

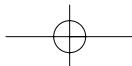
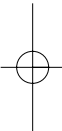
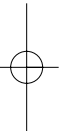
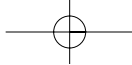
Study about the identification and analysis of the best practice in industrial relations of self-employed in Europe

“A new European study to identify and analyze the best practices and strengths of the industrial relations of self-employed workers: representation beyond administration, the possible leadership of SME”

EUROIRSE



With the financial support of the European Commission



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GianMarco Gilardoni (Felsa Cisl), scientific coordinator
In collaboration with the EUROIRSE Consortium

The Euroirse Consortium is constituted by the following institutions

FELSA CISL Lombardia – IT
ALFA SCARL Lombardia – IT
Carpathian Foundation Hungary – HU
Carpathian Foundation Slovakia – SK
Institut d'études politiques de Grenoble (IEP Grenoble) – FR
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Labour Institute of Greek General Confederation of Labour (INE) – GR
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Authors

GianMarco Gilardoni, Felsa Cisl Italy, a trade union
Massimiliano Di Bitetto, senior scientist, Italian National Research Council
Vesselin Mitov, Confederation of Labor PODKREPA Bulgaria, a trade union
Laurent Labrot, IEP Insitute d'études politiques de Grenoble – Edias France, University
Sofia Lampousaki, INE Labor Institute of Greek General Confederation of Labor, Greece, a research center,
NGO-trade union based
Bogárka Bata, CF Carpathian Foundation Hungary, an NGO Foundation
Grzegorz Piskalski, Centrum CSR Poland an NGO / Robert Geisler (University)
Peter Dzupka, Laura Dittel, CF Carpathian Foundation Slovakia, an NGO Foundation
Alexis Serra, CTAC Confederació de Treballadors d'Autònoms de Catalunya, Spain, trade union
Dolores Forgione, Associazione ISES Istituto Europeo per lo Sviluppo SocioEconomico, an NGO consultancy
Paolo D'Anselmi, Simone Morganti, Private Non Profit (PNP) consultancy

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Paola D'Alessandro
Mauro Braghin

Corresponding author

Paolo D'Anselmi
paolodanselmi@gmail.com
Via Vigliena, 10
00192 Rome
Italy

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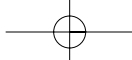


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Overview

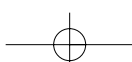
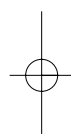
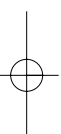
Table of contents

Executive summary	11
Part I – The ordinary world of trade unions	
Chapter 1. The self-employed as the unknown worker	17
Part II – Field work: best practice across Europe	
Chapter 2. Legal status and working conditions of self-employed persons in Bulgaria	35
Chapter 3. Three layers of France	45
Chapter 4. Lawyers and engineers in Greece	47
Chapter 5. Tax Simplification in Hungary	53
Chapter 6. Upstream negotiation for newspaper vendors in Italy	55
Chapter 7. Taxi cab deregulation in Poland	59
Chapter 8. Zero km produce in Slovakia	71
Chapter 9. The legal status for the self-employed in Spain	73
Part III – Learning from experience	
Chapter 10. Understanding the superstructure	87
Chapter 11. Towards an ecology of industrial relations	117
Chapter 12. SMEs as the Unknown Stakeholder of European social dialogue	129
Chapter 13. Understanding the Unknown Stakeholder	141



Part IV – What is to be done? Recommendations

Chapter 14. Separating the beautiful from the useful	157
Bibliography	161



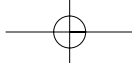


Table of contents

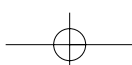
Executive summary	11
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Part I – The ordinary world of trade unions

Chapter 1. The self-employed as the unknown worker	17
1.1. The marginal status of SMEs in the social dialogue	17
1.2. The non sequitur of current policy between final goal and tactic scope	18
1.2.1. The Eurofound Study	18
1.2.2. The final goal of representation: economic growth	18
1.2.3. The tactic scope of representation: pay and benefits	19
1.3. In search of a link	20
1.3.1. The research question: beyond administration of work	20
1.3.2. Methodology. Top-down: statistics and theory; bottom-up: cases of best practice ...	20
1.3.3. Deployment of activities	21
1.3.4. Work-plan	22
1.3.5. Transnational dimension	22
1.3.6. Evaluation and monitoring	23
1.3.7. Added value of this action	23
1.3.8. Results, Outputs and Deliverables	24
1.3.9. Multiplier effect and dissemination plan	24
1.4. The difficult divide between employees and the self-employed: statistics show large numbers of workers	25
1.4.1. Range of observation / statistics	25
1.4.2. Looking at the total workforce	25
1.4.3. The difficult divide between employees	28
1.4.4. The legal basis of self-employment in Europe	29

Part II – Field work Best practice – country chapters

Chapter 2. Legal status and working conditions of self-employed persons in Bulgaria	35
2.1. Main characteristics of self-employment in Bulgaria	35
2.2. Main characteristics of self-employed persons in Bulgaria	36
2.3. Legal status of self-employed persons in Bulgaria	37



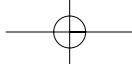
2.4. The Insurer	38
2.5. The self-employed individual	38
2.6. The registration as self-employed persons	38
2.7. The working conditions of self-employed persons	39
2.8. The self-employment and informal employment in Bulgaria	41
2.9. The self-employment and informal employment in tourism sector	41
2.10. Conclusions	42
Chapter 3. <i>Three layers across the board in France</i>	45
Chapter 4. <i>Lawyers and engineers in Greece</i>	47
4.1. Problem finding	47
4.1.1. The case of the lawyers	47
4.1.2. The case of the engineers	47
4.1.3. General objectives, aims	48
4.2. Quality and innovativeness of the process or product	49
4.2.1. The case of the lawyers	49
4.2.2. The case of the engineers	49
4.2.3. Transferability and multiplier effect	50
Chapter 5. <i>Tax simplification in Hungary</i>	53
5.1. Simplified entrepreneurial tax	53
Chapter 6. <i>Upstream negotiation of newspaper vendors in Italy</i>	55
6.1. Adequacy and completeness of the logical framework of the project design and implementation .	55
6.1.1. Problem finding	55
6.1.2. General objectives, aims	55
6.1.3. Expected results	56
6.1.4. Activities	56
6.1.5. Dissemination strategy of the results	56
6.2. Quality and innovativeness of the process or product	57
6.2.1. Process or product	57
6.2.2. Organization and management of the resources	57
6.2.3. Partnerships	57
6.2.4. Counterparts	57
6.2.5. Relationships with recipients and contacts	57
6.2.6. Monitoring and evaluation and dissemination	58
6.3. Transferability and multiplier effect	58
6.3.1. Ability of the best practice to be reproduced in the presence of similar problems or similar to those that originated it	58
6.3.2. Ability of the best practice to be used as a model for different problems or situations than the ones where it was implemented	58
Chapter 7. <i>Taxi cab deregulation in Poland</i>	59
7.1. Introduction	59
7.2. Polish context	59
7.3. Self-employment in Poland – the legal definition	61
7.4. Pros and cons of self-employment in Poland	62
7.5. Do self-employed in Poland take part in the social dialogue?	63
7.6. Best practice of representation of the self-employed	65

7.7. Good practice – leadership and representation	66
7.8. Analysis of good practice	68
7.8.1. Step one: the logic of action	68
7.8.2. Step two: quality and innovation of the process	68
7.8.3. Step three: a multiplier effect and the transfer of experience	69
7.9. Conclusions	69
7.10. Sources	69
Chapter 8. Emerging farmers' markets in Slovakia	71
8.1. Introduction – problem finding	71
8.2. What has happened in Slovakia – activities on the EU level and the national level	71
8.3. Results and good practices in Slovakia	72
8.3.1. Farmers on the Internet	72
8.3.2. BIO for you (Bratislava)	72
8.3.3. LETS (local exchange trading system family farm)	72
8.3.4. Local food community	72
Chapter 9. The legal status of the self-employed in Spain	73
9.1. Adequacy and completeness of the logical framework of the project design and implementation	73
9.1.1. Introduction to the LETA	73
9.1.2. Content	74
9.1.3. Other rights referred	75
9.2. Quality and innovativeness of the process or product	77
9.2.1. The self-employment Board	77
9.3. Multiplier effect and Transferability	84

Part III – Learning from experience

Chapter 10. Understanding the superstructure	87
10.1. Introduction	87
10.2. Cases in agriculture	88
10.2.1. Bulgaria	88
10.2.2. France	88
10.2.3. Greece	89
10.2.4. Hungary	91
10.2.5. Italy	93
10.2.6. Poland	95
10.2.7. Slovakia	97
10.2.8. Spain	99
10.3. Cases in product and service sales and promotion	103
10.3.1. Bulgaria	103
10.3.2. France	103
10.3.3. Greece	104
10.3.4. Hungary	106
10.3.5. Italy	108
10.3.6. Poland	111
10.3.7. Slovakia	112
10.3.8. Spain	113
10.4. Conclusion	116

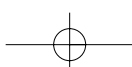
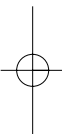
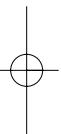
Chapter 11. Towards an ecology of industrial relations	117
11.1. Analysis of best practice	117
11.1.1. Dissecting best practice: the components of representation	117
11.1.2. Understanding the country cases through an analytic framework	117
11.2. Itemized discussion	118
11.2.1. Grey tourism in Bulgaria	118
11.2.2. Three layers across the board in France	118
11.2.3. Employee-lawyers and engineers in Greece	119
11.2.4. Tax simplification in Hungary	119
11.2.5. Upstream negotiation in Italy	120
11.2.6. Taxi cab deregulation in Poland	120
11.2.7. Emerging farmers' markets in Slovakia	120
11.2.8. A legal status for the self-employed in Spain	121
11.3. Conclusions	121
11.3.1. Awareness of public administration	121
11.3.2. Highlighting private counterparts	122
11.3.3. Learning from experience	122
11.3.4. Conference questions	123
11.4. Rules, rules, rules: where is the work?	123
11.4.1. Critique of mainstream thinking	124
11.4.2. Winning a battle with government	124
11.4.3. The broken triangle of governance	124
11.4.4. Stakeholder analysis	125
11.4.5. Top-down critique	126
11.5. A theory of change	126
11.5.1. Scope vs. goal of representation	126
11.5.2. The economy as a soufflé	126
11.6. An ecology of industrial relations	127
11.6.1. The fault of the others	127
11.6.2. Ecology as awareness of the total (without abandoning current practice)	127
11.7. Best practice revised	127
11.7.1. Revising the task of the trade unions	127
11.7.2. Strategic issues in worker representation	128
Chapter 12. SMEs as the unknown stakeholder of European social dialogue	129
12.1. The logic of collective action by the SMEs	129
12.2. Amending Michael Porter: "collaborative" advantage	131
12.2.1. Why then "collaborative" instead of competitive advantage?	132
12.2.2. Competition as collaboration	132
12.2.3. Consistency of Porter with theories of economic development	134
12.3. Anatomy of the economy	134
12.3.1. Effectiveness is driven by competition	134
12.3.2. Partitioning the workforce according to the collaborative advantage	134
12.4. What is at stake	136
12.4.1. Measuring the sectors' private benefits and social costs	136
12.4.2. Over-compensation of government and monopoly employees	136
12.4.3. A stake of one hundred billion euro per year	136
12.4.4. The cost of non-government	137
12.5. The collaborative divide: the new class struggle	137
12.6. SMEs as the unknown stakeholder of social dialogue	139
12.7. Small is not beautiful but it is useful: a political opportunity	139

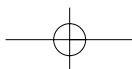
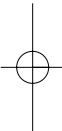
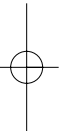
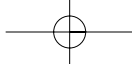


Chapter 13. Understanding the Unknown stakeholder	141
13.1. Unknown Stakeholder and Corporate Social Responsibility	141
13.1.1. Irresponsibility and the Unknown Stakeholder framework	142
13.1.2. Criticizing mainstream stakeholder approach	142
13.1.3. The Unknown Stakeholder across sectors	143
13.1.4. The Unknown Stakeholder and the government	145
13.1.5. Convergence of Corporate Social Responsibility and public policy analysis	146
13.2. Contribution to cost benefit analysis	146
13.3. The “immorality” of organizations	147
13.3.1. Society as master plan: a moratorium on Archie Carroll’s pyramid	147
13.3.2. The muddling through hypothesis	149
13.3.3. The evasion of taxes	150
13.3.4. The evasion of work	150
13.3.5. Irresponsibility “until proven otherwise”	151
13.3.6. The dynamics of social collaboration	151
13.4. Accountability of work: the inherent morality of small business	151
13.4.1. Measuring accountability	152
13.4.2. Mapping irresponsibility throughout the economy	153
13.5. The Unknown Stakeholder resulting from muddling through	153
13.5.1. Deriving the Unknown Stakeholder from experience	153
13.5.2. Deriving the Unknown Stakeholder from the theory of muddling through	153

Part IV – What is to be done? Recommendations

Chapter 14. Separating the beautiful from the useful	157
Bibliography	161





Executive summary

Representation in Europe: MSMEs and the self-employed

Workers represented by the trade unions in Europe are the workers of government and, in minor share, the workers of large enterprise. Therefore, we embarked on an investigation on how and to what extent can the self-employed and the micro-enterprise workers be represented in the social arena. This is a study about the identification and analysis of the best practices of the self-employed in industrial relations Europe. [Chapter 1.]

We leverage important previous work that has conceptualized the scope of representation and the general goal of workers representation. The scope of representation is defined as the answer to the following question: towards whom and in what specific interest is representation being performed? The general goal of workers' representation is defined as "economic growth and greater employment". [Chapter 1. > 1.2. The non sequitur of current trade union policy: between final goal and tactic scope > 1.2.1. The Eurofound Study]

Our research question was stated as a quest "to identify the best practices of leadership in the representation of self-employed work. This process will lead to the definition of a set of specific instances whereby representation has taken place in an innovative way. Specifically, to identify the best practices, the project will refer to instances whereby representatives of the SMEs represent both the employer and their employees; the counterpart is the government, work performed in market conditions is assumed as a value". [Chapter 1. > 1.3. In search of a link > 1.3.1. The research question]

Towards an ecology of industrial relations: analysis of best practice

Our method has been to perform desk and field research and group debate as we have a heterogeneous partnership, involving organizations linked to industrial relations, such as research centers and institutes, non-profit making organizations and self-employed trade unions, which represent several stakeholders and different European countries: Bulgaria, France, Greece, Hungary, Italy, Poland, Slovak Republic and Spain." [Field work is in Chapters 2-9] Our method also includes theoretical work in the field of micro-economics, management science, corporate social responsibility, organizational sociology and the economics of bureaucratic behavior. [Chapter 1. > 1.3. In search of a link > 1.3.2. Methodology]

Our field work identified instances that are regarded as best practice and we tried to make innovation explicit with respect to the different scopes of representation itself. We found that best practice is often times linked to winning battles with government: a higher or a new tariff for the represented category, a new protection. In other instances there was business to business negotiation, reminding us of the basic and historic rationale for trade union action: the labor – capital conflict. [Chapter 11. > 11.1. Analysis of best practice > 11.1.1. Dissecting best practice: the components of representation]

When MSMEs look at the whole workforce in society, we say that they are working towards an ecology of industrial relations. [Chapter 11. > 11.6. An ecology of industrial relations]

Beyond Michael Porter's theory: collaborative advantage

We then tried to link the scope of representation that we observed — in what we thought of as best practice — to the above stated general economic goal of greater employment and economic growth. Here we found that the general (macro) goal of employment and growth does not seem to follow very smoothly from the micro practice revealed by the scope of representation. We argue that there is a failure of representation here, a missing link: the kind of representation that we found in our field research does not imply (or is not implied by) a theory that makes greater employment and economic growth follow from the observed scope of representation. [Chapter 10.] We decided to present a different rationale.

This rationale — the micro-macro theoretical link that generates the framework within which specific action proposals should be developed — is then established by our work with the Michael Porter theory of competitive advantage through the diamond framework of forces affecting the economic performance of businesses. The Porter theory says that businesses do not succeed alone. Businesses succeed in an environment that is conducive to business and this social and economic environment of business is made of effective public and private institutions. [Chapter 12. > 12.2. Amending Michael Porter: "collaborative" advantage]

This theory means that all workers must be doing their bit, both those in business and in government, monopoly and non-profit sectors. It is thanks to this collaborative effort of all workers in all different sectors of the economy — including government — that we would rather call the Porter theory one of "collaborative" advantage rather than competitive advantage: in order for two identical companies to compete effectively, they must have the collaboration of all other institutions and companies in their environment, such collaboration being in turn spurred by competition and accountability of each institution and company in their own industry or sector. [Chapter 12. > 12.2.1. Why then "collaborative" instead of competitive advantage?]

Representation does not look at society as a whole

Use of Michael Porter's theory is not new on the part of businesses as guidance to generate their claims vis-à-vis government. This theory led to the mainstream "cost of doing business" approach whereby businesses and their representatives calculate the cost of regulation on business vs. a hypothetical, unregulated world. In our opinion, this approach is flawed in two ways. First it assumes as benchmark an unregulated world, which is hardly a defensible proposition. Second — and most important — it does not show full understanding of the Porter diamond framework, which is one that squares with all theories of economic development whereby solid institutions appear as the first and most important factor of economic development [Perkins].

We take Porter one step forward and draw consequences from his conceptual framework. Michael Porter taught us to look at society as a whole instead of the individual industries or individual business sectors (such as textile or automobile); that is, to look at the effectiveness of each worker's contribution to society. Such effectiveness — or accountability of work — is a positive function of work (and organizations) being subject to competition: literature on organizational sociology and the economics of bureaucratic behavior, as well as our previous work on social responsibility, warrant such causality. We then expand the analysis of business-government interaction to business interaction with the rest of society and government per se, instead of looking only at the frontier of strict government-business interaction. We perform such an analysis by looking at all the economic macro sectors, identified on the basis of their being subject — or not — to competition: government, monopoly and non-profit sectors. This operation leads to the partition of all workers (employers and employees) into two classes: workers who are subject to competition and workers who are not. [Chapter 12. > 12.6. SMEs as the unknown stakeholder of social dialogue]

In the cases from the field we detect intimations of a cross-classes scope of representation, i.e. categories of workers vs. categories of workers, which is, however, far from being explicit. Representation does not look at society as a whole; it does not look at other categories of workers, except in the case of top management (be it the politicians or other leaders in society). [Chapter 14. > 14.2. What is to be gained? > 14.2.2. Rewards for society as a whole]

The silent class struggle: micro-enterprise as the unknown stakeholder

To bring such evidence to fruition we develop the concept of the collaborative divide within the whole workforce in society. In fact, the analysis of work subject to competition and accountability identifies the opposing parties in the current silent class struggle that is taking place in our societies: workers vs. workers, workers sheltered from competition vs. workers subject to domestic and international competition. This new class struggle is different from the Marxian class struggle in that it is one whereby workers are exploiting other workers. It is not the Marxian labor-capital class struggle. The two struggles co-exist. Which one has more impact on society is a matter for further research. So we take the role of small business in social dialogue from an issue of the cost of doing business to one of class conflict. [Chapter 12. > 12.3. Anatomy of the economy > 12.5. The collaborative divide: the new class struggle]

The new possible scope that we think is performant vis-à-vis the general goal of economic development is that of representing the interests of the self-employed and of the micro-enterprises vis-à-vis the rest of the workers. This is the hidden resource of micro-enterprises, both of their entrepreneurs and of their workers. Micro-enterprise is the unknown stakeholder in our social arena. This is also an opportunity for capitalism: only by taking into account the value of the accountability of work in society can capitalism evolve and create social justice. [Chapter 12] The value of the accountability of work — embedded in micro-enterprise — is an unacknowledged resource of the politics of Europe, indeed of the whole world. [Chapter 13. > 13.4. Accountability of work: the inherent morality of small business]

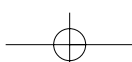
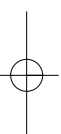
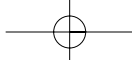
New representation: collaboration among all sectors of society

The concept of the unknown stakeholder has wider implications for theory and social analysis, engendering a framework that looks at costs and benefits based on the values of implementation, disclosure and micro-ethics. [Chapter 13.]

Having assumed a different rationale for the link between the general goal of representation and the micro activity of individual representative bodies, we hypothesize change management for the representative bodies in order to identify tasks at the micro level that may implement a view that goes beyond the cost of doing business. [Chapter 14. > 14.1. Innovation at hand > 14.1.2. Criticizing the cost of doing business approach]

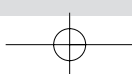
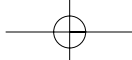
Different from previous recommendations that have been formulated in this arena (stricter enforcement of regulation, fighting the informal economy), our recommendations focus on finding values that the representative bodies of the self-employed and of micro-enterprise can leverage vis-à-vis the rest of society to gain leadership and a larger share of the resources that are being diverted from productive sectors to bureaucratic sectors, [Chapter 12.] whose contribution to growth and employment is questionable when the Porter model of competitive advantage is taken seriously to its ultimate consequences. [Chapter 13.]

Instead of calling for stricter enforcement of regulations and restrictions of competition in their own sectors, the leaders of micro-enterprises could call for more collaboration among all sectors of society, thus curbing the share of domestic product that goes to bureaucratic work. Strong because of their accountability — being subject to competition, as we argued above — MSME representatives could add new scopes to their way of representing their workers. This is what we call shifting from industry and sector lobbying (fighting for their own interests, paying no attention to what other workers are doing) to cross class conflict: paying attention to how all the resources of society are being divided and how much each worker's work is accountable and socially productive so that it has a positive impact on economic growth and employment. [Chapter 14. > 14.1.3. Monitoring collaboration across sectors: a new scope for SME representation]



Part I

The ordinary world of trade unions



Chapter 1

The self-employed as the unknown worker

1.1. The marginal status of SMEs in the social dialogue

The recognized workers in social dialogue are the usual suspects: government workers, workers in monopolies, in the banks and in large corporations. Self-employment and micro-enterprise (as well as small and medium enterprise) have a marginal status in the social dialogue. This is why research is funded to work out a possible representation for the unknown workers of today: the self-employed and the workers of micro, small and medium enterprise, MSMEs.

Actors the social dialogue are not a representative sample of the workforce or of wider society. They are a biased sample of the stronger categories: large corporations (on the side of business) and large trade unions (on the side of labor), these last representing mostly government employees and workers from the large corporations. Other employees and workers (including the self-employed and the micro-entrepreneurs) are marginalized in short term lobbying and tactical skirmishes over tax regulations. The big guys are indeed hegemonic in society. We intend to talk about the [unknown] unrecognized self-employed, including the micro-entrepreneur with less than 10 employees (small enterprise ends at 50 employees). Thus we will be talking about MSMEs: micro, small and medium enterprise, following the World Bank definition [Kozak, 2007].

MSMEs need a vision. They are marginal in the political arena, and fight a retro guard battle for 'fiscal reform' to clean up the social stigma of tax evasion — notwithstanding the fact that, at the same time, they pay the income taxes of their employees. They are united under no flag. There is no governing thought to their unity.

MSMEs survive in a permanent Cinderella state of their fiscal predicament. They are perceived alternately as a weakness or a strength of society and the economy. They do little technological innovation. However, they do make a great deal of effort to serve local communities. And every human being is, ultimately, resident in a local community. MSMEs are often considered within the framework of 'business and community', which is a credo that needs to be elaborated, and their role of 'social shock absorber' can be amplified when appropriately analyzed and developed. These key words are good analytical tools, but they lack charisma and visibility; they lack that sense of scandal and novelty that 'competition' may bring into the political debate.

Also the important Eurofound study (which we will introduce shortly) says: "practically no business representation exists as such for self-employed workers as own-account workers without employees. Rather, they have essentially to refer to professional associations, small and medium-sized enterprises (SMEs) or general employer associations, as well as to public representation bodies, such as the Chambers of Commerce."

The overall end result is that the self-employed are the unrecognized [unknown] worker of European economies.

1.2. The non sequitur of current trade union policy: between final goal and tactic scope

1.2.1 The Eurofound study

The subject of our research is representation of self-employment and micro-enterprise. We believe one important publication to date on this subject is the study by Roberto Pedersini, Diego Coletto and Christian Welz, "Self-employed workers: industrial relations and working conditions, European Foundation for the Improvement of Living and Working Conditions, 2010, produced by the Office of Publications of the European Union. In this text this study will be quoted as the Eurofound study, simply Eurofound, or Pedersini et al. Therefore, we begin this book by discussing and presenting two of their key points constituting an important framework for work in the area of worker representation: the final goal of representation; and the tactical scope of representation.

We must admit one limitation of our study here, which is better specified in Eurofound: when speaking of the self-employed and of micro-enterprise, trade unions and business associations must be taken into account. A distinction between the two can only be made with respect to the scope of representation. In our initial study proposal, we did not consider business associations, at least in its formal wording.

It is interesting to draw a distinction between a trade union and a business association as it may lend to discussion. A trade union is more employee oriented; a business association is entrepreneur oriented. In the case of the self-employed, this distinction does not exist as the two figures (employee and entrepreneur) tend to coincide. We can also make a distinction on the basis of the scope of representation. A trade union represents workers vis-à-vis entrepreneurs; a business association represents workers vis-à-vis government.

1.2.2 The final goal of representation: economic growth

In the Eurofound study the final goal of representation is defined after the policy pointers are introduced. Pedersini et al. give the following {page 3} four policy pointers:

1. "...In order to lessen the association between self-employment and the informal economy, as well as eliminate bogus self-employment, stricter enforcement of existing regulations and the development of new tools to face irregular situations, with the active involvement of the social partners, could constitute a timely and adequate policy response.
2. "...Recent market deregulation policies have enabled more people to enter specific activities as self-employed workers, thus contributing to employment creation and economic growth. Nonetheless, it is important to ensure that such business-friendly policy measures are not introduced to the detriment of adequate economic rewards and social security protection.
3. "...As Spain has done in recent years, other Member States could take steps to support policies to bring the conditions for self-employed workers closer to those of employees with regard to maternity and parental leave.
4. "...Problems associated with some characteristic features of self-employed workers — low earnings, discontinuous work, low skills, long and non-standard working hours, the high incidence of industrial accidents and work-related health problems — require comprehensive measures at national and EU levels. Such policy measures should include welfare provisions, training initiatives, business support services and the promotion of collective representation, where appropriate, with a relaxation of

competition rules. Policies in this regard would support the creation of more and better self-employment opportunities.

It should be noted that these problematic combinations represent the weakest areas of self-employment.

The Eurofound conclusions go on to state: “Such measures, however, should be clearly defined, in order to maximize the use of resources and avoid more wide-ranging measures that would almost inevitably be of limited impact. This again highlights the crucial contribution that further and more focused research can give to the development of policies to support the improvement of working and employment conditions of self-employed workers, as well as to strengthen their contribution to more sound and sustainable economic growth — in other words, to create more and better self-employment opportunities.”

We take these last words as the ultimate metric of worker representation: economic growth and employment. This strategic goal appears that much more important in the wake of the economic crisis that began in 2007 and still looms around the world, especially in the countries represented on the panel working on this study.

1.2.3. *The tactic scope of representation: pay and benefits*

This discussion of the Eurofound study aims to conceptualize and identify the scope of representation. Pedersini et al., in fact, bring into the foreground the notion of the scope of representation, which is often taken for granted, and identify (albeit implicitly) a taxonomy of the possible scopes of representation. It is important that we bring those into the foreground.

We will use this work – in chapter 10 - to analyze the scope revealed by best reported practices.

Eurofound deals with “Collective representation of self-employed workers” in chapter 5 page 39. In the first section of this chapter, called “Trade union representation”, the study says: “Trade unions traditionally organize self-employed workers in some quite specific professions characterized by high skills and significant autonomy in the performance of their work, such as journalists and performing artists.” And adds: “They are hired on standard employment contracts and trade unions essentially try to regulate such standard contracts.” This is the first definition of the scope of trade unions.

The study shows awareness of the scope of representation and conceptualizes it: “Another sector with a high incidence of self-employed workers and where trade unions often have an established representation is construction. In transport, especially in road haulage, the situation is more mixed, but trade associations seem to prevail, even if there are recurrent debates on whether trade unions should more clearly try to organize (or involve) self-employed truck drivers alongside employees.”

There is also an example of the “employee-fying” approach to representation of the self-employed: “In addition to these types of workers, in recent years trade unions in a number of countries have tried to extend their representation to new groups of workers which are formally self-employed but have a less clear-cut professional identity. This is particularly the case where new types of employment contracts have been introduced in recent years in the context of labor market deregulation – or even with the aim of normalizing formerly unregulated positions. In few countries, self-employed workers seem to be substantially outside the scope of trade union representation and they do not represent a significant concern, as they are organized in very limited professional areas.”

In a subsequent section of chapter 5, called “Employer representation”, (page 47), the Eurofound study also shows awareness of the scope of representation: “In most cases, self-employed workers are regarded as entrepreneurs and (potential) employers. Their typical collective representation is therefore to be found within the boundaries of business associations, sometimes with a general interest representation role with regard to public authorities and without specific employer representation functions.” So Eurofound defines two different scopes of representation: a general interest representation role with regard to public authorities and without specific employer representation functions.

Eurofound clarifies this by adding: “A feature of this kind of representation is the almost exclusive attention to the entrepreneurial aspects of the role of self-employed workers, while the issues of personal work are almost always neglected.” Here, too, are two different scopes: the entrepreneurial aspects of the role of self-employed workers and issues of personal work, which Eurofound states include: incompetence building and training; lack of entrepreneurship and managerial skills; and health and safety, sometimes with a view to obtaining more lenient rules than for employees, for instance on working time.”

It is most helpful to concentrate on one relevant aspect in order to make the debate cumulative and as specific as possible. In presenting our work we place it within the framework of the two issues defined above: the overall goal of representation as economic growth and employment and the identification and debate of the tactical scopes of representation and the SME consistency with the overall scope of the growth of employment.

1.3. In search of a link

Having defined the antecedent of our work, we present our research questions and the methodology we follow to answer them. Our mission is to improve expertise in industrial relations and to promote the exchange of information among parties actively involved therein. In particular, the project will deal with industrial relations of self-employed workers and their employees, considering self-employment and SME synonyms.

The general goal of our work, as stated in our mandate, is to identify innovation in worker representation: “to identify the best practices, to investigate instances of representation of self-employed work showing a positive self-perception and political influence beyond the interests of the individual category and glimpses of work ethic, social responsibility, accountability of work, quality of work and skills.

1.3.1. The research question: beyond administration of work

At present, debates on industrial relations and representation of self-employed work are focused on administrative aspects: protection and regulation. But, assuming as a point of reference the overall competitiveness and growth of the economy, this project aims to investigate the contribution of SMEs to this growth and their impact on industrial relations and representation in the rest of the economy, considering the equality of people with respect to their work and the market conditions of their work.

This process will lead to the definition of a set of specific instances whereby representation has taken place in an innovative way. Specifically, to identify best practices, the project will refer to instances whereby representatives of the SMEs represent both the employer and their employees; the counterpart is the government, and work performed in market conditions is assumed as a value.

1.3.2. Methodology.

Top-down: statistics and theory; bottom-up: cases of best practice

We used a top-down and a bottom-up approach — top-down represented by desk research and statistic data, and bottom-up by field work in eight European countries — to identify representative action of the self-employed and micro-enterprises. This field work has produced case histories of best practice which we analyzed to scan reality for innovation, and identified, generalized and disseminated it.

We also pursued self-examination and debate within our partnership since it is made up of both representatives of micro-enterprises and students of such.

Our method is aimed at linking the micro to the macro aspects: top-down to understand the impact of SMEs in the economy. Statistics about self-employment report data only about the employers and not about their employees. Therefore, the project’s economic approach is to reconcile the statistics on self-

employed work over total work (7-35%) with the statistics on employment in SMEs over total employment (50-80 %). Bottom-up, to identify the best practices of leadership in the representation of self-employed work to investigate if the economic reality of employers and employees is getting them closer to each other than they are to the rest of the economic actors at a representational level.

We introduce stakeholder analysis in industrial relations and also use micro-economics and game theory, organizational behavior and economics of bureaucratic behavior. Our field research looks at specific instances of trade union practice across eight European countries.

The project has been elaborated according to the experience of all the partners involved; therefore, our method implies self-examination and internal debate within our heterogeneous partnership, involving organizations linked to industrial relations, such as research centers and institutes, non-profit making organizations and self-employed trade unions in order to represent all the target groups and stakeholders from eight countries: Bulgaria, France, Greece, Hungary, Italy, Poland, Slovak Republic and Spain.”

This partnership is composed of:

GianMarco Gilardoni; Felsa Cisl Italy, a trade union

Massimiliano Di Bitetto; senior scientist, Italian National Research Council

Vesselin Mitov; Confederation of Labor PODKREPA Bulgaria, a trade union

Laurent Labrot; IEP Insitute d'études politiques de Grenoble – Edias France, University

Sofia Lampousaki; INE Labor Institute of Greek General Confederation of Labor, Greece, a research center, NGO-trade union based

Boglárka Bata; CF Carpathian Foundation Hungary, an NGO Foundation

Grzegorz Piskalski; Centrum CSR Poland an NGO / Robert Geisler (University)

Peter Dzapka, Laura Dittel; CF Carpathian Foundation Slovakia, an NGO Foundation

Alexis Serra; CTAC Condfederaciò de Traballadores Autònomos de Catalunya, Spain, trade union

Dolores Forgione; Associazione ISES Istituto Europeo per lo Sviluppo SocioEconomico, an NGO consultancy

Paolo D'Anselmi, Simone Morganti; Private Non Profit (PNP) consultancy

A key to our approach when considering cases of best practice includes examining our own views on the subject, and this personal standpoint is taken into account. For this reason there will be an opportunity to continue this debate on the project website after publication of this book.

1.3.3. Deployment of activities

The working title is “A new European study to identify and analyze the best practices and strengths of the industrial relations of self-employed workers: representation beyond administration, the possible leadership of SMEs”. The results of each project activity have been achieved in the following manner

- Identification and analysis of best practices of the industrial relations of the self-employed in Europe;
- Analysis of the situation in the countries mentioned with a top-down approach in order to understand the impact of SMEs on their economy. This led to a set of tables representing the social and economic value of SMEs; and
- Identification with a bottom-up approach of the best practices of leadership in the representation of self-employed work.

This part of our proposal points to what Pedersini et al. correctly define as the scope of representation. And it defines a first criterion to evaluate the quality of the practice. Notice that when the counterpart is government, we are in the domain of lobbying and a stakeholder analysis is in order.

The launch of follow up work to this study will take place through the organization of an international conference in Rome (Italy) to present the study results, share experiences and best practices and involve

counterparts, stakeholders and other EU countries not participating in the project. The conference will discuss the issues tackled by the project with the participation of relevant counterparts at the EU level, such as the European Coalition of Corporate Justice (ECCJ). However, other relevant actors have been identified in the course of the project that – we hope – will be able to participate. We are thinking of the ITC-ILO – the International training Center of the International Labor Office, in Turin, Italy, and the Eurofound, the European Foundation for the improvement of living and working conditions, sponsor of the study we have been extensively quoting here. They have been selected by the project partners according to their relevance at national level in the field of industrial relations and social dialogue. The participation of counterparts/stakeholders of non participating countries has been helpful because they act as external evaluators of the project results.

1.3.4. Work-plan

The coordination scheme is designed to ensure effective and efficient management. The partners agreed that the most effective method to keep the project manageable was to allocate responsibility for self-contained work-subsets. Project coordination has been divided into Scientific and Administrative Coordination.

The organization of the international conference in Rome will use a traditional approach of setting up an Internet presence (web site, mailing list, knowledge base), publication of a press release (for each country) in national newspapers and the publication and dissemination of the study.

A follow-up was carried out at the end of each activity, with record-filing systems, to analyze the execution of the project, comparing the plan to the practice. An evaluation questionnaire was used to verify the degree of participation, involvement and satisfaction of the international conference participants and of a counterparts/ stakeholders participation matrix to evaluate their effective involvement. The Conference will represent an arena to present the project results and enable decision makers and relevant stakeholders to debate and exchange opinions.

Working together has contributed to a range of personal and professional assets. The local experiences of the partners has engendered a more detailed study, identifying the best practices at the EU level and assisting the organization of a wide scope of extensive international conferences. The best practices identified, thanks also to the exchange of experiences, improves our local skills and expertise. We have been in contact via remote communication (e-mail, Skype) systems to share information and opinions but also doubts and suggestions for better project implementation. The Project Leader coordinated the communications but all partners were free to communicate with each other at any time though this did not happen very much.

1.3.5. Transnational dimension

In *Communication from the Commission Partnership for change in an enlarged Europe — Enhancing the contribution of European social dialogue*, the Commission highlights the fact that EU enlargement would have reinforced the need for social dialogue, and partnership would have created new opportunities for EU economies and enterprises even though major adjustments are still necessary, particularly in the economies of the new member states. In addition, enlargement also presented a challenge to EU social dialogue, increasing the variety of traditions of industrial relations. In this framework, therefore, our project has been implemented in eight countries, of which the first four — in the following list — are new member states: Hungary, Bulgaria, Slovak Republic, Poland, Spain, Greece, France and Italy.

European social dialogue needs solid foundations, which requires improved industrial relations at national and decentralized levels. This project will aim, therefore, to contribute to improving the quality of industrial relations with regards to self-employed workers in the participating countries characterized by different “social systems”.

The project working language (communication among the partners, realization of the study, international conferences) has been English, given the different languages spoken by the partners and by the delegates invited to the international conference.

Thanks to the project network, the key messages and results will reach a wide audience, including on the one hand, relevant stakeholders involved in the field tackled by the project and, on the other hand, the general public. As a consequence, the networks will play a fundamental role of channels through which it is possible to effectively reach the project target groups.

1.3.6. Evaluation and monitoring

A process of continuous and final evaluation has been developed, both at the internal and external levels.

Internally, the evaluation consists of a follow-up at the end of each activity, with record-filing systems, to analyze the execution of the project, comparing the plan to the practice. The objectives, results and expected activities have been analyzed and a final evaluation performed. The report analyzes, in order of priority, the effectiveness, relevance, impact, added value in the European context, sustainability and transferability of the results to other environments and spaces.

The project work plan has been used as the primary guide for coordinating and controlling the project. In fact, the Project Leader compared time, costs and performance of the project to the budget, schedule, and tasks defined in the approved project plan. To better communicate the progress of the project, every three months he organized on line meetings (Skype conferences) in order to inform and ask for comments.

Externally, on the one hand, the partners assessed an evaluation questionnaire to verify the degree of participation, involvement and satisfaction of the international conference participants. The questionnaire investigated the general level of participant satisfaction with the conference as well as the knowledge of the issues tackled and output realized.

The questionnaire will be submitted during the conference in order to gather this data in the evaluation project report. On the other hand, the partners will develop a counterparts/stakeholders participation matrix in order to evaluate their effective involvement. The matrix will give an overview of the different counterparts/stakeholders, their interests, importance and influence; their interests in the project; the effect that the project will have on their interests; and information about their importance for the success of the international conference.

1.3.7. Added value of this action

While the identification and analysis of best practices of the industrial relations of self-employed workers in Europe has been realized with a top-down approach in order to understand the impact of SMEs on the economy, the bottom-up approach was used to identify the best practices of leadership in the representation of self-employed work and represents an innovative aspect in this field because it has made it possible to analyze in great detail the individual base elements and then link them together to form a top-level system representing the industrial relations and social conditions of these categories at the EU level.

At the same time, trade union representation, often in the form of service provision and, sometimes, collective bargaining, has offered some support in improving the economic and employment prospects of self-employed workers, especially in professional freelance positions. However, in many cases the strongest forms of protection enabled by collective bargaining encounter significant limitations due to competition laws, which restrict the negotiation of standard fees and contracts for formally independent workers. In this framework, the project investigates services beyond the traditional ones that trade unions offer to self-employed workers, SMEs and micro-enterprises in Europe; such services should take

into account the specific contribution and economic value of SMEs with respect to the rest of the economy and workforce.

1.3.8. Results, Outputs and Deliverables

The results of the project consist of the systematic identification, collection and analysis of the available best practices of industrial relations of the self-employed in Europe, which enables a comparison of the different situations in the participating countries. The exploitation of identified best practices raises the knowledge about the impact of SMEs in the EU economy and the leadership in the representation of self-employed work. Through the organization of an international conference in Rome, study results will be presented and experiences and best practices shared involving counterparts, stakeholders and other EU countries in order to develop appropriate recommendations.

The project activities and results have been planned to be sustainable in the medium and long-term once the project is finished. After EC funding ends, the international network created by the project and the international conference will be maintained for future exchange of information, data and projects.

Project outputs consist of network meetings of 40 man/days dedicated to the study in each country, as well as an international conference for around 50 participants (40 invited directly by the project partners).

Deliverables include a report about the kick-off meeting; final technical and financial reports; a project web-site; the identification and analysis of best practice of industrial relations of the self-employed in Europe; material to advertise the international conference (leaflets, brochures, folders and invitations); press releases; a Report of the international conference to exchange and transfer best practices; a dissemination plan; and an evaluation report.

1.3.9. Multiplier effects and dissemination plans

The project dissemination actions followed two lines. On the one hand, concrete meetings took place, such as the kick-off meeting in Milan, a networking day in Brussels organized by the Commission and the organization of the international conference in Rome. On the other hand, an Internet presence was set up and thanks to these activities, the project partners were able to transfer the results to the identified stakeholders and to a wider audience, sharing the know-how of the most experienced partners and creating a multiplier effect of the evidence base methods. In the dissemination strategy, the website will have a key role; in fact, it will be advertised on websites or magazines specialized in the issues tackled by the project and on the websites of each partner. In the participating countries an article will be published informing the local community about the project and finally, to promote the knowledge produced by the project, the partners will cluster with other national and international activities and projects in each participating country and interact with them. In this way, the knowledge acquired and the information collected during the lifetime of the project will be disseminated in other on-going projects.

A Dissemination Plan was developed explaining how the project plans to share outcomes with stakeholders, relevant institutions and organizations. The dissemination plan will illustrate what will be disseminated, to whom, why, how and when.

Finally, thanks to the publication of the study, other actors will be aware of the project. In other words, starting from the information collected in the study, other associations and decision makers working in the project fields will be able to apply the project methodology and results in other contexts. Therefore, the multiplier effect of the project will be created naturally thanks to its activities.

