounded in the broader human rights frameworks that underscore equality before the law and the right to a fair trial. States are obligated to ensure that legal aid systems are in place to guarantee that all individuals, regardless of their financial status, have access to justice. This principle is essential for the maintenance of the rule of law and the protection of human rights globally.

Charging the losing party with the costs of the trial is meant to discourage frivolous legal actions, but in practice, it can have devastating consequences for workers. When a worker loses a case and is charged with the costs of the trial, in particular the costs of the opposite party for its defense in court, they may find themselves in an even more precarious financial situation than before.

This means that even if staff members are in the right, the mere risk of being forced to pay legal costs can deter them from pursuing the case. This leads to an obvious power imbalance in the legal system, where employers with larger financial resources can afford to intimidate workers with threats of legal costs, even when their position is unfounded.

Moreover, this practice is inherently unfair because it puts workers in a position of greater vulnerability. It could mean that a worker who has suffered an injustice in the workplace, such as unjustified dismissal or discrimination, may not be able to assert

their rights simply because they cannot afford the financial risk associated with a legal action.

The direct consequence of this situation is that employers (Agency Directors) may feel free to violate workers' rights, knowing that victims will think twice about seeking justice because of the excessive risks. This creates a vicious cycle in which workers feel powerless in the face of employer abuse, undermining confidence in the legal system and the principles of fairness and justice.

Because this is not about so-called “frivolous” cases that it is right to discourage, but about violations of the Staff Regulations or the Conditions of Employment of Other Servants against which the complaint (pursuant to art 90.2 of the Staff Regulations) is destined to be rejected in almost all cases, if only because the Authority deciding on the appeal is the same person who adopted or “covered up” the act against which the worker complains.



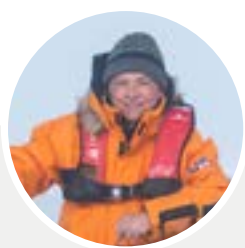
To reverse this trend, it is necessary to review the rules and practices relating to staff complaints and appeals, providing that:

- The decision on complaints (art. 90.2) be removed from the Agency Directors and entrusted to the Director-General of the "parent D.G." of the Commission or even better to the Director-General of the D.G. HR always of the Commission.
- Executive and Regulatory Agencies' Directors should receive policy directives inviting them to conclude Service Level Agreements with the Commission so that the legal defense of the Agencies in court is ensured by the Commission's own Legal Service : the implications for the workload of the Legal Service and the consequent questions of resources to be allocated to it must be weighed against the fundamental importance of ensuring the right to justice of all staff subject to Staff Regulations or Conditions of Employment of Other Servants (CEOS)
- Agencies' Directors should also receive policy directives to systematically instruct their lawyers not to ask, in their pleading, that Staff Members, if unsuccessful party, be condemned to pay the legal costs incurred by the Agency [articles 134(1) and 135(1) of the Court's Rules of Procedure.

Without such an intervention at the political level, Agencies' staff will be deprived of their basic right to seek justice in their labour disputes.

ARTICLE 134(1) OF THE RULES OF PROCEDURE

Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. However, according to Article 135(1) of the Rules of Procedure, if equity so requires, the Court may decide that an unsuccessful party is to pay only a proportion of the costs of the other party in addition to bearing his or her own costs, or even that he or she is not to be ordered to pay any.



CARLO SCANO

Secretary for Organization and Member of the USB Board, Member of the US Federal Committee

TRADUIRE /
TRANSLATE



FRONTEx: TRANSITIONING TO A MORE DEMOCRATIC WORKPLACE HAS STARTED

In Frontex, we're lucky. Not because we already enjoy a mature democratic workplace but because the transition towards a more democratic workplace has started. Routine agency-wide Town Hall meetings with the Executive Director; initiatives seeking the views and opinions of staff to shape leadership culture; and the recent publication of a Transparency Policy reflect just a few of the activities which bear the hallmarks of an evolving organisational culture that is keen to embrace democracy in the workplace. Now is the time to strengthen Frontex by engaging the USB to open-up new opportunities and ways for staff to have a say in how their organisation is run.

Unfortunately, Union engagement with the agencies is in its infancy, and overcoming possible institutional hesitation towards establishing ties with an outside body could present certain challenges. In 2023, fourteen Frontex USB members voluntarily came together to form an interim committee to coordinate their work to establish a Framework Agreement with the agency. Organising themselves into specific areas of responsibility including targeted engagement with Executive Management, their actions directly supported a first formal meeting between the President of Union Syndicale Bruxelles, Niels Bracke and the Frontex Executive Director in November 2023. This moment appears to have marked a turning point for the agency and the USB. For the Frontex USB interim committee, the meeting has buoyed confidence in a collective sense of *raison d'être*, reassuring colleagues that Union interests are welcomed at the top levels of the organisation. With a new sense of purpose, the interim committee has continued to support the Union with background material and professional input on member requests. This work has also entailed leading social dialogue between agencies on teleworking. Coordination with the Frontex Staff Committee has been greatly facilitated by the inclusion of two of its representatives in the interim committee, and as momentum has continued to gain pace, two interim committee members, Didier Godard and Glenn

Sanna recently became associate members to USB, a voluntary status enjoying routine and enhanced levels of engagement with the Union.

