

## **Round table discussion: Economic crisis and labour law reforms**

**Chair: Dr. Giuseppe Casale**

**Secretary-General**

**ISLSSL**

In the last decade, in order to improve the flexibility for enterprises, public authorities and national parliaments have adopted a series of measures, including changes in national labour laws. In some cases, the labour law reforms occurred before the economic crisis, with the clear objective of "modernizing the labour market". However, starting from the end of 2008 and following the pressures of the financial markets as well as the demands coming from the EU institutions, the reformist activities of the legislators have become even more intensive, giving life to a collection of recipes which although in principle were suitable as a response to the economic crisis, in the wider perspective they went well beyond the previous objectives.

Such a situation has characterised the last few years of several countries in Europe, notably Italy, Spain, Greece, Portugal, Ireland, and several others such as France. In general, both the individual and collective labour relations have been modified leaving sometimes incertitude and un-clarity in the texts of labour laws/regulations.

From an individual labour relations viewpoint, we have assisted to a general trend towards flexibility, either from a labour market input or from a labour market output. In addition, the functional level has also been modified as an instrument of reduction / flexibility of the working hours, worker mobility, changes in work functions/assignments and so on.

From a collective labour relations viewpoint, we have noticed a general trend characterized by the decentralization of the industrial relations systems, the progressive weakening of trade union representation, and the reduction of the role of social policies when reforming the national labour legislation.

From the discussion of this round table, one could say:

1. There is a general trend towards flexibility in both internal and external labour market. This trend must be related to the negative effects of the economic cycle and to a tendency dictated by the economic environment. The latter is more and more "setting the agenda of the

reforms." Compared to the past reforms, the present ones are largely recognizing the "flexibility" as such and more structural in terms of changes in labour law.

2. There is a general trend towards functional flexibility – negotiation of working conditions more often made at the individual level - in addition to the labour market changes dealing with internal and external flexibility. Several re-organizations of companies following the crisis are managed with instruments dealing with the reduction / flexibility of work schedule, mobility, reduction in wages, and other functional aspects.

3. There is a general trend towards "flexicurity" i.e. a shift in protection of the labour market, according to the Nordic model which combines high flexibility of labour with high levels of social protection characterised by the universal character and an efficient active labour market policy (insertion and requalification of workers).

4. There is a general trend to reduce the power of judicial intervention as far as the control of the powers of the entrepreneur is concerned. This trend is evident in countries such as Italy, Spain, Greece, Ireland and Portugal and hotly debated in France where it is linked to the requirements of the economy and the possibility of counting ex-ante costs of the enterprises 'decisions.

5. There is a general trend towards the decentralization of the industrial relations systems. The trend towards the so-called "corporatization systems" has significant corollaries: i. the function of negotiation becomes increasingly derogatory, not only vis-à-vis the national collective agreements, but also the same labour law; ii. the negotiation function assumes a character of "management of the crisis and restructuring" as well as of being "functional" to enterprises productivity; iii. enterprise level negotiation tends to become more and more an "individualization" of employment and working conditions.

6. There is a general trend to reduce the veto of workers' organizations, particularly those who are most militant ones, especially during the negotiation of labour law reforms. In general, we have moved from social dialogue, which provided the "legislative bargaining level" at national level, to soft forms of social dialogue, in which trade unions are merely informed and consulted. In other words, the final decision stays with the government and this trend is clear in most of the EU countries.

7. There is a general trend towards an essential change in the notion of sanction and/or penalty. Today, it is no longer interpreted as a justice response to a crime (and hence being considered as a repressive measure), but as an act of compliance with labour legislation, that

is to say it is considered as an incitement and promotion of legality or remedial action with a view to complying with labour legislation and not necessarily recurring to the sanction procedures.

Dublin, 18 September 2014