1.4. The difficult divide between micro-employers and the self-employed: statistics show large numbers of workers

1.4.1. Range of observation / statistics

We have so far spoken indiscriminately of the “self-employed” and “micro-enterprises” as if they are the same thing and everybody knows what we are talking about. That is not the case, and numbers are a good device to specify the range of our investigation

The Eurofound study uses the following data from Eurostat: “At present, in Europe, the incidence of independent work varies by more than a fifth in some countries, especially in southern Europe and in central and eastern Europe. In 2007, more than 35% of all employed people in Greece were not regular employees, followed by a similarly high level in Romania (34%). A significantly lower level, but higher than the EU average (17%), was recorded in Italy (26%), Portugal (25%), Poland (24%) and Cyprus (20%). A low incidence of independent work was present in Luxembourg (7%), Norway (8%), Estonia and Denmark (both 9%).

In this framework, the project has identified two different target groups: the workforce that is employed in SMEs, well over 50% of the total workforce; and specific categories of self-employed workers who are represented by new trade unions. In particular, the project took into consideration four categories of workers represented by Felsa Cisl: gas station workers, street vendors, newsstand operators, sales representatives and bartenders, also known as “owner-operators”.

Selection has been performed with a bottom-up approach so that specific instances of representative practice could be identified in the participating countries. This subset has been identified for the sake of focus and in order to identify specific instances of best practice that can be applied across the participating countries and possibly even in other EU countries not participating in the project. In particular, the project partners investigated the situation of representation of these categories in their respective countries.

It is useful to specify the total numbers these percentages refer to, therefore absolute numbers also need to be considered. Data from the World Bank on the absolute number of SMEs and MSME employment percentages is provided in **Table 1**.

Looking at total absolute values is a specific point of the methodology of this study. Absolute values show large numbers are in micro-enterprises vis-à-vis small, medium and large. To gain an even better understanding of the object of our work, a look at the total workforce should be provided.

1.4.2. Looking at the total workforce

Data from Eurostat show the total workforce in each country so government workers and service workers are not omitted from our count of the relative importance of the self-employed and micro enterprises in the economy. These data are given in **Table 2**.

When we compare the data of the overall workforce in MSMEs to the total workforce, we see the major role played by the MSMEs in the economy. We also realize that the border between employees, employers and the self-employed is actually a broad band: statistics show large numbers of workers.

Using “self-employed” and “micro-enterprises” as fungible terms is good also for international comparison purposes, as the World Bank identifies such categories and it would be a mistake to think that Europe is different from the rest of the world.

Table 1. MSMEs absolute number and MSME employment percentage

Country	Country Name	Year	GNI per Capita, Atlas Method	Structure of the MSME Sector (% of all MSMEs)			MSME Participation in the Economy		
				Micro	Small	Medium	MSMEs	MSMEs per 1,000 people	MSME employment (% total)
BGR	Bulgaria	2003	2,120	90.4	8.0	1.5	216,489	27.7	79.0
CZE	Czech Republic	2006		96.3	2.4	1.3	2,405,290	n/a	
DEU	Germany	2005	34,580	91.1	7.3	1.5	3,162,111	38.3	
DNK	Denmark	2004	40,750	93.0	4.0	3.0	257,950	47.7	55.0
ESP	Spain	2005	25,360	94.1	5.2	0.7	3,168,735	73.0	
EST	Estonia	2005	9,100	88.0	10.0	2.0	65,194	48.5	
FIN	Finland	2003	26,970	93.7	5.4	0.9	221,000	42.4	59.2
FRA	France	2004	30,370	93.3	5.8	0.9	2,612,960	43.3	
GBR	United Kingdom	2004	33,630	95.4	3.9	0.7	4,415,260	73.8	39.6
GRC	Greece	2003	13,340	97.5	2.1	0.3	771,000	72.2	74.0
HRV	Croatia	2005	8,060	87.4	9.8	2.8	94,088		
HUN	Hungary	2006		97.0	2.7	0.4	1,215,789	n/a	
IRL	Ireland	2003	27,430	85.6	12.4	2.0	97,000	24.6	72.1
ISL	Iceland	2004	37,920	92.3	6.6	1.1	25,449	87.8	76.6
ISR	Israel	2005	18,620	94.0	5.3	0.7	468,338	67.8	
ITA	Italy	2003	21,630	95.6	4.0	0.4	4,486,000	77.8	73.0
LTU	Lithuania	2005	7,050	75.0	20.2	4.8	56,428	16.5	71.2
LUX	Luxembourg	2004	56,380	87.7	10.9	1.5	24,334	54.1	
LVA	Latvia	2001	3,520	73.0	22.3	4.7	32,571	13.8	36.6
MKD	Macedonia	2003		80.0	3.8	1.7	55,742	27.5	
MLT	Malta	2004	12,050	95.8	3.6	0.6	30,974	77.2	86.9
NLD	Netherlands	2005		92.1	7.9		735,160	45.0	
NOR	Norway	2005	59,590	85.5	11.8	2.7	316,243		57.7
POL	Poland	2001	4,530	99.2	0.8		1,654,822	43.3	67.1
PRT	Portugal	2003	11,870	93.5	5.6	0.9	693,000	68.0	81.6
ROM	Romania	2004	2,960	88.9	8.9	2.3	392,544	18.1	
RUS	Russian Federation	2005	4,460				6,891,300	48.8	50.5
SVK	Slovak Republic	2004	6,480	80.5	15.1	4.4	70,553	13.1	
SVN	Slovenia	2003	11,870	93.8	5.0	1.2	91,066	45.6	62.6
SWE	Sweden	2005	41,060	96.2	3.2	0.5	898,454	99.6	39.6
TUR	Turkey	2000	2,980	95.1	3.5	1.5	210,134	3.1	64.3
USA	United States	2004	41,440	78.8	19.7	1.5	5,868,737	20.0	50.9

source: Kozak. World Bank. 2007

Table 2. Total workforce

Country	2010	2011	Country	2010	2011
Belgium	4,413.7	4,389.4	Hungary	3,849.2	3,751.2
Bulgaria	3,306.2	3,204.8	Malta	159.1	159.3
Czech Republic	4,933.5	4,857.2	Netherlands	8,467.6	8,443.4
Denmark	2,806.7	2,724.1	Austria	4,019.8	4,002.4
Germany	37,902.3	37,807.8	Poland	15,557.4	15,629.5
Estonia	633.5	575.8	Portugal	4,872.2	4,735.5
Ireland	2,054.8	1,884.8	Romania	8,882.2	8,804.7
Greece	4,473.7	4,423.2	Slovenia	975.2	954.8
Spain	20,102.8	18,736.0	Slovakia	2,423.4	2,356.6
France	5,756.3	25,515.1	Finland	2,497.2	2,423.3
Italy	23,010.5	22,650.1	Sweden	4,493.8	4,391.4
Cyprus	371.1	369.3	United Kingdom	28,670.8	28,183.5
Latvia	1,076.3	950.9	Iceland	170.6	159.7
Lithuania	1,490.2	1,387.5	Norway	2,457.4	2,437.4
Luxembourg	201.8	214.8	Switzerland	4,111.6	4,140.4

source: our elaboration on Eurostat, 2012 .

1.4.3. The difficult divide between employees

The Eurofound study separates the self-employed from SMEs, as shown in **Table 3**.

Table 3. Workers who are 'not employees' in the EU and Norway, 2007 (% of employment)

Country	Country Name	Self-employed	Employers	Family workers	Total
AT	Austria	6.8	5.2	2.4	14.3
BE	Belgium	9.0	4.5	1.3	14.8
BG	Bulgaria	7.2	4.1	1.2	12.4
CY	Cyprus	12.5	6.1	1.7	20.3
CZ	Czech Republic	11.8	3.7	0.6	16.2
DE	Germany	6.1	4.8	1.0	11.9
DK	Denmark	4.5	4.0	0.6	9.1
EE	Estonia	5.6	3.2	–	8.9
EL	Greece	21.2	8.1	6.4	35.7
ES	Spain	11.0	5.5	1.1	17.7
EU27	European Union 27	10.5	4.5	1.8	16.9
FI	Finland	8.0	4.0	0.6	12.6
FR	France	5.8	4.4	0.6	10.8
HU	Hungary	6.7	5.2	0.5	12.4
IE	Ireland	10.7	5.8	0.7	17.2
IT	Italy	17.3	7.0	1.8	26.1
LT	Lithuania	9.8	2.1	1.7	13.7
LU	Luxembourg	4.1	3.0	–	7.2
LV	Latvia	5.9	3.3	1.6	10.8
MT	Malta	9.3	4.7	–	13.9
NL	Netherlands	8.7	3.9	0.5	13.2
NO	Norway	5.6	2.1	0.3	8.0
PL	Poland	15.2	4.0	4.2	23.5
PT	Portugal	17.9	5.5	1.1	24.5
RO	Romania	19.7	1.5	12.6	33.7
SE	Sweden	6.4	3.9	0.3	10.6
SI	Slovenia	7.8	3.3	4.8	15.9
SK	Slovakia	9.7	3.1	–	13.3
UK	United Kingdom	10.2	2.9	0.3	13.6

source: Eurostat, 'Self-employed workers: industrial relations and working conditions'

However it also proposes a taxonomy of the self-employed that basically considers the self-employed together with the micro-employers [page 2]:

“Despite all the national differences, it is possible to identify five basic categories of self-employment, which are most often used in the relevant literature:

1. entrepreneurs, who run their business with the help of employees;
2. traditional ‘free professionals’, who, in order to work in their occupation, must meet specific requirements, abide by regulations and duty-bound codes and often pass examinations to be listed in public registers. They generally carry out their activities alone or in association with other professionals and with the help of a limited number of employees, if any;
3. craft workers, traders and farmers, who represent the traditional forms of self-employment. These self-employed workers often work with their family members and possibly a small number of employees;
4. self-employed workers in skilled but unregulated occupations, sometimes referred to as ‘new professionals’;
5. self-employed workers in unskilled occupations, who run their business without the help of employees, but can sometimes be assisted by family members.”

The self-employed are identified and discussed as a different set from the MSMEs, however a partial overlap of the different sets is acknowledged. Therefore we propose to look at MSMEs as a totality that includes the self-employed. In this study, MSMEs (especially micro) and the self-employment will be synonymous.

1.4.4. The legal basis of self-employment in Europe

From an analysis by the European Employment Observatory, published in 2010 by the European Commission, we have a picture of the situation of the self-employed in Europe. The report listed for 2009 32.5 million self-employed, which corresponds to 15% of the total number of employed. The majority are men (69.9%), over the age of 50 (37.5%) who were able to respond better than others to the impact of the global economic crisis. The self-employed are most prevalent in the countries of southern Europe (Portugal, Italy, Greece, Bulgaria and Cyprus), operating in the following sectors: agriculture, 19%; construction, 17%; trade, 13%; and scientific and technical professions, 10%.

The European systems governing self-employment in civil and commercial law divide employment between employee and autonomous. Self-employment is often identified as lacking the characteristics of employees. Returning to the definition of self-employment, within the EU countries there are those where identical regulations clarify these facts, while in others it is necessary to refer to case law. Another difficulty is to determine from a legal point of view if and when self-employment is distinct from the enterprise.

In recent years, policies and programs have been set up at the European level specifically targeted to support the self-employed and small and medium enterprises, which include:

- European Charter for Small Enterprises – 2000;
- Lisbon strategy for growth of employment – 2005;
- Directive 2005/36/EC on the recognition of professional qualifications – 2005;
- Green Paper “Modernising labor law to meet the challenges of the XXI century – 2006;
- “Bolkestein” Directive – 2006/123/UE;
- Small Business Act for Europe – 2008;
- Europe Strategy 2020 (2010);
- Directive 2010/41/EU “self-employed workers and equal treatment” – 2010.

We give a brief summary of each measure.

European Charter for Small Enterprises – 2000

The European Charter for Small Enterprises calls Member States and the Commission to take action to support small enterprises in ten key areas. To implement the Charter requires efforts at the regional level in most of the concerned areas. According to the institutional structure of the various Member States, these actions will fall in areas such as education and entrepreneurship education, improving on-line access to support for high-level small businesses and more effective representation of the interests of small businesses. The paper covers a wide range of fields related to the small business and in this way can be a useful framework for regional policy efforts to promote small business.

<http://ec.europa.eu> (accessed July 17, 2012)

Lisbon strategy for growth of employment – 2005

Through the Lisbon Strategy for Growth and employment, the EU aims to create more jobs of better quality. Health and safety at work now constitute one of the most important and advanced of the EU social policies. In this field, EU action is not only limited to the legal aspect; the European institutions, in fact, foster many activities for information, orientation and promotion in favor of a safe and healthy workplace in cooperation with the European Agency for Safety and Health at Work and the European Foundation for the Improvement of Living and Working Conditions.

<http://europa.eu> (accessed July 17, 2012)

Directive 2005/36/EC on the recognition of professional qualifications – 2005

The Directive applies to all citizens of an EU Member State wishing to exercise a regulated profession in a Member State other than that in which they obtained their professional qualifications, either independently or as a dependent. The Directive distinguishes between “free provision of services” and “freedom of establishment”, based on the criteria set by the Court of Justice: duration, frequency, periodicity and continuity of supply. This Directive will also consolidate into a single text 12 other sectorial directives covering the following professions: doctor, nurse, dentist, veterinary surgeon, midwife, architect, pharmacist, but shall not affect the Bar as the specific problem does not concern the recognition of professional qualifications but rather an authorization to practice.

Green Paper “Modernizing labor law to meet the challenges of the XXI century – 2006

The aim of the Green Paper is to launch a public debate in the EU to reflect on how to evolve the labor law so as to support the objectives of the Lisbon Strategy in the logic of become aware that European labor markets are increasingly faced with the challenge of this greater flexibility resulting in the need to maximize security for all. The role of self-employment is important as a means of coping with the increasingly pressing need for restructuring and a more flexible management of the “phenomenon of work.” At the same time, however, there is a growing dissolution of the distinction between employment and self employment mainly resulting from the use of certain norms in several countries accounting for what is called “masked employment”. The Green Book states that a debate is ongoing concerning the necessity of introducing minimum requirements in all individual employment contracts for services undertaken by the economically dependent self-employed. While increasing legal certainty and transparency, and ensuring a minimum level of protection for the self-employed, such requirements could limit the range of these contractual agreements. Council Directive 86/653/EEC).

“Bolkestein” Directive - 2006/123/UE

The Bolkestein Directive 2006/123/EC is the Directive of the European Parliament and EU Council on services in the domestic market and is organized around three pillars: the elimination of obstacles to

freedom of establishment, the elimination of obstacles to free movement of services and, finally, the establishment of mutual trust between Member States. The text, which has been changed many times due to strong protests, distinguishes access to European markets, which should be as free as possible and deregulates the exercise of service activities, which must not interfere with the balance of local markets. Consequences with respect to this legislation have an impact on many categories of self-employment, particularly street traders. The most burning issues are related to the licensing of street trading, the limit in issuing authorizations, the occupation of public space for street vendors and their durability.

Small Business Act for Europe – 2008

The initiative entitled “Small Business Act” (SBA) for Europe aims to create conditions favorable to sustainable growth and competitiveness of small and medium enterprises (SMEs). The Community and national policies must take more account of the contribution of SMEs to economic growth and job creation. The “Small Business Act” is based on principles designed to guide the formulation of EU and national policies, as well as practical measures for their implementation. They are:

- Development of an environment favorable to entrepreneurship in order to facilitate the creation of SMEs;
- Support for honest entrepreneurs who want to restart an activity after having faced bankruptcy;
- Formulation of regulations that conform to “Think Small First”;
- Adaptation of Public Administration to the requirements of PMI and elimination of the administrative obstacles;
- Adaptation of public policy interventions awarding public contracts and State aid;
- Recourse to varied types of financing, such as risk capital, micro-credit and mezzanine finance; and
- Reinforcing the potential for innovation, research and development of SMEs.

<http://europa.eu> (accessed July 17, 2012)

Europe Strategy 2020 (2010)

The EU’s strategy for the next decade was set out in 2010 when the Lisbon Strategy was almost over. Europe 2020 recognizes entrepreneurship and self employment as the two essential elements necessary to achieve intelligent, sustainable and inclusive growth. This goal is promoted by several key initiatives such as the agenda for new skills and employment, Youth on the move (a package of initiatives for education and work) and the European platform against poverty and exclusion. The Commission focuses on support to entrepreneurs and the self-employed in terms of the birth of new enterprises, sustainability and quality of work of the self-employed and micro entrepreneurs, and also social entrepreneurs. The actions to be undertaken concern four directions: providing information on self-employment and entrepreneurship; raising public awareness of the issue; promoting voluntary standards and protective measures for entrepreneurs and self-employed; and providing financial support to entrepreneurs.

<http://europa.eu> (accessed July 17, 2012)

Directive 2010/41/EU “self-employed workers and equal treatment” – 2010

This Directive, which repeals Directive 86/613/EEC, aims to create better social protection for the self-employed and their partners, including, for example, maternity leave. The Directive will strengthen social protection by ensuring equal social and economic rights for working men and women and their partners; the principle of equal treatment (Article 4) that eliminates any type of discrimination, and especially Articles 7 and 8.

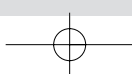
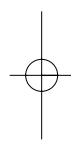
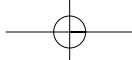
Article 7 (Social Security) asserts that if in a country there is a system of social protection for the self-employed, it must also ensure coverage of the spouses and / or partners to provide a stronger social safety net. Article 8 (maternity leave) asserts for the first time that self-employed women may be granted ma-

ternity leave of at least 14 weeks. The Directive came into force on 4 August 2012 and should be implemented in all member countries before August 5, 2012 with an additional period of two years to put into practice the contents of Articles 7 and 8. Each EU Member State must communicate all information regarding the application of the Directive to the Commission by August 5, 2012 to present possible revisions.

In this first chapter we have laid the foundations for our work, defining our research question and how we are going to answer it. We have already covered ground on the overall view of the employed population and the presence of self-employment and micro-enterprise in it. We have also laid the foundations for interpreting the country studies and eliciting information from them: the scope of their action. The following nine chapters present our country studies of best practice, which represent the core of our contributions from the field.

Part II

**Field work Best practice
Country chapters**



Chapter 2

Legal status and working conditions of self-employed persons in Bulgaria

by Vesselin Mitov, Podkrepa CL

2.1. Main characteristics of self-employment in Bulgaria

The self-employment in Bulgaria is a relatively new economic and legal phenomenon. Due to the fact that by 1989 the country was run on the model of punctually planned and centralized economy, with 100 % guaranteed markets and jobs, then only from 23 years, resulting in the implemented transformations of ownership and labor relations, we set the foundations of the real market and open economical model, including the modern, flexible and unregulated labor market. Before 1998 in the country the employment was 100 % guaranteed by the ruling regime and the basic pattern of employment relationship was the employment under permanent labour contract. During the transition period and as result from the implemented free market' principles were applied very rapidly different, unknown models of employment relations, one of which is the self-employment. Nowadays, facing such severe and prolonged financial and economic crisis, coupled with the extremely worsening of incomes' levels and with living standards decrease, for our country the self-employment perspective significantly increases its social and economic role for jobs creation. For many Bulgarians without job, the self-employment perspective is nowadays the real way out go out the unemployment and poverty. However self-employment creates new opportunities for self development, its provide possibilities for professional development and for new skills learning, to push the individual initiative and creativeness.

In Bulgaria, the notion self-employed covers an extremely wide variety of economic activities which are carried by the person on their account and most often this term is associated with three categories of workers, according to EU Directive 86/613:

- Private-owned traders, freelance professionals, farmers and other agricultural producers.
- Employers, engaged under civil contracts.
- Entrepreneurs.

The collection of statistical information for the number of self-employed in Bulgaria is made on the basis of National Financial Accounts, which integrate a wide amount of data for presenting one most complete picture of the national economy and employment, including the self-employment. The self-employed in Bulgaria, according to the National Financial Accounts are divided in three groups — self-employed, employers and unpaid family workers. The number of self-employed in Bulgaria is growing slower than the growth in employment for people, aged between 15-64 years. For example, in 2000 / when the number of self-employed in Bulgaria was 913,800 /, in comparison to 2011 — when their number reached 972,300 — or real increase with 7.4%.

Comparison show, that for the very same period the number of total employed increased by 16.3%. With regard to other European countries, Bulgaria is maintaining relatively high share of self-employed in its total employment. For 2011 this share was 28.2% from the total number of employed, while the average

EU is about 16%. In practice, self-employment is more pronounced in countries with well-developed agriculture sector and also in countries with high unemployment rates and considerable informal sector. Our country enjoys all these three characteristics and thus the objective reason to be among the countries in which the self-employment is having serious impact on the economy.

2.2. Main characteristics of self-employed persons in Bulgaria

The structure of self-employed persons in Bulgaria is quite diverse in gender — women are traditionally with lower participation in self-employment than men. Clearly pronounced is the tendency for women to prefer more stable forms of employment relations, in addition, they participate to a greater extent than men in the domestic works. In 2010 women were 38.4% of total self-employed and their share continues to increase, indicating that unemployed women are considering the self-employment possibility as new “lifeline opportunity”.

Self-employed persons in Bulgaria are mostly aged between 35 and 44; the trend is to raise this age limit. In practice for both sexes — men and women, the „retirement” from self-employment occurs after they completed 65, consequently — much later than the general case under an employment contract. This defines the self-employment as a promising form of extending the working life.

The educational structure of self-employed is very good. According to data from 2010 the highest proportion is — they are people with secondary education and professional qualification, followed by those with higher education. Therefore, self-employed are predominantly with secondary and primary education, and family farmers in agriculture — with mainly initial, primary education. Such diversification by educational level is normal, because of very different responsibilities, performed by the self-employed persons, their need for personal development, for rising their opportunities to manage modern business.

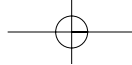
The self-employment is characterized by constant branch specialization — primarily most people are employed in agriculture, forestry, hunting and fishing / 621,800 persons or 64.3% /, secondly in tourism, trade, repairs services, hotels, catering, transport and communications (198,600 employees or 21.3%).

Table 1. Self-employed persons by economic activity (2011)

	Self-employed persons (x 1,000)
Agriculture, Forestry and Fishing Industries	621.8
Mining and Manufacturing industry	43.8
Constructions	27.4
Trade, general repair services, hotels and restaurants	198.6
Creative works, dissemination of information, communications	8.1
Financial and insurance activities	4.4
Real Estate	2.9
Professional, scientific and technical activities, administrative and support services	27.4
Educational, humanitarian, health rehabilitation and social services	15.8
Culture, sports and entertainment activities of households as employers; undifferentiated activities of households	22.0
Total number	972.3

source: National Statistical Institute, National Financial Accounts

There is a need to update the national legislation, in 2009 Bulgaria developed and adopted its own path with regard to implement the ‘flex-secure jobs’ concept which for the period from 2009 to 2020 envisages to complement the existing national legislation with regulations on the most common forms of atypical employment. Such as teleworking / Teleworking allows employees work at home or at a local



telework center one or more days per week using communication tools, such as such as phone, fax, modem, Internet teleconferencing, e-mail or IM, to perform work duties from a remote location/, home working and others specific activities, that could be effectuated.

In Bulgaria they are existing very serious administrative and bureaucratic barriers, which restrict people, when developing businesses activities. This is one of the most serious burdens before the small / micro companies and before self-employed persons.

Another difficult barrier to overcome by self employed, is the practical lack of access to preferential loans credits for developing private business activity /, which causes very limited capacity to accumulate initial stock capital / funds, needed to start-up own business /.

Another significant drawback before self-employment is the irregular and unstable incomes and the higher risk of unemployment.

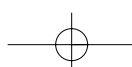
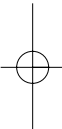
2.3. Legal status of self-employed persons in Bulgaria

According to one recently effectuated research, / May 2010 / of the Economic Institute under the Bulgarian Academy of Science around 75% of employed persons in Bulgaria are registered as self-employed, as more than the half of them is working in the informal sector. According to the same study, the economic downturn and the rise of unemployment rate — respectively the negative impact of the crisis, led to a significant increase in the number of self-employed persons, while starting your-own business is considered to be a way to go out of crisis and as an alternative to unemployment. Thus comes and the special interest with priority — those persons to be covered and organized / in terms of particular social group /, by the Confederation of Labour PODKREPA and by different professional associations.

In Bulgaria, the notion for “self-employed” person is not clearly defined from legal standpoint. The Bulgarian legislation refers to “self-employed” — each person, who is paying its social security and health contributions by themselves. The definition is borrowed from the English self-employed, literally translated as “a person who employs only himself.” Thus presented, the concept is illogical and impossible from legal standpoint — as far as rent in the Bulgarian legal terminology enjoy with completely different content. According to the general provisions of Article 8 of the Obligations and Contracts Act, the contract represents an agreement between two or more persons. Therefore — there must be at least two persons to have a valid contract. Legal definition of the concept self-employment is contained in Art. 5, paragraph 2 of the Social Security Code — the self-employed is a natural person who is obligated to make contributions to its own account. The legal personality of self-employed in Britain comes most closely to the personality of the sole trader (private-owned trader) in Bulgaria. Carry on business as self-employed in the UK legally is when that person’s relationship with another British company are based on contract to perform services (commercial contract) Consequently the relations between this British company and the self-employed person, outside the scope of labor relations, are defined as business relations (trade relations) between two equal commercial entities/subjects.

According to established practice for determining employment status or the status of self-employed persons, the following indicators are not exhaustive but will give an idea of when we can, we believe that is a “self-employed person”:

- Such person is developing its own business;
- Assumes all financial risks and pays every production costs;
- Takes up the responsibility for effectuated investments;
- Receives the profit — the positive financial result from the effectuated activities;
- Plans and implements its own tasks and commitments;
- Practically is free to hire other people, under conditions determined by him;
- Provides mandatory social security and insurance contributions;
- Control by themselves on the working time and on the working conditions.



The compulsory social security and insurance system in Bulgaria distinguish two groups of persons, according to whether they are subjects of the order, regulated by the Insurance law, by the Social Security Code (SIC) — devolves the duty/juridical obligation to pay contributions for themselves or for others.

2.4. The Insurer

Insurer means any natural or legal person or unincorporated company/other organizations, which is obliged by the law to pay contributions for other individuals. Therefore, this is a person, whose legal status is among those listed in the legal definition of article 5, paragraph 1 of the Social Security Code. Excluded from this scope are persons, who may acquire the status of insurer, in their quality of branches or divisions of the respective legal persons. Social and health contributions shall be paid for insured persons- the insured persons are always individuals, not organizations. The first obligation of insurers is to pay the insurance contributions, which are borne by him. The second obligation of insurers is periodically to provide information to the National Revenue Agency.

2.5. The self-employed individual

The self-employed individuals are such individuals who independently or in partnership with other individuals perform business activities, practice their profession independently, lease property or perform other independent activities without hiring other persons. There is different approach to individuals in liberal professions or self-insured persons. According to the national legislation these are as follows: physicians with a freelance practice, lawyers, consultants, craftspeople, hairdressers, painters, artists and others. All categories of workers who work at their own risk and on their own account and without an employer are included in the category of self-insured person. It should be mentioned that the members of the cooperatives that work under an employment contract in the cooperatives of which they are co-founders are covered by the regime for employed persons they themselves declare the start, end and any breaks in the activity; the obligatory social insurance contributions are paid by them; they are responsible personally for the timing of social insurance payments (the requirement for them is to pay contributions for preceding month no later than the 10th of each month) and they are responsible also for presentation of all data concerning the insurance required by the law; they are obliged by the law to insure themselves in terms of pension coverage, but they may if they wish also insure themselves for other social risks, including sickness and maternity. They have no right to be insured for labour accidents — the logic is that this risk is the employer's responsibility and they are themselves employers. they chose the size of the insurance income on which they will pay contributions within the legal framework defining the minimal and maximal monthly size of the insured income; the minimum insurance income for registered agricultural producers and tobacco producers is different to that for self-insured workers; at the end of the finance year, after their presentation of their annual tax declaration, and if their income is higher than their declared income, which was chosen for advance insurance payments, insurance contributions will be paid on the total of their real incomes, but not more than the maximum amount of the insurance income. That means that if they during the year are insured on the maximum monthly insurance income determined by the law for the budget they will not owe additional payment to insurance funds. The above mentioned formulations concern persons who are self-employed and exercising a freelance profession and also individuals who hire employees. However, individuals in the second category are liable to all employer obligations concerning their workers. For the self employed individuals is also valid one legal, compulsory requirement for periodic submission of data for the paid by them contributions to the National Revenue Agency.

2.6. The registration as self-employed person

The legal entities, their branches and their divisions, as well as the private-owned traders by the end of 2005 had had the legal obligation to register in the territorial offices of the National Insurance Institute. As from the 1st January 2006, with the entry into force of the Civil Tax Insurance Code, this registration

is done automatically by the National Insurance Institute, based on the data from the register and records, provided from the National Revenue Agency, which creates and maintains special register and database with all obligations and contributions of national tax-payers. The self-employed individuals, who are not subject to registration with Identification tax number, have to register only by submitting a declaration form to the respective National Revenue Agency' office . The rate of taxation on self-employed' income is regulated by the Law on Personal Income Tax. The procedure for filing tax return declaration is uniform for all tax-payers and consistent with the Community law provisions. It provides tax relief for sponsorship of major events and social funds and the deduction of costs inherent to the freelance professions.

In accordance with the amendments, introduced in 2011, the minimum monthly insurance income for self-employed / partners, managers, private traders / is calculated in correlation with the taxable income for 2009, as follows:

- up to 5400 BG leva - 420.00 BG leva
- from 5401 to 6500 BG leva - 450.00 BG leva
- from 6501 to 7500 BG leva - 500.00 BG leva
- over 7500 BG leva - 550.00 BG leva

National currency /the Lev/ is pegged to the Euro with fixed exchange rate 1 EUR = 1, 95 BG leva

The minimum monthly insurance income in 2010 and 2011 for self-insured persons is 420 BG leva and the maximum monthly amount of the insurance income for the country of all categories (insured and self-insured) is 2000 BG leva. (Above this sum the social insurance contributions are not paid). The minimum monthly insurance income in 2010 and 2011 for the registered agricultural producers and tobacco producers is 240 BG leva and the maximum monthly amount the registered agricultural and tobacco producer is also 2000 BG leva. The very same levels of the minimum the maximum monthly amount of social security contributions and income taxation were preserved for the present 2012.

2.7. The working conditions of self-employed persons

The general characteristic of the working conditions of self-employed persons in Bulgaria is very controversial. Because of the fact, that more than the half from self-employed in Bulgaria are working in agriculture the basic conclusion is that the respective working conditions are not appropriate, decent and satisfactory. For some self-employed workers, involved with manufacturing and services we may also find examples of poor working conditions. But in the framework of the general orientation for improvement of working conditions in the country, the share of self-insured persons, working on modern and healthy workplaces is increasing rapidly — for example, in 2009 more than the half of self-employed had regularly used Internet / comparing to the 2004, when their share was only 17.4% /. Currently, many self-employed persons are using up-to-date modern communication' possibilities and the e-trading. On this basis, the networking opportunities to exchange with other businesses entities for the self-employed persons are enlarged combined with an increased use of computers' technologies and all those innovations are reflecting directly on the working conditions. Unfortunately, the level of union density within self-insured and self-employed people in Bulgaria is not high and there is a real need for better and effective organization of the Trade union activities and efforts, with regard to provide better possibilities and opportunities to protect their working conditions and fundamental rights. The implementation of such active trade union policy requires joint action by the trade union structures and the representative professional organizations of self-employed in order to develop common orientations for dissemination of information on already acquired labor and social standards. In addition, for the development of correct and perspective partnership it's extremely important to undertake actions for promoting the international standards for health and working conditions' protection.

One specific characteristic when protecting the rights of self-employed persons by trade unions is the necessity to conduct the negotiations with very different professional associations, organizations, unions, councils. Therefore such diversity is framing the collective bargaining and trade union should manage to conform to the various representative organizations of self-employed persons.

Moreover, the topics of negotiations and partnership are extremely diverse as:

- Providing assistance when developing concrete policies — for prices, targeting the customers, suggestions for appropriate price levels and market orientation;
- Updating the information about the effectuated amendments in the taxation and labor law regulations;
- Providing information on requirements and possibilities for improvement of the working conditions;
- Support when organizing and participating in joint exhibitions and advertising campaigns;
- Targeted actions for market researches and training;
- Providing information and analyzes on the consumers' demand of the specific market segment;
- Regular acquaintance with the “existing rules” of managing the business in particular areas;
- Analyze the specify of the requirements for punctual business behavior and training on the establishment of internal control and transparency;
- Development of institutional self-representation based on the voluntary choose and membership by applying a flexible and dynamic methods and motivations.

As good practice we may share two examples of business organizations, involved in collective bargaining with the trade union professional federations ñ those are the are the Union of craftsmen in Bulgaria and the National Union home workers .

Another group of very serious problems are faced by the trade union in the protection of the interests and in the improvement of the working conditions of home workers. Because of the reality, that the working conditions and protection of those workers can hardly be separated from the general living conditions of their households. A second, major problem fir the self-employed persons is difficulty to combine their business activity with their family obligations. We may enumerate many other problems related to: the limited financial resources and funds , the very restricted opportunities for self-employed to act at network; the regular absence of information for innovation and opportunities for develop cooperation between the companies, the prevalence of the common perception and culture to work “for earning only its salary” — which does not stimulate enough the creativeness, the poorly developed the system for dissemination of knowledge for the positive impact of the self-employment and entrepreneurship and last, but not least — most greater difficulties are faced by women.

Trade unions are working on the promotion and on the support of self-employment opportunities in Bulgaria, by offering and implementing specific, targeted incentives and policies.

Throughout concrete actions such as:

- A constant monitoring and analysis of the problems and challenges, faced by the self-employed in Bulgaria;
- Working out and adopt different measures with regard to improve the business environment in the country;
- Support of the economic self-realization through providing consultancy, advises and information for starting own business — as part of the activities of the labour offices “PODKREPA for decent work”;
- Increasing the professional competence and skills of self-employed through participation in courses at distance, offered and conducted by the Department “Training” of “PODKREPA”;
- Support for free-lance professions, involved in the field of applied scientific, cultural, art and other creative activities, through legislative initiative for effective protection of the intellectual property which is crucial for the successful implementation of self-creative professions;
- Active participation in the development and enforcement of the Patents Legislation, which directly affects the situation of many artisans, inventors and sole traders — for example — the tax fees for inventions or utility models are 50% lowest, in case when the applicants are inventors from micro and small enterprises;
- Providing legal protection of labor rights of individual artists — involved with artistic creation: writers, composers, artists, translators, etc. are protected by the Copyright Law.

2.8. The self-employment and the informal employment in Bulgaria

Unfortunately, for our country we should point out a very serious problem, which can be summarized with the notion “high informal employment” — this means — in Bulgaria there is a considerable presence of relatively high share of total unreported incomes, which are carried in such sectors as the agriculture, trade, services, hotels, restaurants and constructions. As we already mentioned, these are the economic sectors with the highest proportion of self-employed people. Therefore in those sectors is more easily to implement negative practices, such negative practices are — to hire people without labor contracts and to sign contracts with vague arrangements, taxes, turnover social security contributions’ evasions, unregulated working plans, unclear job’ descriptions and requirements — which leads to the infringement of the social rights. All these objective conditions determine the fact that 75% of self-employed in Bulgaria are registered as self-insured and more than the half of them are working in the informal economy. In 2011 for Bulgaria was observed another negative trend — the significant decrease of prestigious jobs positions with higher income rate — as lawyers, architects and private traders. Meanwhile, over 90% of people, remained on the labour market, were paid their social security contributions only on the minimum threshold for their professional position — which for the self-employed is fixed to 420 BG leva per month. Those data are provided by the National Insurance Institute, which relies on these Bulgarians to increase its revenues from taxation. From the beginning of the year, due to the economic crisis and the massive drop down to the informal sector, the number of self-employed persons, as consultants, accountants, journalists, auditors, notaries, owners or partners of companies declined by 25 000 or 12%. The big majority of self-employed are paying retirement social security contributions for pension on the minimum income of 420 BG leva, which means that their annual income should be up to 5,400 BG leva. According to the National Insurance Institute for the last two years the number of self-employed in Bulgaria decreases with 30 000 people. Only 3.4% of self-employed pay their contributions at the maximum threshold of 141 BG leva per month. However, the number of those persons, called “special cases” is very low and leads to the conclusion that a substantial part of self-employed do not rely on the capacity of the state security system and do not appreciate properly the significance of their own participation in the shared social responsibility. Ultimately, such behavior leads to increased poverty risk for those people after their retirement.

2.9. The self-employment and the informal employment in tourism sector

During the period January-October 2011 Bulgaria was visited by 5.8 million foreign nationals /excluding transits/, by 4.4% more, over the same period of 2010. Increase in visits for vacation is seen, 4.2 million visits and growth of 5.2%. EU countries continue to be the most important market for international tourism of Bulgaria with a share of 68.6%, total 3.9 million tourists and an increase of 1%. The latest figures for November 2011 show that the visits of foreign citizens to Bulgaria increase by 2.4% compared with same month of 2010. The largest increase is registered in visits for holidays and excursions — by 6.2%. According to BNB data incomes from international tourism in the current account balance increase — for January-September 2011 they amount to euro 2.5 billion, 3.7% more than the same period of 2010.

The results of the development of the tourism sector in 2011 are favorable. Tourism revenues for the whole 2011, from foreign tourists are expected to be 4.5 percent higher than the previous year. Estimates are that they will reach euro 2.7 billion. Revenues from Bulgarian tourists are unlikely to exceed BGN 1.5 billion. Estimates for the winter season and for 2012 are optimistic — Bulgarian tourism in 2012 will achieve 4% growth. A slight slowdown in growth is expected, however, since part of the tourists in the region may choose to visit Poland and Ukraine, who will host the European Football Championship. However, growth can be around 4% for most of the period. Tourists from Serbia, Macedonia and Hungary will form a significant share of foreign tourists to Bulgaria during the summer and winter season of 2012. According to tourist industry representatives, Bulgaria will be able to rely on tourists from these countries and thus offset the contraction in demand from the English and Russian markets, registered in 2011. Bulgaria continues to be attractive to foreign tourists for one main reason — favorable price-quality of service ratio.

In 2011 the sector trade, tourism, hotels and restaurants have been employed 198 000 persons / or 13.3% of the national labor force /. About 140 000 additional people were involved in the different supporting activities, aiming to provide services to tourists. To our regret, those active agents in the tourism industry, including many different companies involved to provide tourist services, are the typical generator of the “shadow work” in our country. The opinion of the economic experts is that the share of the informal sector in the Bulgarian tourism is between 26 and 50%. The main reason for that is the lack of appropriate state policy to develop and to adopt appropriate for the tourism sector legislation, meanwhile nobody insist on sufficient control implementation. According to their own estimation and consideration — of travel companies / agents /, the share of the informal business in their sector is around 26-50%. Tourism is the best example how one determinate economic sector may experience the cumulative negative effects for the existing illegal practices in other branches. Due to the specificity of tourism sector, he is extremely conducive to high degree of illegal practices in accommodation, in hotel and restaurant services, in tax payment documents. One of the most common practices in tourism sector is the illegal employment relation — incorrect, improperly or defectively drafted employment contracts, over working time, hiring more than the half of the real wages and receiving an additional payment “under the table”, poor rest and paid leave opportunities, evasion of social and health insurance contributions. The shared responsibility between employers and workers become everyday practice and customary part of the “gray” face of the tourism industry. According to 36% of employers in tourism sector those gray practices are flourishing because they are desired by both sizes. Usually the “Graying” — the illegal activities — of companies is regarded as a way out from the crisis. Over 90% of employers understand the negatives effects from their informal activities, but 60% believe that it is often the only way to make a profitable business.

For the deployment of the informal sector in tourism also contributes the large number of tourist sites without legal classification, the artificially increased categorization’ levels of some tourist sites with very poor quality of services. We may enumerate also the considerable number of failures of concession contracts in the Black Sea coast and the huge figures of illegal constructions. One other crucial problem is the unlicensed tourism operators who are working illegally, the existing discrepancies between the accommodation prices for Bulgarians and for foreigners.

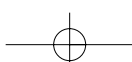
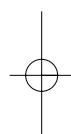
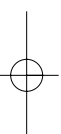
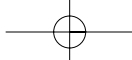
According to trade unions in the sector amendment in the existing Law is needed, as the currently legal regulations and practices are only stimulating the illegal activities and actually are „punishing” the legal business. At the same time, when the risk is insignificant and the responsibility symbolic. The only solution is to encourage the legal business and to introduce much stricter penalties for violators.

It is necessary to provide with more power for the civil society organizations / including the trade unions industrial federations and the professional associations / and to improve the control over the tourist sites and the travel companies. Is also necessary to strengthen the civil society’ control over the public institutions and administrations, related to tourism business. The purpose is to enhanced the control over the informal economy and to reduce the tax burden with regard to improve the legal conditions of develop business in tourism.

2.10. Conclusions

Faced to such difficult, turbulent period of constantly rising unemployment and deep economic crisis, we can observe the self-employment as an opportunity to address the serious financial situation and to avoid the long-term unemployment, such self-employment perspective in Bulgaria is most often used by persons aged over 40 years, but men are most decided to start their own business, while women’s presence in self-employment is relatively low. In general frames, the self-employed have a good educational level and according to their branch specialization; they are mostly represented in the sectors of agriculture and trade, services and tourism. Very typical for Bulgaria self-employment is the preponderance of very small businesses or of activities with seasonal nature in which almost equally are involved both sexes. In Bulgaria, there is a well-defined need to stimulate the entry of young people in self-employment.

Special attention should be paid to young women who are at the beginning their professional realization and have to combine the childcare and the full-time work. The professional labor specialization of self-employed proves that women have a major share in agriculture and in tourism, when the working conditions are with low quality. Improving the inappropriate working conditions in agriculture and in tourism should become subject to specific policies on the labor market, initiated by the trade union industrial federations.