We are at the start of our journey but have high hopes of soon being able to formalise Union engagement in a Framework Agreement with Frontex. In June, Niels Brake will return to Warsaw to hold a session with all staff on EU Staff Regulations. For the first time, the event will be hosted at Frontex HQ. Democracy at work means empowering people with knowledge so that they know how to make a difference, as well as giving them opportunity to do so. This opportunity is gradually being leveraged by the actions of the agency and it's time to capitalise on this momentum by ensuring that our own good intentions are bolstered by democratically establishing the Frontex interim committee. Democracy in the workplace means giving a voice to staff so that their interests are properly represented in the activities of the agency, both today and in the future. As Frontex continues to evolve and open-up to new levels of transparency, there's no better time than now to strengthen ties with the USB.



TIMOTHY BOWER

Member of Union Syndicale Bruxelles Agencies at Frontex

TRADUIRE /
TRANSLATE





LA COOPÉRATION AU DÉVELOPPEMENT : ÉVOLUTION, NOUVEAUX ACTEURS ET DÉMOCRATIE

Au cours des dernières décennies, la coopération au développement a évolué pour s'adapter aux nouveaux défis mondiaux

La coopération internationale pour le développement a connu une évolution significative au cours des 30 dernières années, marquées par des changements géopolitiques majeurs et l'émergence de nouveaux acteurs. Face à ces défis géopolitiques et économiques, l'Europe est demeurée résolue à promouvoir la démocratie dans sa coopération internationale, cherchant ainsi à concilier les impératifs politiques et économiques pour contribuer à la stabilité et au développement des pays partenaires.

Au cours des dernières décennies, la coopération au développement a évolué pour s'adapter aux nouveaux défis mondiaux. Elle est passée d'une approche axée sur l'aide plus traditionnelle à une approche plus holistique de développement, alignée sur les Objectifs de Développement Durable.

L'émergence de nouveaux acteurs tels que la Chine, l'Inde, la Russie et d'autres pays en développement, ainsi que les acteurs

du secteur privé, a profondément modifié le paysage de la coopération au développement. Ces nouveaux acteurs proposent souvent des modèles alternatifs de coopération, remettant en question la prédominance des approches traditionnelles occidentales.

Bien que la société civile reste un acteur clé de la coopération au développement, le secteur privé joue un rôle croissant dans le financement et la mise en œuvre de projets de développement. Il apporte des capitaux, des technologies et des compétences spécifiques. Cependant, cela peut soulever des questions sur la responsabilité sociale des entreprises et la primauté du profit par rapport à l'impact social et environnemental.

Les valeurs européennes telles que la démocratie, les droits de l'homme, la bonne gouvernance et la durabilité environnementale ont historiquement été au cœur de la coopération au développement de l'Union européenne. Cependant, leur

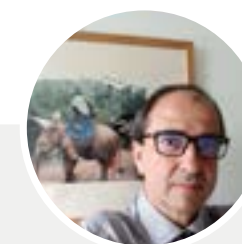
pertinence et leur efficacité pourraient être remises en question à la lumière des changements géopolitiques et des nouveaux défis mondiaux. Cette nouvelle concurrence pourrait mettre en tension les valeurs démocratiques défendues par l'Europe dans sa coopération avec les pays partenaires.

Pourtant dans ce nouveau contexte où la coopération au développement est devenue un terrain de compétition entre les acteurs mondiaux pour influencer les politiques et les ressources des pays en développement nécessaires à la réussite de la double transition -numérique et verte-, l'Europe continue de maintenir son engagement à promouvoir les valeurs démocratiques tout en s'adaptant aux nouvelles réalités.

L'UE cherche à concilier ses objectifs économiques avec ses valeurs fondamentales, en veillant à ce que ses investissements contribuent au renforcement des institutions démocratiques et à la promotion de la gouvernance inclusive et participative dans les pays partenaires¹.

¹ https://international-partnerships.ec.europa.eu/policies/peace-and-governance/democracy_en?prefLang=fr&etrans=fr

Ce changement de paradigme n'en n'est encore qu'à ses débuts et exigera à l'avenir de poursuivre l'adaptation de la coopération au développement, dont le nom pourrait être modifié pour refléter au mieux cette nouvelle réalité mondiale. En tout cas, l'Europe devra trouver un équilibre entre la défense de ses valeurs fondamentales et les impératifs géopolitiques et économiques.



ANTONIO CRESPO MORENO

Membre de l'U.S.B. (section Commission) , Fonctionnaire à la Commission Européenne depuis 1990

TRADUIRE /
TRANSLATE



CARTE D'ORGANISME USF