Chapter 3

Three layers across the board in France

by Laurent Labrot, IEP

This abstract will precise the french situation concerning the objectives and logic of the Euroirse project. We can see that we have a couple of fundamental differences between the countries participating to Euroirse, knowing that the references choosen for the general study, careers and job protection and the social system, dont have a great sense in the french case. That's will explain why the french partners IEP EDIAS choose to change the approach of the global problem, underlying that the most important case concerning individual managers and precarious work in that sense, is comming not from specific jobs but from a system created in 2008 and called: "statut d'autoentrepreneur". Infact, we will see for the people having this status the same fenomenon than many jobs examples in foreign countries. This is clearly connected to the french social system, but also political changes in theses lasts years. For explaining this situation, we will proceed with a clear background of the french case, and explanations of the actual situation.

The two main differences between the french labor system and the rest of the european countries reside both in the central domination of the state, beeing above all the rest, and the weight of the historical social system, rapresented mainly by the public service and by public agents willing clearly to protect the old social rules.

So the french social system give you just a few standards, and difference between employee and manager is mainly in the capability ton invest on their own bussiness, but not in the basic social protection. You have infact before 2009 three different status. The employee, having a salary each month, with a strong social protection (common system) and strong labor rights; manager status with different models of companies (the main change here concern the financial responsibility of the owner), and independent status. This last one should be divided more or less in 3 categories before 2009.

You have the professionnal with obligation to follow their national professional order, and have strict formative proofs to give before creating their activities. For example, we have here doctors, lawyers, pharmacist, chartered accountant. For creating any activity, they may first have the proper qualifications, joint the national order (order of french medics), obey this order and create a individual firm. Considering that these jobs are highly qualified, they cannot be watched to be precarious, and even if some medics for example have not a strong salary, they bypass generally a large number of french workers concerning their gains.

The second independent status concern craftsman. They have their own economic chambers and connections. Basically, they are in general individual managers, with a specific status for wives or husband. They have the same social rights, same social general social system. Of course, we have very well payed craftman and poor craftman but this is not a job highly concerned by precariety and decreasing situation. Craftsman have basically the same status since 1945.

The third concern all the rest of the activities organised in individual business. You may have here small shopkeeper, peddlers, but also website manager or independent truck driver. They are like the others, full access to the general social system, opportunity to pay for unemployment insurance, and of course normal retirement payment.

If you look at all these people, they have only a few differences, mostly in the cost of their social payment and insurances.

The employee had access at low price to the general social system, unemployment protection and retirement options. They pay taxes near 15-20% of salaries, the highest rate, but they enjoy a strong protection and help if needed. You can have poverty in particular in part time job, like women living alone with children working for 20 hours in a supermarket. But this situation concerns all the part time regular contracts. Such people had also strong social help in France.

The manager has the same access to the general social system, but it costs a bit more to pay. They pay the same tax rate but have two big advantages. The first is the opportunity to invest in their own company, with a tax system at only 10%, so a real good opportunity to spare and take back the money at the end of the career. The second is the VAT that they recover after spending. The quality of social insurance and medicine is more or less the same, but it costs a bit more and you didn't have in general the unemployment insurance. Retirement costs are also higher for executives with a secondary insurance to pay.

The independent has also access to the main social protection, the cost being more or less equal to the manager. Difference is in the organisation with special insurance for craftsman or things like that, but this will not affect the general rules. Like manager, it's a bit more expensive and they don't have unemployment insurance or at a big cost. Independents are generally managers for their own business, they are generally well integrated and not among the poor of the French population.

To conclude, all the jobs presented in the foreign cases can be seen in the French case, but they have all a normal salary, correct working conditions, and a full access to the social and unemployment system. Even if the French system is today in trouble, even if the cost of health increases really fast, France always maintains globally the workers and private interests in good shape with the capability to pay for medical and retirement.

As you may see in the second document sent about the Autoentrepreneur program, we will have here a nasty evolution of the French model with people being no more able to pay and also sustain themselves totally. That's why we can consider that even if selected jobs in this study do not concern France directly, we have a true self-employed precarious model in this category, not in a special sector but in all the activities.

Chapter 4

Lawyers and engineers in Greece

by Sofia Lampisaki, INE

4.1. Problem Finding

4.1.1. The case of the lawyers

Although the profession of the lawyer is one of the traditional independent contractor professions, a continuously increasing number of lawyers has been forced and is continuously forced to salaried employment (in the form of “salaried cooperation”). When working as a “salaried associate”, the lawyer is not protected even under the most fundamental provisions of labor legislation, since such lawyer is not even acknowledged as a worker. According to representatives of the Athens Bar Association, salaried associates work under uncontrolled conditions, receiving salaries amounting at best to 600 or 700 Euro per month (an amount corresponding to the salary of an unskilled worker), for 11 months per year, without any allowances or Christmas or Easter bonuses, for an uncontrolled number of working hours per day (12 hours per day is the usual case), including on non-working days (Saturday and Sunday) and without any overtime pay. Salaried associates are obliged to pay the entire amount of their social security contributions, since their “cooperation” relationship with their employer does not establish any obligation of the latter to contribute in the payment of such amounts. Current trends prevailing in the lawyer labor market force the vast majority of newly appointed lawyers to such “cooperation” relationships, but also an ever increasing number of older lawyers, who are no longer able to exercise the profession of the lawyer independently in an era of transition of the profession from the traditional model of lone lawyer in his/her own office to the law firm model.

4.1.2. The case of the engineers

The traditional model of the independent contractor-engineer prevailing until the 80's is constantly disappearing during the last years due to the substantial increase of the number of small, medium and large technical companies (including both design and construction companies), while the developments in information and telecommunication technology have created new opportunities for salaried intellectual work in the technical sector. The result of such restructuring in this production and services sector is that the employment model of the “salaried technician” prevails over the model of the independent contractor, a model very different — i.e. worse — than the “traditional” model of the salaried worker, since, although the salaried technicians are subject to an economic dependence relationship to the employer and therefore subject to the managerial powers of the latter (specification by the employer of the place, method and time of the provision of the work), the employer does not acknowledge them as employees but only as “associates” and for this reason they are not employed under employment contracts; they get paid upon issue of Invoices for Provision of Services (freelancers). This means that they are not subject to labor legislation and thus they do not have even the most basic rights established under such legisla-

tion. For example, they are not subject to collective agreements; they do not receive the 13th and 14th monthly salaries, they do not receive any paid leave or leave allowance or any compensation in case they are fired, in which case they are also not entitled to receive unemployment allowances etc. It is a class of working people who are not only dispersed in hundreds of offices and construction sites, but also lacked until recently any organized collective representation in the form of a trade union.

The traditional organization of the independent contractors and self-employed into Chambers and Employer Organizations and the traditional organization of the salaried workers into Trade Unions has created a lack of representation of “economically dependent workers” in Greece:

Law 1264/1982 “on the democratization of the trade union movement and the protection of workers’ trade union rights” regulates the establishment, organization, operation and activities of trade union of workers: Workers within the meaning of this Law are those employed under private law employment contracts for dependant work. Therefore, trade unions in Greece are traditionally unions of salaried workers. The independent contractors and the self-employed, who do not employ personnel, are organized together with the self-employed who employ personnel, either into employer organizations or, in case of scientific professions, into associations or chambers. However, this scheme is no longer sufficient and new developments are very likely to occur in the next years. And that is so, because:

- A) The phenomenon of economically dependent workers, although not a new occurrence in Greece, has been rapidly spreading during the last years. Since they are not directly subject to individual or collective labor legislation, are not organized into trade unions and are therefore not subject to collective agreements and do not have any acknowledged basic rights, such as the right to strike. However, due to the increase of the number of economically dependant workers in professions such as the profession of lawyer etc., an increasingly urgent need arises for them to organize trade unions forming legal persons (entities) independent from the traditional associations, chambers and, especially, the employer associations.
- A) In addition to the aforementioned, it is noted that in the context of the current severe economic crisis the deregulation of a large number of professions is underway (taxi drivers, newspaper sellers, lawyers, pharmacists etc.), which are traditional professions of the self-employed, who do not employ personnel or just employ a limited number of personnel. Since the deregulation may result in the long term to the establishment of large companies in these sectors, such professionals shall become salaried workers. Therefore the need shall arise for the establishment and operation of trade unions for these sectors.

4.2.3. General Objectives (aims)

The general objective of this study is to detect examples of best practices in the organization and representation of the interests of two categories of professions traditionally regarded as professions of “independent contractor”, which, however, due to the transformation of the labor market and the employment relations model, now include a large percentage of economically dependent workers. Two examples of best practices have been selected (lawyers / engineers) because in these two cases a fundamental and substantial difference exists which affects and directly and substantially concerns the structuring of collective employment relations of the professionals belonging to these two categories. The difference is that economically dependent lawyers are represented by Bar Associations, which also represent the employer-lawyers and that no trade union of salaried lawyers exists. In contrast thereto, in the case of the engineers, a novel and interesting development is that a trade union has been established with the proclaimed objective to represent the economically dependant workers, who are paid upon issue of Invoices for the Provision of Services (freelancers) and which expresses its views to the public using the relevant dialectics, a fact which is a ground-breaking development in relation to Greek practices, according to which social partners are mandatory distinguished under law into employer organizations and employee organizations, while the social groups of the salaried workers and the independent contractors are considered as conflicting and competitive to each other.

Hereinafter, some comparisons will be made in relation to the evolution of the employment relations model as regards the aforementioned two categories of professionals and the differences and common points between these two categories will be underlined.

4.2. Quality and innovativeness of the process or product

4.2.1. The case of the lawyers

The best practice in case of lawyers in the acknowledgement by the law of a special contractual relationship, i.e. the “salaried mandate with fixed remuneration”. It is clarified, that such contractual relationship is specified solely for the profession of the lawyer and the respective provisions are included under the Lawyers’ Code. The acknowledgment of such contractual relation constitutes a best practice, since its result is the establishment of a number of rights (minimum salaries, paid leave and allowances, compensation for overtime work and work on Sundays and at nights, compensation in case of termination of contract etc.) of the “salaried lawyer with fixed remuneration” towards the other contractual party, which would not be acknowledged otherwise, since lawyers are not permitted to work as salaried worked, while retaining the status of the independent contractor at same time, a status which is deemed, at least in Greece, as an inherent characteristic of the profession of the lawyer (Characteristically, the Lawyers’ Code specifies that the provision of salaried services is incompatible to the lawyer’s profession). The contractual relationship of the “salaried mandate with fixed remuneration” has been acknowledged upon a respective request and pressure by the bar associations, which are powerful organizations in Greece. During the last 2-3 years, it has been noted, that the cases of submission of claims at courts by lawyers employed in law offices have increased. Namely the cases have increased, where lawyers seek acknowledgement by the court of the fact that during the period of their employment at a law office of another lawyer, they were not partners, but economically dependent workers. Since the scheme lawyer-employer against lawyer-employee appears in an steadily increasing number of cases, and since in the bar associations both the lawyers with large income and large volume of activities and the economically dependent lawyers are represented, those belonging to the second group have started to think of the possibility of organizing a separate representation, outside the framework of the bar association, in the form of a trade union. However, this trend has lead to repeated attempts to establish a trade union for salaried lawyers during the last four years, which have always failed in the end, on the one hand, due to existing legal impediments (as already mentioned, trade unions in Greece are unions of salaried workers, collective agreements apply only to salaried workers, only salaried workers are entitled to strike, the exercise of the lawyer’s profession is deemed incompatible to salaried work etc.), on the other hand, because lawyers still retain a pronounced consciousness as independent contractors and based on such consciousness they wish to avoid becoming salaried workers, i.e. they try to retain their independence as professionals. The case of the engineers is very different. In the second case, a trade union has been established outside the respective Chamber (Technical Professional Chamber). This development is the result of the fact that, on the one hand, the operation of large technical companies has occurred quicker and to a larger extent than in case of the lawyers, while salaried work is not deemed under law as incompatible to the profession of the engineer.

4.2.2. The case of the engineers

As already mentioned above, trade unions in Greece are traditionally unions of salaried workers. The independent contractors and self-employed persons, who do not employ personnel, are organized together with the self-employed, who employ personnel, either into employer organizations or, in case of scientific professions, into associations or chambers. However, in the engineer sector, a trade union already exists since 1999 and such union has specified the issue of economically dependent workers as its first priority. In particular: This union, although being a trade union, has as its fundamental and stated objective the protection of the interests and the representation of self-employed persons, who do not employ per-

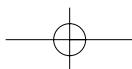
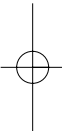
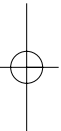
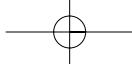
sonnel, and who fall into the category of “economically dependent workers”. In particular: Under the relevant provisions of the charter of the union: “The objects of the union are: ... To unite all salaried workers in the technical sector through strong bonds of collegiality and solidarity, considering the fact that due the distinction prevailing in the technical sector into employees and employers, professional associations such as the Technical Professional Chamber cannot, by their own nature, express the positions, intentions and demands of the employees towards their employers ... Any worker holding a degree from a technical school of any level may become member of the union, provided that such worker is mainly employed under a dependent employment relationship and irrespective of the manner of payment of its remuneration (invoice for provisions of services, monthly salary, lump sum fee, hourly wages, working from home etc), and irrespective of the formal designation of the employment relationship (employment contract, works contract, provision of services agreement etc) or the competent social security organization, works in Greece, irrespective of age, gender, religion, nationality or citizenship...etc.” An achievement of the union of salaried technicians is the issue of an arbitration decision by the Mediation and Arbitration Service (OMED), explicitly mentioning economically dependent work. In particular, the Mediation and Arbitration Service (OMED) issued Arbitration Decision No. 13/2007. Article 3 of this decision describes the relationship of subordination based on its essential characteristics, regardless of its formal expression. Specifically, it acknowledges that: There is a contract of employment and, for that reason, a salaried worker is subject to the provisions of this decision, regardless of the manner in which the salary is determined or paid, provided that the worker is placed in a position of legal subordination by the employer. This decision alone does not mean that the regulations contained therein will apply automatically to “workers issuing invoices”. Workers issuing invoices must first try to achieve that a court judgment is issued acknowledging that their actual relationship with their employee is a salaried employment relationship and not a relation based on the provision of independent services. However, notwithstanding the aforementioned, the above decision has a special symbolic meaning and constitutes the first acknowledgment of the issue of economically dependent work within the framework of a collective labor agreement.

[For more information please refer to: Sofia Lampousaki, *Employers refute decision to acknowledge economically dependent workers*, Eurofound, European Industrial Relations Observatory, 2007 - <http://www.eurofound.europa.eu/eiro/2007/07/articles/gr0707059i.htm>]

4.2.3. Transferability and Multiplier effect

Addressing the issue of the gray zone between salaried work and self-employment (economically dependent work) has proven to be an extremely complicated affair. Actually, it will be an issue of even more concern in Greece in the immediate future, because its extent is expected to increase in the context of the current economic crisis. The deregulation of a large number of professions of independent contractors has been underway for about a year, a fact that is expected to lead to the concentration of the volume of the work to larger undertaking-companies, resulting to an increasing transformation of several professions traditionally exercised by “independent contractors” to professions of salaried workers. In this context, the need will arise for the representation of the economically dependent workers and of the new salaried professionals by organizations which will be different than those existing until now and under which, based on their profession, both the self-employed persons, who do not employ personnel, and the employers and the economically dependent workers are organized. It may be suggested to include the economically dependent workers in existing trade unions which may then represent them along with the salaried workers. However, based on the culture prevailing up to now in the employment relations, the status of the independent contractor is deemed as incompatible to the status of the salaried worker, although independent contractor are often facing more intense financial difficulties. In this context and since the economic crisis has severely affected the undertakings owned by individuals and the small and medium size undertakings and, in addition, due to the legal problems which will arise in case of common representation of self-employed persons (even if they are economically dependent) and salaried workers, it may be a reasonable option for the organizations representing the self-employed persons to request the implementation of social security provisions for self-employed persons similar to those applicable to salaried workers, when the former are facing situations such as accidents at

work, maternity, unemployment etc. As regards other European countries, there are countries, where the deregulation of professions has been carried out some decades before and where the concentration of some professions in larger undertakings has already occurred (e.g. large law firms and taxi companies or chain pharmacies already operating in Northern Europe), while at the same time in some countries developments comparable to those in Greece occur right now (e.g. deregulation concerning taxi drivers in Italy). Therefore, the key to finding the right solution could be to share experience.



Chapter 5

Tax simplification in Hungary

by Boglárka Bata, CF

5.1. Simplified entrepreneurial tax

The *Act XLIII of 2002 on Simplified Entrepreneurial Tax* regulates the rules for applying this kind of simplified taxation in Hungary, this process can be mentioned as a best practice in Hungary from the aspect of decreasing the administrative and taxation related requirements of self-employed persons in Hungary and through this enhancing their more successful and effective operation and business activity.

According to the *Act XLIII of 2002 on Simplified Entrepreneurial Tax* individual entrepreneurs, joint ventures and individual companies (mainly SMEs) can decide on to apply this kind of taxation, if having registered at the tax authority till 20th December of the previous year before applying it, and has to meet the following requirements/conditions:

- its gross income does not exceed 30 million HUF;
- it has no public debt;
- it has not gone under transformation, and new member did not obtain more than 50% of the voting shares in the previous two years;
- it has debit account in-country (Hungary);
- it was not obliged for difference related taxation according to the VAT law or the special tourism taxation is not valid for its activity or it did not choose special taxation rules applied for agricultural producers;
- it operated actually and continuously, so generated income;
- it does not carry out activity covered by the Excise Act;
- it does not operate as an indirect custom-officer;
- if the joint venture (company) does not have shares in other (whether domestic or foreign) legal persons or unincorporated business association.

The EVA-subjectivity ceases if any of the above mentioned is fulfilled during the tax-year, and even if the taxpayer fails to issue an invoice or receipt and therefore the tax authority imposes a fine. This also means that due to this penalty the taxpayer is not allowed to choose EVA taxation the following four years after getting the penalty from the tax authority.

It is not possible to change the form of taxation to EVA and back during the tax year. To declare the intention to exit EVA is possible only in the period from 1st to 20th December each year.

From 2012 these kinds of taxpayers shall pay 37% of their annual revenue as a tax. If the taxpayer exceeds the 30 million HUF income limit, it shall pay 50% of its income as the EVA. The 50% tax is on the part of the income that is above 30 million HUF.

By paying this EVA the taxpayer is not obliged to pay the following other taxes: corporate tax (10%),

VAT (27%), personal income tax (16%), dividend tax and super tax. However, it is still obliged to pay other kinds of taxes, such cultural contribution, vocational training contribution after the employees, local business tax and company car tax (this last one is not required to be paid by individual entrepreneurs).

From 2007 EVA-taxpayers are entitled to reduce their tax base with either the 60% of the accounting related costs, or with 20% of computer purchase, or with the 40% of their occurred internet-fee. But only in that case if their tax-base is under 4 million HUF. In case of EVA the tax base is the modified gross revenue.

In the case of EVA-taxpayers the tax year is the same as the calendar year. The EVA-taxpayer shall confess its tax in each quarter of the year, so in the first three quarters it shall confess it in advance. Deadline for paying taxes is 12th of the month after the current quarter. The base of the advance-tax is the income earned in that quarter. The rate of the advance-tax is also 37%.

The EVA is required to be paid via bank-transfer directly from the bank account of the entrepreneur (from personal bank account it is not allowed to be paid).

The EVA-taxpayer shall have three types of records: records of income, registration of charges and record of forms of strict accountability. In addition the EVA-taxpayers are required to keep records in which the tax obligations can be followed on periodical base.

After personal involvement of joint ventures the personal income tax (16%) shall be paid as well, in that case as well, if it is EVA-tax-payer.

In case EVA tax-payers are individual entrepreneurs in their full-time job or differently said as a first job holder entrepreneur (clearly self-employed persons), the EVA tax-payers are obliged to pay the followings after themselves: pension contribution (10%) after the minimum wage; the health insurance and labour-market contribution (8,5 %) after 150% of the minimum wage and social contribution tax (27%) after 112,5 % of the minimum wage. The minimum wage is 93 000 HUF for 8 hours/day work but if the private entrepreneur's job requires a secondary educational level the minimum wage is 108 000 HUF.

The EVA taxpayer individual entrepreneurs are obliged to confess and pay contributions with the EVA at the same time.

In case the EVA taxpayer is individual entrepreneur as a second jobholder (so having employment at the same time in more than 36 hours a week) then the EVA taxpayer is not obliged to pay any social contribution tax (it is 27%), as its primary employer pays the required social contribution (27%) only 4 % after the tax base mentioned in the *Act XLIII of 2002 on Simplified Entrepreneurial Tax*.

The EVA made the life and operation of many entrepreneurs easier in Hungary for years, mainly considering that earlier its rate was much lower, in 2011 30% and in 2010 it was only 25%, unfortunately there is no authentic study or analysis focusing on the effect of EVA on the SME sector in Hungary. However in recent years the number of EVA taxpayers has continuously increased, till the relevant increase of the rate of EVA to 37% in 2012.

This kind of simplified taxation can be mentioned as a best practice in Hungary, as it reduces the administrative and taxation related obligations and tasks of entrepreneurs, mainly self-employed persons in Hungary, and through this it aims to enhance the competitiveness of self-employed persons. However, it has to be mentioned that this kind of self-employment is the most favorable for the second job holder entrepreneurs, due to the fact that in case the EVA taxpayer is individual entrepreneur as a second jobholder (so having employment at the same time in more than 36 hours a week) then the EVA taxpayer is not obliged to pay any social contribution (it is 27%), only the EVA, as its primary employer pays the required social contribution.

Chapter 6

Upstream negotiation of newspaper vendors in Italy

Good practice examples: newspaper vendors - newsstands

by GianMarco Gilardoni, Felsa CISL

6.1. Adequacy and completeness of the logical framework of the project design and implementation

6.1.1. Problem finding

The category of newsagents has as a central point of his union activities of dialogue with their counterparts, the National Labor Agreement. Our CISL category has canceled to FIEG (Italian Federation of Newspaper Publishers) by several months the national labor agreement that regulates the work of the newsagents, also expired for more than a year and force unchanged for nearly six years.

The National Agreement was signed for the first time in 1953 between FIVAG ICFTU, SINAGI, and UILTuCS FIEG.

The non-renewal of that agreement for newsagents causes a continuous deterioration of working conditions in our category, with a progressive economic immiseration.

The behavior of the local distributor of newspapers, which too often carries his work in conditions of virtual monopoly by imposing unfair conditions and poorly respectful of that national agreement and exercising real forms of competition against the same newsagents which supplies newspapers, not helps to improve the situation.

This situation has been changed by recent national measures (liberalization Decree) which provide for a liberalization of licenses for carrying on the activities of newsagent, and a new approach to relations with distributors more favorable to the newsagents on the issue of supply.

6.1.2. General objectives (aims)

The category, in anticipation of the reactivation of the table of national discussion, is preparing a platform of demands that comes from confrontation with all members of the union CISL FeLSA newsagents.

In summary the main points are the following:

- possibility for the the newsagent to choose the local distributor and in the event of supply problems, the possibility to request supplies from another distributor;
- review of the products which deserve equal treatment, specifically differentiating that which dispenses culture from that which is commercial product;
- possibilities for the newsagent to decide the amount to receive for each publication according to customer requirements;

- increase the percentage of commissions;
- activate a direct line with the publishers to have an exchange of information with respect to orders and the amounts to be received, transforming the distributor into a real party with the publisher; give to the newspaper vendor the possibility to choose the period of holidays;
- attribute to the newspaper vendor the characteristic of public service.

6.1.3. Expected results

From the list of trade union demands, the ultimate goal is to achieve the conclusion of a new national collective agreement which is more representative of the problems that have emerged in recent years, and especially the widespread development of reading newspapers through information technology.

6.1.4. Activities

The activities that the category is developing into practice are the classic activities of a trade union category, with the only difference that is not to protect employees, but self-employed that have issues that you can safely discuss collectively.

Local meetings: some months all over the Italian territory, and particularly in the Lombardy region, we are organizing thematic meetings to meet with the newspaper vendors and tell them why FeLSA CISL newspaper has unilaterally canceled the national agreement.

In these forums is then distributed a questionnaire where every newsagent must put its own demands and challenges compared to the daily work. The synthesis of the questionnaires will be part of the platform required to be submitted to the national counterparts.

The table of renewal of the agreement is composed by:

- Trade Unions;
- FeLSA CISL Giornalai;
- UILTuCS Giornalai;
- SNAG Confcommercio;
- FENAGI Confesercenti;
- SINAGI CGIL.

Counterparts

- FIEG - Federazione Italiana Editori Giornali;
- ASIG - Associazione Stampatori Italiana Giornali;
- ADN - Associazione Nazionale Distributori Nazionali;
- NDM - Network Diffusione Media.

In relation to specific issues are organized strikes or alternative forms of protest. The tense situation in respect of distributors has led to a form of protest to delay payments in favor of the distributors themselves.

6.1.5. Dissemination strategy of the results

The results are disseminated to members and non-members through the Organization of regional meetings (regional, provincial and zonal) issuing press releases and updating of internet sites.

6.2. Quality and innovativeness of the process or product

6.2.1. Process or product

The main observation process is without doubt the national labor agreement and its renewal. Meanwhile in Italy opened the side of the legislative measures in favor of the liberalization of certain professions (including newsagents) which saw the Trade Union FeLSA CISL NEWSAGENTS in the forefront within the dialogue with the Government at the national level.

The second issue is the eternal dispute pitting newsagents and distribution company on some well known themes such as:

- general relationships;
- deregulation law;
- issue of returns.

6.2.2. Organization and management of the resources

At the table of the renewal of the national agreement is called the General Secretary of CISL FeLSA newsagents; for supporting there is the participation of a select group of trade union representatives of the category from some regional or local offices of particular interest and relevance.

6.2.3. Partnerships

The “closest” trade union partners should be those belonging to the other 2 union confederations of national interest (UILTuCS for UIL and SINAGI for CGIL). Note however that only FeLSA CISL newspaper has canceled unilaterally the agreement that has expired long ago.

6.2.4. Counterparts

As mentioned above, the main counterparts are the following: current.

Counterparts

- FIEG - Federazione Italiana Editori Giornali;
- ASIG - Associazione Stampatori Italiana Giornali;
- ADN - Associazione Nazionale Distributori Nazionali.

6.2.5. Relationships with recipients and contacts

The presence at CISL Trade Union Headquarters Office of the FeLSA CISL office, represents the first level of potential relationship with subscribers and potential subscribers.

In the logic of each trade union to bring care as close as possible to the workers-professionals, are often organized moments of encounter and confrontation between the union and the newspaper vendors.

The preparation of the above-mentioned questionnaire is born from the desire to make more each individual participating inside in the process of renewal of the labor agreement that will govern its activities over the next few years. Difficult years that see the newsagents face new situations (computerization of newspapers, competition without limits and rules put forth by new actors, etc.) and that may endanger the survival of their activities.

6.2.6. Monitoring and evaluation and dissemination

Activities are initiated to meet and exchange between the union and members ranging from the presence and local roots; inside of the most significant territories and large metropolitan centers, regional or provincial level for the other.

6.3. Transferability and Multiplier effect

6.3.1. Ability of the best practice to be reproduced in the presence of similar problems or similar to those that originated it.

The National Labor Agreement model is similar to that for other categories of professionals such as doctors, gas stations, or even agents of commerce.

The innovative element is in the fact the direct involvement of individual newsagents in the process of renewal, the union has realized that it must change the dialogue with their counterparts but also with its associated changes in respect to National and European laws. The scene is changed and must therefore change the sectoral social dialogue.

Direct involvement of the newspaper vendors also means that you should not think in more logical representation of the interests of some individuals (professionals in every respect in our case) carried out by trade union bureaucrats but by the same newspaper vendors that become trade unionists and working within the syndicate assignments and responsibilities. The representation is then assigned to newspaper vendors covering the functions of trade union officials and work with the technical support of trade unionists by profession. This is perhaps the most significant and exportable good practice.

Another good practice could be exported in the form of direct involvement of stakeholders (in this case, the newsagents and external actors union) to sit at the table not only at the national table of agreement renewal, but also at the table of social dialogue with the government to discuss the issue of deregulation of professions.

Last good practice is certainly to be able to apply the tools of bargaining for the employee in favor of a category of professionals - small business owners that protect their, conscious of a new concept for the professionals that is the membership of a group or a category.

6.3.2. Ability of the best practices to be used as a model for different problems or situations than the ones where it was implemented

The signing of National Accord valid “erga omnes” and therefore its implementation throughout the national territory.

Use and transferability of the model adopted in favor of other categories of self-employment, clearly making the right changes.

Applicability and transferability both at national level but also at regional or local (ex. Street vendors) where they are located and scope of the jurisdiction of interest associations counterparts.

New approaches, protection and representation of trade unions to the traditional categories and the world of self employment. The real good transferable practice is precisely the concept of representativeness of the work done by independent unionists who come from the same sector.

From the topic of trade union’s internal representation we can move decisively to the representation and recognition outside, towards institutions and counterparties - becoming a subject of representation of self-employment in respect of institutions at all levels (national, regional and local).

Chapter 7

Taxi cab deregulation in Poland

Local context and best practice of representation and leadership of self-employed people in Poland

by Robert Geisler, Centrum CSR.PL

7.1. Introduction

This text is part of the project *A New European Study to identify and analyses the best practices and strengths of the industrial relations of self-employed workers: representation beyond administration, the possible leadership of SME*. It analyses how the self-employed people can create and take part in the process of the social dialogue in Poland. Traditionally, social dialogue is defined as interaction and mutual negotiations among the government side, organizations of employers and trade unions. As defined in that traditional way, social dialogue emerged in economic reality very different from the current one — when the large enterprises played a major role in national economies. Last years, the EU Member States changed their economic structure to a large extent and therefore new — “atypical” — forms of work agreements emerged. Therefore, a new type of social dialogue needs to be established so that those new actors could also benefit from it.

The aim of this article is to present new forms of institutionalization of social dialogue implemented by self-employed people in Poland. At the beginning, the paper presents the Polish context of the functioning of the self-employed workers, the definition and assessment of self-employment in Poland. Then, I describe the present state of social dialogue in Poland, with respect to the self-employed, and try to indentify and analyze the „best practice” implemented by the self-employed professionals. The article is based on the analysis of documents and the interviews with the self-employed persons¹.

7.2. Polish Context

Self-employment in Poland emerged after 1989. Until then, in the époque of so called “real socialism”, the Polish central-planned economy was dominated by large state-run enterprises, often ineffective heavy industry, the property of the socialist state. For the ideological reasons private property as such was discarded, and thus the ability to work “on one’s own” (Kornai 1980). The employment of persons in large state enterprises and the state agriculture farms (famous “PGR”²), dominated the work relations. Self-employment was allowed only in a few cases — the so-called “free professions”, that is: artists, journalists, doctors, architects, taxi drivers or small shops keepers. A model of a central planned economy and economic scarcity model for ideological reasons rejected the existence of the self-employed persons in the economy as an important factor of the economic structure.

¹ There were conducted 8 interviews with self-employed people. The aim of this research was to diagnose the situation of self-employed people, especially their functioning as self-employed and creating representation. It was qualitative study aims defining trends and the most important issues, not representative study on self-employed people.

² PGR – (*Państwowe Gospodarstwo Rolne*), means State Agriculture Farm. During socialism PGR was one of the basic agricultural structure. There was one organization, employed farmers and produce food or another type of agriculture industry.

The political transformation of the period 1989/1990, towards the free market economy and democracy, altered not only the structure of the economy, but also the ideological base for behavior patterns of the citizens. Broadly understood freedom concerned not only political, but also economic aspects of life. At that time, people gifted with “spirit of entrepreneurship” have begun to create new businesses enterprises, and a phenomenon of “self-employment” appeared on the scene, particularly in the trade. The 1990’s in Poland marked a period of radical change in economic structure. The rapid collapse of state enterprises, the elimination of many enterprises due to inability to adjust to the new market reality, but also so called “restructuring” — the change in the form of ownership (privatization) or organizational change — this all contributed to the emergence of new private enterprises in the economic structure.

The next two mark-points of structural transformation which matter for the self-employed in the past twenty years of “new Poland” were the following: the accession to the European Union in 2004, and the global economic crisis of 2008. The accession contributed to the massive job emigration of the Poles. First of all, was the migration to the British Isles — Ireland, England and Scotland. Some of these people have set up one-man businesses there. The economic crisis of 2008 caused yet another change in the business model of enterprises. Many companies are forced to cut costs, which implies the phenomenon of job cuts. On the other hand, some of enterprises continuously utilize the potential of their former employees. That leads to massive “outsourcing” of labour, one of the key elements of the new economic reality. Thus, many people who want to remain present in the labor market are forced to open their own business and carry out their original tasks as self-employed. This phenomenon is called “dependent self-employment”. It is a phenomenon that has emerged in the EU countries in recent years, as described by — among others — Boenheim and Mühlberger (2009). In their studies they diagnosed that dependent self-employed persons are rather “pushed” to self-employment than attracted to it (“pulled”), thus making self-employment a necessity rather than a life chance. In the last two decades outsourcing and subcontracting have begun to appear more often in companies in place of hierarchical relationships. The growth of outsourcing has increased the number of employees outside the company, who are in practice dependent in economical and hierarchical sense.

The number of self-employed people in Poland remains more or less stable over past few years and is estimated to be 3 million people, which corresponds to 19% of total employment in the country. Some labour market analysts suggest that about 2 million people have started their own business as a result of pressure from the employer. This is — as described above — a result of the changing policy of enterprises due to a difficult economic situation. Statistical data also shows that since 2000 the sector of micro companies (ie. up to 9 employees) keep a unified business profile, operating in only one concrete business branch, particularly in trade, transport, construction and real estate. The number of such enterprises in 2003 amounted to 1.7 million. These companies represent around 3,2-3,5 million people employed in the economy, which is about 20% of total employment³. In addition, approximately 2 million people work in agriculture. They are called “individual farmers”, to which one should add 0.630 million of helping family members.

Statistical data for 2009 indicate that for a total of 16,163 million of employed persons, 3,071 million are self-employed, of which 0.681 million can be defined as employers — they indeed employ other workers. Therefore, the Central Statistical Office estimates that the total number of self-employed people — not employing other workers — is 2.390 million. At the same time, it is estimated that the self-employed are aided in their professional activities by circa 590 thousand family members. In terms of age, the majority of self-employed find themselves in the categories of 45-54 and 35-44 years old (0.897 million and 0.859 million respectively). Then, at the categories of 30-34 years — there is 371 thousand and in the range of 55-59 — 345 thousand self-employed people. In terms of gender: self-employment is dominated by men, 2.029 million of self-employed are male, 1.042 million are female. It is also characteristic that the self-employed often live in the countryside — 1.697 million people compared with 1.374 million living in the cities. In terms of education self-employment is dominated by people with vocational education

³ There is more or less 15 million employed people in Poland in general, c.a. 4,8-5,6 million of which works in the enterprise sector.

(1.009 million people); 0.903 million completed secondary education; 0.604 million have higher education. In terms of classification, the activity is dominated by people employed in agriculture, forestry, fishing — (1.334 million of the total number of self-employed work in these industries), followed by trade (0.509 million people), construction (278 thousand), manufacturing (169 thousand) and transport (153 thousand) (Central Statistical Office 2010).

In geographical terms, most self-employed people are active in the central Mazovia Region (with Warsaw), industrial Silesia (in the South) and bordering with Germany — Wielkopolska, Dolnośląskie (Lower Silesia) and Malopolska. Less populated eastern and northern parts of Poland are distinguishable as areas with a relatively lesser degree of self-employment.

The statistics of the average number of working hours of self-employed compared to those working for the “normal” employer are interesting and suggestive. Polish Labour Code defines the 40-hour working week. However, statistical data indicate that Poles work an average of 39.3 hour per week, but those self-employed work more — 43.3 hour. Over 2.283 million of self-employed work more than 40 hours per week.

Among newly established companies we most often find: hotels and restaurants, real estate and business firms, science companies. The period of their survival is shorter than average. In the industry, transport, storage, and communications — there is an opposite situation. There are less new companies, but they usually stay longer on the market.

In addition to statistical data, it is useful to show the results of social surveys conducted in recent years with regard to the self-employed. The study, “Working Poles 2007” conducted by Polska Konfederacja Pracodawców Prywatnych (PKPP) Lewiatan⁴ (employers’ organization — Polish Confederation Private Employers Lewiatan) revealed that 59% of respondents choose the model of self-employed work on a voluntary basis, while in fact only 8% were persuaded by the employer (Gardawski 2007). Satisfaction with this type of employment declared 75% of respondents. The study “Kelly Services” in 2010 showed that the crisis has created an entrepreneurial attitude and a greater openness to new forms of self-employment. In comparative studies, Poles are more open than other EU citizens. In Poland 17% of respondents would consider setting up a business, while in Sweden or the UK — about 9%, in France and Ireland — about 8% and in Belgium and Germany — 6%. One third of respondents in Poland actually plan to establish a business, especially young people (aged 18-29) are most enthusiastic about this idea⁵.

7.3. Self-employment in Poland - the legal definition⁶

Self-employment in Poland is one of the forms of business next to a partnership, unincorporated partnership (general partnership, partnership, limited partnership, a company limited by shares) and capital companies (limited liability company, joint stock company). In Poland, the self-employment is defined as people pursuing one-man business activity.

The legal basis for conducting such business is the following:

- “Act on Economic Activity from 2004”, where the article 2 states: “economic activities are: profitable production, construction, trade and service activities, exploration, discovery and extraction of mineral resources and professional activities conducted in a structured and continuous way” (Journal of Laws 2004, No 173, item 1807).

In addition, self-employment is based on the following legislation:

⁴ PKPP Lewiatan is the association of private employers which in general voices the demands of big enterprises.

⁵ This part of the article is based on press releases referring to the research conducted by Kelly Services and PKPP Lewiatan (source: websites of Kelly Services and PKPP Lewiatan).

⁶ This part of the article is based on governing documents and legal sources.

- “Personal Income Law” (Journal of Laws 1991 No. 80 item 350, Act of July 26, 1991 tax personal income) — amended in 2004, which defines the conditions in which the activity may be treated as self-employed and can be qualified for 19% tax rate;
- “Economic Activity Law” (Journal of Laws 1999, No. 101, item 1178 with amendments).

7.4. Pros and cons of self-employment in Poland⁷

Pros and cons of self-employment in Poland are discussed in relation to the employment in classical enterprises, and most often to the situation of being employed on the indefinite period contract. This type of employment is important, Polish society prefers to work “for someone”, rather than “on your own”⁸, it is particularly common among the older generation (45+). It is worth to quote the results of research on the pros and cons of self-employment conducted among the self-employed themselves. Such the research was conducted by the website “PIT.pl” in 2011. First of all, it is worth to notice that regardless of the industry, concerns and hopes of the respondents were very similar, which shows the homogeneity of this professional group in the labor market. The respondents pointed out the risks posed by the small size of the enterprise (single) and the necessity of conducting all the tasks by a single person, which means that it is impossible to permit oneself for sick leave or vacation. In addition, the amount of insurance benefits was indicated as a further disadvantage of self-employment. In this case, there was a specific type of negative arguments against the policy of the state towards self-employed. This is particularly important in a situation of low-income self-employed, when insurance premiums are deducted from their income. Also, respondents pointed to the small share of the pension funds.

In addition, the lack of self-confidence and stability is a significant drawback. Broadly understood uncertainty and risks of the future become in this case the key elements of public opinion. In the public discourse among the representatives of the entrepreneurs, employers, politicians and trade unions, the following advantages and disadvantages of self-employment are often presented. The advantages — most often highlighted by employers — presents the self-employment as the simplest form of business, which does not require large amounts of money, as well as the ability of individuals to freely make independent decisions. Another type of benefit, compared to the situation of former “classical” employees, is the flexibility of time and place of work, the ability to carry out multiple services for multiple employers and reduced tax burden. The self-employed may pay a flat-tax rate (a lump sum) or a linear rate 19% income tax. Physical persons (employed on a contract) pay higher taxes of 18% and 32%. Self-employed may also pay lower contributions to the Social Insurance Institution (*Zakład Ubezpieczeń Społecznych - ZUS*), compared to a person employed under an employment contract. In this case, the minimum base fee for a person employed on a contract is 60% of the average wage. Comparatively, self-employed pay the following costs: Social security — basic fee — is 597.37 PLN⁹, while the National Health Fund contribution (*Narodowy Fundusz Zdrowia — NFZ*) amounts to 243.39 PL¹⁰. In total, a minimum of monthly social expenses is 840.76 PLN¹¹. Simulations which often appear on various Internet websites in order to encourage people to work as self-employed, stress that a person working under an employment contract with a salary of 5000 PLN¹² per month gross weight pays 12 238 PLN¹³ per year for Social Security Insti-

⁷ This part of the article was written based on documents (websites of employers’ organizations and trade unions in Poland), interpretation of existing research (Drozdowski, Matczak 2004) and interviews with self-employed people.

⁸ This metaphor means, that Polish prefer working for a company which organize work and give safety then working as individual, self-employed, on the market. Some sociologist and economist explain it by cultural issues according to which Polish in their history were working under feudals and under state socialism. It means that during history no created patterns of behavior such risk, individualism, self-organizing.

⁹ Currency: 1 Euro = 4 PLN /more or less/, so 597.37 PLN = 149 Euro. The average if income in Poland is more or less 4000 PLN gross weight (more or less 1000 Euro) and the minimum income is 1500 PLN (375 Euro).

¹⁰ More or less 60 Euro.

¹¹ More or less 210 Euro.

¹² More or less 1250 Euro.

¹³ More or less 3059 Euro.

tution and the National Health Fund. In the same case a self-employed entrepreneur would pay only 10 089.12 PLN¹⁴ per year, which is about 2000 PLN less¹⁵. Furthermore, in recent years, a policy of creating entrepreneurship — pursued by the Polish government — has resulted i.e. in a decision taken by the authorities that those who decide to set up a business, and who do not have other vocational activities, are allowed to pay reduced fees in the amount of only 376.61 PLN¹⁶ a month in the first two months of their activity.

Summarizing the above statements, the self-employed have better possibility of cost accounting of revenues and lower social security contributions, they are also able to freely work in all EU countries. Finally, many commentators indicate self-employment as a “school” of entrepreneurship (which matches neo-liberal ideology).

The disadvantages of self-employment are the following: a possible lack of financial liquidity, which depends on the initial invested capital (usually very small in case of self-employed), the risks and responsibilities that the self-employed have to bear and liability for the commitments under public and private-law commitments.

It should be stated that frequent criticism against self-employment, voiced by the trade unions, points out the uncertainty and unpredictability of their position on the labour market, as well as the general permanent fear about the future. Many indicate the lack of access of the self-employed to the benefits of a social fund, which in larger enterprises provides employees with various benefits — for example funding for the recreational activities or events for employees children. In addition, trade unions criticize the self-employment due to the reduction of the number of employees in enterprises to which it contributes, which indirectly reduces the number of members of trade unions. It is also important that the self-employed people must keep the accounting books on their own or commission this task, which is costly. The disadvantages of self-employment include a lack of leave, as critics point out — the situation of “suspension” of operations in case of not being able to perform the work, without and thus not receiving any resources in case of not working.

7.5. Do self-employed in Poland take part in the social dialogue?¹⁷

The social dialogue in Poland has rather a short history dating back to the 1970s. and 1980s., when the democratic opposition movement emerged in the country of real socialism firstly in the form of independent and self-governing trade union “Solidarity”. After 1989, this union has taken part not only in active implementation of social dialogue, but it also became a significant political force, which was reflected in the parliamentary elections of 1997, when a broad right wing political platform was established on the basis of the Solidarity Electoral Action (*Akcja Wyborcza Solidarność - AWS*), which won parliamentary elections, as a result of that the union leaders become decision-makers.

Over a period of more than twenty years social dialogue in Poland has been institutionalized. First of all, the social dialogue has been defined as the general relationships between employers and trade unions, which take the form of relationship with government authorities or local government. It is also regarded as a social process of continuous interaction between these institutions. The practice of social dialogue in Poland is formed following the principles of social dialogue, such as: a) the principle of independence and the balance between parties of the dialogue, b) the principle of trust and compromise, c) the principle of action in accordance with the law. In a result, various forms of social dialogue are distinguished: a) negotiations, b) consultations, c) opinionating, d) reporting.

¹⁴ More or less 2522 Euro.

¹⁵ More or less 500 Euro.

¹⁶ More or less 94 Euro.

¹⁷ This sub-chapter was prepared based on documents relating to social policy, employers' organizations and trade union activity in Poland and on (Gardawski 2009), (Męcina 2009).

Following parties are involved in the process of in addition to the government side: organizations of employers and trade unions. Employers' organizations are institutions which, in accordance with the "Law of 05.23.1991" on employers' organizations, constitute the representation of employers who have the right to create unions at their discretion and to join those organizations, subject to complying with their statutory objectives. Their duty is to protect and represent the interests of the affiliated members (employers) towards trade unions, local authorities and government.

There are following major employers' organizations in Poland:

- A) Employers of Poland (*Pracodawcy RP*) — an organization of 40 regional and branches employers' associations.
- B) The Polish Confederation of Private Employers "Leviathan" (*PKPP Lewiatan*) brings together employers, employers' federations and employers' associations who have special economic position and importance in labor relations.
- C) The Polish Craft Association (*Związek Rzemiosła Polskiego — ZRP*), the self-governing organization of craftsmen, bringing together 490 guilds, 271 craft cooperatives, 27 chambers of crafts and entrepreneurship. Their goal is to aid artisans in developing business, socio-cultural support, legal protection and representation of the craft.
- D) Business Center Club — Employers (BCC-ZP), employers' organization associated with BCC Lobbying Institute, whose tasks include the creating clubs, representing the interests of the business community, lobbying and community relations.

It is worth to mention that chambers of trade and commerce, which are a most common platform for local SME's, are not defined as a social partner, do not take part in the process of social dialogue. They fall into separate category from employers organization and work under different law.

The trade unions, in accordance with the Law of 05.23.1991 on trade unions, are voluntary and independent organizations of workers which represent and defend their rights, social and professional interests (such as evaluation of compliance with labor law, resolving the individual cases of employee problems). Unions may gather the employees of one particular company or several companies (inter-trade unions).

In Poland there are following representative trade union organizations:

- A) "Solidarity" (*NSZZ Solidarność*) — was founded in September 1980, re-registered in 1989 (after the ban in 1982). Association has about 900 000 people, 12 thousand company committees, member of ETUC and ITUC.
- B) *Ogólnopolskie Porozumienie Związków Zawodowych OPZZ* (All-Poland Alliance of Trade Unions) — created in 1984 by the communist state as a replacement for de-legalized "Solidarity". Such organization evaluated from the one official trade union in 1980s till one of the alternative trade union, especially in industry and in state-owned enterprises, in democracy. The trade union is the member of ETUC and ITUC.
- C) *Forum Związków Zawodowych* (Trade Union Forum) — registered on 01.31.2002, it has 27 member unions and about 400 000 members in total.

Moreover, in Poland there are about 300 union federations, 273 nationwide trade union organizations, about 24 thousand local trade union organizations as well as about 7 thousand organizations operating at the particular facilities. There are also trade union organizations with a distinct legal status as the National Union of Farmers and Agricultural Associations, "Solidarity", Vocational Agricultural Union "Samoobrona".

In general, unionization rate in Poland is very low. There are no precise numbers available, but various sources estimate that only about 10% of adult Poles are members of a trade union. Unions are present mostly in a public sector and in large partly state-owned companies. In the private sector, which generates approx. 75% of Polish GDP, unionization rate is estimated to be only 5-6%.

Institutionalized social dialogue in Poland assumes that its ultimate goal is an agreement (consensus) – a social pact, a social contract achieved as a result of mutual negotiations carried out by the social partners (trade unions and employers' organizations) and government. In Poland in recent years, following social agreements were signed:

- A) State Enterprise Pact under the Organization Restructuring (*Pakt o przedsiębiorstwie państwowym w trakcie przekształcania*).
- B) The Agreement of the Council of Ministers and the National Commission of "Solidarity" Trade Union on the Rules of Procedure for Resolving Disputes between Public Administration and the "Solidarity" Trade Union (*Porozumienie Rady Ministrów i Komisji Krajowej NSZZ Solidarność w sprawie reguł postępowania przy rozwiązywaniu sporów między administracją państwową i NSZZ Solidarność*).
- C) A Package of Social Guarantees for the Citizens (*Pakiet gwarancji socjalnych obywateli*).
- D) The Pact for Agriculture and Rural Areas (*Pakt dla rolnictwa i obszarów wiejskich*).
- E) Regional Social Arrangements, such as The Regional Contract for the Katowice Province in 1995 (*Kontrakt regionalny dla województwa katowickiego z 1995 roku*).

Summarizing the above statements, it is worth to notice that self-employed people are not depicted in the above institutional mechanisms. Employers' organizations focus on the large companies (industry) and their interests. Trade unions — on the other hand — focus on the interests of large companies or public sector employees, especially those belonging to the state, with a longer tradition of association. Although, it should be remember that both employers' organizations and trade unions in theory remain opened to self-employed people and their activity in such organizations. However, the previously mentioned working hours and the fact that they must deal with a lot of tasks on their own, in most cases prevents them from engaging in such activities. Organization of self-employed people by the trade unions is too costly and difficult from logistical point of view.

The only one example is The Polish Craftsmen Association, which is a special case. According to definition it represents the self-employed craftsmen, but enjoys a status of the as social partner, and is involved in the process of social dialogue at the institutionalized, national level.

To conclude, it could be formulated the hypothesis that self-employment as a relatively new phenomenon in Poland is not present in the process of institutionalized form of a social dialogue. It is partly the consequence of passive attitude of self-employed themselves, and partly due to the attitude of other, well established social actors active in the process of social dialogue, which do not find self-employed important from the perspective of their agenda. Therefore, there is a clear need to initiate this kind of social process.

7.6. Best practice of representation of the self-employed

As described above, social dialogue is carried out in Poland by actors such as employers' organizations, trade unions and the government. Each of these actors in its own way marginalized the importance of self-employed, although they are clearly an important group in the Polish economy. Certainly due to the fact that this is a new phenomenon, their marginal involvement in the dialogue can be somehow explained. But it is also consequence by the fact that previous attempts to apply self-organization were introduced by large employers or employees of large companies (unions), who all had certain tradition and culture association. The situation of self-employed, who are often left alone, work alone, and devote all their time and energy to their job in order to survive on the market, or perform work in a relatively confined, small space (people such as shopkeepers, traders) do not encourage them to exchange opinions and knowledge and to organize themselves.

Self-employed are involved by trade union organizations but their role in such organizations is marginal as well as employers' organizations works similar. So the self-employed people in Poland haven't cre-

ated an organization capable of participating in the social dialogue on a national level. On the other hand, we must bear in mind that traditional social dialogue in Poland in the past 20 years referred to the self-employed indirectly, in case of: (a) the pact for agriculture and rural areas in 1999 and (b) the activities of Polish Craft Association in the Tripartite Commission.

Assuming that we are interested in the social dialogue and its formal procedures, such as consultation, opinions, and political decision-making, the above examples should be considered in a further discussion. However, these examples do not meet the criteria, which we defined for the purpose of determining the best practice of self-employed (was there a series of interventions, has the situation of self-employed improved in a consequence of such actions?).

In other cases, you can talk about occasional examples of self-organization of people working in certain professions for the purpose of exchanging opinions and taking part in the public discourse of the current affairs directly referring to their professional activities. The good example could be the proposal of the Polish government to deregulate some professions, among them taxi drivers. Other examples could be the actions carried out by the journalists with respect to the proposed changes in the press law. Many groups of self-employed are involved in the issues of merits related to their own occupation rather than policymaking (e.g. architects). Self-employed, such as news stand workers who struggle with everyday life, express critical opinions about their situation, but lack of time and resources prevents them from engaging in any form of organized activity.

To sum up, it should be assumed that in Poland for today there is no example the best practice of social dialog make by self-employed people in the institutionalized way (according to law procedure) and making consensus between different partners.

The developed models of the Tripartite Commission, attended by among others by the craftsmen professionals, may provide an example of implementation of social dialogue, but craftsmen remain only one of the parties — they represent the employers, and many times the policy is the result of the dynamics of the tripartite negotiations. Therefore, for purposes of our project we decided that “best practice” should mean the same as “good practice”, that is: an institution that is trying to develop a model of self-representation and by the present action is part of the model of policy implementation at the national and local levels.

7.7. Good Practice – Leadership and representation

In our case study we will examine the representation of self-employed taxi drivers and issues that occurred on the breakthrough of 2011 and 2012. We should identify the following groups of self-employed:

- A) Warsaw taxi-drivers, who in 2011 launched a self-organization and formulated the demands addressed to the President of Warsaw (they were mostly members of “Solidarność”). Self-organization took place under the “name” of one of the trade unions and the demands concerned the financial issues related to the work of taxi drivers – namely to negotiate how much should be the new initial charge for 1 kilometer should be. The City Hall and the drivers had contradictory interests in that aspect. Trade union activities were largely based on petitions, participating in sessions of the City Council, announcing the strikes and protests. Emotional letters were addressed to the municipality. The dialogue process finished late 2011, and on 01/01/2012, the City of Warsaw increased the rates of initial fees as a consequence of City Council vote, thus the demands of a group of self-employed taxi drivers have been achieved (though the rise was not as high as the drivers wished it to be). It was an example of self-representation and participation in local politics. The key arguments for raising tariffs were that the fees haven’t been changed since 2001 and the cost of providing services increased dramatically over the years.
- B) Taxi drivers nationwide movement, initiated by the taxi drivers in Warsaw in relation to the initiative of the Polish government in early 2012 to deregulate some professions, concerned taxi-drivers among others. The government aims to increase access to certain professions, and thus reduce un-

employment. Taxi drivers do not agree to abolish the exams each taxi-driver has to pass on the topography of the city. According to the government's proposal, anyone who is over 21 years old, enjoys good physical and mental condition, has a driving license and a car should be entitled to become a taxi-driver.

This proposal has met a stark opposition of the taxi-drivers. In March 2012, a meeting of representatives of Warsaw's taxi companies took place: City, Eko, Plus, Express, Korpo, Halo-OK, Super, Sawa, GAP, Euro, Globe, SZZTRP, TaxiWitryna, Volfra, ELE, Penny. First of all, the law proposal has been criticized. They argued that it will lead to the lowering of the quality of taxi services. The drivers argued also that the situation in which there was basically no rules governing the profession of a taxi driver already took place (after 1990) — that situation was dramatically bad for the customers, and also resulted in lowering the prestige and quality of taxi transport services. The regulation of the taxi-transport market, which organized in so called "corporations", improved the situation. The taxi-drivers argued that if the profession is to be deregulated, there is a danger that similar chaos on the market would occur once again.

The outcome of the meeting was an agreement initiating a new taxi driver movement (Cooperation of Taxi-drivers). Its aim was to monitor and consult the work of the Ministry of Justice, which leads the process of deregulation. There was also a plan to prepare a national action of all the taxi-drivers in Poland and create a national agreement with a very broad scope.

The taxi-drivers are planning to organize a strike in Warsaw on 8 June 2012, during the opening day of EURO 2012, in order manifest their strength and determination towards the government. The plan was change and the strike didn't come to effect. In addition, taxi drivers began to organize the funds that would be needed for organizing new activities. The deposit required from each driver equaled 5 PLN a month¹⁸. During the aforementioned meeting, a team of four people was selected with the goal to formalize the initiative, make record of the meetings and represent the taxi-drivers vis-à-vis central authorities.

One needs to bear in mind that the cooperation of taxi drivers makes use of the most modern means of communication — the Internet. A website was created — www.protesttaxi.pl on which demands and plans for the future as well as all the contact details are posted. The other type of activity is that the taxi drivers group has also started other publicity activities. On the streets of Warsaw appeared a taxi with the inscription "GO-WIN" written on it and a photo of the Minister of Justice, Jarosław Gowin. As we can read on the website, the plans for next months are following:

Meeting with the Minister Gowin and attempt to present possible risks resulting from the introduction of the (government) plans.

In case when such a meeting is impossible (the government refuses to meet), there is a plan to organize a press conference in order to officially present a common position of tax-drivers and announce a protest action

Preparation of a second meeting of the representatives of the taxi-drivers, during which a unified document with the group's demands will be presented and the tasks connected with commencing a national protest action will be distributed.

In the meantime, there will be discussions with other taxi-drivers from all around the country aimed at the organization of the protest actions.

To sum up, among different groups of professions in Poland, it could be defined the active group which is interested in their position and professional aims, can self-organized and create self-representation, be active among politicians at the national or local level, and creates own policy. Very important in this issue is that such group of people can be successful.

¹⁸ More or less 1,25 Euro.

7.8. Analysis of a good practice

Analysis of good practice by creating a representation of the self-employed, such as taxi drivers and their participation in social dialogue and governance in Poland can be carried out according to the following scheme:

7.8.1. Step one: The logic of action

The intervention of self-employed taxi drivers was the result of two factors: the policy of the state and the city of Warsaw, and growing self-awareness of the self-employed. The policy of the authorities was the first step, which sparked the mobilization of taxi drivers. They began to talk to each other and build their representation. The process took place within the trade union “Solidarity”, a new union organization has been created (trade union affiliated to the Mazovia organizational region of Solidarity). It is worth to notice at this point the taxi drivers had considerable social capital on their side — mutual trust and the ability to organize themselves, a selection of goals, objectives as well as the group of people who will represent them. The activities of taxi drivers can also be diagnosed as constituting of civil society, since they were citizens who organized themselves independently from the state, trying to achieve the goals and aspirations of a particular professional group.

The aim was to change the law — especially the local regulations, and the project of national law deregulating the profession of taxi drivers. The expected results is to change local regulations, as it was the case of taxi drivers in Warsaw in 2011 with respect to the fees — new fees came into force on 01.01.2012. The other goal was to prevent deregulation proposed by the Polish government. This second issue is currently (August 2012) pending and became a subject of public consultations.

The actions which are taken by the taxi drivers include formal activities, such as letters sent to the City of Warsaw authorities, or participation in the public consultations with government representatives. In other words, in practice the organization of self-employed taxi drivers became a part of social dialogue carried out in Poland. The representation of taxi drivers now leads the way for other groups of self-employed, shares experience with them. This is possible thanks to the usage of Internet infrastructure, social media. The organization uses also informal actions, such as happenings and events. Strike (a public protest) was also planned for June 2012, but after negotiations and consultations, the idea of break in work was collapsed. The information is being widespread place through new media: internet, CB radio. Also, the traditional media such as newspapers are beginning to write about the problem and spread the knowledge in the society.

7.8.2. Step two: Quality and innovation of the process

The process is innovative, because previously the self-employed did not have an example of representation, except for craftsmen and lawyers. The process makes use of solutions that have been utilized by the trade unions in the past: consultations and giving opinions on legal acts. It is worth noting that self-organization started when the new elements of local or national policies have been implemented. In other words, the self-employed had an incentive and inspiration, that came from the authorities.

Self-employed began to organize, chose their representatives for contact with other institutions, began to organize funds, set up an ombudsman which contacts with other self-employed. At the moment the “Solidarity” trade union of the taxi-drivers was the partner in the social dialogue. The beginning of the process, however, shows that with the dynamics of dialogue may lead to the inclusion of other groups of self-employed, especially in the case of a draft deregulation event.

7.8.3. Step three: A multiplier effect and the transfer of experience

A multiplier effect may relate to other groups of self-employed, who see the possibility of self-organization of one professional group and also begin to realize the possible benefits. Just like in other countries, it may lead not only to the organization of more groups of self-employed, but to a broader self-organization process. Numerous groups of self-employed professionals have to deal with similar issues, as indicated in the earlier parts of the article: legal issues, financial, organizational and, more importantly, trying to involve themselves in national and European policy.

7.9. Conclusions

Self-employment is a new phenomenon in Polish economy and society of the past 20 years. The number of self-employed persons has been stable for a few past years, but they remain largely deprived of representation of their collective interests. Therefore self-employed people do not participate in social dialogue. Social dialogue is carried out by employers' associations, workers' unions and the government representatives. In some cases the vocational corporations play the role of representation and participate in the process of *governance*, but they do not always aim to take care of the interests of self-employed people. The pros and cons of self-employment described in the text concern an entire group of self-employed. Their possible participation in national and European industrial dialogue requires a process of building their organized representations. The analyzed example of taxi-drivers on a national and local level can be shown as a „good practice” implemented by organization of self-employed people. It is however a fresh example which emerged only on the breakthrough of 2011 and 2012, therefore we cannot say how efficient are they in achieving their goals (although on a local level the goals have indeed been achieved).

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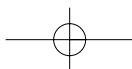
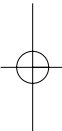
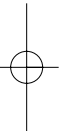
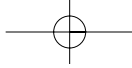
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Chapter 8

Zero km produce in Slovakia

by Peter Džupka

8.1. Introduction – problem finding

Small farmers in European Union experience problems to place their produce in international food store chains (hyper- and super markets), because they are not able to compete with prices and quantities of delivery. Associations, unions or similar groups of small farmers are much fragmented in Slovakia. There is a high number of associations established around a certain commodity or a particular region or a location. Their bargaining chances in communication with international food store chains or with local, regional or national authorities are relatively small.

One of the main problems for small farmers is therefore to find customers who will be able to pay fair prices for their products. This has not been a problem of small farmers only in Slovakia, but of all small farmers throughout all EU countries. The ambition of small farmers representatives on local, regional national and EU level has been to find the most effective way how to support small farmers, how to increase sale of their products for fair prices in a sustainable way.

8.2. What has happened in Slovakia – Activities on the EU level and the national level.

Several activities have been implemented in Slovakia to support small farmers. One of the activities on the national level was the “Law on trade chain” carried out with a purpose to help small entrepreneurs to negotiate with hyper- and supermarkets. This law was strongly criticised by international companies located in Slovakia and also partly by the EU. This law was modified several times, nevertheless, never really helped small farmers.

Some positive changes in support of small farmers came with the new law on EU level — the law on support of selling own produce by small farmers. This EU level law was quickly adopted into the Slovak law system, and several activities on national and regional levels were launched to support small farmers.

Ministry of Agriculture offered funds for small farmers. The purpose of the funding was to increase finalization of the products on small farms, and to increase the added value in Slovak rural areas. Small farmers were able to get funding for purchase of machines for final processing of products.

Funding support similar to structural funds is still made available to small farmers in Slovakia. The budget for the current call for project proposals is 37 million EUR. The Slovak Ministry of Agriculture expect that this will create 600 to 1,000 new jobs in rural Slovak areas in the agricultural sector.

From the beginning of 2012, two new small farmers-related law amendments have come into force.

- 1) The first allows farmers to sell their products in distance reachable within a 2-hour drive from their farms (according to the old law, they could only sell directly at their farms).
- 2) The second amendment narrows the variety of meat products that the farmers may sell.

8.3. Results and good practices in Slovakia

Based on the described changes on EU and national levels, some of the regional and local associations and unions mobilized themselves in supporting small farmers by means of the new possibilities related to legislation.

8.3.1. Farmers on the Internet

One of the first activities was the establishment of a web portal for small farmers. The portal offers all information on how to sell according to the new law. This portal also presents small farmers and their products, and collects and presents different information and education seminars and workshops. The www.predajzdvora.sk portal has been created and is managed by the Association of Organic Farming — EKOTREND SLOVAKIA (www.ecotrend.sk). From now on, similar web sites where developed where small farmers can directly offer their products to the customers are more common than before.

8.3.2. BIO for you (Bratislava)

Purpose of this activity is to connect small farmers (organic farmers) with their customers. Based on this activity, an operating delivery system has been developed, and is focused mainly on the city of Bratislava. The system is based on weekly orders. Offer of farmers' produce is weekly updated according to currently harvested produce on delivering farms (to ensure fresh products). Customers can order products directly on web site or choose from sent e-mails. Ordered products can be picked up from a delivery point in the city of Bratislava, or, in some cases, they can be delivered directly to the customer. www.bioprevas.sk.

8.3.3. LETS (Local Exchange Trading System family farm (Mašekov mlyn pri Vrābl'och)

This system allows this small family farm in Slovakia to sell their overproduction of agricultural products to or exchange it with their customers, suppliers or partners. The system is based on the exchange of agricultural products for goods, services or work. More about the system can be found at http://en.wikipedia.org/wiki/Local_exchange_trading_system (www.ffmm.sk). It is a form of alternative economy, kind of local barter system.

8.3.4. Local food community Zvolen

More 20 customers and 5 farmers are members of this system. This community organizes meetings several times a year, and delivery is based on e-mail ordering. This activity is organized by CEPTA - Center for sustainable alternatives, <http://www.cepta.sk/index.php/sk/lokalna-potravinova-komunita>).

Chapter 9

The legal status of self-employed in Spain

by Alexis Serra, CTAC - Confederació de Treballadores Autònoms de Catalunya

9.1. Adequacy and completeness of the logical framework of the project design and implementation

In the Spanish State, the best example of “Best Practices” is undoubtedly the law of status of self-employed (http://www.boe.es/aeboe/consultas/bases_datos/doc.php?id=BOE-A-2007-13409), this law at the state, resolves cross-cutting different claims of the Collective, working on full equal rights with other workers in the market. In this sense, represents an unprecedented leap in the legal field nationally and internationally. The “LETA” has become the backbone of the self-employed in the Spanish State, as well systematized into a single law not only the answers to the main demands of the sector, but laying the foundation for the promotion and protection Contract work in our country for decades to come.

9.1.1. Introduction to the LETA [The status of self-employed, Law 20/2007]

Self-employment has been traditionally configured within a framework of legal relations of private law itself, so that the same normative references are scattered throughout the legal system.

In this sense, the Constitution, without making an explicit reference to self-employment, reflected in some of its precepts duties on the self-employed. Thus, Article 38 of the Constitution recognizes freedom of enterprise within the framework of a market economy, Article 35, paragraph 1 thereof, for all the Spanish recognized the duty to work and the right to work, to free choice profession or trade, to advancement through work, and an income sufficient to meet their needs and those of his family, but in no case may they be discriminated on grounds of sex, Article 40, paragraph 2 provides that public authorities shall promote a policy guaranteeing professional training and retraining, ensure health and safety at work and ensure the necessary rest by limiting the working day, by periodic paid holidays and promoting suitable centers, and finally, section 41 instructs the government to maintain a public Social Security system for all citizens guaranteeing adequate social assistance and benefits in situations of need.

These constitutional references need not be limited to paid employment, as the Constitution itself as determined when using the term ‘Spanish’ in Article 35 or the “citizens” in Article 41, or when the powers entrusted to the implementation of specific public policies, Article 40, without specifying the recipients should be exclusively employed persons.

In the social sphere can be observed, social security, standards such as the General Law of Social Security, Article 25.1 of Organic Law 1/2004 of 28 December on Integrated Protection Measures against Gender Violence referred the self-employed women who are victims of gender violence, Decree 2530/1970 of 20 August, which regulates the Special Scheme for Self-Employed or self-employed, and other implementing provisions. In terms of prevention of occupational hazards should be referred to the Law on

Prevention of Occupational Risks and Royal Decree 1627/1997 of 24 October, laying down minimum safety and health at construction sites and other implementing provisions.

The EU, meanwhile, has sought self-employment in policy instruments such as Council Directive 86/613/EEC of 11 December 1986 on the principle of equal treatment between men and women who engaged in an activity, including agriculture, as well as the protection of motherhood, which gives a definition of self-employed in Article 2a), or the Council Recommendation of 18 February 2003 on improving protection of health and safety at work of self-employed.

Comparative law of the countries around us do not have examples of self-employment regulation as such. In European Union countries it is the same as in Spain: the references to the figure of the self-employed are scattered throughout the social legislation, especially the social security legislation and risk prevention. In this regard, it should highlight the importance of this Bill, as it is the first example of systematic and unified regulation of self-employment in the European Union, which certainly is a milestone in our legal system.

It is a law that regulates the independent work without interfering with other areas of our production, as the agricultural sector, which has its own regulations and its own channels of representation.

9.1.2. Content

This Act is the result of compliance with the above terms. Its preparation has consulted labor and business organizations and associations of self-employed.

The Act consists of 29 items, framed in five titles, plus nineteen additional, three transitional, a derogatory and six finals.

Title I defines the substantive scope of the Act, establishing the generic definition of self-employed and adding the included and excluded specific groups.

Title II regulates the self-employed professional in three chapters. Chapter I provides the sources of the occupational scheme, making clear the civil or commercial nature of the legal relations established between the self and the person or entity with which to hire. Paragraph 2 of Article 3 introduces the agreements of professional interest to the self-employed economically dependent, significant development created by the Act.

Chapter II deals with the occupational scheme common to all self-employed and provides a catalog of rights and duties as well as rules on the prevention of occupational hazards, protection of minors and financial guarantees.

Chapter III recognizes and regulates the figure of the autonomous worker economically dependent. Their regulation reflects the need to provide legal cover to a social reality: the existence of a collective self-employed who, despite their functional autonomy, they operate with a strong and almost exclusive economic dependency of the employer or client who hires them. The Act covers the situation where the entrepreneur is the main client and it comes at least 75 percent of the worker's income. According to data supplied by the National Institute of Statistics, in 2004, amounted to 285,600 entrepreneurs with no employees working for one company or client. The figure is important, but what is significant is that this group has increased by 33 percent since 2001.

In view of the reality described above, the introduction of the concept of economically dependent self-employed has raised the need to prevent the potential misuse of that figure, as we move into a not always precise boundary between the figure of independent classical the economically dependent self-employed and others.

The legislative intent is to eliminate those gray border areas between the three categories. Hence, Article 11, defining the worker economically dependent self is very restrictive, according to objective criteria

defining the circumstances in which the activity is executed outside the organization and management of the client hires the self.

The rest of Chapter III establishes a regulatory guarantor for self-employed economically dependent, under this situation of economic dependence, without prejudice to operate as a general rule the relations between him and his client the principle of autonomy. In this sense, recognition of professional interest agreements, Article 13, which is alluded to in the chapter devoted to the sources, is not collective bargaining move to this area, but simply recognize the possibility of existence of an agreement that transcends the mere individual contract, but with limited efficacy, since only binds the parties to the agreement.

Recourse to the Social Jurisdiction under Article 17 is justified because the legal construction of the autonomous worker economically dependent has been designed taking into account the criteria that has been repeatedly established jurisprudence of this Court. The Court has defined a set of criteria to distinguish between self-employment and paid employment. The economic dependence of Law recognizes the economically dependent self-employed should not mislead: it is self-employed and that economic dependence in no case should involve organizational unit or strangeness. Own disputed issues of civil or commercial contract concluded between the economically dependent self and your client will be closely linked to the nature of that figure, so that the claims related to the contract will always be judged in connection with objective that self-employed person is really economically dependent or not, depending on whether satisfying the requirements set forth in the Act and this circumstance, nuclear in any case, must be known by the Social Jurisdiction.

Title III regulates the collective rights of all self-employed, defining the representation of associations under the objective criteria established in Article 21 and creating new Contract Council as advisory body to Government on socio-economic and professional sectors referred to in Article 22.

Title IV establishes the general principles of social protection, picking up general rules on membership, contributions and protective action of social security for self-employed. It is noteworthy that recognizes the possibility of reductions or reductions in contribution base or the Social Security contributions for certain groups of self-employed, in consideration of their personal circumstances or the professional characteristics of work. Extends to the self-employed economically dependent contingencies protection of occupational accidents and diseases and recognizes the possibility of early retirement for those self-employed to develop a toxic activity, dangerous or painful, under the same conditions as for the Scheme general. These measures, together with those provided in the additional provisions tend to favor the convergence of the Special Scheme for Self-Employed with the General.

Finally, Part V is dedicated to fostering and promoting self-employment, establishing measures to promote entrepreneurial culture, to reduce costs at the start of the activity, to promote vocational training and promote self-employment by an appropriate fiscal policy . It is, therefore, the outlines of what must be the active policies promoting self-employment, lines that are to be realized and developed according to the socioeconomic reality.

9.1.3. Other rights referred

1. — The self-employed can hire their children under 30 years as employees. So far, the Workers' Statute excludes from the scope of family work, unless it were shown the status of employees who perform them. With the new statute is clear that no child under 30 years old self may be entitled to unemployment have served in the company of his father or his mother and worker. And a child over 30 who does not live with the parent employer? Well as usual: you must demonstrate the character of employee access to unemployment benefits.

2. — It defines the role of self-employed and have developed a catalog of rights and duties. Both the definition of self-employed as the catalog of rights and duties is nothing more than a literal reproduction, if not a mere reference to the rules governing the civil, commercial and, where appropriate, administra-

tive. So, nothing new. Furthermore, it remains a vague legal concept of alienation, so that what must be understood by the activity outside the scope of management and organization of another person will have to further define the judges. Yes, new is the possibility of legal recognition of the self to go to court (civil, commercial or administrative) to denounce the violation of any fundamental right either in terms of free economic initiative and the hiring, or as to the conditions of professional practice.

3. — Economically dependent self-employed, those whose income depends on a ratio greater than 75% of a single company will have 18 days of termination of their employment. In the regulation of this group also notes that the owners of business premises open to the public shall not be part of this group of workers. And dated October 18, 2006, organizations CEOE and CEPYME issued a report stating that since the self-employed contracts governed by this rule in no case have the nature of work, it would be inappropriate and inconsistent to be substantiated in the social jurisdiction. However, it is certainly true that the Social Courts have been designated by the Statute of the Autonomous to resolve contentious issues which may arise in relation to the occupational scheme, both in its individual and collective self-employed economic dependents. Can you imagine a delivery, self-employed driver who has been doing home delivery of any trade, calling on the Labor Court the right to leave? How to interpret a Judge of Social holiday entitlement of an independent professional services to develop their own, without undergoing the address field of your client? Will they take into account the damage that the client can generate the unilateral use of holiday entitlement by the economically dependent self-employed undoubtedly, the figure of economically dependent self-employed (as hybrid as inconsistent) can consecrate the impossibility for some groups to be considered as employees as well, e.g : own car carriers, already excluded at the time by the Workers' Statute itself, or any of the existing frameworks discussed in case law, such as health professionals who work in clinics whose property is not owned, as dentists.

4. — It conditions the attachment of the autonomous residence in cases of non-payment of tax debts or Social Security, so that in the worst case (if you have no other assets with which to meet the debt), the home will be repossessed after a year from the notification of the first measure of embargo. Therefore, it is ensured that the self, to risk their personal assets, you can lose your home, though, be given a year to the house is actually auctioned or put out to tender.

5. — In cases of accidents, recognizing the benefit coverage in the work way (initinere) — those accidents that occur during the outward or return to work. Actually, unless otherwise proved, be presumed that the accident is not related to the job when development has occurred outside of the professional activity concerned. And in any case, the statute requires, effective January 1, 2008 to all self-employed (incorporated into the system except for special agricultural workers on own account) contract coverage for temporary disability and, depending on the risk of accidents, contract also mandatory professional contingencies.

6. — Prevention of occupational risks, companies include in their workplace may be self-employed professionals responsible for violating the provisions of the Statute in information and coordination of business activities: you have to cooperate, inform and educate the self and, all, we must monitor the autonomous compliant safety and risk prevention, otherwise the companies will assume the indemnification obligations of the damage caused, provided there is direct causal relationship between such breaches and the damages and damages.

7. — Regarding retirement. The statute states that public authorities shall promote policies that encourage continuity in the exercise of the profession, job or economic activity of employed persons, upon completion of the normal retirement age. Only in response to the toxic nature, dangerous or painful to the activity performed, and the terms established by regulation, self-employed affected the conditions laid down for entitlement to retirement pension, except on the age, are eligible for early retirement on the same assumptions and groups for which such right is established in respect of employees. It is noteworthy that not seen the anticipation of the retirement age for people who have contributed throughout his life, even before 1967, and that due to supervening circumstances and others, have been integrated into the system of self-employed (for example, who came from the special system of sales representatives).

8. — It mentions the work-life balance, but the benefits of maternity and paternity for the self employed, following the adoption of the Organic Law 3/2007 of 22 March on effective equality between women and men, yet to be developed regulations, like so many other aspects of social security for self-employed. As an exception to the outstanding issues of development, reductions and rebates increase in Social Security contributions to promote the employability of young expanding bonuses of up to 30 years men and women up to 35 to be given High self-employed, from 25% to 30% and the current 12 months to 15.

9.2. Quality and innovativeness of the process or product

Both in the development with the launch of the LETA (Law 20/2007) was to highlight the broad process of participation and the high degree of consensus achieved. This emphasizes the participation of virtually all organizations (employers and unions) that during the whole process could incorporate the specific issues of their sectors.

Another aspect was the unanimity of the political parties in the adoption of the standard, becoming the only law passed unanimously in the legislature. Political parties agreed on the need to regulate and protect a group that in 2007 was over 3,000,000 of self-employed.

From the individual vision of the Self-employed, the standard was also assessed as a measure, since in terms of equality and parity, to unthinkable achievements to date and in subsequent evaluations of the standard, 90% of the collective qualified the LETA as an outstanding law.

Development rights “innovator” a Specific Protection System Activity Separation of Self-Employed.

9.2.1. The self-employment Board

1.1. Purpose of protection

Adjust the specific system of protection for self-employed who have temporarily or permanently ceased in his business. The activity must be closed permanently.

1.2. Scope of protection subjective

Reaches the self-employed included in the Special Regime of Social Security Self Employed covered with contingencies arising from industrial accidents and occupational diseases, as well as self-employed included in the Special Security Social Workers of the Sea.

1.3. Protective action

Includes the following services:

1. The economic benefit for complete cessation, temporary or permanent, of the activity.
2. Payment of the price of self-employed Social Security for common contingencies corresponding to the regime.
3. The contribution base for such period the regulatory basis of the provision for cessation of activity, calculated by averaging the basis on which any contributions for the twelve consecutive months immediately preceding the legal status of dismissal.
4. Arrangements for training, career guidance and promotion of entrepreneurship of the self-employed beneficiary, who can summon the Public Employment Service, or if the Social Marine Institute.

1.4. Jurisdiction

The courts of the social order will be competent to deal with the decisions of the managing body, on the recognition, suspension, or termination of benefits on cessation of activity and to pay the protection. Requirements will be necessary to make demands that interested interposed prior demand by the management body.

2.1. Requirements for the birth of the right to protection

1. Be affiliated and in a situation of the Special Scheme for Self account or self-employed, or the Special Scheme for Sea Workers.
2. Have completed the qualifying period for cessation of activity, twelve consecutive months immediately preceding the legal status of dismissal.
3. Found in legal status of cessation of activity and active credit availability to return to the labor market through training activities, career guidance and promotion of entrepreneurship through the Public Employment Service or, if the Institute Social de la Marina.
4. Has not reached the ordinary age for entitlement to the contributory retirement pension.
5. Be up to date with the payment of contributions to Social Security. Otherwise there is a non-extendible period of thirty calendar days to make the deposit of the correspondent contributions.

2.2. Incompatibilities

1. With the self-employed and work for others.
2. By obtaining pensions or benefits of an economic Social Security.
3. In the Special Regime of Social Security for Seafarers will be incompatible with the perception cessation aid for fleet.
4. Legal status of cessation of activity.
 1. Concurrence of economic reasons, technical, production and organizational determinants of the impossibility of continuing the economic or professional activity.
 - a. Lost in the business for a year > 30% of revenues or > 20% for two consecutive years and complete.
 - b. Foreclosures exist for debt collection court recognized that behave at least 40% of the income of self-employed activity of the previous year.
 - c. Judicial declaration of insolvency to prevent further activity.
 2. Force majeure, determining temporary or permanent cessation or interruption of economic or professional activity.
 3. Loss of administrative license, provided that it is a condition for the exercise of economic or professional activity.
 4. Gender violence determinant of temporary or permanent cessation activity self-employed.
 5. For divorce or marital separation agreement in cases where the autonomous exercise divorced or separated family support functions in the business of your former spouse or person who has separated.
 6. When the self-employed person has one or more workers in charge and either of the above causes, is prerequisite for the cessation of compliance with the warranties, obligations and procedures laid down in labor legislation.

7. Will be in legal status on closure economically dependent self-employed workers to cease their activity on termination of contract with the client who are financially dependent on the following assumptions:
 - a. On completion of the agreed duration of the contract or completion of the work or service.
 - b. Serious breach of contract by the customer.
 - c. Termination of the contractual relationship adopted for cause by the customer.
 - d. Termination of the contractual relationship for no fault, the provisions of Law 20/2007, of July 11, the status of self.
 - e. Death, disability or retirement of the client, provided that prevents the continuation of the activity.
8. In no event will cease legal status of activity:
 - a. Those who voluntarily cease or interrupt their activity.
 - b. Self-employed economically dependent, after termination of their relationship with the customer and receive the benefit of cessation of activity, rehire the same customer within a year, counting from the time delivery was extinguished.

4. Application and accreditation

4.1. Legal situation of cessation of activity

1. Economic reasons technical, organizational or productive: Affidavit of the applicant and the documentation.
2. Force majeure: Statement issued by the management bodies in which geographically locate the business or industry concerned and affidavit of the applicant for temporary or permanent.
3. The loss of administrative leave by appropriate resolution.
4. Gender-based violence, by the written statement of the applicant have ceased or interrupted his business or professional, which is attached protective order.
5. Divorce or marital separation agreement: Court order.
6. The legal situation of cessation of activity of the economically dependent self-employed will be credited by:
 - a. The completion of the agreed term in the contract or completion of the work or service, through its communication with the corresponding record.
 - b. Failure to fulfill major client by written or by court decision or by an act resulting from the previous settlement.
 - c. The cause of the client through written communication. In the case of absence of the written notice, request the customer to comply with this requirement, and if still does not occur, notify the body manager.
 - d. The cause unwarranted by notice issued by the client, by an act resulting from the previous settlement or judgment.
 - e. Death, disability or retirement of the client, through death certificate of civil status or resolution recognizing the retirement or permanent disability.

4.4. Application and of entitlement to protection by cessation of activity

1. Self-employed persons who meet the requirements shall apply to the Mutual of Accidents and Occupational Diseases recognition of the right to protection by closure. When TRADE has completed

its primary customer relationship, to be eligible to enjoy the benefit can not be active with other customers from the day you start collecting the benefit.

2. The recognition of the legal situation of cessation of activity may be requested until the last day of the month following the occurrence of the closure.
3. The managing body to assume the protection system for stoppage of work will pay Social Security's share from the month immediately following the act causing the cessation of activity, where it is requested within the period specified above. When TRADE has completed its primary customer relationship, assuming that in the month after the triggering event, activity had other clients, the management body is required to quote from the date of commencement of employment

5. Duration and amount of the benefit

5.1. Duration of the economic benefit

1. The duration of the provision for cessation of activity will depend on the contribution periods under the following scale:

Contribution period (months)	Period of protection (months)
Twelve to seventeen	2
From eighteen to twenty-three	3
In twenty-four to twenty-nine	4
From thirty to thirty-five	5
In thirty-six to forty-two	6
Forty-three to forty-seven	8
Forty-eight or more	12

2. Duration of the provision for cessation of activity of employees from 60 years:

Contribution period (months)	Period of protection (months)
Twelve to seventeen	2
From eighteen to twenty-three	4
In twenty-four to twenty-nine	6
From thirty to thirty-five	8
In thirty-six to forty-two	10
Forty-three or more	12

3. Self-employed persons to which he was recognized and enjoyed the right to any financial benefit for cessation of activity may reapply for a new award if eighteen months have elapsed since the recognition of the last right to the provision (Article amended by Law35/2010 of 17 September, on urgent measures to reform the labor market).

5.2. Amount of financial benefit for cessation of activity

The regulatory basis for the economic benefit for cessation of activity is the average of the basis on which any contributions for the twelve consecutive months immediately preceding the legal status of dismissal. The amount of benefit throughout the period of enjoyment, is determined by applying to the base figure of 70%.

6. Suspension and termination of the right to protection

6.1. Suspension of right to protection

1. During the relevant period for imposition of penalty for violation mild or severe.
2. While serving sentence involving deprivation of liberty.
3. During the realization of a self-employment or self employment.

The suspension of the right will result in the interruption of payment of the financial benefit and the full monthly levy. Protection for stoppage of work will resume as long as it proves that it has completed the cause of suspension and maintaining the legal status of closure.

6.2. Termination of right to protection

1. On expiry of the period duration of the service.
2. By imposing a very severe penalty.
3. For realization of self-employment or self employment for a time equal to or greater than 12 months, provided that the latter generates the right to protection for stoppage of work as a freelancer.
4. For compliance with the standard retirement age and in the case of REM theoretical retirement age.
5. Recognition of retirement or permanent disability.
6. For transfer of residence abroad.
7. For waiver of the right.
8. On the death of the self-employed.

7. Cessation of activity and temporary disability

In the event that the cessation of activity occurring while the self-employed are in temporary disability, it will continue to receive temporary disability benefits until it is terminated at which time they will receive the economic benefit for cessation of activity . Be deducted from the period during which the provision for cessation of activity time had remained in temporary disability.

If during the perception of the economic benefit for stoppage of work the worker goes to the temporary disability receive the benefit for this contingency. In this case, and assuming that the self-employed continue on temporary disability after the end of the duration originally planned for delivery by end of the activity, continue to receive temporary disability benefits by the same amount in the that had been receiving.

The period during which the provision for cessation of activity will not expand as a result of self-employed to pass the temporary disability.

In this situation, the national manager of the service will take care of Social Security contributions to exhaustion of the duration of the benefit to which the self-employed worker is entitled.

8. Contribution base and management body

8.1. Base and contribution rate

The contribution base for cessation of activity will correspond to the contribution base of autonomous self who has elected under the provisions of the implementing rules.

The contribution rate applicable to the protection for cessation of activity will be 2.2%, applicable on the amount determined above. The contribution rate applicable to maintain the financial sustainability of the protection for cessation of activity will be set annually in the relevant law of the State Budget.

Self-employed workers who have benefited from the protection system by end of the activity will have a 0.5 percentage point reduction in the levy for temporary disability coverage, derived from common contingencies.

8.2. Body Manager

Corresponds to the Mutual of Accidents and Occupational Diseases Social Security manage the functions and services derived from the economic benefit for cessation of activity of the self-employed and state recognition, suspension, termination and resumption of benefits and their pay.

9. Obligations of the self-employed

1. Mutual request the same protection coverage for cessation of activity.
2. Contributions for the corresponding contribution to the protection closure.
3. Provide documentation and information that is necessary for the purposes of recognition, suspension, cancellation or renewal of the service.
4. Apply to remove the provision for cessation of activity when he no longer fulfills the requirements for such assistance, when they occur in such situations.
5. No work for themselves or others while collecting the benefit.
6. Reinstate benefits wrongly received.
7. Appear at the request of the management body and be available to the Public Employment Service of the Autonomous Community, to carry out training activities, career guidance and promotion of entrepreneurship to the convening.

The self-employment Board

Royal Decree (RD) 1613/2010 for establishing and regulation of the Council of the representativeness of professional associations of self-employed in the state and establishes the composition and rules of operation and organization of the Independent Labour Council.

The status of self, approved by Law 20/2007 of July 11, determined in Article 22 refers to the formation of the Contract Labour Council, government advisory body on socio-economic and professional. While the provision governing basic aspects of it, paragraph 6 provides that statutory provision is developed by the composition and operating conditions of that body. That's why we published this DR is to regulate such matters.

Through this RD is created the Council of the representativeness of professional associations of self-employed as a body that seeks to declare the status of representative association of professional associations of self-employed at the state level. This Council is attached to the Ministry of Labour and Immigration through the Ministry of Employment.

The Council shall consist of five members, three members shall have the status of civil servants from the Ministry of Labour and Immigration, and two shall be persons of recognized standing expert, impartial and independent. The appointment of Council member shall be paid by the person holding title to the Secretary of State for Employment.

The Council shall have the power to declare a trade association representing freelance workers at the state level for a period of four years, according to public notice. To fulfill this purpose the Council of the representativeness of professional associations of self-employed have the following powers:

- Issue resolution of a trade association representing freelance workers at the state level. For this, the Council will review the documentation provided by professional associations attending the call and valued as a whole.
- Request by the competent authority appropriate documents to the professional associations of self-employed.
- Collect and analyze available information on the State Register of Professional Associations of Self-Employed.
- Any other that contribute to the accreditation and reporting the status of autonomous association representing workers at the state level.

Represents the Council is vested with technical autonomy in order to ensure objectivity in the development of their faculties.

Moreover, the RD requires the establishment of the Self-Employed Workers and consultative body to advise the government on socio-economic and professional self-employment, by performing the functions assigned to it by law. The Contract Labour Council also has state and is under the Ministry of Labour and Immigration through the Secretary of State for Employment, as well as the Council representative.

1. The Self-Employment Council is constituted, under the provisions of Article 42 of Organic Law 1/2002 of 22 March on the Right of Association, as an advisory body of the Government's socio-economic and professional self-employment.
2. The functions of the Council:
 - a) To issue its opinion on an optional basis:
 1. The proposed draft legislation or draft Royal Decrees that impact on self-employment. In the event that changes occur that may affect the Self-Employment Status of the report shall be mandatory.
 2. The design of public policies at the state in matters of personal work.
 3. Any other matters submitted for consultation to the same by the Government of the Nation or its members.
 - b) Develop, upon request of the Government of the Nation or its members, or on its own initiative, studies or reports relating to the scope of its powers.
 - c) Develop its internal regulations.
 - d) Any other duties as assigned by law or regulation.
3. The Self-Employment Council shall be composed of representatives of associations representing self-employed professionals whose scope are multisector and state by trade unions and employers' representative and representatives of the Central Government of the Autonomous Communities and Local Government Association representative in the state level.

If the Contract labour Tips constitute autonomous, form part of the Contract Labour Council representative appointed by each of the existing regional councils.

4. The Presidency Council shall be the Secretary General of Employment and by delegation, the Director General of Social Economy, Self-Employment and European Social Fund.

5. The appropriations required for its operation shall be entered in the budgets of the Ministry of Labour and Social Affairs.
6. Regulations shall develop the composition and operating conditions of the Council.
7. The Autonomous Communities may establish, within its territory, Advisory Councils in socio-economic and professional self-employment. Likewise may regulate the composition and operation thereof.

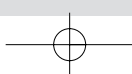
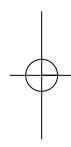
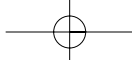
9.3. Multiplier effect and Transferability

The Statute of the autonomous work has had an important national and international recognition in other countries from the European Union. The Statute, has become the normative benchmark for freelancers and entrepreneurs. It is therefore an excellent tool for good practice and easily exportable and transferable in the current crisis, where the vast majority of countries are opting for job creation through the promotion of self-employment.

A remarkable aspect also, is the reproduction of the model in Spain in lower levels of government and are now several Autonomous Communities have developed their own autonomous self-employment status to boost this figure further and add an element of promotion and dissemination.

Part III

Learning from experience



Chapter 10

Understanding the superstructure

10.1. Introduction

In this chapter we carry out an operation which is across the operation we have carried out in chapter 2 through 9: we keep the industry constant and look at individual country variations. We provide a cross section national cases of the same category. Different countries have different arrangements for the same trade or craft. At this point we want to gain an understanding of how these arrangements differ per se, keeping the trade or craft as a constant and providing for each country and for the chosen trade or craft the following items:

- sector;
- description of sector;
- category;
- description of category;
- statistics;
- contracts used for the category;
- category and / or trade union representation;
- actions of bargaining, negotiation and social dialogue to favor the category;
- types of services useful to the category;
- possible developments of the sector;
- trade union possible development.

We want to understand the variation of social organization, assuming that the substance of the trade hardly varies throughout countries.

We present cases in agriculture and in sales promotion.

10.2. Cases in agriculture

It was a prominent interest from the Eastern Europe to deal with agriculture, which is an important sector for their economies.

10.2.1. Bulgaria

The partner did not participate in the realization of this case.

10.2.2. France

Description

There are two types of regime in France, farmers who own their land and tenants on a rental regime. This last category represents less than 2% of active persons and is facing a crisis because of a lack of activity transfer. The agricultural sector in France is totally specific and independent of other branches. We notice the existence of agricultural workers and day laborers present in particular at harvest time.

Category

Small farmers and sharecroppers.

Short description of the category

In agriculture, the main concern of independent is tenants and sharecroppers with no staff or specializations such as nurseries gardeners, quality providers and representatives of business in agriculture. There are no clear definition of legal and professional in this field. These person have in common to be under the micro entrepreneur status.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

We are on predominantly male occupations with relatively few young. The independent farmers are quite rare outside tenants. There were in 2010 339.900 individual operators in France (source: INSEE).

National and Regional dimension of the phenomenon. Since 2009 until present. Description

The decline of traditional agricultural activities is seen partially offset by other professional practices such as cottages and organic products. Transmission of traditional agricultural enterprises within the same family are still up, although the number of farmers continue to fall.

Contracts used for the category

For farmers, there is a small classical company. For tenants, there is a contract to operate agricultural land. Here we are on the same tax regimes than in other sectors, but with two differences: the first is the existence of several development for farmers' wives, the second is to obtain many European aid in particular.

Category and/or trade union representation

There are several agricultural unions that caters to all businesses: FNSEA (National Federation of Farmers Unions) and the Peasant Confederation. Both unions are present from national to local.

Eventual actions of bargaining, negotiation and social dialogue to favour the category

There are several agricultural unions that caters to all farmers. Since their inception, these unions have defended the French peasantry through the following lines:

- continuation of aid for farmers-installation help-maintaining purchasing power (negotiation with suppliers);
- fight against supermarkets and development of cooperatives statement of minimum social-agricultural-Sustainable Agriculture-fight against overindebtedness. In France, all these actions take place at the national level. These negotiations helped preserve some of the economic outlook, but these jobs are affected.

Types of services useful to the category

Access to credit is often limited. The other points are provided by the unions + Chambers of Agriculture.

Possible developments of the sector

{L'économie sociale reste la principale solution avec le développement d'un cadre environnemental plus strict qui permette de favoriser la qualité et donc une agriculture de proximité}.

Trade unions possible developments

The employee trade unions are very poorly represented in an area that does not include France in other categories as either agricultural workers or independent contractors have long framed by the farming unions and chambers.

- Social security: agricultural system;
- Insurance: agricultural insurance;
- Assistance: farm mutuals;
- Credit access: limited;
- Security: general rule;
- Activity increase – promotion: not currently;
- Institutional relations: with agricultural unions;
- Relations with good/services suppliers: via Chamber of Agriculture;
- Other: —

10.2.3. Greece

Description

Greece produces a wide variety of crops and livestock products. Fisheries are also playing an important role while forestry plays a secondary role. Greek agriculture is based on small-sized, family-owned dispersed units, while the extent of cooperative organization stays at low comparative levels. Greek agriculture employs 509,805 persons, which is 12.3% of the total labor force. Currently, Greek agriculture is heavily subsidized by the Common Agricultural Policy (CAP), with controversial results. Certain deductions of subsidies are planned within the next decade.

Category

Small farmers

Short description of the category

According to law a professional farmer is the adult person who holds a farm, professionally engaged in the farming operation of at least 30% of the total annual working time, receives from his employment in an agricultural activity 35% of the total annual income and is insured in the Agricultural Insurance Organisation (OGA). Professional farmer is also the adult person who is employed in the fisheries under similar terms and conditions.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

01. Agriculture, forestry and fishery

	2009	2010	2011
Both sex	333,331	347,807	318,753
Both sex < 30	19,797	19,393	13,150
Men	214,663	222,572	197,509
Men < 30	14,963	15,432	10,700
Females	118,668	125,235	121,244
Females < 30	4,834	3,961	2,450

Participation in total employment

	2009	2010	2011
Both sex	7.4	7.9	7.7
Both sex < 30	0.4	0.4	0.3
Men	4.7	5.0	4.8
Men < 30	0.3	0.3	0.3
Females	2.6	2.8	2.9
Females < 30	0.1	0.1	0.1

National and Regional dimension of the phenomenon. Since 2009 until present. Description

The category of self-employed farmers, foresters and fishermen is an important one to the Greek economy, employing 7,7 per cent of the active workforce in 2011. According to the data, the category primarily employs males at 4,8 per cent, in contrary to females working in agriculture, forestry and fishery (2,9%). The data shows a greater gap between sexes in the category under 30, where males comprise 0,3% of the total 0,4%. Lastly, a drop of employment can be observed since 2009 as the total employment of both sexes has decreased at the rate of 4,37%.

Contracts used for the category

No formal contractual relationships.

Category and/or trade union representation

- PASEGES (Confederation, National Level)
- GESASE (Confederation, National Level)
- PENA (National Level)

Eventual actions of bargaining, negotiation and social dialogue to favour the category

On February 1, 2012 the Ministry of Rural Development asked for the opinion of the Greek Economic and Social Committee (OKE) on a new bill regarding the strengthening of rural development. Recently the "OPINION" of the Greek Economic and Social Committee was issued entitled: "Operation of the Greek Agricultural Organization - DEMETER, integrated support for rural areas through applied agricultural research, rural vocational education and training and supervision and certification of agricultural products". OKE notes that: The issue of agricultural research needs to be addressed as part of a integrated national planning for research and technology... the biggest challenge today is the direct connection and application of the results of agricultural research to agricultural production... A comprehensive national plan is needed for rural technological education and training under the supervision and responsibility of a central government body — namely the Ministry of Education, Lifelong Learning and Religion... Particular attention has to be given to the cooperative education which is lacking in the training of farmers.

Types of services useful to the category

Agricultural Research; Establishment of Agricultural Innovation System; Rural education and rural training; Establishment of rural entrepreneurship support system; Participation in expositions and conferences; Strengthening of agricultural cooperatives.

Possible developments of the sector

Decrease of Funds from the Common Agricultural Policy.

The reduction in direct aid to Greece according to the European Commission's proposal is estimated to 3,6% gradually over the period 2014-2018. Greece now receives direct payments of 2.4 billion annually. Direct payments in 2014 will be limited to 2.253 billion Euros and will gradually reach 2.173 billion in 2018. The new maximum ceiling for CAP payments will be 300,000 Euros, and cuts will be introduced for those who receive direct payments amounts in excess of 150,000 Euros. SECTORDecrease of Funds from the Common Agricultural Policy.

Trade unions possible developments

Social security: Representatives of the unions are members of the board of the Agricultural Insurance Organisation (OGA).

Insurance: Representatives of the unions are members of the board of the Agricultural Insurance Organisation (OGA).

Assistance: —

Credit access: —

Activity increase – promotion: the unions should focus on the development of a national plan to boost agricultural production and to modernise the organisation of farmers and aid them to transform from small-sized, family-owned dispersed units, while low level of cooperative organization to modern establishment which produce high quality products.

Institutional relations: —

Relations with good/services suppliers: —

Other: The unions should focus on combating the practices of intermediaries, who buy from the producers at low prices and sell to the consumers at much higher prices. The unions should focus on boosting the export of Greek agricultural products. Unions should focus on combating the exploitation of immigrants who work as paid employees in the sector.

10.2.4. Hungary

Description

Traditionally the agricultural sector was considered as one of the most relevant sectors in Hungary in the past mainly before the regime change, later only by the public opinion. The relevance of the sector in the Hungarian national economy has decreased due to the socio-economic structural changes, and the international tendencies and rearrangement of the different sectors occurred in the last 20 years. In 1989 the contribution of the agricultural sector to the national GDP was 13.7%, after 20 years it has decreased to 3.7%.

Category

Small farmers (licensed traditional small-scale producers, agricultural producers– is the official name in Hungary)

Short description of the category

According to the Personal Income Tax Law (Act CXVII of 1995 and its amendments) and Social Insurance Law (Act LXXX of 1997) the so called licensed traditional small-scale producer is such kinds of self-employed person who is not registered as an individual entrepreneur, he/she is above 16 years of age, produces products (crop production, plantation, animal-breeding, and processing) on its own farm, it has a card proofing the validation of its business activity, and the family farmer is meant under this category, and also those relatives who are not employed by the small farmer directly but contribute to the activities concluded on the farm.

Licensed traditional small-scale producers can sell their products by purchasing so called “acquisition/buying up tickets” without any deduction for tax payment. The acquirers are mainly consumers, processing plants, and distributors. The number of registered licensed traditional small-scale producers shows a decreasing number on national average and mainly in the more developed regions can be found more than 1000 licensed traditional small-scale producers/regions.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

According to the Central Statistical Office (CSO) in agricultural sector in Hungary in 2008 there were 15,138, in 2009 14,365, in 2010 15,362 registered entrepreneurs (self-employed persons). Out of these, the numbers of operating entrepreneurs are the followings: in 2008 11,063, in 2009 10,900.

This is because the licensed traditional small-scale producers can suspend their activities. According to the prognosis of the general agricultural census in 2010 there were 1,1 million relatives related to farms who helped the work of the licensed traditional small-scale producers.

According to this census out of 4 farmers there are 3 male and 1 female, the average age of the farmers is 56, the rate of young (under age 34) farmers has decreased from 9% to 7% in the last 10 years, the rate of the age group 35-54 has decreased from 41% to 36%, however the rate of farmers below 55 has increased from 50% to 57%.

National and Regional dimension of the phenomenon. Since 2009 until present. Description

According to the agricultural census concluded in 2010 the family workforce of private farms has decreased with 45% compared to the last census, mainly because of the tremendous decrease of the number of farms (it has decreased with 40%).

The average age of female farmers is higher than the male ones, as usually women usually need to start up farming activities after becoming single.

In the last 10 years the average age of farmers in Hungary has increased with 1,5 years, however the rate of young farmers has decreased and the rate of farmers above 50 has increased as well, as the young generation moves to cities and bigger towns to look for opportunities to improve their living conditions. In Hungary being a farmer for the younger generation is not an impressive career opportunity.

Contracts used for the category

There is no contract used in this category, they have a card (just like an identity card) proving their status called “licensed traditional small-scale producer” according to the regulations. They have to issue a licence, a permission to be able to do this kind of business activity.

According to the Personal Income Tax Law the agricultural producer is considered as a self-employed person. So the following rules are applied: As a rule, income from self-employment activities, not pursued in the scope of private business, is calculated as difference between the total amount of revenues and the total amount of costs. Agricultural producers, lessors and appointed auditors, Members of the European Parliament, to members of the Hungarian Parliament and to representatives of local-self-governments qualify as private individuals engaged in self-employment activities. Tax payers may decide on applying a 10% cost rate, rather than establishing incurred costs. Income from royalties at its original holder is taxed in accordance with the rules applicable to income from self-employment activities. Agricultural producers may — just like individual entrepreneurs — choose flat rate taxation. The personal income tax is 16% in Hungary.

Category and/or trade union representation

Hungarian Chamber of Agriculture: (Magyar Agrárkamara - HCA) was founded on 20 December 1994 as a national public body performing public duties and having a legal person status according to the Act XVI of 1994 on economic chambers. The law was adopted by the Hungarian Parliament to decrease the economic role of the state.

The Parliament adopted a new act on economic chambers on the 21st of December of 1999 under No. CXXI. According to the provisions of this law the agricultural chambers were renewed in 2000. Hungarian Chamber of Agriculture is an umbrella-organisation. Members of the organisation are the Budapest and the 19 territorial chambers. The 20 territorial chambers are public bodies, too. Their members are economic organisations with agricultural, forestry, fishery and hunting activity including the related processing, trading and servicing enterprises. Membership is on voluntary basis. Number of members is 11,000 and they represent 60% of the total agricultural output.

According to the several times modified chamber law, the HCA performs duties related to development, subsidies, representation of general interest of the agricultural sector, European Union’s Common Agricultural policy and rural development. Its advisory system helps the producers to receive EU subsidies. These services are available not only for the members but for all producers. HCA operates the Farm Information Service with the network of 202 advisors throughout Hungary. HCA takes part in the process of legislation and sends representatives to all committees of national interest.

Furthermore, it keeps contact with foreign agricultural chambers and international organisations. Since 1 May 2004 HCA has been member of COPA.

Hungarian Association of Young Farmers (Fiatal Gazdák Magyarországi Szövetsége - AGRYA) is the only organization in Hungary representing young farmers, it has 1500 members and its main aim is to represent the interests of young Hungarian farmers in-country and abroad.

Alliance of Hungarian Farmers (Magyar Gazdakörök és Gazdaszövetkezetek Szövetsége - MAGOSZ): its main aim is to represent and defend the interests of the farmers and to help improving professional

development of the farming activity, to assist the activities of farmers and to provide information to them.

Agricultural Cooperatives and Farmers Association (Mezőgazdasági Szövetkezők és Termelők Országos Szövetsége - MOSZ) is also an interest-representation organization of farmers.

Eventual actions of bargaining, negotiation and social dialogue to favour the category

The major economic interest groups take part at the reconciliations of the related ministry and at the professional forums together. Low levels of self-organization can be observed and there is no need to bargain collectively.

The regime change and EU accession have sharpened many agricultural related conflicts in Hungary in the recent times. In response, a series of protests were organized in Budapest (milk, tomatoes, melons, tractor parades, etc.) by farmers, but the most relevant interest representing groups neither took part at these, nor helped the organization of these protests. So this way of bargaining can serve with short-distance results, for example in 2005 the Agricultural and Rural development Ministry and 23 agricultural related interest representation organizations signed an agreement about the re-launch of social dialogue in the sector.

Types of services useful to the category

Favorable credit (loan) opportunities, aid for infrastructural support, and human resource development.

Possible developments of the sector

To strengthen the self-organization of the category, to enhance the agricultural self-employment among women and young persons.

Trade unions possible developments

As in Hungary not the trade unions which are representing the interest of the agricultural sector, so it is not relevant.

Social security: —

Insurance: —

Assistance: —

Credit access: —

Security: —

Activity increase – promotion: —

Institutional relations: —

Relations with good/services suppliers: —

Other: —

10.2.5. Italy

Description

Agriculture represents the primary sector of world economic production. Fruit and vegetable production, animal husbandry after representing the key sector of the economy of all nations, is now relegated to a niche area and / or production. After a first period tied to the economy of simple subsistence, we have moved production to a more entrepreneurial. In addition to the creation of large farms, has seen the development of entrepreneurial initiatives of small or medium size characterized by a commitment to small agricultural entrepreneurs, often assisted by their families.

Category

Small agricultural entrepreneurs.

Short description of the category

The agricultural sector consists of companies engaged in the breeding, the production of milk and meat, the cultivation and production of fruit and vegetables, viticulture and mixed sectors.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

As an extension, faced with a national average extension of about 3 hectares property, we average the south of Italy, which is between 1 to 3 hectares, in the north while the average is between 5 and 20 hectares.

At National level we have about 350,000 active enterprises in the agricultural sector (large and small) while in Lombardia are active about 1600 companies.

National and Regional dimension of the phenomenon. Since 2009 until present. Description

While we have been witnessing in southern Italy for most agricultural activities operated as a part-time workers also cover other aspects of business (including employees) in other industries, professional companies, large - medium and small size, have their headquarters in the northern, also using additional sources of income (example transformation of the company and its spaces such as agritourism).

Contracts used for the category

VAT registration.

Adventive employed or professional voucher for the collection of products (example grape harvest).

Fixed wage for livestock.

Category and/or trade union representation

- COPAGRI (UGC CISL, UNIMEC, AIC, ACLITERRA);
- COLDIRETTI

Eventual actions of bargaining, negotiation and social dialogue to favour the category

The main action of consultation has been activated for the recruitment of adventive staff for the collection of products (e.g. harvesting, fruit or tomatoes) through the use of vouchers, in agreement with the Department of Labour and Chambers of Commerce.

Types of services useful to the category

Activation of vocational training courses for qualified professionals for working in the vineyard, for the breeding and the cultivation of fruit and vegetables

Possible developments of the sector

Innovation for the procedures of production and processing industry, with particular reference to wine, milk and sausages.

Trade unions possible developments

Social security: —

Insurance: —

Assistance: —

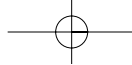
Credit access: —

Activity increase – promotion: —

Institutional relations: increase levels of social dialogue in order to avoid the possibility of causing problems or unnecessary tensions in the sector (example milk quotas, contract forms clear and bureaucratic procedures shared).

Relations with good/services suppliers: Very important to establish framework agreements or relationships with respect to suppliers and / or distributors

Other: less bureaucracy and more entrepreneurship.



10.2.6. Poland

Description

Agriculture plays a decreasing role in Polish economy. The size of cultivated areas has been going down for past 20 years. Agriculture produces only 4% GDP (GDP in Poland per capita is 11 288 USD in 2009 according to IMF) and employs 14% of total number of workers (there are about 15 mln of people active in the labour market). It is estimated that the number of farms in Poland is ca. 2 million.

Category

Small farmers

Short description of the category

Small farmers are described as people who have been working in agriculture (on farms) for the past 12 months, even it was only their additional work.

The labour market in agriculture was subject to change in the past years. In socialism, agriculture was based on small farmers and “state-run farms” (Państwowe Gospodarstwa Rolne - PGR). After the collapse of centrally planned economy, most of state farms were closed down. Liberalization of market affected small farmers who started to have problems with producing and selling their goods which led to financial problems.

Farmers have an influential political support based on Polish Peasants' Party (Polskie Stronnictwo Ludowe - PSL). Polish accession to EU created a new situation. The farmers receive now financial and infrastructural support.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

According to statistical data, 4.964 million people works in agriculture, there is 2.372 million actual farmers, 1.289 million family members and 1.302 million of supporting people.

Statistical data for 2011 indicates that 1.334 million self-employed people work in agriculture, fishery and industry, there is only 41 thousand employers, which means that 1.293 million people are self-employed without any workers supporting them.

There are some diversities based on territory. In the industrialized and urbanized provinces and largest cities only 3,6% of employees work in agriculture while in some parts of Eastern Poland employment in agriculture reaches 33,6%.

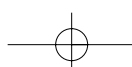
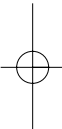
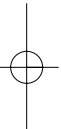
National and Regional dimension of the phenomenon. Since 2009 until present. Description

The situation in the labor market has been stable for the self-employed in the past few years. People who are working in such conditions use new opportunities to produce goods and provide services. The state policy in agriculture is rather stable. There is a representation of the famers in the Polish government – the Polish Peasants' Party (Polskie Stronnictwo Ludowe).

Territorial differences in the labor market in agriculture are shown on the map below.



ZATRUDNIENIE W ROLNICTWIE W 2007 R. WG GUS
Employment in agriculture in 2007



Contracts used for the category

Agricultural Social Insurance Fund /KRUS/. It is an institution whose goal is to deal with the tasks regarding servicing of social insurance for farmers.

Types of benefits are the following: insurance for elderly and handicapped people, insurance from accidents, maternity insurance, pension for elderly farmers, farmers' pension by virtue of incapacity to work, farmers' training pension, family pension, old-age and disability pension from social insurance for individual farmers and members of their families (benefits granted based on the provisions obligatory before 1st January 1991) allowances to elderly people and farmers who are handicapped, e.g.: nursing, allowances to orphans.

Category and/or trade union representation

NSZZ Solidarity of Small Farmers /NSZZ Solidarność Rolników Indywidualnych / is the trade union organization of farmers. Originally it was a division of the Solidarity trade union but later it transformed into a separate trade union.

It is very active organization which aims at creating healthy agriculture policy, and has political goals.

Last twenty years in Poland was the period of time when the state policy changed with respect to the agriculture sector of the Polish economy. The crisis of agriculture and changes in the economy created new types of issues — this trade union was very active in all the fields. Solidarity trade union was very active with respect to securing quality of production in agriculture, stimulating the economy, supporting changes in the environment, creating self-organization in small villages and providing social insurance and health care.

Eventual actions of bargaining, negotiation and social dialogue to favour the category

The trade union is active in social dialogue in Poland — takes parts in negotiations, gives opinions concerning agricultural policy.

It is also active in COPA (Committee of Professional Agricultural Organizations in the European Union) whose members are trade unions and branches of agricultural organizations in the EU Member States.

It is also member of COGECA (General Confederation of Agricultural Co-operatives in the European Union). It is one of the strongest lobbies in EU — a body which shapes Common Agricultural Policy.

Types of services useful to the category

Financial support — to allow farmers start new business. The problem of lack of funds is present.

Social security — social insurance is very poor. The contribution to KRUS is very low, which results in low incomes for pensioners.

Health & safety services.

Access to credit — access is available for rich farmers. But there are banks first who aid farmers specifically and offer them low level of interest rates.

Possible developments of the sector

The sector is declining in Poland. The GDP produced is unlikely to change next year. The labour market is unlikely to develop in the future.

The number of self-employed people is probably going to remain at the same level. Common Agricultural Policy of the EU allowed farmers to survive financially.

Trade unions possible developments

The discussion about KRUS is the most important – it concerns social insurance for farmers and new taxes for farmers.

The public opinion raises arguments that the farmers pay much lower taxes than other self-employed people. The policy of the Polish government is based on new reform of social security for pensioners / numbers of years for retired people, numbers of working years, taxes for it /.

Social security: —

Insurance: —

There is special insurance for farmers in Poland. Is based on 1990 law. The act in question was the one that created KRUS which now provides insurance to farmers.

There are two types of insurance for farmers: a) for pensioners and b) in case of illness and accidents plus maternity insurance.

Assistance: —

Credit access: available for farmers who have incomes and revenues.

Security: Activity increase – promotion: —

Lack of security as the result of natural phenomena /weather, natural catastrophes.

Institutional relations: —

Relations with good/services suppliers: —

Very good based on business.

Other: —

10.2.7. Slovakia

Description

According to the latest report on the agriculture sector developed by the Union of agricultural Cooperatives and companies in Slovakia, the share of the Agriculture production on GDP in Slovakia is decreasing from year to year, and it was 2,5% in 2009. The same situation is in area of employment in agriculture.

The average salary in agriculture was 581 EUR compared to 769 average salary in economy. In 2011, agriculture was the the sector with the highest decrease in numbers of free job positions in the Slovak economy (- 21.000 job positions). Due to the geography of Slovakia, agriculture is located in the south of Slovakia, and the region with the highest share of agricultural production is the Nitra region (where also Agricultural University has its residence).

Category

Small farmers

Short description of the category

Legislative or professional definition of the Category.

Self-employed farmers are a special group of individual entrepreneurs acting under Act No. 105/1990 Coll. According to this law, a self-employed farmer is an entrepreneur who deals with production and sale of agricultural produce.

Analysis of the labor market context at national / regional level, depending where in which it occurs

Employment rate within the sector is decreasing in all Slovak regions.

- According to the Act No. 105/1990 Coll. Main activities of self-employed farmers are:
- Production of agricultural products in order to ensure sustainable income.

Adjustment or processing of own agricultural production.

Offer of occasional working positions connected with agricultural production.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

Self-employed farmers total number & %

Region NUTS III	2009		2010	
	Number	%	Number	%
Slovakia - Total	14,855	100	14,310	100
Bratislava region	485	3	485	3
Trnava region	958	6	896	6
Trenčín region	305	2	281	2
Nitra region	1,649	11	1,545	11
Žilina region	1,058	7	1,008	7
Banská Bystrica region	1,382	9	1,357	9
Prešov region	1,001	7	1,010	7
Košice region	1,179	8	1,146	8

National and Regional dimension of the phenomenon. Since 2009 until present. Description

The total number of self-employed farmers decreases from year to year. According to the Slovak Statistical Office, there were 8,534 self-employed farmers in 2007, compared to 7,728 self-employed farmers in 2010. From the regional point of view, southern regions of Slovakia have a higher share of self-employed farmers — the leading region (11% share) is the Nitra region with 1,545 self-employed farmers in 2010. Surprisingly, the number of self-employed farmers has decreased in all regions except the Prešov region (northern region). The Slovak statistics do not provide the division of self-employed farmers on the gender or age basis.

Contracts used for the category

Self-employed farmers are a part of business personnel governed by the Act No. 455/1991 - Licensing Act. To obtain a self-employed farmer license, a farmer must register with the small businesses' office. Having obtained the license, a farmer must register also with the tax office and social insurance company. The typical contract used with suppliers and customers is an invoice or, when selling product to the final customer, a receipt.

A seasonal worker in agriculture works on basis of a work agreement with an employer. There are two types of work agreements, both are used for part-time jobs. The first allows one to work a maximum of 360 hours/ year for one employer, and the second one allows one to work 10 hour / week for one employer. The employer pays the income tax of 20 % and 0,8 % as accident insurance, and 0,25 % guaranty fund. The net salary (after taxation) is given to employee.

Category and/or trade union representation

Slovak agriculture and food chamber — umbrella organization — national level — covers activities of different local and specialized unions, such as:

- Association of producers of sweets, coffee and bread,
- Fruit growing union,
- Slovak Society of millers,
- Slovak Association of breeding and seed,
- Slovak Association of dairy farmers,
- SLOVSOLANUM - cooperative growers and processors of potatoes.

Complete list of unions and representation can be found at http://translate.googleusercontent.com/translate_c?langpair=sk%7Cen&rurl=www.google.com&u=http://www.sppk.sk/index.php%3Fstart%26pl%3D27%26PHPSESSID%3Df2d6ed6dee56c4f1205ec9b847c341e6&usg=ALkJrhgUpBA4Z0U_2M8xj2lwwykWIOGNyw

Eventual actions of bargaining, negotiation and social dialogue to favour the category

As was presented on March 1, 2012 at the international Slovak Chamber of Agriculture and Food (SPPK) conference in Nitra, Slovak farmers seek a fair and balanced system of direct payments to farmers. Over 400 primary producers took place in the conference, along with Vice President of the European Commission (EC), Institutional Relations and Administration Maro? ?ef?ovi?, members of the National Council of the European Parliament, representatives of foreign chambers of agriculture and partner organizations, and dozens of other guests.

Types of services useful to the category

As for all small entrepreneurs in Slovakia, small farmers have to pay (according to law) relatively high health care and social deductions on monthly basis. Change in legislation in this would help small farmers. Another very important problem is the access to credit. Banks in Slovakia are very strict (rigorous) when providing credit to small entrepreneurs. Majority of small farmers cannot access bank credits at all. A special bank credit product for small farmers would be welcome.

Possible developments of the sector

The number and also turnover of small farmers in Slovakia decreases from year to year. Larger businesses in agriculture are able to produce with lower costs, and also have much better access to additional funding. Slovakia is a country with large rural areas with high unemployment; therefore, to become a small farmer can be one of solutions to fight one's joblessness. Small farmers will have to focus on very special local products of high quality or products which are typical or represent a specific region – there is only a small chance for small farmers to compete with big firms. The EC funding will probably decrease in the future, and national Slovak government will have to increase its funding to support small farmers. It will depend on political agreements how this situation will be solved.

Trade unions possible developments

Social security: decrease of monthly social and health contribution

Insurance: —

Assistance: —

Credit access: a special bank credit product should be developed and negotiated by the trade unions for self-employed farmers.

Security: —

Activity increase – promotion: —

Institutional relations: —

Relations with good/services suppliers: —

Other: —

10.2.8. Spain

Description

In 1995 was passed the law 19/1995, in line with the European common policy, for the modernization of holdings in Spain. It makes a distinction between “family farm” run by self-employed and “corporate farms”, controlled by corporations.

In Spain, there are currently around 252.763 self-employed workers in this “Family farm” category, but the total strength has fallen by 22,224 since 2009, which had 274,987.

Category

Small Farmers (Workers who work and Cultivate the land)

Short description of the category

Agriculture is one of the main productive sectors in the economy of Spain. In Spain there are currently around 252,763 self-employed workers in this “Family farm” category, although the total strength has fallen by 22,224 since 2009, when there was 274,987.

Nevertheless, during the same period (2009-2011) the weight of agriculture in relation to structure of GDP has grown from 2.5 to 2.7. Also, regarding the variable of structure of total employment, agriculture has risen from 4.2 to 4.5 of the total. At regional level, in Catalonia, 21,976 are self-employed workers in this category.

Of the 253,763 self-employed, 173,492 were men and 79,271 women. The main activities taking place in this sector are working the land and the exploiting of small farms.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

Agriculture is one of the main productive sectors in the economy of Spain. In Spain there are currently around 252,763 self-employed workers in this “Family farm” category, although the total strength has fallen by 22,224 since 2009, which had 274,987. Nevertheless, during the same period (2009-2011) the weight of agriculture in relation to structure of GDP has grown from 2.5 to 2.7. Also, regarding the variable of structure of total employment, agriculture has risen from 4.2 to 4.5 of the total.

Even in today's current crisis, the acres spend on agriculture has also increased, and in late 2011 3,423,284 acres cultivated by self-employed, with an average size of 47 hectares. This is practically 50% of the average size compared to Figures associative. Regarding the turnover in EUR million, now represent 40% of the total.

Individual	Associations
3,423,284	438,754
47	81
866.14	2,216.15

In absolute self-employed currently 253,763, which 173,492 are men and 79,271 women.

Agricultural self-employment age distribution

	Distribution
< 25 years	2,868
25-39 years	44,594
40-54 years	113,707
> 55 years	91,594
Total	252,763

1,791 Self-employed are foreigners, 0.7% of total.

National and Regional dimension of the phenomenon. Since 2009 until present. Description

Since 2009, the agriculture sector is facing serious structural problems, mainly because of the small size of holdings, and insufficient production efficiency. To solve that, it set as objectives the following purposes: To stimulate the formation of farms with enough size to ensure economic viability thereof, and promote agricultural associations as a way for the formation of bigger farms.

On the other hand, more and more people are returning from urban to rural areas due to the lack of opportunities and the economic crisis. This phenomenon is basically explaining the lower decline of employed people in agriculture, 22,000 (2009-2011), compared to the overall labor market, which is close to 5,500,000 unemployed.

Contracts used for the category

Temporary Labour Contract, Mercantile Contract, by day's wages. Although the work on family farms is usually done basically by the people of the family, sometimes they can use external staff in the collection phase. Examples: strawberries, olives.

Category and/or trade union representation

- Current Legal Reality

The autonomous communities exercise exclusive jurisdiction over the Chambers of Agriculture, under Article 148.1,7 of the Constitution.

A. This exclusive authority connects with Law 18/2005, dated September 30, by repealing Law 23/1986 of 24 December, which establishes the legal bases of the Chambers of Agriculture. As standard which includes the Statement of Reasons, "is aimed to the elimination of government regulation, but not Chambers, matter for the decision framework of the Autonomous Communities". This standard anticipates the obligation to allocate "to the service of general agrarian interest" the assets of the Chambers of Agriculture, in *ad hoc* regulation made by each region.

B. Law 10/2009 of 20 October, regulating the creation of consultative State bodies in the field of food processing and determining the basis of representation of farming organizations. This rule regulates, in Article 4, the criteria of representativeness of professional agricultural organizations in order to recognize the institutional representation to organizations and public agencies. These entities are Opas entitled to replace the functions of chambers of agriculture.

OPAS:

"Family farm" run by self-employed are integrated in UPA-UGT.<http://www.upa.es>

"Farm business" controlled companies are integrated into CEOE (Spanish Confederation of Business Organizations) in their division of the Field.

ASAJA <http://www.ceoe.es/ceoe/contenidos.item.action?id=3321976&menuId=5436374>

Eventual actions of bargaining, negotiation and social dialogue to favour the category

None of the current forms, is fully adapted to a new model of society or figure required for the interests of owners of farms and the national objectives pursued: both capitalist societies governed by our right, the SAT and Cooperative, have problems to be interesting to all owners of farms, either because the employer does not retain its independence, or because the birth of a new legal entity members independent from the ones who compose it, doesn't fully adapt to the farmers' interests.

"The company rising from the new Common Agricultural Policy must meet a number of features and lean toward certain goals, including: having a complete legal security in a family or partnership business model." There should be no doubt that the new technical, economic, legal and social postulates guide us toward new formulas to keep in mind, without forgetting and postulates in what's necessary family farms, which are the basis for many farms today. But the recognition of different realities must be the basis for a different regulation too, which tries to get more modernized farms, more profitable or more likely to compete in other areas, to other formulas that benefit and develop these figures of entrepreneurs farmers.

We have already highlighted the attraction that commercial law is making in agricultural activities, and in how many cases agricultural employers themselves are oriented towards other ways, besides the fact that the application of many of the standards of a commercial nature are becoming more and more usual between farmers: we think of brands, retail, consumer protection and users etc. And you can even demand the application to the agrarian company the benefits of land registration in the commercial register and the inclusion in the new Bankruptcy Act, which is in draft form, because while historically there has been a different treatment for being or not a debtor trader, currently is not justified this duality rules, that's why is demand and advised, even by some institutions such as the Economic and Social Council, a single procedure for all debtor bankruptcy, given that it must have the specialties for a case or another.

Types of services useful to the category

Self-employed basically need two fundamental tools to do their activity

- A. — Financial Services: These services, primarily credit, are used to make the investment of the season.
- B. — Insurance: Crop and natural disaster insurances are crucial to ensure the payment of claims in case of seasonal crop failure or natural disaster.

Possible developments of the sector

Of all ideas expressed in the text above, we point out the ones which seems to be considered as a line of reform that may lead to a debate for discussion and possible implementation:

First motion: decision on a model

1. The agriculture of the future will be not developed on the basis of the current situation, we enter in a new system where the incorporation of other countries to the European Union and international markets will demand a decision on a new model of agriculture more competitive, which will determine at the same time a new model farmer.
2. The above decision will also determine a new option: it would be necessary to decide clearly whether the bet is made by a family business model or by a business organization model. The decision for one model or another does not, of course, mean the disappearance of one of them, but have to find different mechanisms for each of them. It is clear that Agenda 2000 has established the foundation of this new multifunctional agriculture, in which both the family farm and the business will have different objectives: the small family will serve as environmental and land use, while corporate agricultural companies should focus on the implementation of economic ends.
3. We may find in the future with a new model: the entrepreneur farmer, the shift from a rural agrarian economy model to another business determine this figure.

A. Differential treatment

1. The different realities demand different legal treatment. If the option for the business model is one or the other, it will involve different rules, so we propose two different kinds of treatment for so-called: a) “farm family”, considered as a small family, with special dedication to meet with the objectives of multifunctionality and eligible to be the recipient of any contract for specific purposes of protection and conservation, and b) the “farm business” authentic “agricultural company”, which meets the requirements of sustainability and professionalism, to which should guide new legal concepts that allow the concentration and competitiveness.
2. We are not discussing the continuation or not of family farms, but the different treatment they should have.

B. Legislative reform

Corporate area

1. The agriculture of the future demands the passage of the individual holding to corporate exploitation (cooperatives), for those companies that are the basis of which we have called “farm business”
2. If so, we must move in a “special agrarian societies” that serve the interests of all parties involved, that having legal personality, does not harm the interests of members.

On the fiscal side

1. Abolition of some taxes with revenue-raising purpose only: the current real estate tax on rustic nature should be deleted or at least redirected to other purposes.
2. We will have to discuss the use of parafiscal taxation to achieve economic ends.

In the succession matter.

1. — In the “corporate farm or agricultural enterprise” Possibility that through the special corporate land form the maintaining of viable farms, preventing the fragmentation of the same.

Application to new social land forms of the benefits of incorporating family groups in the agricultural business. Protocol Implementation families to ensure family succession.

2. — In the “family farm” or small family, full attribution of the company to one of the heirs, preventing splitting.

Trade unions possible developments

The Organizations of the sector of self-employed and business from the start of the crisis are specializing in designing financial plans and providing crop specific insurance. This, together with the lack of financing by banks, has made agricultural organizations to grow in recent years.

Social security: Yes RETA

Insurance: Crop Insurance

Assistance: YES (RETA)

Credit access: Yes

Security: NO

Activity increase – promotion: technological innovation, specific machines.

Institutional relations: Agricultural Chambers

Relations with good/services suppliers: Central purchasing Shops

Other: —

10.3. Cases in product and service sales and promotion

10.3.1. Bulgaria

The partner did not participate in the realization of this case.

10.3.2. France

Description

In general, the business represents about 10% of French GDP, but these data are largely influenced by the weight of large surfaces.

Category

Travelling salesmen (VRP) and commercial agents

Short description of the category

Les VRP (Voyageur, Représentant et Placier) and commercial agents are intermediaries who may be involved in sales are either directly related to a company or brand they will promote (they are single-board) or the promotion of multiple clients (Multi). They are self-employed when they are not employees and so are the Commercial Code (5% of cases).

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

In 2009, there were about 50,000 independent sales representatives in France, this number has increased in recent years (30 000 at the beginning of the decade).

National and Regional dimension of the phenomenon. Since 2009 until present. Description

The number of sales agents is increasing in France unlike the VRP, but the overall number is up from recent years. This function is essentially male. The age distribution is homogeneously in this occupational category.

Contracts used for the category

Self-employed and employees

Category and/or trade union representation

There is the national federation of commercial agents and employees for specific industries that depend on trade union federations of services

Eventual actions of bargaining, negotiation and social dialogue to favour the category

Help to start activity

Legal assistance

Training

Working time

Types of services useful to the category

The pension level can be variable for VRP. The fixed wage allows a minimum base, according to which they can add an additional case. The problem is that for a large part of them, sales bonus are weak and do not allow to go beyond the minimum.

Possible developments of the sector

It is possible that the number of sales representatives and independent sales agents increases in coming years, companies hoping to outsource these activities.

Trade unions possible developments

Little development envisaged by the unions who have supported the VRP unionised.

Social security: salaried or independent system

Insurance: self-employee + employees

Assistance: risks associated with driving tour.

Credit access: normal

Security: road risk

Activity increase – promotion: —

Institutional relations: through national unions

Relations with good/services suppliers: ok

Other: —

10.3.3. Greece**Description**

The trade sector includes the “retail industry”, the “wholesale trade” and the “trade, maintenance and repair of vehicles etc”. The main occupations in the sector are: Business managers, administrative managers and vendors.

Despite the recession and the high number of job losses in the sector, trade remains one of the main pillars of employment in the Greek economy. It is therefore clear that it remains one of the most resilient sectors of the Greek economy, despite being significantly affected by the economic downturn. It should be noted that the proportion of self-employment and young entrepreneurs in the sector is decreasing,

while the proportion of middle-sized enterprises and paid employment increases, which signifies the transformation of the sector to new forms of work.

Category

Sales representatives and merchandisers.

Short description of the category

Sale representative is a natural person who is awarded on a permanent basis, either to negotiate on behalf of another person, called the “principal”, sale or purchase of goods or to negotiate and conclude such transactions on behalf of the principal.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

No official data.

National and Regional dimension of the phenomenon. Since 2009 until present. Description

No official data.

Contracts used for the category

Provision of Services.

Category and/or trade union representation

National Confederation of Hellenic Commerce - ESEE

(Confederation-National Level).

Unions of Sales Representatives.

Chambers of Commerce.

Eventual actions of bargaining, negotiation and social dialogue to favour the category

According to the competent representation bodies, “the sales representatives’ sector, and commerce in general, have reached an economic stalemate due to the recession and the revenue-collecting measures; as a result, an ever-increasing number of small and medium-sized enterprises are forced to suspend their activity”. Upon a related demand of the competent representation bodies, the law draft of the Ministry of Labour and Social Security, which was approved by the Cabinet on 22 March 2012, included a provision that enables the persons insured by the Freelance Professionals’ Social Security Fund (OAEE) to ask to be classified at an insurance category that is lower than that which they belong to; that means that they will pay reduced social security contributions. Such right is granted on condition that there are not any overdue debts towards the social security funds or that a settlement was made and the installments are paid regularly and diligently.

Types of services useful to the category

Legal

Education and training

Possible developments of the sector

Nothing special

Trade unions possible developments

Nothing special

Social security: —

Insurance: —

Assistance: —

Credit access: —

Security: —

Activity increase – promotion: —

Institutional relations: —

Relations with good/services suppliers: The unions of sales representatives have an important role in intervening after request of their members to seek compromises and solutions in disputes arising with the good/services providers.

Other: Establishing the School of Commercial Agents / organizing training programs, seminars or lectures, workshops and conferences.

10.2.4. Hungary

Description

Traditionally the agricultural sector was considered as one of the most relevant sectors in Hungary in the past mainly before 1989, later only by the public opinion. The relevance of the sector in the Hungarian national economy has decreased due to the socio-economic structural changes, and the international tendencies and rearrangement of the different sectors occurred in the last 20 years. In 1989 the contribution of the agricultural sector to the national GDP was 13,7%, after 20 years it has decreased to 3,7%.

Category

Small farmers (licensed traditional small-scale producers, agricultural producers — is the official name in Hungary)

Short description of the category

According to the Personal Income Tax Law (Act CXVII of 1995 and its amendments) and Social Insurance Law (Act LXXX of 1997) the so called licensed traditional small-scale producer is such kind of self-employed person who is not registered as an individual entrepreneur, he/she is above 16 years of age, produces products (crop production, plantation, animal-breeding, and processing) on its own farm, it has a card proofing the validation of its business activity, the family farmer is meant under this category as well, and also those relatives who are not employed by the small farmer directly but contribute to the activities concluded on the farm.

Licensed traditional small-scale producers can sell their products by purchasing so called “acquisition/buying up tickets” without any deduction for tax payment. The acquirers are mainly consumers, processing plants, and distributors. The number of registered licensed traditional small-scale producers shows a decreasing number on national average and mainly in the more developed regions can be found more than 1000 licensed traditional small-scale producers/regions.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

According to the Central Statistical Office (CSO) in agricultural sector in Hungary in 2008 there were 15.138, in 2009 14.365, in 2010 15.362 registered entrepreneurs (self-employed persons). Out of these, the numbers of operating entrepreneurs are the followings: in 2008 11.063, in 2009 10.900.

The reason behind this can be described by that the licensed traditional small-scale producers can suspend their activities. According to the prognosis of the general agricultural census in 2010 there were 1,1 million relatives related to farms who helped the work of the licensed traditional small-scale producers.

According to this census out of 4 farmers there are 3 male and 1 female, the average age of the farmers is 56, the rate of young (under age 34) farmers decreased from 9% to 7% in the last 10 years, the rate of the age group 35-54 decreased from 41% to 36%, however the rate of farmers above 55 has increased from 50% to 57%.

National and Regional dimension of the phenomenon. Since 2009 until present. Description

According to the agricultural census concluded in 2010 the family workforce of private farms has decreased with 45% compared to the last census, mainly because of the tremendous decrease of the number of farms (it has decreased with 40%).

The average age of female farmers is higher than the male ones. In the last 10 years the average age of farmers in Hungary increased with 1,5 years, however the rate of young farmers decreased and the rate of farmers above 50 increased as well, as the young generation moves to cities and bigger towns to look for opportunities to improve their living conditions. In Hungary being a farmer for the younger generation is not an impressive career opportunity.

Contracts used for the category

There is no contract used in this category, they have a card (just like an identity card) proving their status called “licensed traditional small-scale producer” according to the regulations. They have to issue a license, a permission to be able to do this kind of business activity.

According to the Personal Income Tax Law the agricultural producer is considered as a self-employed person. So the following rules are applied: as a rule, income from self-employment activities, not pursued in the scope of private business, is calculated as difference between the total amount of revenues and the total amount of costs. Agricultural producers, lessors and appointed auditors, Members of the European Parliament, members of the Hungarian Parliament and to representatives of local-self-governments qualify as private individuals engaged in self-employment activities. Tax payers may decide on applying a 10% cost rate, rather than establishing incurred costs. Income from royalties at its original holder is taxed in accordance with the rules applicable to income from self-employment activities. Agricultural producers may — just like individual entrepreneurs — choose flat rate taxation. The personal income tax is 16% in Hungary.

Category and/or trade union representation

Hungarian Chamber of Agriculture: (Magyar Agrárkamara - HCA) was founded on 20 December 1994 as a national public body performing public duties and having a legal person status according to the Act XVI of 1994 on economic chambers. The law was adopted by the Hungarian Parliament to decrease the economic role of the state.

The Parliament adopted a new act on economic chambers on the 21st of December of 1999 under No. CXXI. According to the provisions of this law the agricultural chambers were renewed in 2000. Hungarian Chamber of Agriculture is an umbrella-organisation. Members of the organisation are the Budapest and the 19 territorial chambers. The 20 territorial chambers are public bodies, too. Their members are economic organisations with agricultural, forestry, fishery and hunting activity including the related processing, trading and servicing enterprises. Membership is on voluntary basis. Number of members is 11,000 and they represent 60% of the total agricultural output.

According to the several times modified chamber law, the HCA performs duties related to development, subsidies, representation of general interest of the agricultural sector, European Union’s Common Agricultural policy and rural development. Its advisory system helps the producers to receive EU subsidies. These services are available not only for the members but for all producers. HCA operates the Farm Information Service with the network of 202 advisors throughout Hungary. HCA takes part in the process of legislation and sends representatives to all committees of national interest.

Furthermore, it keeps contact with foreign agricultural chambers and international organisations. Since 1 May 2004 HCA has been member of COPA.

Hungarian Association of Young Farmers (Fiatal Gazdák Magyarországi Szövetsége - AGRYA) is an organization in Hungary representing young farmers, it has 1500 members and its main aim is to represent the interests of young Hungarian farmers in-country and abroad.

Alliance of Hungarian Farmers (Magyar Gazdakörök és Gazdaszövetkezetek Szövetsége - MAGOSZ): its main aim is to represent and defend the interests of the farmers and to help improving professional development of the farming activity, to assist the activities of farmers and to provide information to them.

Agricultural Cooperatives and Farmers Association (Mezőgazdasági Szövetkezők és Termelők Országos Szövetsége - MOSZ) is also an interest-representation organization of farmers.

Eventual actions of bargaining, negotiation and social dialogue to favour the category

The major economic interest groups take part at the reconciliations of the related ministry and at the professional forums together. Low levels of self-organization can be observed. The regime change and EU accession have sharpened many agricultural related conflicts in Hungary in the recent times. In response, a series of protests were organized in Budapest (milk, tomatoes, melons, tractor protests, etc.) by farmers, but the most relevant interest representation groups neither took part at these, nor helped the organization of these protests. So this way of bargaining can serve with short-distance results, for example in 2005 the Agricultural and Rural Development Ministry and 23 agricultural related interest representation organizations signed an agreement about the re-launch of social dialogue in the sector.

Types of services useful to the category

Favorable credit (loan) opportunities, aid for infrastructural support, and human resource development.

Possible developments of the sector

To strengthen the self-organization of small farmers, to enhance the agricultural self-employment among women and young persons.

Trade unions possible developments

In Hungary there is no specific trade union exclusively representing the interest of the agricultural sector.

Social security: —

Insurance: —

Assistance: —

Credit access: —

Security: —

Activity increase – promotion: —

Institutional relations: —

Relations with good/services suppliers: —

Other: —

10.3.5. Italy

Description

The Operational Marketing is organizing a marketing strategy and information, mainly aiming to inform and highlight to potential buyers the distinctive qualities of the product (goods and / or service) offered as well as reducing the costs of marketing. The Operational Marketing is an active approach to existing markets and conquer his horizon of action lies in the short to medium term is the traditional commercial approach focused on achieving a target of turnover and is based on tactical means arising from the policies of product (Product), Distribution (Place), price (Price) and communication (Promotion): the 4P's marketing mix. The subjects involved are: - companies producing goods / services, - distribution companies (large retail chains and specialized - service companies and field marketing, - the operators and the operators that carry out activities of promotion and merchandising. Essential function of the Operational Marketing is to sell and use for this purpose the method most effective sales and minimize costs. In Operation Marketing Advertising and promotion occupy a crucial space.

Category

Agents and promoter of commerce merchandiser.

Short description of the category

The professional profiles of promoters and merchandisers working within promotion agencies involved in the selection and sometimes in the field of professional training (relationship marketing - product

characteristics and the sponsoring company). The operational contexts are: the traditional trade, the large scale organized distribution and specialized, other distribution channels, public and private events of aggregation (fairs, conferences, ...). Promoters and merchandisers are part of the process of operational marketing aimed at promoting goods and services. The product can differentiate depending on the type of the company that has commissioned the promotion (food, no food, consumer goods or high-tech, basic and specialized services, etc.). The main tasks of a merchandiser are related to promotional activities and the monitoring of their success. The merchandiser attracts the consumers in their perceptions and stimulates positive purchase. Has the responsibility to guide, advise and support customers in selecting products and to develop targeted promotional campaigns. The main activities are: to optimize the display of products to maximize sales results, place the material, organize temporary exhibition stands, manage inventory, displaying products on the shelf than in the arrangement of the set. The promoter presents and promotes the product / service by highlighting the technical and commercial aspects, in order to invite the customer to purchase a product or service. It also deals with treating the appearance of the product within the exhibition space sales, promotional and advertising materials by identifying company and products / services in question. These are usually stand, banquets, custom promotional islands in shopping centers, fairs, conferences or even product stores. The promotional activities carried out by promoters and merchandisers are then joined by monitoring the purchasing behavior of consumers.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

There are no current statistics on the sector size of operational marketing, there are not disaggregated data by gender and geographical origin.

National and Regional dimension of the phenomenon. Since 2009 until present. Description

In our business work both advertising agencies and operative marketing agencies. It is estimated that the nationwide agencies that deal exclusively with field marketing are over 100, of these 10% were based in Lombardy. The operators and stakeholders (promoters and merchandisers) are about 300 thousand. The promoter activity, especially with regard to food products and consumer goods, was conducted mainly, though not exclusively, by women. The activity of merchandising, on the contrary, it records a presence especially male. There are no surveys on the presence of foreign staff. While the sector is expanding (the economic crisis requires us to use the marketing strategies increasingly complex and qualified), no studies have been elaborated on the phenomenon. In this regard, the renewal of the national agreement, which will be discussed subsequently, it's planned the establishment of an observatory of the economic and productive sector.

Contracts used for the category

The employment relationship is configured only with the agencies, with both typical and atypical forms of contract (fixed-term contracts, projects, partnerships occasional VAT) depending on the length of the presidium and the type of outlets. Working conditions vary from job acquired: it can be initiatives at retail outlets, or at fairs, conventions, events, usually with principals including holidays, evenings or residential. The professional figure working alone, in pairs or small groups, with rotations, in the case of principals continuous for long periods, and extremely flexible schedules based on the walkability of outlets.

Category and/or trade union representation

There is an association of field marketing agencies: ANASFi.M. National Association of Services and Field Marketing Agencies, whose members are 40 companies. The employees and members of cooperatives are represented, as well as the categories of trade union confederations, and by Confsal Fisal and Fesica Confsal (two members of the independent trade union federations Confsal). The only union representing promoters and merchandisers, who perform their work independently, is SIOS Union of Italian operators and operators of Safety and Human Services, member FeLSA CISL. CGIL and UIL NidiL Uiltemp do not have within a specific category of reference.

Eventual actions of bargaining, negotiation and social dialogue to favour the category

On 18 November 2008 was signed a national agreement between ANASFi.M. and Clacs CISL to regulate labor relations and occasional project work of employees carrying out the activities of merchandising, promotion in “take away”, in store promotion, construction and supervision of exhibition space, exhibition and convention center services. The agreement expired in December 2011. He is currently being renovated, in a spirit of revisiting its basic elements in the light of new guidelines devised by the draft reform of the Italian labor market. The unions who sit at the negotiating table are SIOS FeLSA CISL, FeLSA CISL, NIdiL CGIL, UIL Uiltemp. The collective agreement aims to clarify and articulate the roles, rights and responsibilities of parties involved, determine the minimal value of the fee in order to combat child labor, poorly paid, tax evasion and circumvention of contribution. It also aims to establish criteria for the correct application of the principles of equality and equal opportunities and health and safety standards in workplaces. For employees and members of the cooperative marketing industry has been operating in 2009 signed a National Collective Bargaining Agreement between ANASFi.M., Confedia (National Confederation of Employers' Autonomous Companies) and Ascot (Cooperative Association) and Confsal Fisal, Fesica Confsal. This contract will expire on 31/12/2012.

Types of services useful to the category

The category needs an accurate definition of professional profiles, also through the establishment of formal qualification pathways. Training is certainly an essential element for the development of the sector. It also needs tax services targeted especially for women/men workers who perform activities with VAT.

Possible developments of the sector

The sector plays a strategic role in marketing. Operative Marketing agencies are the link between manufacturers and distribution channels. The workers and their employees are the operational arm of this link. The expected developments, in concert with SIOS, are the development of systems for recognition of professional skills, the permanent collection of professional and training needs with particular regard to self-employment, the implementation of specific initiatives that give answers to the requirements identified.

Trade unions possible developments

SIOS aims to conclude an innovative national agreement, the first regulations for the working relationships with employees / employed workers with VAT (articles 2222 and following of the Civil Code). In addition, through the agreement, we are to ensure equality and equal opportunities at all levels. In view of the peculiarities of the sector and the considerable presence of women will be established an observatory with the aim of monitoring compliance with the principles of equal opportunity in employment, in conditions of employment, training and professional progression. Specific attention will be given to issues such as the reintegration of women after maternity leave, protection and / or recovery of professionalism after a long absence, the identification of support services to workers and workers to facilitate the reconciliation of the life-work time. It will also guarantee the recognition and appreciation of all differences, especially those of gender.

Social security: include forms of supplementary pensions

Insurance/Assistance: —

Credit access: —

Security: —

Activity increase – promotion: —

Institutional relations: ministries and regional departments responsible for the recognition of the profession of promoters and merchandisers

Relations with good/services suppliers: —

10.3.6. Poland

Description

Trade became important sector of Polish economy after 1989. Until that time, Polish economy was based on industry /especially heavy industry/ and agriculture. First years after 1989 were period of rapid trade development. In next years, the culture of trade was improving. (which means registration of enterprises, development of infrastructure etc.).

Category

Sales Representatives

Short description of the category

Sales representative is a person who sells agriculture production, animals, materials for industry, metals, chemicals, plants and materials for construction, industrial machines, ships, airplanes, textiles, shoes, food and other goods outside the network of shops.

There is no license required for such activity.

The profession became popular after 1989. Before, it was marginal in Polish economy, it existed just as support for industry /representatives of huge, foreign enterprises which were selling sub-products for industry. Sales representatives are employed by companies, in which they work and can be self-employed. The working arrangement depends on a company.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

There is no statistical data for this category of people.

National and Regional dimension of the phenomenon. Since 2009 until present. Description

The number of representatives was increasing in the 90-s. Most of firms, which invested in Poland, were locating their premises in Warsaw or another big city in Poland /Poznan, Wroclaw, Cracow/ and started operating on the territory of Poland by sales representatives. This refers to companies of all sectors: industry, trade, services, education, knowledge etc.

The regional dimension regards the regional specificity of economy. For example in the industrial area there are active sales representative for industry sector and representatives of foreign companies who sell machines. On the other hand, there are sales representatives of agricultural companies in the east of Poland. Many sales representatives are based in big cities such as Warsaw or Cracow where there high demand for trade and services.

Contracts used for the category

Self-employed sales representatives can pay taxes based on general rules or pay linear taxes.

Category and/or trade union representation

Sales representatives have their own representation. It is called Polish Association of Sales Representatives /Ogólnopolskie Stowarzyszenie Przedstawicieli Handlowych.

It is the biggest organization of this type in the country, it associates entrepreneurs and people acting in trade. It was established in 2008 and represents interest of the sales representatives. The aims of the organization are the following: providing legal services for sales representatives, education, promotion of the profession, social care for sales representatives who are in a difficult situation, supporting sales representatives in finding jobs, aiding young people in getting vocational experience.

There are more or less 6 000 members of this organization. The aim of the organization is to increase the quality of work of the self-employed people and make the occupation more prestigious.

Eventual actions of bargaining, negotiation and social dialogue to favour the category

This organization is focused on vocational issues. Until now it did not participate in social dialogue and was not involved in influencing Polish policy. This organization could play a huge role in emphasizing

problems of the sales representatives such as long working hours, the conditions of working, social insurance. The only problem is that this group of people is very diversified. It means that there are people who are working for huge foreign companies and earn a lot of money, so they decided to be self-employed due to financial and benefits. On the other hand there are people who are working in difficult conditions and earn less than state average (the state average — according to Central Statistical Office — was in December 2011 — 4015,37 zł which about 1000 Euro. This amount is criticized by many organizations as too high when compared to the number of people working in Poland. The minimum wage is 1500 zł).

It is a challenge for such organization to be active, especially in the context of pension reform in Poland.

Types of services useful to the category

Legal

Social insurance — characteristic for all self-employed people

Relationship with institutions — there is lack of relationship with political institutions

Possible developments of the sector

The sector will be developing depending on the size investment of foreign companies in Poland, because they need representatives for selling services and products. The sector will develop due to technological changes which are inevitable in Poland.

Trade unions possible developments

Until now trade unions are not interested in activity of sales representatives. They focus on traditional workers and companies. The possible development of trade unions could be connected with radical changes of the working conditions and financial situation of the self-employed people.

Social security: —

Insurance: —

Assistance: —

Credit access: —

Security: —

Activity increase – promotion: —

Institutional relations: —

Relations with good/services suppliers: Very good, sales is based on good relations.

Other: —

10.3.7. Slovakia

Description

Trade sector consisting of street peddlers, newsagents, sales representatives and professions related to tourism is very heterogeneous in Slovakia. Street peddlers and newsagents are more organized on local level — street peddlers are typically active on local markets and newsagents are more typical for local newspapers rather than for national or international newspapers. Sales representatives and merchandisers are more organized on national level by national or international companies.

Category

Sales representatives and merchandisers

Short description of the category

Sales representatives and merchandisers in Slovakia are very typical working positions. Sales representatives are typical for several business sectors — mainly IT and pharmaceutical companies representatives (offering medicines), but sales representatives can be found in nearly all business sectors.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

There are no statistics available on sales representatives and merchandisers in Slovakia.

National and Regional dimension of the phenomenon. Since 2009 until present. Description

There are no statistics available on sales representatives and merchandisers in Slovakia.

Contracts used for the category

There are no special statistics available on sales representatives. According to the survey of free job position sales representatives and merchandisers – there are three types of contracts usually used:

- Full time job – employment contract
- Full time job – licensed entrepreneur
- Part time job – Job agreement

Category and/or trade union representation

There is no special union for sales representatives and merchandisers in Slovakia.

Eventual actions of bargaining, negotiation and social dialogue to favour the category

N/A

Types of services useful to the category

N/A

Possible developments of the sector

N/A

Trade unions possible developments

Social security: —

Insurance: —

Assistance: —

Credit access: —

Security: —

Activity increase – promotion: —

Institutional relations: —

Relations with good/services suppliers: —

Other: —

10.3.8. Spain

Description

Workers engaged into the sale of products to wholesale and retail.

Category

Sales representatives and merchandisers

Short description of the category

Article 2. Definition of sales representatives and merchandisers (RD 118/2005 of 4 February)

Sales Agent shall be deemed a person who, acting as an independent broker, is dedicated in a stable and continuous way and in exchange of remuneration, to promote trading acts or operations for others, or to promote and conclude for and on behalf of others, without assuming, unless otherwise agreed, the risk and responsibility of such operations.

National and Regional dimension of the phenomenon. Since 2009 until present. Statistics

In Spain the total number of intermediaries in commerce in 2010 amounted to 55,813. Of this amount are classified as follows:

Commission trade of agricultural raw materials, live animals, textile raw materials and semifinished products	1,363
Agents involved in the sale of fuels, ores, metals and industrial chemicals	2,575
Agents involved in the sale of timber and building materials	4,326
Agents involved in the sale of machinery, industrial equipment, ships and aircraft	3,881
Agents involved in the sale of furniture, housewares and hardware	8,292
Agents involved in the sale of textiles, clothing, fur, footwear and leather goods	8,975
Agents involved in the sale of food, beverages and snuff	5,683
Agents specializing in the sale of other particular products	12,057
Agents involved in the trade of divers	6,661

In terms of volume of business of the whole of commercial agents amounts to 4.756 million €. This turnover also classified as follows depending on the type of activity.

Commission trade of agricultural raw materials, live animals, textile raw materials and semifinished products	79,176
Agents involved in the sale of fuels, ores, metals and industrial chemicals	270,760
Agents involved in the sale of timber and building materials	216,674
Agents involved in the sale of machinery, industrial equipment, ships and aircraft	539,200
Agents involved in the sale of furniture, housewares and hardware	410,007
Agents involved in the sale of textiles, clothing, fur, footwear and leather goods	515,634
Agents involved in the sale of food, beverages and snuff	633,554
Agents specializing in the sale of other particular products	1,465,973
Intermediaries trade in divers	625,502

National and Regional dimension of the phenomenon. Since 2009 until present. Description

Status of profession:

Unemployment in the commercial sector decreased 11.5% respect to 2010. The months that descends were more significant were August (with a drop of 61%), January (33%) and December (28%).

Despite being considered a profession of men, in recent years have increased the number of women in trade. According to the study of COACB, 13% of traders are women, mostly devoted to household items and services. But it also is increasing in sectors such as chemicals, construction, machinery, iron and steel sectors traditionally attributed to men.

Contracts used for the category

Self-employed with commercial contract. Commercial contracts should have the following structure:

- Parts involved;
- Expositive part;
- Clauses;
- Object of the contract;
- Products and / or services;
- Training period;
- Geographical scope of the contract and client list;
- Duration of contract;

- Media to be provided by the agent;
- Commissions;
- Termination of employment;
- Compensation for customers and compensation for damages;
- Other agreements;
- Good faith;
- Applicable law and jurisdiction;
- Notifications.

Category and/or trade union representation

General Council of Commercial Agents in Spain

Eventual actions of bargaining, negotiation and social dialogue to favour the category

Commercial agents are a group with a lower unemployment than other groups because the market has maintained a certain demand in the sector.

With the approval of the status of self-employment their social demands have largely equated with employees. So, the approval of the regulation of economically dependent self-employed and the provision for cessation of activity has a significant effect on the collective.

In the area of training, the requests are directed to the creation of a specific university degree on the activity of the commercial agent.

Types of services useful to the category

The services most demanded are the fiscal arrangements (constitutions, changes or dissolution of companies or Civil, preparation of accounts for companies and freelancers, preparation of quarterly and annual taxes, payroll preparation, job contracts...)

On the other hand the agent needs to be recycled to improve his sales techniques and adaptation to a changing market. The commercial agent is one of the most neglected professions as regards training and with more demand for professionals in the labor market.

For this purpose, the schools of commercial agents incorporate into their training departments offers for all kinds of training directed to sales or to management with business profile.

Another service demanded by commercial agents are consultation on mediation and conflict prevention in trade relations. Tax consultancy, accounting and labor, specialized on the activity of commercial agents.

Possible developments of the sector

Some of the measures proposed for the sector would be that when an agent is discharged in Social Security as a trading agent, as they are required to be discharged on Economic Activity Tax (IAE) section 511, would require a certificate "issued by College" stating that you have the preparation and training required to practice.

The Associations of Commercial Agents have to be officially recognized as a connection between companies, Chambers and Commercial Agents to be vigilant of the labor stock and work for its proper application. His task would be to locate trained and prepared sales agents, suitable for each sector and company and vice versa.

Adjustment of input tax of professionals in the commercial agency to their fiscal reality. At present, they bear a retention of 15%.

It would be interesting that in the deduction for the firsts two years of activity, 7%, continues until the completion of a certain level of income, for example, until the practitioner exceed the 25,000 annual net income.

Adaptation of Law 12/92 on agency contract, to the current needs of professional practitioners.

Reduce the cost of car tax.

A good measure that not only drives the economy, but probably reduces the risk of traffic accidents when renewing the vehicle fleet would lower the car tax for those traders who purchase the vehicle for business purposes. The same could apply to tax motor vehicles.

In the new plans of the Minister of Industry, Tourism and Trade should be agreed including the area of Commercial Agents as a valid interlocutor in the CGAC.

Trade unions possible developments

Self Employment trade union have integrated the different schools of commercial agents in regard to the claim as self-employed.

For their part, some traders' colleges make proposals for improving their profession (training, access to new technologies ...).

One measure is called for, as mentioned above, is the adaptation of the Law 12/92 on agency contract, to the current needs of professional practitioners.

Insurance: yes

Assistance: yes

Credit access: limited

Security: —

Activity increase –promotion: —

Institutional relations: —

Relations with good/services suppliers: —

Other: —

10.4. Conclusion

The teaching of this chapter is that the role of representation is limited and there are no special and creative arrangements across the panel of our study countries.

Chapter 11

Towards an ecology of industrial relations

In Part II we presented the country cases of self-employed and micro-enterprise best practice, which constitute the empirical data of this study, the bottom up part. Now we are going to analyze this data, from chapter 10, add more data from the field, chapter 11, and then draw some conclusions for micro-enterprise in social dialogue, chapter 12. In chapter 13 we will investigate more theoretically what the data from the field means to us.

11.1. Analysis of the cases of best practice

Using the taxonomy of representation that was conceptualized in the Eurofound study, as identified in chapter 1, we analyze our case histories of best practice within that framework in order to understand whether there is anything new to identify other means of representation or other tactical scopes of representation that might be more effective.

It is important to remember that the general goal of representation, according to the Eurofound study, is “to create more and better self-employment opportunities” [page 64].

11.1.1. Dissecting best practice: the components of representation

The basic question is: “in what way are the country cases best practice — vis-à-vis our initial definition — and how can we best profit from them?” In order to answer this question, best practice has been identified based on its transferability and multiplier effect, its ability to be reproduced in the presence of similar problems, and its ability to be used as a model for different problems or situations.

We will dissect best practices in order to identify their components, especially their scope, i.e. the interlocutors of social dialogue. Who are they and what is at stake? In this way we can answer questions about the role of social dialogue in self-employment in Europe and investigate opportunities for leadership of the SMEs within this dialogue. We have seen that the task of the trade unions — representing and protecting the interests of workers — has been broadened to include a general improvement in the economy.

11.1.2. Understanding the country cases through an analytic framework

Recalling the two basic scopes of representation extracted from the Eurofound study: “try to regulate standard contracts of skilled professions; and general interest representation with regard to public authorities,” in the following section we embark on schematizing the cases according to the following framework:

- country;
- business sector / trade union;
- object of negotiation / situation amended;
- counterpart to negotiation;
- scope of representation revealed by negotiation.

11.2. Itemized discussion of each case history

The following paragraphs summarize the eight country cases and our understanding of their implications of them.

11.2.1. Grey tourism in Bulgaria

The case of Bulgaria appears to be one of worst practice, in that it identifies a sector, tourism, whereby self-employment and micro-enterprise are characterized by an informal economy — “shadow work” — which is an interesting expression for it. Our analysis calls for better and more enforced regulations.

Country case	Business sector / trade union	Object of negotiation / situation	Counterpart of negotiation	Scope
Bulgaria	Tourism	Informal economy / regulation and enforcement	Government + public administration	Regulation and enforcement / pay and benefits

In this case, the employers in the tourism sector are viewed separately from the employees. This is significant because a specific aim of our research was to investigate whether there are instances of representation whereby a stance is taken that joins the ventures of the employees and those of their employers in micro-enterprise. In this case the answer appears to be no.

An interesting point is that our analysis claims that it is also necessary to strengthen civil society’s control over public institutions and administrations related to tourism business.

Also an amendment to the existing sector law is called for.

11.2.2. The three layers across the board in France

No specific sector has been identified in the case of France and good practice in the country is ascribed to an overall situation that provides coverage for all kinds of employment status: the employee, the manager and the independent worker. Within the self-employed category, three sub-areas are identified: the professional, meaning the liberal arts, the craftsman and the “rest”, including — among many others — the shopkeeper, the street vendor, the website manager and the independent truck driver. The best practice appears to be one whereby everybody has a place, and the differences are only quantitative and relate to payment for the diverse benefits that are provided. The counterparts appear to be the government and public administration.

Country case	Business sector / trade union	Object of negotiation / situation	Counterpart of negotiation	Scope
France	Cross sector	Status of employed people	Government	Pay and benefits

It is acknowledged that this system may be costly and the French system is today in trouble as health care costs are increasing rapidly, thus giving a glimpse of a general view on the economy and the wider consequences of the reported practice.

Also in this case, as for Bulgaria, public administration is acknowledged when the weight of the historical social system is recognized, represented mainly by public service and public agents clearly willing to protect the old social rules.

This case presents and anticipates what has recently been achieved in Spain, which will be accounted for below.

11.2.3. *Employee-lawyers and engineers in Greece*

The case of Greece is very specific and involves members of two liberal arts: lawyers and engineers. Action is brought by one party to the negotiation, in fact lobbying by the bar association is explicitly acknowledged in the case.

Country case	Business sector / trade union	Object of negotiation / situation	Counterpart of negotiation	Instrument / Scope
Greece	Liberal professions: lawyers, engineers. Bar association, presumably governed by the lawyers-employers	Contract of employees vs. employers	Government, lobbied by the employers	Law [vs. contract] / pay and benefits

The best practice is the explicit recognition of status for lawyers-employees and the engineer-employees vis-à-vis their professional employers.

In this case, the counterpart appears to be the employers and the government is a sort of ratification / mediation to the process. The point of view taken is that employers are a separate category from employees. New entities also appear to be born: the trade unions of the employees as distinct from the professional associations (the bar association and the technical professional chamber).

11.2.4. *Tax simplification in Hungary*

The case of Hungary — as in the case of France and Spain — is one of a generic statute for the micro-entrepreneurs.

Country case	Business sector / trade union	Object of negotiation / situation	Counterpart of negotiation	Scope
Hungaria	Cross sectoral	Simplified taxation	Government	Taxation: i.e. economic Vs. society

The action is brought by the government {probably with some help from the lobbies} in order to simplify and deregulate, so that economic growth can be spurred.

The best practice is the simplification of the tax code for entrepreneurs, reducing the administrative and tax related obligations – the process more than the amount – in order to enhance their competitiveness. The instrument is a law and the scope is one of efficiency. Employers and employees are not relevant to the reasoning in this case.

11.2.5. Upstream negotiation in Italy

The case of Italy appears to be the only one where a strictly industrial and service environment is considered and a value chain negotiation has taken place between newspaper stand owners and operators and their upstream counterparts: publishers and distributors.

Country case	Business sector / trade union	Object of negotiation / situation	Counterpart of negotiation	Scope
Italy	Newspaper stands	Compensation	Publishers and distributors of newspapers	Price of service

A closed shop environment must be noted here since newspapers can only be sold through newspaper stands and not in supermarkets or other stores, such as grocery stores.

The action is brought by several business associations and the best practice is represented by the single contract achieved, regulating the entire system. The object of the measure is the compensation and the rules governing the service that newspaper stands provide to upstream industrialists, and the scope is one of pay. Employers and employees are not relevant to the reasoning in this case.

11.2.6. Taxi cab deregulation in Poland

The case of Poland handles the ubiquitously problematic industry of taxi cabs.

Country case	Business sector / trade union	Object of negotiation / situation	Counterpart of negotiation	Scope
Poland	Taxi	Compensation	Government	Price of service

The action appears to have been initiated by the government in an effort to deregulate the sector in order to spur economic growth. The best practice is represented by the unification of taxi drivers and an agreement achieved with government on the price of their service. The instrument is a regulation and the counterpart is government (and the customers). The scope is one of price, which is different from one of pay. The self-employed {employers} and the employees are not relevant to the reasoning in this case, also because we do not know what kind of relationship the individual drivers have with their taxi companies.

11.2.7. Emerging Farmers' Markets in Slovakia

The case of Slovakia concerns changes in the regulation of trade that small farmers are allowed to conduct. These changes seem to aim for deregulation and more freedom for the small farmers, which should positively affect the prices they obtain for their produce.

Country case	Business sector / trade union	Object of negotiation / situation	Counterpart of negotiation	Scope
Slovakia	Small farmers	Sales regulation	Government	Price of product

The action concerns regulation by the government; it is not said whether there was lobbying by the farmers themselves. The measure is meant to increase the welfare of the individual small farmers by al-

lowing them to directly sell their produce to consumers, and the best practice is represented by a sort of deregulation, with some caution since the new regulation also seems to consider a barter system. The final object of the measure is the price of produce obtainable by the small farmers. The counterpart is government (and the customers), and the scope is one of price. The self-employed {employers} and the employees are not relevant to the reasoning in this case.

11.2.8. A legal status for the self-employed in Spain

Like France — and to some extent Hungary with its tax code simplification — the case of Spain concerns the general regulation of benefits for the self employed. Therefore, no specific category is being considered.

Country case	Business sector / trade union	Object of negotiation / situation	Counterpart of negotiation	Scope
Spain	Cross sectoral	Status of self-employed	Government	Pay and benefits

The action concerns regulation by the government; it is not said whether there was lobbying by the trade unions or business associations. The measure is meant to increase the welfare of the individual self-employed. The best practice is represented by a law covering pay and benefit regulation for the self-employed. Reference to the overall cost of such a measure is not made, so there is no consideration regarding the overall economy and government budget. In this case, the counterpart is government (and ultimately the general public); the scope is one of pay and benefits, which is different from one of the price of products or services. The self-employed {employers} and the employees are considered simultaneously as different provisions are made for all categories.

11.3. Conclusions

From a first level of conclusions drawn from the country cases we notice that the informal economy was explicitly mentioned. In the case of Bulgaria there was a call for stricter enforcement of laws and regulations. A rationale for economic growth was put forth in the cases of Hungary, Poland, and Slovakia. In all these cases, deregulation was attempted. Implicit there is a theory of change that assumes that deregulation is a factor for economic growth. Specifically, in the case of Hungary deregulation meant lowering the “cost of doing business” in the sense of lower administrative costs for micro-enterprises (and perhaps even a tax break). In the case of Poland, the government attempted to lower the barriers to entry to the business of taxi services (but got rebutted by unionization). In the case of Slovakia there was a moderate lowering of barriers to entry as well, when farmers were authorized to market their produce through more than one channel.

Competition was explicitly mentioned only in the case of Hungary: “competitiveness” was the word that was used.

11.3.1. Awareness of public administration

Interaction with government is often thought of as having only two sides: the government (in the sense of the politicians) and the people. In the cases of Bulgaria and France, workers in public administration were explicitly mentioned. This is important as public administration is often the “forgotten third”. Public administration is part of government and that has an impact that is often overlooked. We will come back to this when we look at public governance — the polity — and the so-called “interrupted triangle of governance”. [See for instance the ECB info and comments about the flexibility of salaries, from July 7, 2012]

11.3.2. Highlighting private counterparts

We now propose a summary table of the eight cases.

Country case	Business sector / trade union	Object of negotiation / situation	Counterpart of negotiation	Scope [add from individual tables]
Bulgaria	Tourism	Informal economy	Government	
France	Cross sector	Status of employed people		
Greece	Liberal professions: lawyers, engineers	Contract of employees vs. employers? Status of professionals.	Government / employers?	
Hungaria	Cross sector	Simplified taxation	Government	
Italy	Newspaper stands	Compensation	Publishers and distributors of newspapers	
Poland	Taxi	Compensation	Government	
Slovakia	Food	Sales regulation	Government	
Spain	Cross sector	Status of self-employed	Government	

In the case of Italy, negotiations were between two private parties. Also in Greece and Poland the ultimate parties were private parties (customers in the case of Poland and lawyers and engineers in the case of Greece), but the action was taken through government lobbying and negotiation. In the case of Hungary the counterpart was directly the government and, ultimately, the citizens, which is always is the case when the counterpart is the government. This was also the case of Slovakia, where government changed the rules for the farmer trading.

It is important to highlight when the actors are a specific category or when there is a general view of the total self-employed and micro-enterprise sector. This is the case of France, Hungary and Spain.

It appears at this time that governments are trying harder to open up the economy and create fluidity, as was the case in Hungary and Poland, as they are concerned about the general economic situation, whereas trade unions are negotiating only on the basis of their own scope, limited to the category that is being represented each time.

When governments aim to generate growth and employment they do exactly the opposite of what trade unions and business associations are trying to do: governments liberalize and deregulate.

We ought to add that we are only looking at what governments are doing as regards small businesses. We are not looking at what they are doing about themselves. Governments seldom think about their own competitiveness.

We have then a varied landscape. It appears that governments tend to be more oriented towards a macro-economic rationale for action whereas individual worker categories tend to defend their members. Governments attempt to open windows while trade unions try to build fences.

11.3.3. Learning from experience

There are several lessons we can learn from the best practice field work.

1. Liberalization is an element of innovation, even when it gets rebuked, as in the Polish case. We see that in the Slovak case it was appreciated by the farmers and was not opposed — to the best of our knowledge — by the large food chains that used to obtain the produce of said farmers.
2. Simplicity of contracts, as in the French case, may be expensive, but it is certainly clear and reassuring for the labor market. Simplification is the core of the Hungarian situation.

3. In self-employment there appears to be a sort of vacuum, and greater definition was appreciated in Greece and Spain, as it was also at the core of the French situation. It may not be surprising that such a vacuum is present also in other European countries.
4. The informal economy has been referred to as a problem in the case of Bulgaria as it generates asymmetries within the same industry. If one restaurant pays taxes and the restaurant next door does not, that is a problem. The informal economy is also a problem when organized crime is involved.
5. Strong unionization of one category appears to be the main characteristic in the cases of Italy and Poland and we do not believe that this is a good practice for the whole economy.

The above considerations require us to take a closer look at the legal basis of self-employment in Europe.

11.3.4. Conference questions

The merger of field observation and the legal context of self-employed work engenders a few questions to think about.

Representation beyond administration: is representation beyond administration desirable and possible?

Employees and employers are all workers first and foremost: one aspect of representation as administration of work is that legislation seems to keep ignoring work and consider only the administrative instruments within which human working relationships occur. The consequence of this is a limiting categorization of the role of employee and employer. This is a troubling development.

The rights of the entrepreneur-worker to be collectively represented: notwithstanding the fact that probably nobody would, in theory, deny the right of the entrepreneur-worker to be collectively represented, such representation remains marginal within the cadre of social dialogue, de facto denying the right itself.

Generalizing and leveraging best practice: there is still room for learning from experience beyond the very initial statement we made about simplification, definition and liberalization.

Leveraging the accountability of the self-employed and micro-entrepreneurs vis-à-vis the rest of the workers: a broader way to look at representation will be discussed further on.

The subjects of the questions are not mutually exclusive so they can be entertained in the same context.

11.4. Rules, rules, rules: where is work?

Taking stock from the overall picture of representation from our eight country cases, one question come to mind: where is the work? Work entails skills, knowledge, sweat and gumption. The picture we get from the field looks more like the administration of work: pay and benefits, prices, but there is no relationship with customers, with other workers or industries.

Where is aggregate work? How is economic growth and more and better employment supposed to come about? Our mandate to follow a top-down and bottom-up approach means that we want to reconcile micro-behavior with the macro-aspirations of such micro-behavior. If growth in income and employment is the final, very general, goal of representation, what is the mechanism, the micro-macro link? What is the theory whereby this is supposed to come about?

The underlying, implicit theory theory is that making rules and enforcing them strictly should deliver economic growth because more people are encouraged to pursue self-employment or micro-entrepreneurship as they feel protected by the strictly enforced rules. However, often these rules do not take people (the self-employed of the micro-entrepreneurs) out of the informal economy into the light and happiness of the formal economy but simply repress the entrepreneurs into unemployment tout court.

Will new micro-entrepreneurs be lured into driving a taxi by higher tariffs? Will more customers buy more taxi rides when tariffs are higher? Hardly. Moreover, why should making the rules and enforce them strictly work tomorrow when it hasn't worked until today?

This is not a marginal question. A debate is taking place at the global level between the World Bank and the International Labor Office about the notion of "decent work" (ILO) vs. the notion of growth and more jobs, as the two appear in contradiction. This is part of what we call reconciling strategy and tactics.

We have found that even best practice of representation does not take into account the general goal of employment and growth. We need to take a different route so we now embark in search of a theory, in the hopes of spurring a debate that makes the scope of representation consistent with the overall goal of economic growth.

11.4.1. Critique of mainstream thinking

In this section we take one step further and make some generalizations from the cases we have found in the field across Europe.

The first argument we want to make is that negotiation with government is inherently flawed. The second argument is that we have to broaden the picture and look at the surroundings of these negotiations.

11.4.2. Winning a battle with government

We notice that social dialogue often takes place between the individual categories and the government but who finally pays for the rules the legislature makes? The citizen in general, the taxpayer; often the customer of specific, regulated services.

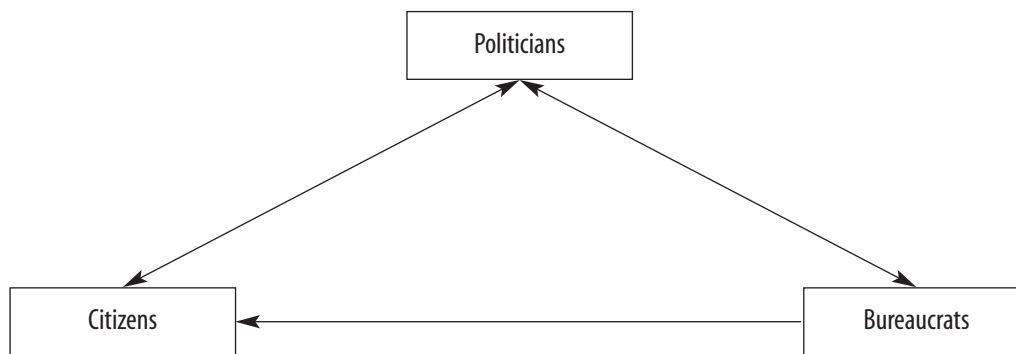
The legitimacy behind this is based on the presumption that citizens will eventually express their own evaluation of what the government by voting accordingly. There is a circuit: the citizen votes the politician, the politician makes the rules, the bureaucracy implements those rules and, finally, the citizen expresses through voting an evaluation of those rules. This is the triangle of governance. Theory and extensive research have shown that the triangle of governance is a "broken triangle". That is why we argue that winning a battle with a government is winning a battle against an agent, not against a principal.

11.4.3. The broken triangle of governance

To argue the flawed logic of trade union action vis-à-vis government, this section will explain the weak link between government action and citizen evaluation of such.

In a new essay on William Niskanen's theory of bureaucracy, Andrea Lapicciarella et al (MJAE 2012) has effectively researched and described Niskanen's uneasiness with the not-so-smooth workings of democracy in the framework of the interrupted triangle of democratic governance. Bureaucracies operate within the framework of the so-called 'broken triangle of governance' [figure 1]. There is no printing error in the diagram: the two-way arrow between the citizens and politicians represents a dialectic relationship between the two parties involved.

The one-way arrow between the citizens and the bureaucracies means that the citizens have no way to influence the bureaucracies. The one-way arrow between politics and the bureaucracies means that politicians do not have sufficient incentives to control bureaucracies effectively. While there is at least a formal dialectic between the citizens and politicians — which takes place at election time and approves, with the vote of the former, the political program of the latter — there is no control of politicians over the bureaucracies. Neither is there control of the citizens, and bureaucracies behave vis-à-vis politicians (and the citizens) as perfect monopolists (this key variation was suggested by the American economist Gordon Tullock to William Niskanen).

Figure 1. The so-called 'broken triangle of governance'

Bureaucracies are virtually independent of both citizens and politicians, who ideally should exert control over them. This model overrides the Max Weber civil servant mystique, which assumed government bureaucracy to be an optimal and rational provider of goods and services. Reality, however, is still very much Weberian. We observe that administrative law is based on the Max Weber model of rational bureaucracy: when it comes to defining the tasks of bureaucracy, law in general – and administrative law specifically – implicitly assume that bureaucracies will literally implement law and will put forth a *per se* optimal effort; optimal from the point of view of efficient use of resources and effective impact on society as desired by the law itself. A usual consequence of this can be observed when additional tasks are asked of bureaucracies and new resources are needed, revealing that the relevant organization is assumed to be operating on the feasibility frontier.

Sociologists appear to be willing to kill Weber with Weber. In fact – when approaching inequality in our society – there is still the expectation that Weber should work and reality is seen as a deviation from what Weber had said it should be. There is wonder when Weber patently does not work any longer (Bauman, 2008). Also, emphasis on the rules (rather than on work) to ameliorate the quality of the social environment appears to be a post- Weberian approach (Abravanel, 2008).

11.4.4. Stakeholder analysis

The view of dialogue that was implicit so far was a bipolar one: two actors, one negotiation. The preceding section makes us aware of the multiplicity of actors – at least three - that are present in a negotiation, or bear the consequences of it, or affect its outcomes, even – or perhaps especially – when they are not explicitly present in social dialogue.

We want to bring stakeholder analysis to industrial relations. Stakeholder analysis takes into account the entire social environment wherein representation occurs, and it identifies the different groups that are affected by each actor's actions. We will ask ourselves who the hidden stakeholders are that we fight through representation.

The labor-capital conflict – which is the *raison d'être* of traditional trade unions in large, industrial organizations - collapses in the case of self-employed and micro-enterprise, where capital is marginal and work is key. Representation is often towards government and we have to ask ourselves who the actual counterpart is. Government is not a principal. Government is an agent. Who pays for what the government grants the people?

11.4.5. Top-down critique

We need to look at the way we think about innovation and representation because it seems that we are trying to stick to the classical approach. We should all be aware of stakeholder analysis, not only the representatives of micro-enterprise. The first result is that we need to expand the standard way of looking at representation. We need a theory of microenterprise and self-employment. People do not become self-employed or micro-entrepreneurs (especially informal ones) out of a refusal of the formal, guaranteed jobs. They become entrepreneurs as the only escape from unemployment. This is a push theory of micro-entrepreneurship, not a pull one (generated by the attractiveness of being hot shot tycoons).

11.5. A theory of change

So why should growth and employment follow better health coverage, stricter law enforcement and other similar provisions when we all complain that China does not have any of this? We need a theory that links the tactics of representation and the general goal of representation. How in the world is growth and employment supposed to come about following the diverse scopes of representation we have seen in our country cases?

11.5.1. Scope vs. goal of representation

This is where our two different approaches come together and form a comprehensive theory that relates the macro-facts of society to the micro-behavior of individual representative bodies of workers and employers. We thus propose a micro-macro theory of change and fiscal responsibility of societies.

If the scope of representation is to win a higher tariff for our customers, how is that supposed to generate growth and employment for us? We need a theory that links our micro behavior to our declared macro goal (growth and employment, more employment than today in micro-enterprise, more business).

In order to move towards a theory that links our micro behavior to our declared macro goal we need to gain an understanding of the economy that is simple but probably different from the implicit understanding of current social dialogue. The economy is not a zero sum game. That is why the overall economy and employment grow.

11.5.2. The economy as a soufflé

The economy is not a flat custard pie. It has a life to it, “money breathes”, the pie can grow: it is rather like a soufflé. The slogan “work less, everybody works” summarizes the idea that in order to make society more equal and to mitigate unemployment it would be sufficient for those who work to work less and those who do not work to work the hours that are left over. This is a very humanistic idea in the sense that it is well meant and aims to amend a real problem. However, it is a statement that does not make sense from a practical and theoretical point of view.

“Work less, everybody works” implies a view of the economy and society as a zero sum game: what one player wins another must lose. Said differently, it assumes that society’s possible rewards are like a flat custard pie and that the only problem we have and can deal with is how we split the pie. The more I eat, the less you eat.

If you buy a latte, you are poorer by one dollar but if you do that voluntarily you’re better off than you were before; otherwise you’d keep that dollar to yourself and not buy the latte. The coffee shop owner, once you bought the latte, puts your dollar — now his dollar - back into the economy, buying fancy orthopedic shoes for his children. Somehow a small fraction of that dollar spent on children shoes comes back to the coffee shop owner as other people — having earned money from selling children shoes — will buy lattes and, therefore, contribute to his income. There is a multiplier effect, and the systems nature of the economy means that everything is related to everything else.

The same multiplying effect takes place with work: if I work a lot, that makes you work a lot. If I stop working, you will be deprived of the fraction of your work that is generated from mine. This may not have been true in the Western, industrial, manufacturing economy of the first half of the twentieth century, but it is true in the present service economies of the twenty first century when over 60% of employment and gross domestic product is in the service industry rather than in manufacturing.

11.6. An ecology of industrial relations

We just said that the systems nature of the economy means that everything is related to everything else. This is a typical ecological statement. We need something more comprehensive, the scope of representation cannot be limited to the sole industry whereby those who are being represented perform their daily work. An example from our country cases: the newspaper stand owners have a national contract in Italy vis-à-vis the publishers of newspapers and the distributors. The newspaper stand owners are all part of the same industry: the final leg of newspaper distribution. Their counterparts are upstream in their value chain and in the same sector. A sector is a set of industries interacting in the same value chain. What happens when we raise our gaze and look at the whole workforce? Is anybody else — in some adjacent distribution industry, perhaps — being excluded from this deal? Would final consumers profit and get more service if newspapers were also sold in churches or grocery stores?

11.6.1. The fault of the others

We notice that the current way of performing representation carries an implicit philosophy of social dialogue whereby everything that happens and is undesirable is “the fault of others”. Others should pay taxes. Others are rich. There is an inherent irresponsibility to current social dialogue. This is not ecological.

11.6.2. Ecology as awareness of the total (without abandoning current practice)

Being ecological means taking into account the finiteness of the system we are part of. Ecology is awareness of the total, of the finite, of interaction, of nature and society as a system. Society is a finite system. We need to broaden the scope of representation through a new game strategy. Bringing ecology to industrial relations means we must take into account secondary and ripple effects of representation action. Looking at the whole system means taking into account the whole workforce. The workforce is made of different groups that are the stakeholders of representation. This does not imply we need to abandon our present tactics; we only want to add an awareness of the entire economy to representation strategy.

11.7. Best practice revised

As we draw this chapter to a close we want to summarize what we have done so far and take a glimpse at what is ahead.

11.7.1. Revising the task of the trade unions

The task of the trade unions is the “representation and protection of the self-interest of workers’ categories”. This representation and protection happens within what is called social dialogue. Social dialogue is the interaction of bodies of collective action. Social dialogue is the meeting of different and opposed interests in a civilized society. The opposite of social dialogue is societal fragmentation, the war of all against all. Everybody for himself. The opposite of social dialogue is also the hegemony and control of society and the economy by a few so-called “social partners”, representing only a minority of workers.

The self-employed and the micro-entrepreneurs are hardly represented or part of the social dialogue. We have been looking for innovation in representation in order to identify opportunities for broadening the number of the self-employed and micro-entrepreneurs who are included in social dialogue.

Field research identified best practices in self-employment representation in order to leverage such practices and expand representation of the self-employed. The result of such analysis was that there certainly are new elements worth pursuing.

We also came up with a need for an expansion of the scope of representation when we compare practice to a theory of social and economic change that must underlie the tactics and short term scope of representation. Something different must be done. We then look for representation that takes into account the general point of view of economic growth and market conditions, thereby joining together employer and employee, specifically in micro-enterprise.

When best practice also means going beyond industry representation we will see that representatives of the self-employed and micro-enterprises may gain strength and leadership in society. Such a broadening of scope may also lead whole economies and countries beyond short-termism towards fiscal responsibility and out of the sovereign debt crisis.

11.7.2. *Strategic issues in worker representation*

A discussion detour is needed at this point. We have seen that it becomes important to understand the social perspective of the tactical scope of representation; therefore, we need to discuss the different aspects of the relationships that take — or may take — place within the workforce.

We need to derive some scope of representation from a general vision of society and of the economy that may warrant growth and employment. We need to reconcile the bottom up approach of industry-bound representation with a top down approach that sees growth and employment as the primary goal. We need to take a detour here to introduce such a top down view, which will be done in chapter 12 – SMEs as the unknown stakeholder of European social dialogue.

Chapter 12

SMEs as the unknown stakeholder of European social dialogue

In chapter 1 – The self-employed as the unknown worker, we laid out our questions about the scarce role of the self-employed in social dialogue in Europe. In chapters 2 through 9 we presented the case histories of best practice throughout Europe. In chapter 10 we analyzed the cases and drew first conclusions about the virtues of representation that can be leveraged in other situations across Europe. These were: liberalization, simplification and definition, which can help the self-employed get a better share of the social dialogue than they have today.

We also noticed the need for an ecology of representation, meaning there is need to look at the whole economic system so that growth and employment may result from short term representation, since the practice of representation seems to be lacking a logic whereby growth and employment is generated. In the trade union philosophy it is the others than have to pay, the others being defined alternately as the tax evaders or the rich.

We left our argument at the end of chapter 10 with the need to look at the whole workforce as a system where resources commanded by one section of the workforce are subtracted from other sections of the same workforce. A micro-macro link is needed between tactical action and its consistence with long term and overall objectives.

In chapter 11 we carried out an operation which cuts across the case histories: we kept the industry constant to agriculture and sales promotion in order to detect interesting variations in the social set up of those same industries.

We now embark on an effort to find the positive link between representation vis-à-vis the overall goal of employment and growth. This is the missing link.

12.1. The logic of collective action by the SMEs

The link between the individual economic unit and its economic and social environment is established in our proposed reasoning through the Michael Porter model of competitive advantage, whereby the individual economic unit is at the center of a “diamond” whose four corners represent different types of other economic and social units that affect the performance of the unit that is at the center. These four types represent: 1. Context for firm strategy and rivalry: the roles and incentives that govern competition; 2. Local demand conditions: the nature and sophistication of local customer needs; 3. Related and supporting industries: the local availability of supporting industries; and 4. Factor (input) conditions: pressure of high-quality, specialized inputs available to firms.

Examples of such ancillary units include, among others, appropriate supply of manpower through the school system, appropriate logistics for delivery of outputs and an appropriate judiciary system. When the unit that is at the center of the diamond is immersed in an environment whereby the economic units that surround it are effective and efficient (appropriate), then the unit that is at the center enjoys a competitive advantage vis-à-vis other units in its same industry that do not enjoy such an effective econom-

ic and social environment. When the unit that is at the center enjoys a competitive advantage, then we say the micro-conditions are verified in order for economic and employment growth to happen. We have established the micro-macro link we were looking for.

The logic here is the following: the basic economic model of interaction between economic units in society is that of Michael Porter's competitive [collaborative] advantage. Porter's model includes all economic units — private businesses as well as public institutions — everyone is called to generate their added value. Private businesses do not succeed in a vacuum, they succeed in an environment of working and functional public institutions [and — we would add — strong political, democratic and civil society institutions]; otherwise private business languishes, government budgets run high debts and people are unhappy.

The condition for the economic success of a business at the micro-level — and of economic and employment growth at the macro-level — is that all other businesses and institutions around the business at the micro-level are effective and efficient.

Since government is among these institutions, we call this virtue accountability rather than effectiveness. So for the economic unit to be successful, its environment needs to be accountable. We notice that the competitiveness of one unit presupposes collaboration from the units surrounding it: that is why we can also speak of “collaborative” advantage.

Effectiveness is driven by competition-collaboration. Literature argues that accountability — i.e. efficiency and effectiveness — of all units ancillary to the competitiveness of the unit that is at the center of the diamond is a function of those same ancillary units being immersed in an environment that is as competitive as the environment where the first unit resides. Efficiency and effectiveness are a positive function of competition, as is accountability.

In a complex modern society, showing up at work or receiving a salary is no guarantee of the effectiveness of the work performed. This is in accordance with theory of bureaucratic behavior [William J. Niskanen], of X-efficiency [Harvey Leibenstein] and of administrative behavior [Herbert Simon]. Such effectiveness is measured both at the micro level of the individual organization and at the macro level of the social consequences of work not done or badly done, once again linking micro to macro performance.

Taken back to each economic unit of society, be it public or private, the systemic concept of the collaborative/competitive advantage translates into the concept of the effectiveness [accountability] of work. All work. As stated by Herman Dutch Leonard, “all organizations should be accountable for their social responsibility and this new social accountability can best be constructed for different kinds of organizations introducing the concept of “competition” — both within and across industries and sectors. The best way forward is to use the knife of competition to hone the social performance of all organizations.”

This is in order to find a micro-logic that is compatible with macro-economic success. Our micro-macro theory, therefore, is that growth and employment can only be achieved through the accountability of work in all sectors of the economy — public, private, monopolistic and subject to competition, for profit, non-profit.

The Porter diamond gives us a very rich picture of social dialogue and identifies a number of stakeholders so that the whole workforce is embraced. We can partition the workforce according to whether or not it is subject to competition. We do this in order to establish who is contributing to economic growth and employment. Partitioning the workforce according to this criteria we identify four different sectors: government, monopolies, large enterprise and micro, small and medium enterprises (MSMEs). These four sectors include entire industries and all the workers in them, with no distinction of hierarchy or capital ownership.

We then proceed to check the collaboration that those four different sectors are putting forth in the economy as a way of quantifying the results of social dialogue and its fairness. Running the arithmetic of the stakes, as theory predicts, reveals that the monopolistic sectors are earning a rent at the expense of the sectors that are subject to competition.

Far from collaborating in the economy, entire sectors of workers are earning rents at the expense of oth-

er workers. This is a real collaborative divide between those who collaborate to make the economy grow and those who do not collaborate in the Porter sense of the word; those whose work is effective and efficient and those whose work is neither effective nor efficient as measured by the salary gap and a variety of indices. This collaborative divide identifies two classes of workers that are fighting a silent class struggle.

To justify this new kind of dialogue {confrontation}, it is important to show that this is not only a conceptual framework but also that real resources are at stake here, in the new class struggle between workers' sectors. Collaboration between the two classes should happen in the name of the accountability of work and equality of working conditions among people. Therefore, an additional scope of representation at all levels for the self-employed and the micro-entrepreneurs would be to make sure that non-competitive sectors are doing their share. This new kind of dialogue-confrontation is the new and additional scope of representation that is the key finding of our research. This additional scope entails our revision of best practice. The fact that real resources are at stake in this new kind of dialogue brings the unknown worker of Chapter 1 to the important level of unknown stakeholder, which is a key economic and social entity of our nations.

12.2. Amending Michael Porter: "collaborative" advantage

Porter and Kramer assess the 'Social Influences on Competitiveness' by going back to the classical Porter diamond framework. It is not difficult to identify in each of the four domains the role of the non-competitive sector or, better yet, the role of the sectors of the economy that are less subject to competition. Let's give a few examples:

Context for firm strategy and rivalry: this would be the quality of the judicial system and, we could add, the enforcement of competition per se (the explicit enforcement of fair competition); the role of government is to prevent and fight corruption, as this makes the effectiveness of the police and judiciary system crucial.

Local demand conditions: the role of government as a leading-edge customer is recognized in the development of innovation.

Related and supporting industries: the creation of industrial parks is quite often the result of government policy, including land zoning.

Factor (input) conditions: it is clear that there is a role for government in education and health care; whether government provides these services directly or not it is nonetheless central in defining and implementing the social and economic framework within which such services are provided.

Finally, Porter and Kramer provide a methodology to identify issues and make sure that not only business is minding its own business but that all other parties involved that have an impact on the success of business are minding the business of businesses. When schools, the health care system and the judges are doing their duty efficiently, they are performing essential – not peripheral, non-fungible – functions of business. We can very well paraphrase Thomas Merton here and say that 'No business is an island.'

New here is the political perspective and the collective action perspective in applying the competitive context diamond. That is, this map is not proposed here from the individual company point of view but from the collective action point of view, as a tool to identify issues to improve and change the competitive context. What is new is the use of the Porter and Kramer model as a tool to generate inter-sectoral dialectic and dynamics.

The basic idea is that if it is important for an individual firm, when understanding and assessing its competitive context, to figure out – for instance – the degree of enforcement of contracts through an efficient and effective judiciary system, then it is an important item in the agenda for the association of businesses to negotiate with government the improvement of the judiciary system – to ask for its accountability. In the words of Porter and Kramer, 'transportation infrastructure and honestly enforced regulatory policy affect the company's ability to compete.'

12.2.1. Why then “collaborative” instead of competitive advantage?

Often we have a problem with the concept of competition. Taking a closer look at it may help us reconcile with this concept. Competitive advantage is called competitive because we think of two parallel economic units, business firms — say, two competing computer manufacturers — that are at the center of two parallel diamonds and are competing with each other. However, when we look at what goes on around each individual firm, we see that there is a world of collaboration. So the Porter diamond, to our eyes, appears to present more insight about the collaboration necessary in the economy and society than about competition. Porter’s original message is one of collaboration. Competition we already know. This is also the sense of the Thomas Merton quote, who certainly did not have in mind — and was not inviting — fighting and killing when he said “no man is an island.”

12.2.2. Competition as collaboration

Competition is mostly known - in the middle ground between the layman and the specialist - through the prisoner’s dilemma. In the prisoner’s dilemma we all root for the prisoner instead of the constable who is detaining him or her. This is already social damage; bringing readers to root for the crook instead of society is not a positive viewpoint.

The prisoner’s dilemma shows that competition leads prisoner’s to betray one another to get the most lenient sentence. We neglect to notice that this is the best outcome for society, apprehending the two crooks who did indeed commit their crime. We are not talking about two innocents, improperly detained. When applied to competing firms, the prisoner’s dilemma leads to a social optimum as it delivers zero profits to each firm. Zero profits result from perfect competition. [Leland Gerson Neuberger, 1978, SUNY Stony Brook, NY]

The implicit interpretation of the prisoner’s dilemma that makes us not like competition is the free rider effect [Leibenstein]. The free rider effect is what we experience in organizations where people do not work and get paid anyway. The free rider effect is what we experience when someone throws an empty cigarette box on the curb or the sidewalk. More than competition there, we are experiencing a lack of collaboration, which is not at all induced by competition; rather, it is induced by lack of property rights, social control, social norms, civicism and any other form of social capital.

We often forget that the prisoner’s dilemma takes place only once. The situation will not be repeated among the same people. Repetition leads to collaboration. Competitors are very collaborative with their customers, who are other stakeholders. Competitors can also be rough or smooth with their. So we see that competition and collaboration are not at all opposite terms; rather, one is a herald of the other. Competitors work at building collaboration within their own teams (members of the competing teams are different stakeholders from the competing unit. And finally competitors often team up themselves (they conspire, as Adam Smith says) against social welfare. They lobby and entertain all kinds of relationships where there is competition and a maximum opportunity for collaboration. So if competitors are rational (which is not a given) they behave decently towards their peers.

Conversely, not being subject to competition or accountability makes people and organizations non-collaborative. Think of the collaboration that certain employees of monopolistic organizations give their customers, clients or citizens and the notion will be clear.

The idea of competition evokes Darwinian images of jungles and ‘the survival of the fittest’ — cut-throat competition, unfair competition — according to the theory of evolution, and Hobbesian fighting. The philosopher, Thomas Hobbes, described the state of nature as one where man is a wolf to his fellow man — ‘homo homini lupus,’ he said in Latin. Competition still represents the twenty-first century culture of social Darwinism: a cut-throat vision of life where progress is linked with the survival of the fittest; whereas a twenty-first century view of society and the economy is that the fittest need the less fit (otherwise who do you sell your Audi cars to?) In a world with over seven billion people, everyone is much less in relation with nature than they are with one another. Competition is a social order; it is not only made of rules. Competition is about work and all that lies within the framework of rules. Rules tell us mostly what must not be done. Work is what has to be done. ‘Competition’ is a difficult term. In fact,

students over time have used other terms to mean the same set of economic and social circumstances. Let's study a few examples in order to clarify our interpretation of the word 'competition'.

Alfred Marshall himself (the founder of neo-classical micro-economics) was shy about using the word competition. In the introduction to his *Principles of Economics* (1890), he proposed "Freedom of Industry and Enterprise", or more briefly, "Economic Freedom" instead of competition. Competition seemed somewhat cannibalistic to him, and he wanted to underline the fact that, when and where there is competition, there is a great deal of room for cooperation. Over a hundred and thirty years after the sound doubts of Alfred Marshall, we can say that Economic Freedom appears to us as vague terminology, and that we can profitably use an amended notion of competition: only when there is competition is there room for voluntary — and, therefore, effective — cooperation.

Still on the virtues that competition is supposed to bring about, it has been proposed that, instead of competition, there is a need for its opposite: respect of civil servants for their fellow citizens; social cohesion and social capital (Ruggeri, 2010; Micelli, 2010). In one word, the virtues outlined can be summarized in the term 'civiness', proposed by Robert Putnam (1993). However, many of the positive definitions of competition — civiness, meritocracy — embody a collaborative class view of competition.

We fully agree with this interpretation; that this is what is needed — irrespective of how we name it. Our proposal to bring about competition where civiness is absent is only due to Niskanen's observations: it is difficult to build civiness where social norms are absent. Competition is one way to bring about social norms where they are absent. Competition is meant to ensure that the clients of civil service receive the same consideration as the clients of a coffee shop. To build fair competition into a society has important implications on definitions, norm and values.

Collaborative Competition is meant also to be a herald of meritocracy — another synonym. Collaborative Competition stands for scrutiny, obtained through rules and/or social norms.

'Benchmark' is yet one more synonym for competition. Comparison is the basic method of benchmarking, and comparison is the first step of competition. It may not lead to choosing one supplier over another, it may not have immediate economic consequences; however, we can affirm that benchmarking is a very close approximation of competition.

We have seen alternative terms to competition that are meant to signify exactly what competition is about. There are also instances of pejorative terms used to mean phenomena that might not be seen as negative at all but, rather, fair. Take, for instance, 'international financial speculation'. This is meant to be a pejorative behavior, but one could interpret it as the right punishment for peoples and their governments who can't get their act together and give themselves some financial discipline, and therefore need someone from outside to force them. Those who do not have self discipline will, sooner or later, get just plain discipline.

Competition is not granted its own role even when considered from a negative point of view. In fact, deviances from (fair) competition are not identified as such but, rather, are given specific names and seldom related to the absence of competition. Take 'conflict of interest' in connection with government officials. This is where a government official also holds meaningful financial interests in the economy that are under his or her potential influence, or a government official who is appointed to an oversight job and might also be appointed to the (better paid) job he is supposed to oversee. These are instances of absence of (fair) competition.

An alternative view of competition can also be identifying the absence of competition: the unemployed who are excluded from work by guaranteed laborers; travelers of mass transit who suffer unfair competition from car owners who do not bear the full cost of pollution and congestion, and the disservice from the strikes of guaranteed transit drivers; gifted potential immigrants who suffer the measures against illegal immigrants, and the absence of a fair immigration policy and its implementation; gifted candidates in some pseudo-competitive civil service contest; young professionals with problems accessing closed-shop professions; the citizens themselves who are excluded from the opportunity to propose candidates for general elections. Corruption is the absence of competition, crime is non-competitive. We may conclude that competition is cut-throat when it is absent.

12.2.3. Consistency of Porter with theories of economic development

The outcome of our reasoning through the Porter diamond of collaborative advantage is consistent with theories of economic development [Perkins] whereby the quality of institutions plays a key role.

Also consistent with seminal study:

- Acemoglu D., Johnson S., Robinson J. A. (2004). *Institutions as the Fundamental Cause of Long-run Growth*, NBER Working Paper, No. 10481.
- Rodrik D. (2003), *In Search of Prosperity: Analytical narratives on economic growth*, Princeton University Press, Princeton.

12.3. Anatomy of the economy

What would be the consequences of implementing the idea of the Porter collaborative advantage? We said economic effectiveness should happen “within and across industries and sectors”. Let’s build on this. Industry is the general definition: those firms providing the same service or product. By sector we mean a set of neighboring industries, e.g.: ICT - information and communication technologies is a sector. To represent the entire workforce we want to define as a sector areas in which the majority of the people work, defining them with respect to their position vis-à-vis competition. In this manner we would end up with the following sectors in the economy:

- government;
- monopolies;
- large corporations;
- MSMEs, of which small non-profits would also be a part.

12.3.1. Effectiveness is driven by competition

Once the duty of accountability is extended to all economic sectors (public and private, for-profit and non-profit), competition across economic sectors becomes the crucial driver of accountability. Competition is the work engaged in within each industry and within the same economic sector (a sector is a set of related industries). This is the competition we are usually accustomed to thinking about; the competition that brings producers (but not consumers) unwelcome phenomena such as price cutting, international relocation and imports. Competition is central to the process of accounting for work because vertical competition in and of itself makes work accountable; if not instantly valuable from a social point of view, at least subject to social scrutiny. Competition certifies accountability. It does not guarantee society that the firm or the organization will behave correctly, but it does guarantee that — having the opportunity to adopt competing goods and services — society can do without a badly behaving company. Competition does not rule out the need for CSR awareness, management and reporting.

12.3.2. Partitioning the workforce according to the collaborative advantage

The workforce in the economy can, therefore, be partitioned between those subject to competition and those who are not. The notion of a ‘competitive divide’ is thus derived: workers, employees and executives who are not subject to competition enjoy a shelter vis-à-vis those who are. Therefore, those who are not subject to competition must account for their work through the introduction of competition or through pseudo- market mechanisms, such as CSR reporting and benchmarking. The work and the jobs that are not subject to competition must account for the validity of their social contribution through virtual competition (benchmarking) and transparency reporting.

What is accountability? Accountability is responsiveness to demand; it is work effort, transparency, customer sovereignty, reciprocal trust, quantification, multiplicity of alternatives and social utility of work. Competition is the driver of accountability. From an empirical point of view, SMEs and the majority of workers and jobs in the economy are on the competitive side of the ‘collaborative-competitive divide’; monopolistic sectors, such as the government sector, are on the noncompetitive side. In order to gener-

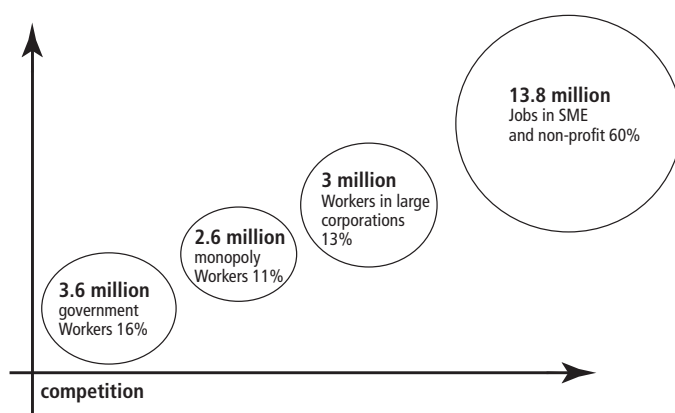
ate inter-sectoral dynamics, it is useful to gain an overall view of the working population. Figure 1 illustrates the basic concept of our proposal: competition drives accountability; therefore, the different 'work groups' that comprise society are set in the competition–accountability plane.

The group most subject to competition, SMEs, has a self-interest in demanding accountability from the groups located near the origin of the plane. Who is the unknown stakeholder of this country-level game? Which is the social class oblivious to the fact that is not getting its fair share? Doing the numbers is a fertile operation: you 'see' the different categories and potential stakeholders. Specific institutions are identified: the organizations that represent small enterprises. SMEs are subject to competition. So they account for work. It is in the interest of SMEs and their employees that all workers in the economy account for their work. We did a micro-analysis — category by category — for the case of Italy. We identified a sub-set of the 17 million workers and their jobs that are subject to competition: the small ones, SMEs. In the same economy, out of 17 million jobs subject to competition, there are 8 million VAT codes assigned to either businesses or individuals, meaning entrepreneurial activity at all levels; among these there are 2.6 million small and micro-enterprises under the aegis of traditional representative bodies.

First, let us define the dimensions of SMEs. A 2003 Commission Recommendation of the European Union recognizes micro-enterprises as an economic reality. These are the self-employed, the micro entrepreneurs with fewer than 10 full-time employees. Medium-sized enterprises have 50 to 249 employees; small enterprises, 10 to 49 employees and large enterprises over 250 employees. Micro, small and medium-sized enterprises are socially and economically important. They represent 99% of an estimated 23 million enterprises in the EU and provide around 75 million jobs, representing two-thirds of all employment. SMEs contribute up to 80% of employment in some industrial sectors, such as textiles, construction and furniture. (Commetrics.com)

Let's then classify the accountability of work in all the sectors according to competition, which we said is a driver of accountability

Figure 1.



Government here includes politicians.

We notice that the factual proof we obtain from this framework is that CSR in society has come about, been promoted, regulated and stated for those who are subject to competition more than for those who are not, a proof of accountability by those who are subject to competition.

There is a lack of awareness of competition. Those who are subject to competition are not aware of it and do not 'use' this important value. Competition is, however, prevalent in our societies and economies; as we have seen in one of the largest world economies (in terms of gross domestic product), nearly 75% of the work force and their jobs is subject to competition. Competition is a sort of ghost: it is there, it is prevalent, but nobody sees it and competition is only evoked for special purposes.

12.4. What is at stake?

There is a stake to all of this. Social friction has a high cost. We have established that there is an exchange between social groups. Let us see what this exchange looks like and what it involves. We will see there is a big stake in the struggle between the two classes (workers who are subject to competition vs. workers who are not) so the unknown worker of chapter 1 becomes the unknown stakeholder at the end of this chapter 12.

12.4.1. Measuring the sectors' private benefits and social costs

Let us measure the quantitative potential of this conflict. Salaries of workers not subject to competition are more relevant than the profits of corporations. Work and productivity is a more relevant issue than the labor–capital dialectic. The dimensions of the evasion of work include:

- over-compensation of employees;
- over-compensation of production factors;
- excessive cost of procurement, as proven, for instance, by the following studies [Giarda, 2011, Ministero dell'economia e delle finanze; Commissione tecnica per la finanza pubblica, 2008];
- inefficiency;
- non production / loss of GDP.

12.4.2. Over-compensation of government and monopoly employees

In the wake of the economic crisis of 2008, not one job was lost on the left-hand side of the competitive divide. (More proof of the scarce accountability of those who are not subject to competition. Only in Greece, in 2011 and 2012, after much ado, were jobs lost in the government sector.) Such “immobility” also translates into over-compensation in the sectors that are not subject to competition. The competitive divide identifies new and contemporary kinds of haves and have nots.

In a medium-sized economy (23 million workers), an estimated 100 billion euro per year of over-compensation in the non-competitive sectors is at stake. This is the lower boundary of the damage generated by the evasion of work and it is the “prize” of the silent class struggle between the competitive and the non-competitive sectors of the economy. The following graph illustrates the methodology used to estimate this value.

12.4.3. A stake of one hundred billion euro per year

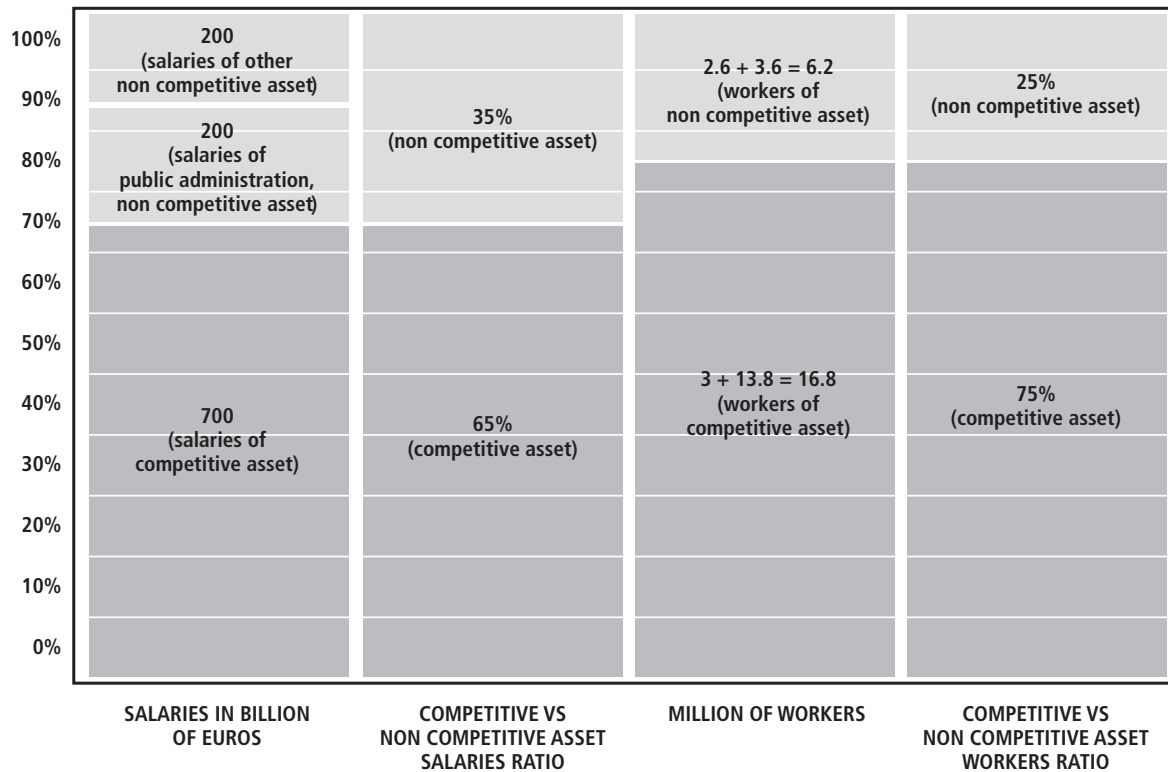
Non competitive sectors represent 35% of income and 25% of people over a total income of 1.100 billion euro (400 vs 700 billion), whereas an egalitarian/competitive model would generate a distribution of 300 vs 800 billion euro. This € 100 billion difference (obtained by subtracting 300 from 400 billion) is the extra revenue of non-competitive jobs. This is what Niskanen calls the extra cost of production factors in non- competitive environments.

For those who are subject to competition, it appears more fruitful to fight over-remunerated labor than to fight capital. Capital can fly away. Labor can't.

The idea here is not so much for those who are subject to competition to appropriate the extra revenue of those who are not as it is to bring to fruition for society the full productivity of work from those who are not subject to competition. Thus, the calculation is a minimum estimate of the social value that is redeemable when competition — or better, accountability — is established within society.

The previous calculations were income- based. On the other hand, impact-based calculations lead to much larger numbers. It has been estimated that one third of gross domestic product is lost for lack of infrastructure, lack of purpose in government, modest schooling systems, and lack of competition in services.

QUANTIFYING THE EVASION OF WORK



12.4.4. The cost of non-government

Italian GDP could grow by as much as 30% by the year 2030, as shown in the following table.

GDP 2030, changes at constant prices vis-à-vis 2008

	As % of GDP	In billion euro	Per capita (in euro)
Lower administrative burden on business	+ 4.0	+ 62.9	+ 1,055
Better infrastructure	+ 2.0	+ 31.4	+ 527
Better human capital	+ 13.0	+ 204.4	+ 3,428
Competition	+ 11.0	+ 172.9	+ 2,901
Total	+ 30.0	+ 471.7	+ 7,911

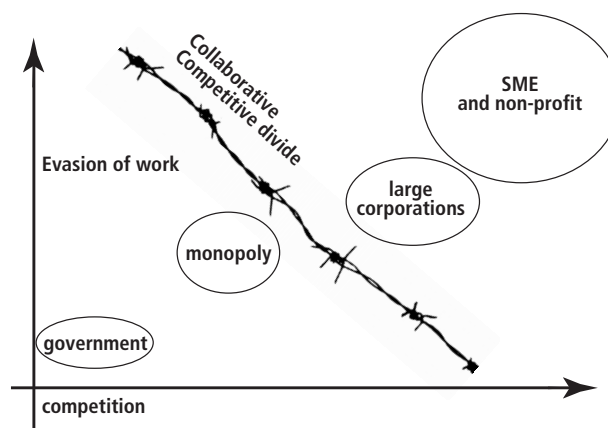
Source: Centro Studi Confindustria Scenari Economici, June 2009, p.93, on European Commission data, WEF, IMD and Banca d'Italia.

Competition can be introduced into different public institutions. (An empirical demonstration of this argument is contained in the 2002 Report of one of Europe's European National Antitrust Commissions: exporting sectors – that are more dependent on sectors that are most problematic from the competition point of view – show lower growth rates than the less dependent sectors. Evasion of work means holding in fetters those who work and export or efficiently serve the domestic market.)

12.5. The collaborative divide: the new class struggle

Society and the economy appear to be characterized by a “competitive divide”. Competition is far from an easy and perfect generator of wealth and welfare; however, there appears to be more injustice in society where there is no competition. In order to gain an appreciation of this fact, it is helpful to consider the point of view of those who are excluded from participating in the activities of society.

Figure 2.



The collaborative divide pits the self-interest and the collective action of those who are subject to competition – call it the collaborative class – against those who are not – whom we’ll call the monopolistic class. This silent class struggle is competition between those who are subject to competition within their industries and sectors, and those who are not. It is a force more relevant to the economy than the owner–employee, public–private, left–right, labor–capital dialectic. This last, the labor–capital dialectic, gives place to the Marxian class struggle, which co-exists with the silent class struggle we bring to light. Industry competition exists because many want to sell to few; the silent class struggle exists because social groups – differing by their position vis-à-vis competition – still compete with each other to appropriate shares of national income. For instance, public sector workers’ salaries are driven by different mechanisms than those regulating the salaries of private sector workers; nonetheless, there is a struggle between private sector workers and public sector workers to increase their own salaries, one at the expense of the other. This is the silent class struggle.

The silent class struggle solves the “why bother” question. In fact one question is always asked about responsibility, accountability and effectiveness in work: “Why bother?” [Ruggie]. Who asks people to be accountable and effective in their work? This is just a construct of a few “self-appointed score keepers” [Porter and Kramer, 2006]. Our argument answers this question through the silent class struggle: all institutions must account for their work because it is in the self-interest of those who are subject to competition that those who are not account for their work.

Just as the objective of competition among individual companies is to prevail on competitor companies and win shares of markets, a parallel mechanism takes place at an aggregate level. This mechanism is hidden to society. The silent class struggle, in fact, takes place (in a less evident way, but with no less impact on income) on an aggregate level between entire sectors of society: public administration – for instance – vs. private companies.

The collaboration we want to evoke here is the collaboration that should take place across different economic sectors of society: jobs and workers not subject to competition are subsidized by jobs and workers subject to competition.

Competition is meritocracy. It is not cheating; it is the observance of rules; it is transparency. It is not corruption or favoritism. Competition in the economy is like competition in sports. Those who lose are poorer but do not die, and the winners still need someone to play the next time around. In the economy, you always need consumers. Put like this, it looks like a dream, but it is a dream come true: nearly three quarters of the economy and of the jobs are subject to competition and happen under the fairytale rules described. Think of coffee shops; think of department stores; think of car makers where there are no barriers, or ‘voluntary restrictions’ to imports; think of the infinite number of service jobs where, as consumers, we have the opportunity to change our supplier. Complaints occur, cheating does happen – but we can change. Once we are not satisfied with a product or service, we can change. This is the in-

finite reality of micro, small and medium-sized companies and of large international companies subject to international competition.

12.6. SMEs as the unknown stakeholder of social dialogue

With such a high stake, a social dynamic should take place whereby those who are subject to competition (through their representative organizations) demand accountability from the workers who are not – government first of all. Such a social dynamic, however, is not observed, which explains why New Public Management does not work and liberalization has no advocates and lacks active stakeholders.

The collaborative – competitive divide is pivotal to the economy and society. The real difference of social and economic position (the one that has an impact on the country system and the quality of the economy and society) is the way a living is earned: whether it is subject to competition or not. That is the competitive divide. Being subject to competition is, therefore, a political opportunity for the self-employed and MSMEs. When we acknowledge the competitive divide, a cultural and political opportunity opens for those who are subject to competition: especially the small entrepreneurs and their representative bodies. In the name of competition, SMEs become full-field stakeholders.

A first enlargement of the field is obtained when not only the entrepreneur is represented but also his or her employees. They are subject to competition as much as their employer. The shopkeeper's Boy Friday has the same social interests as his employer.

At the level of the national arena, once competition is put at the center of the public debate, SMEs have an interest in the government's efforts to evaluate work within public administration; they have an interest in the functioning and actions of the antitrust institutions and all those responsible for vigilance over regulated sectors of the economy. SMEs could ask for structural and organizational reforms that introduce competition among public institutions, shunning the standard argument of eliminating duplication in the awareness that duplication — properly monitored — generates efficiency.

The notion of the unknown stakeholder broadens our view of competition because competition looks only at peers whereas the unknown stakeholder sees who else there is when peers compete. Sectors subject to competition (i.e. private companies) could demand accountability from those sectors that are not (i.e. the public sector) with the objective of reaping a benefit from better and more socially profitable work by the public sector.

We hypothesize that there is little awareness of the silent class struggle in society because this kind of conflict — or absence of collaboration — has not been formulated in a positive way, under a positive value, such as we propose here: the positive value of collaboration-competition.

In conclusion, competition is the divide between useful work and work to be scrutinized. It is proof of the utility of work. Where competition is absent, there is risk of evasion of work. In the name of competition, the small organizations (SMEs) become full-field stakeholders; they can represent their own employees and intervene in all government matters.

12.7. Small is not beautiful, but it is useful: a political opportunity

The main driver of micro-enterprise is unemployment: you become a micro-entrepreneur — a self-employed person — most probably because of the impossibility of living within a large company (push), rather than by being driven by the mirage of making money or attracted by the economic and human adventure that micro-enterprise nonetheless is (pull). This is the reality of many one-man companies and of owner-operators, of the many who become self-employed after receiving a bonus exit payment from a down-sizing

corporation, of the many professionals who want to establish their own practice (e.g. lawyers, accountants). There can also be, however, a positive cultural and ideological positive effect in some regions whereby being an entrepreneur, no matter how self-exploiting, constitutes a positive social value and an element of pride.

Self-exploitation by the entrepreneur is, in fact, a key factor in micro-enterprise: a factor of flexibility, when income is not enough, and, conversely, a factor of productivity. Long working hours are a typical lifestyle of the micro-entrepreneur.

In micro-enterprises, the owner, the principal and the employee have very similar roles. They typically work in very close contact, sharing the same room — often the only room or store, which constitutes the ‘headquarters’ of the company. Micro-entrepreneurs are personally indebted to finance their company.

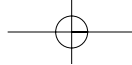
The epitome is Jeff Bezos’ mortgaging his house to start up Amazon.com, but this is the standard economic and financing practice in many countries. Micro-entrepreneurs guarantee the bank debt of their companies with their own personal wealth.

In everyday practice, the micro- entrepreneur deals with his or her own bank debt situation, dealing with different short- term financial instruments to leverage their credit towards their customers and obtain cash advances from the bank to pay their own suppliers. When they are in a strong position *vis-à-vis* the banks they do business with, they sort of ‘auction’ their short-term debt (30–120 days): they will borrow the amount of a collateral invoice from the bank charging the lowest debt rate.

Micro- enterprise is tainted with the stigma of tax evasion. This can take many different roads and many levels, ranging from false invoicing to obtain fake costs to charging private dinners on the company’s expense account. One truth is that this is often part of the small company’s accumulation process (i.e. the formation of its own capital) and one way through which the entrepreneur obtains a living standard equivalent to that of a corporate employee (he perceives) with his same professional skills.

Micro- entrepreneurs are subject to domestic competition. Often, they are subject to the competition of organizations operating in the non- profit and the government sectors.

We do not believe (as the title of Ernst Schumacher’s successful 1973 book has it) that ‘small is beautiful’. There are many things that societies can’t do other than with large and bureaucratic institutions. However, the circumstance of the existence of a vast area of the economy being run by small institutions, subject to competition, could bring about a very good antidote to the degeneration of bureaucracies: small is not beautiful, but it is useful.



Chapter 13

Understanding the Unknown stakeholder

In chapter 12 we developed almost heuristically the notion of SMEs as the Unknown Stakeholder of European social dialogue. This was heuristic up to a certain point, as we linked to the notion of stakeholder analysis within industrial relations, i.e.: being aware of social dialogue as a multilateral operation, involving the whole workforce, when only a few (two) parties are involved in such dialogue.

We want now to expand on the concept of the Unknown Stakeholder and show that it is a general concept, applicable not only to SMEs but meaningful in several fields of social, economic and political analysis: Corporate Social Responsibility and Cost/Benefit Analysis. Also we will show that the Unknown stakeholder is implied by very basic and consolidated strands of economics, organizational sociology and bureaucratic analysis.

Firstly we dwell on the implications of the concept of the Unknown Stakeholder, then we propose a general view of organizations, derive the implications and obtain a framework for analyzing and predicting organizational behavior and social costs.

13.1. The Unknown Stakeholder and Corporate Social Responsibility

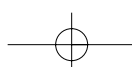
We recapitulate here assertions we made in chapter 10 on SMEs as the Unknown Stakeholders of social dialogue.

Work needs to be accounted for. Its effectiveness. Why does work need to be accounted for? Because not all work is subject to evaluation, especially bureaucratic work, public service work, which is essential to the success of society as a whole. [Niskanen]

In a world where everything depends on everything else, in the economy as in ecology, your welfare depends on my work and instead. This is the ultimate meaning of the 'competitive advantage of nations', and of the concept of a country-system: nobody can claim to be above scrutiny. This is also the ultimate sense of developing a concept of Corporate Social Responsibility - CSR that is in the core business of the organization, be it a private enterprise or a government institution. All work, public and private, must be accounted for.

How to account for work, then? Work that is subject to competition is immersed in an intrinsic mechanism of evaluation and comparison. It is, therefore, intrinsically accounted for. The free and voluntary transaction between customer and supplier is an instance of accounting for the work of the supplier. That is the basic building block of social approval for work. Competition is a certifier of accountability. Work subject to competition is accounted for through the mechanism of competitive benchmarking.

The absence of competition generates the risk of 'evasion' of work. Absence of collaboration within and across sectors, due to work not being subject to competition, can effectively be called evasion of work,



which is a different concept from the evasion of taxes. Not all work is necessarily done in a competitive environment. Remoteness of work from voluntary transactions — which measure and socially approve work — increases the possibility it is over — or under-valued, thus opening the way to privilege and marginality.

Therefore, work not subject to competition is exposed to the risk of being ‘evaded,’ not accounted for. ‘Evasion’ of work is an institutional phenomenon; it does not preclude individual workers from doing their work scrupulously. Work that is not subject to competition must be accounted for through some other mechanism of transparency, evaluation and control. Where feasible, competition must be introduced. Competition is not privatization.

13.1.1. *Irresponsibility and the Unknown Stakeholder framework*

When Corporate Social Responsibility is interpreted as accounting for work, it is for all organizations, not only for private businesses, and it is also to be exerted in the core business of the organization itself. The crucial task becomes avoiding irresponsibility — non responsible behaviour — rather than putting forth specific good behaviour. Only potential negative exceptions should be at the centre of attention, otherwise there is the risk of self-anesthetization, when one repeats and enumerates all the good things that are done (and are of no consequence).

Then there is a need for a process framework to account for work. Stewardship of the Unknown Stakeholder is the central value of such a framework, which also includes the values of Disclosure, Implementation and Micro-Ethics. Caring for the Unknown Stakeholder is one of the ways to detect irresponsibility in the behavior of an organization. The Unknown Stakeholder is he who does not have a voice, who doesn’t even know he has a stake in the activities of the organization being analyzed. It may be a newborn baby who will breathe what will be left of the air seventy years from now. It may be the reasonable solution to a problem that is proposed by wise people and that local voters turn down, spurred by emotions and demagogy. Stewardship of the Unknown Stakeholder implies, first, identifying the collaborative-competitive context surrounding the organization being considered. Within this framework, comparisons of performance must be made with competitors and, in the case of government organizations or monopolies, international benchmarks must be provided. Possible government subsidies must be accounted for under this heading. When we identify economic phenomena in the internal functioning of a company or an institution, especially intangibles and externalities, then we are listening to the Unknown Stakeholder. He is at the heart of all research, the silent critic inside us.

The Unknown Stakeholder is not always the one that is being shortchanged. Often the Unknown Stakeholder is profiting from a situation without the public being aware of it — sometimes without being aware of it himself. A striking bus driver in a monopolistic municipal company portrays himself as the victim when, in reality, he is taking advantage of an asymmetrical situation at the expense of commuters and tax-payers. In the canonic theory of public relations stakeholders can be hidden, unaware, unrecognized and un-important [Toni Muzi Falconi, Milan, February 2012] [Mitchell].

13.1.2. *Criticizing the mainstream stakeholder approach*

The concept of the Unknown Stakeholder has its roots in the theory of stakeholders. The theory of stakeholders has permeated the current theory of Corporate Social Responsibility; indeed, the theory of stakeholders has given birth to Corporate Social Responsibility. The stakeholder approach appears to be prevalent and is the preferred way to go about “doing” Corporate Social Responsibility in the Public Relations industry, which is the leading supplier retained by corporations to run Corporate Social Responsibility programs and write Corporate Social Responsibility reports.

Differently, and more consistent with business practice, Corporate Social Responsibility is a theory of corporations and institutions that asks from them to be aware and report the full impact of their actions.

The stakeholder approach to Corporate Social Responsibility action and reporting implies that the relevant stakeholders of the organization be listened to and engaged, and this work be accounted for in the Corporate Social Responsibility report. So, we read section headings in the reports that list the generic names for the groups of stakeholders: stockholders, employees, customers, suppliers and the rest. These groups are also called the ‘publics’ of the organization. We contend that the stakeholder approach might be misused and end up in collusion with sections of the publics involved. It is not enough to run a two-hour focus group with opinion leaders to understand the issues and to certify that the Corporate Social Responsibility behavior of the organization is satisfactory. For instance, it may not be enough to get the agreement of the in-house trade unions to demonstrate that the organization has fair employment practices: there might be collusion between management and employees on high-salary practices or inefficient labor organization — all things that are against the best interest of consumers and the general public. This would be an example of conflicting interests among different stakeholders and an example of non-collaborative behavior.

The stakeholder approach may lead an organization to try to engage with the wrong counterparts; for instance, interviewing young people as representatives of future generations, as a major power utility did. Headquarters representatives of stakeholder organizations are very prestigious to interview, but they may not be very interested or knowledgeable about the specific interviewing organization. They may have to interface dozens of such organizations and not have anything specific to say. We are talking here about an over-rating of stakeholders.

Sometimes, it is easier to convene a generic association in an aseptic setting than listen to an individual stakeholder when he or she is at hand and there is a hot issue to solve: an individual obnoxious customer, a difficult file to process. Besides, interviewing association representatives might very well be an issue of double-counting: first, you interact with an individual stakeholder, then you ask his association what they think about your organization. You would be better off asking the individual stakeholder you have at hand and giving an account of that interaction.

Therefore, everything that is not taken into account under the headline of the stakeholder approach we call ‘stewardship for the Unknown Stakeholder’. The theoretical bases of this value reside in the vast literature on non-maximizing, non-efficient, non-effective behavior by the firm, and by the employee especially. [Leibenstein, Niskanen].

Thus, the first task in drawing up a Corporate Social Responsibility or sustainability report is to identify the possible Unknown Stakeholders; that is, those who do have a stake but do not know they do; those who have a stake too small to care about, but who are numerous, whose protection would be the government’s task; those — the weak — who do not have a press office.

13.1.3. The Unknown Stakeholder across sectors

The Unknown Stakeholder can be taken into account in behaviour and in reporting of organizations with the help of a taxonomy of economic sectors that reveals possible content of Corporate Social Responsibility according to the economic sector the reporting organization belongs to. Three years after its infamous 2005 survey on Corporate Social Responsibility, The Economist updated its position on the subject with a second survey on January 19, 2008. The good news is that, while the first survey was scathing in its judgment, this time space was given to John Ruggie, from the Harvard Kennedy School: ‘The theological question – whether Corporate Social Responsibility exists or not – is irrelevant today. The real question is not whether, but how Corporate Social Responsibility is done.’ Of relevance to how Corporate Social Responsibility is done is a counterargument from none other than Milton Friedman, in 1970: ‘A company’s social responsibility is to make a profit.’ Friedman’s indictment appears terrible, especially when applied within the context of countries that fall miserably short when their governments are charged with monitoring their own companies and bureaus. Milton Friedman – we believe - had in mind an ideal form of capitalism when he said that. What is necessary, then, is to specify under what conditions profits are made and what kind of capitalism we are talking about. We do not think Milton Friedman believes in *laissez faire*, which is not capitalism and neoclassical economics as we know them.

Accounting for the Unknown Stakeholder is one way to identify potential irresponsibilities on the part of organizations. As a first step to identifying the Unknown Stakeholder, the competitive arena of the institution or the business should be provided. We thus derive a taxonomy of economic sectors and key indicators of their effectiveness and accountability, e.g. government and monopolies should provide indicators of activity; businesses subject to competition should conduct research and disclosure on their activities.

A simple taxonomy according to the competitive environment is:

- government sector (public non-profit sector);
- regulated for-profit private sector (monopoly or subject to moderate competition);
- non-profit associative private sector (not subject to competition: entrepreneurial associations and trade unions);
- non-profit private sector (subject to competition);
- for-profit private sector (subject to competition);
- SMEs (small and medium-sized enterprises).

For an organization belonging to a specific competitive environment, the relevant reporting content would be:

- government sector: indicators of product or service;
- regulated for-profit private sector: indicators of efficiency;
- non-profit associative private sector: indicators of product or service and of efficiency;
- non-profit private sector: indicators of product or service and of efficiency; sources and uses of funds;
- for-profit private sector: data on competition;
- SMEs: additional specific data on financial statements, such as the liquidity of accounts receivable.

We see that competition is very important in this model. We have to deal with this since the value of competition is not obvious or accepted in all cultures, as we said in chapter 12. The key driver that distinguishes the different sectors identified is competition — the greater the competition, the more likely the customer and the taxpayer are respected. Less competition inevitably leads to cost inefficiencies and the abuse of customers and citizens.

All organizations — public and private — should provide a benchmark with competition or comparable organizations, be it international or domestic, depending on the level of the reporting organization. Organizations that do not have homologous ones within the country should make comparisons with international or foreign organizations.

Some sectors — banks, for instance — may be subject to competition in theory, but preserve privileges over other sectors. Employee salary is one area where a whole sector might be privileged over others. Accounts of this kind might be provided in the Corporate Social Responsibility report. The competition that must be reported is the effective competition prevailing in the economy across different sectors, not only within the industry to which the organization belongs.

Much of what we have said so far on the stewardship of the Unknown Stakeholder may sound excessively trusting of competition; indeed, the notion of the Unknown Stakeholder is basically used as a synonym for competition. Opposed to such faith in competition, we often hear the phrase ‘cut-throat competition’ and the ‘accelerating’ expression: ‘increasing cut-throat competition’. We should be starved and dead by now if that were true: cut-throat competition is always feared when we are the losers.

We want to point out that there are instances whereby the absence of competition is merciless. We should think of the absence of competition everywhere there is corruption. We should think of the absence of competition everywhere a service or product could be provided in a regime of multiplicity, also

in the government sector, and is not. There is unfair competition in urban traffic when a mass transit vehicle stands in line behind a private car, because the mass transit vehicle bears the cost of congestion generated by private car traffic. There is absence of competition in the labor market when there are government-tenured workers that do not undergo any evaluation of performance. This list could continue. These examples show that the weak in the competitive arena are not always those who define themselves as such, and the real cut-throat competition is unrealized competition.

So we have introduced a new kind of stakeholder: the Unknown Stakeholder. Edward Freeman's 'stakeholder approach' method is truly revolutionary and we have given examples of how businesses and institutions, from the private to the public to the political, listen to stakeholders or ignore them. We have also shown that there is a hole in the usual list of stakeholders, which includes clients, employees, owners, suppliers, the community, the state and the environment. The hole has to do with the competitors: businesses and institutions give an account of their work as though they operate in a vacuum, totally ignoring the competition.

The most commonly ignored stakeholder is the consumer – a citizen, yes, but he could also be a clueless employee or workman that needs to be considered – and the key element engendering respect for the stakeholder is competition. In a corporate social report and sustainability report, leaders of the market must be challenged. The names of the competitors should be listed, and faceless averages should be stamped out, because these are always subject to the person writing the report. Performance measures should be included, and benchmarks (against others and oneself, over time). Benchmarks also make sense in the public sector because, here, it becomes a liberating tool for the citizens concerning their government and management classes. As it is now, the citizens are hostage to their governments, which do not compete against other institutions and thus enjoy a monopoly not subject to control.

13.1.4. *The Unknown Stakeholder and the government*

The Unknown Stakeholder emerges from irresponsibility and from accounting for work and collaborative-competition, as we have seen in chapter 12 in the special and pervasive case of the SMEs in social dialogue. Caring for the Unknown Stakeholder is one of the ways to detect and prevent irresponsibility. This is a specific way of thinking about Corporate Social Responsibility.

The first key issue in the domain of irresponsibility is change in the nature of Corporate Social Responsibility. Whether Corporate Social Responsibility is doing something over and above the ordinary and proper running of business or Corporate Social Responsibility is doing business with attention towards full awareness and understanding of its intended and unintended consequences. We propose the second definition, which implies that Corporate Social Responsibility is for all organizations and not only for private businesses. When we take into account the core business of the organization then, we find that the license to operate must come not only from a dynamic and interactive process with stakeholders but also from some professional and reasonable understanding of what is to be done, even when no stakeholder is there to defend the point. Scientific research, for instance, is an Unknown Stakeholder. The general efficiency of the economy is another, even when the publics are not aware of their stakes.

The economic point of view on the Unknown Stakeholder is the acknowledgement that the largest part of the economy is not subject to competition; it is either regulated or monopolistic altogether. Therefore, responsibility issues deriving from non-market decision making should be addressed with the tools provided by William A. Niskanen.

In the cadre of Corporate Social Responsibility being for all organizations and not only for private businesses, we must mention that the Council of Europe has in 2011 addressed the issue of Corporate Social Responsibility through a "Charter for Shared Social Responsibility". This is an instance of a stakeholder, the community — indeed the State — coming into the arena of social responsibility of corporations at very high levels. This should lead to a consideration about the lack of a social responsibility approach vis-à-vis public organizations. This is very relevant here where we have argued in favor of Corporate Social Responsibility for all organizations, including and especially government organizations.

A second area of issues — and a consequence of the first issue — is the evaluation of the quality of reporting. Disclosure of quality assessment is geared to the objective that this key step in Corporate Social Responsibility studies may become cumulative. This step should be accounted for in a more transparent way, so that the reader may criticize it and improve it. Otherwise we do not create a method for evaluating the quality of reporting but only obtain non falsifiable statements which are hardly going to be scientific. Complexity of business — and of organizational life in general — does not allow for a quick evaluation of the quality of reporting. The step of quality assessment in Corporate Social Responsibility studies is often skipped in literature, i.e. the methodology is laid out by which a database of reporting may be evaluated and then the results are given, skipping the key step of implementation of the methodology to each individual element of the database, assuming perhaps this is univocal. However, this is not univocal and it remains a highly subjective step; therefore, it must be openly shared so that students may argue or sustain it, thereby creating a literature of quality assessment.

13.1.5. Convergence of Corporate Social Responsibility and public policy analysis

When Corporate Social Responsibility is for all organizations and not only for private businesses, the implication is a convergence of Corporate Social Responsibility with public policy evaluation and reporting of all non-profit activity, both in the government and in the private domain of the economy. This consequence is of no small import as it implies that all the energy that is put into demanding Corporate Social Responsibility from private businesses be shared and directed also towards government action.

Weak civil society, for instance (as mentioned in the case of Bulgaria) is a key element of the Unknown Stakeholder, as illustrated in the following passage: “The Unknown Stakeholder means that it exists, despite being absent or invisible in discussions and political issues. In fact this ignorance is actively produced as non existent. That is, it is produced not to be seen. It is unpronounceable, due to extreme pressure exercised in many ways. The stakeholder is unknown because his silence seems to be unfathomable. So we believe that the importance of the unknown stakeholder points to the need for a work of translation. Who are they? This discovery and translation of the unknown is an intellectual as well as technical and political work. It is also an emotional work because it presupposes the unconformity, indignation at the practice of the contemporary capitalist world. This is all the more true in poor countries where we can see the weakness of civil society and of the democratic institutions.” [Alice Costa, Lahti, Finland, May 2012, Corporate Social Responsibility Conference, communication on Values and Stakeholders].

13.2. Contribution to Cost/Benefit Analysis

Cost benefit analysis brings an important contribution to the analysis of responsibility in society. Do we have a feedback contribution of responsibility analysis to cost benefit analysis? Is the concept of the unknown stakeholder useful for cost benefit analysis?

The Unknown Stakeholder derives and reinforces the concept that markets are imperfect. Disclosure is necessary, reason must guide us beyond existing and vocal stakeholders. A possible taxonomy could include ignorant, poor and hurried consumers; future generations; students who have a right to information and disclosure; privileges of employees; suppliers; conniving trade unions and other stakeholders vs. minority stakeholders.

The Unknown Stakeholder and irresponsibility are heralds of analysis of costs and benefits. The Unknown Stakeholder provides a view on stakeholdership {see Costa above} and weak groups in general: women and old people using mass transit; low price products and services rationed through waiting lines; emphasis on the supplier-builder stakeholder rather than the user-consumer in transportation and government in general.

The germane concept of the evasion of work – on the other hand - brings our attention to negative stakeholders, e.g. the passive institutions in the European sovereign debt crisis and the world financial crisis from 2007 to the present.

13.3. The “immorality” of organizations

After working on the observation from the field and on stakeholders both from a stakeholder representation and from the organizational point of view, we want now to explain irresponsibility and derive the notion of the Unknown Stakeholder from a very general assumption about organizations: organizational behavior as muddling through.

13.3.1. Society as master plan: a moratorium on Archie Carroll's pyramid

Archibald Carroll's Pyramid of Social Responsibility proposes a linear view of organizational behavior. It sees social responsibility as the juxtaposition of “successive” sets of actions. It does say, though, that economic responsibilities are “the foundation upon which all others rest”, meaning “*Erst kommt das Fressen, dann kommt die Moral*” (Brecht). Which means that in order to survive and for an economic unit to exist, the basic financials have to be in order, otherwise the “ongoing concern” tenets are not verified and the economic unit (should) no longer exist.

To be fair to Carroll, however, the pyramid could be interpreted as mapping the different aspects or points of view of every action that is taken in an organization. However, the current and prevalent view has instead interpreted the pyramid as mapping the different sets of actions in a successive and linear form whereby ethical behavior is represented by one specific set of actions separated from economic actions and law abiding actions. Social responsibility, then, is the juxtaposition of successive sets of actions. The diagram below seems to suggest some sort of ascent to paradise.

[Andrew Crane, Amsterdam, May 2011, Corporate Social Responsibility reporting conference, prof. Elving]

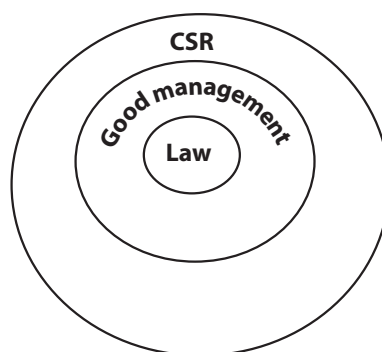
Figure 1. Archie Carroll's Pyramid



The implications of such a linear, hierarchical view are that notwithstanding the (implicit) priority given by Archie Carroll to the economic bottom line, corporate social responsibility — as intended by the Global Compact and the GRI — appears to assume law abidance and proper management as “givens”. This is implicitly what is assumed when examples of non-social responsibility are drawn from the chronicles of ordinary crime: the Enrons and the Madoff scandals. These are cases when the law was breached.

One logical implication of this concept is that the different layers of Carrolls’s actions are portrayed in a Venn diagram by sets that fully enclose each other, like the successive layers of an onion. Corporate social responsibility, then, is a way to look at corporate activity as subsequent, full sets of actions.

Figure 2. The logical view of Carroll’s corporate action



The Venn diagram above illustrates the relationship between three different sets of actions according to the current view of Corporate Social Responsibility. Let us explain in detail what goes on within the circles of the diagram.

The good management circle represents the set of management action-points:

- run a sustainable business;
- make money;
- have a collaborative attitude;
- work hard;
- be profitable.

This set includes the smile of a nurse, the good coffee of a barista and the long hours of a street vendor.

The law circle represents lawful behavior-points:

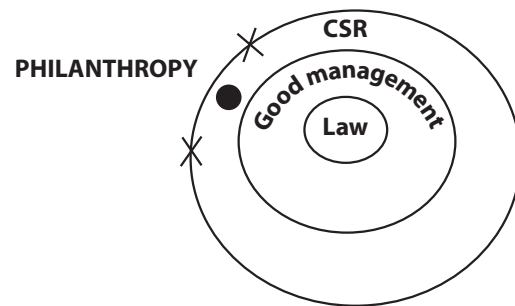
- comply with safety rules, workplace safety and health;
- provide health and injury insurance and benefits;
- pay taxes;
- no corruption or extortion;
- obey the law;
- play by the rules.

The Corporate Social Responsibility circle includes all the “do good” actions that are intended in a standard corporate way of life, such as philanthropy.

13.3.2. The Muddling Through hypothesis

The view of Corporate Social Responsibility expressed above lends itself to devastating criticism. In fact, in a critic's view this kind of Corporate Social Responsibility appears as an add-on, a non-profit division of the corporation – at most a new business development department or an R&D department. This is the kind of Corporate Social Responsibility that makes brows go up in the corridors of corporate headquarters, and that encountered the objections of the 2005 Economist special survey. Mainstream Corporate Social Responsibility is basically philanthropy. If organizations have any intention of engaging in Corporate Social Responsibility they should do so within their core business, as depicted in the diagram below.

Figure 3. The critic's view of Corporate Social Responsibility



However, this is still a normative view of organizations: what we have depicted above is an ideal situation, the normative view: the fact that all rules are observed is shown by the circle representing managerial action entirely encompassing the circle representing the actions that implement and / or comply with the law.

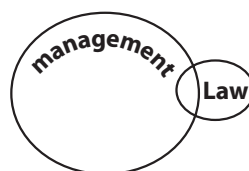
Figure 4. Management observing all the rules



If we listen to the criticism with an open mind and examine our experience without prejudice, it is not difficult to admit that the skeptics have a point. Reality is far from ideal and, in fact, organizational behavior has been described as muddling through [Lindblom, 1959]. This is not a normative view, it is a positive view.

We represent muddling through as a divorce between the two sets of actions. What makes the organization tick does not necessarily include what makes the organization law abiding. There is a tension between the game and its rules, not a harmony. There is no master plan. This view appears to adhere more to the spirit of Carroll's pyramid. Reality is thus described by the figure of the "reclining 8" whereby – for the sake of simplicity – the organization (or the individual) is operating in (or continuously torn apart between) one of two types of situations.

Figure 5.

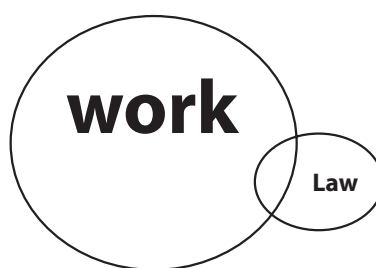


When a player — worker/employee/manager or organization — is in action, his or her behavior falls within one of three situations that are seen in the picture above. The first situation (we call it “muddling through type 1”) is not interesting since all is well. It is represented by the happy lens of actions identified by the intersection of the two sets, where everything is as it should be: the positive and the normative view coincide.

13.3.3. The evasion of taxes

The second situation gets to be more interesting. Muddling through type 2: called “tax evasion”. The organization works fine, but some of its actions are outside the law or fail to comply with the law; the company does not comply with some of the legal requirements. A common example is not paying all the taxes due.

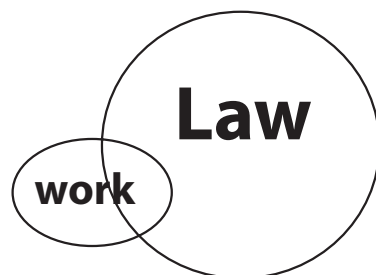
Figure 6.



13.3.4. The evasion of work

The third situation is unexpected. There is more than one way to be delinquent Here we have muddling through type 3: “work evasion”. The organization (and/or personnel) are abiding by all the relevant laws but they fail to provide a useful social product; failing to provide what the public is paying for.

Figure 7.



This representation appears a good synthesis for the examination of work ethics. There is a tension between the game and its rules. Work ethics is an oscillation between the game and the rule, as implied in Carroll's Pyramid when it says, at the economic base, that this is "the foundation upon which all others rest."

13.3.5. Irresponsibility "until proven otherwise"

The positive view of reality yields a cadre of basic irresponsibility. Reaping the benefits of this analytical framework, a first result is that our focus should be on irresponsibility rather than on responsibility. This is not a play on words but a symmetrical and opposing point of view. Reality is one of irresponsibility. We are irresponsible "until proven otherwise". [Popper ... see Values and Stakeholders] We have thus obtained irresponsibility by way of a very simple hypothesis. We have obtained the same result we got by way of economic observation of reality in section 13.1.1 above "Irresponsibility and the Unknown Stakeholder framework".

13.3.6. The dynamics of social collaboration

What drives, then, the oscillation of economic units between the two opposite poles of muddling through? Competition. The switch between the two types of irresponsibility is driven by competition. Jobs subject to competition tend to abide with work ethics and be socially useful; jobs not subject to competition tend to be law abiding and play by the rules but not necessarily socially useful.

Competition, then, is a sufficient — not necessary — condition for accountability. This means that accountability can also be done through means other than competition. With some difficulty.

On the competition axis we plot organizations in order: monopolistic, protected, regulated, big, small.

Competition decides which way we go. It is true that competition is one of the agents that takes the two sets apart (work vs. law): the News of the World case is paradigmatic. We should not forget, however, that most people act within the economy in conditions of competition and do not break the law in such blatant ways. Corporate Social Responsibility is not against the crooks. Corporate Social Responsibility is meant to bring awareness and responsibility to the vast grey area of everyday life.

We also notice that lack of competition is by no means more desirable than competition itself since a lack of competition also drives the two sets of work and law apart from one another, just like competition does. In the case of competition however, society can defend itself much better than when competition is absent and consumers and citizens are left in the hands of a caste system. Lack of competition brings about major injustice.

The arbitrary switch to the evasion of work for those who are not subject to competition is also theorized by Breton and Wintrobe's theory of selective behavior, in *The Logic of Bureaucratic Conduct*.

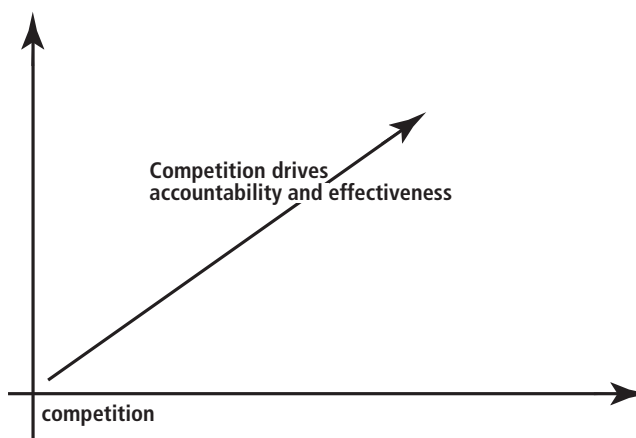
13.4. Accountability of work: the inherent morality of small business

We concentrated on the evasion of work because its size, its level of delinquency (from the economic development of a country-system point of view) and the extent to which it is systematically neglected on the part of the public (due to concentration on the first case, the evasion of taxes) make it a real, silent, social disease.

Corporate Social Responsibility at this point can be dubbed as the "accountability of work". If Corporate Social Responsibility is to be found in the core business of organizations, then we may want to call it "accountability of all work".

Scientific evidence from Corporate Social Responsibility literature shows that competition, i.e. within the same economic sector, leads to more transparency in reporting and disclosure, i.e. accountability and effectiveness.

Figure 8. Competition as a sufficient condition for accountability



The sloped line shows the qualitative dynamic of accountability and effectiveness, driven by competition. We thus obtain in the domain of Corporate Social Responsibility what was obtained in chapter 12.3.2 from classical literature [Leibenstein].

13.4.1. Measuring accountability

Definition of accountability: accountability is the probability of each worker's ability to realize the potential contribution to GDP he or she is being paid for by an organization. Accountability is all of the following:

- a measure of performance
- customer sovereignty
- trust by citizens
- an international benchmark
- transparency of full cost
- multiplicity of suppliers
- public program evaluation
- collaboration
- long term commitment

These are dimensions of accountability that need to be considered when trying to do accountability without competition.

How do we measure accountability? Accountability is the opposite of the evasion of work. Its relationship to the evasion of work (EW) metrics is: $A = -EW$. What we actually measure is the departure from an optimal situation, so, when considering what is at stake, we calculated several possible measure of the evasion of work, ranging from the extra share of total salaries appropriated in the social arena by non accountable workers vis-à-vis accountable workers, to the possible GDP when all workers would do their share of work just like workers subject to competition are doing.

The numbers we obtain for the social loss of accountability are between 5% {100 billion euro per year} and 30% of GDP, depending on whether we only measure the gap of resources appropriated in the social arena by non accountable workers vis-à-vis accountable workers or we measure the cost of opportunity of having large numbers of workers not doing their job appropriately.

13.4.2. Mapping irresponsibility throughout the economy

When Corporate Social Responsibility becomes the “accountability of work”, then it is for all: public, private, for and non-profit. And everything that’s in between. No more “corporate” in the sense of private for profit business but all work, corporate in the sense of “corpus”, body, organization. Organizational responsibility.

Going back to Corporate Social Responsibility as the accountability of work, an immediate consequence of such a formulation is that Corporate Social Responsibility is for all, not only for the corporate world. It is for large corporations, SME’s, the public sector: we are ready to put them all together in one chart according to their degree of accountability.

Taking a long detour through Corporate Social Responsibility, we have found “new” values (competition) and stakeholders (those subject to competition) for a possible social dynamic.

We have also found a more convincing working definition of Corporate Social Responsibility as the discipline of accounting for the irresponsibility inherent in all organizational behavior.

13.5. The Unknown Stakeholder resultant of muddling through

13.5.1. Deriving the Unknown Stakeholder from experience

The category of the “Unknown Stakeholder”, like honoring the unknown soldier means to honor those who sacrificed without recognition — implies seeing the limits of the stakeholder theory: there are stakeholders that are not foreseen in the theory. One un-acknowledged stakeholder is the reader and the student of Corporate Social Responsibility, who, like the pathologist who dissects corpses for the sake of future science and humanity, should be able to dissect organizational actions.

Existing stakeholders have their own limits. Why then limit the analysis to the actual forces acting today, when we could discover unknown reserves of energy and self-interest? Existing stakeholders are not perfect and they might be missing part of the picture.

Explaining this category vis-à-vis the standard theory of the stakeholder could perhaps be called an “unforeseen stakeholder”, i.e. from the company point of view this is a potential stakeholder, and from the potential stakeholder point of view, this is a stakeholder who is unaware of having a stake or aware, perhaps, but with too low an individual stake to warrant collective action [Mancur].

A further implication of this category is a recognition of competitors and a description of the economic context within which the organization operates: competitive or monopolistic.

13.5.2. Deriving the Unknown Stakeholder from the theory of muddling through

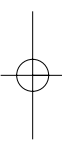
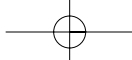
The basic situation of irresponsibility leads us to state that we (the organization that is under consideration) are not showing enough respect for our stakeholders. Secondly, accounting for competition leads to taking into account stakeholders that are potential, when seen from the point of view of the organization, and are unaware, seen from the point of view of the stakeholders themselves.

This is observed in reality quite often when we hear judges who think their task is to denounce crime rather than repress it, and have trials running for years with the excuse “that there are not enough re-

sources". We see tax officials who proudly publish data on the evasion of taxes, which is actually a measure of their evasion of work. This is also the case of Porter and Kramer (2011) companies "missing customer needs" and communication "to" instead of communication "with". All of this is not caring enough for the stakeholders of the organization. That is why we use the phrase "Unknown Stakeholder" who, like the unknown soldier, should be taken care of, even if we do not know exactly where he is.

Part IV

What is to be done? Recommendations



Chapter 14

Separating the beautiful from the useful

The follow-up work for this study take place through the international conference in Rome, Italy, 26 October 2012, to present the results of the study, to share experiences and best practice. The conference involve counterparts, stakeholders, and other EU countries not participating in the project.

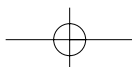
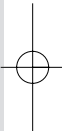
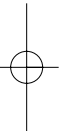
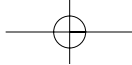
The conference discusses the issues addressed by the project, and it makes recommendations.

The participation of counterparts and stakeholders who doesn't participating in the project is useful, because they act as external evaluators for the project results.

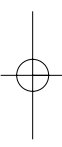
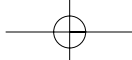
Conference questions

The merger of field observation and the legal context of self-employed work engenders a few questions to think about.

1. Representation beyond administration: is representation beyond administration desirable and possible?
2. Employees and employers are all workers first and foremost: one aspect of representation as administration of work is that legislation seems to keep ignoring work and consider only the administrative instruments within which human working relationships occur. The consequence of this is a limiting categorization of the role of employee and employer. This is a troubling development.
3. The rights of the entrepreneur-worker to be collectively represented: notwithstanding the fact that probably nobody would, in theory, deny the right of the entrepreneur-worker to be collectively represented, such representation remains marginal within the cadre of social dialogue, de facto denying the right itself.
4. Generalizing and leveraging best practice: there is still room for learning from experience beyond the very initial statement we made about simplification, definition and liberalization.
5. Leveraging the accountability of the self-employed and micro-entrepreneurs vis-à-vis the rest of the workers: a broader way to look at representation will be discussed further on.



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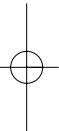
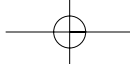


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