



# Representativeness of European sectoral social partner organisations

## info sheet

*'Representativeness is a criterion used by the Commission to identify the "management and labour" whom it must consult and who may initiate the social dialogue (Article 154 TFEU). While the Treaty provisions do not refer to the criterion of "representativeness", the Commission was clearly drawn to this criterion for identifying organisations which can claim to be the "management and labour" with the rights to consultation, to initiate social dialogue, and to reach and implement agreements.'*

*Eurofound's European industrial relations dictionary*



## Background

In 1998, the European Commission set out the framework for sectoral dialogue committees with the aim of promoting dialogue between sectoral social partners at European level. The committees were set up as the central fora for consultation, joint initiatives and negotiation for the given sectors.

Union law does not make reference to the concept of representativeness. The Commission first used this concept in its 1993 Communication concerning the application of the Agreement on Social Policy. Representativeness became the key issue of dispute in a legal case in 1996 (UEAPME v. Council of the European Union, Case T-135/96). UEAPME challenged the legality of the Parental Leave Directive and the dispute became the subject of litigation before the European Court of First Instance (CFI). The CFI asserted that agreements reached through the social dialogue – which are then incorporated into directives – may be challenged on grounds of their democratic legitimacy. CFI deemed this necessary, since the Directive was not subject to scrutiny by the European Parliament. Since this ruling, it has been the legal responsibility of the European Commission to scrutinise to identify the European social partners who are eligible to engage in European social dialogue.

In 2006, the European Commission mandated Eurofound to carry out studies on the representativeness of European social partner organisations, with the aim of identifying the relevant national and supranational interest associations in the field of industrial relations in selected sectors. (Prior to 2006, the studies had been coordinated by the Catholic University of Louvain.)

## Criteria for representativeness

According to the Commission Communication and Decision of 20 May 1998<sup>1</sup>, organisations that are eligible to be consulted should comply with the following criteria:

### Article 1

Sectoral Dialogue Committees (hereinafter referred to as 'the Committees') are hereby established in those sectors where the social partners make a joint request to take part in a dialogue at European level, and where the organisations representing both sides of industry fulfil the following criteria:

- (a) they shall relate to specific sectors or categories and be organised at European level;
- (b) they shall consist of organisations which are themselves an integral and recognised part of Member States' social partner structures and have the capacity to negotiate agreements, and which are representative of several Member States;
- (c) they shall have adequate structures to ensure their effective participation in the consultation process.

## Studies on representativeness

Since 2006, Eurofound has carried out studies for a number of sectors.

<sup>1</sup> EC, 1998, *Communication on adapting and promoting the social dialogue at Community level*, COM (98)322 final, Brussels, 20 May 1998, p. 31.



2007	Agriculture, Telecommunications
2008	Railways, Sea and coastal water transport, Post and courier services, Manufacture of sugar, Gas sector
2009	Steel, Tanning and leather, Personal services, Hospitals
2010	Catering sector, Footwear industry, Civil aviation, Inland water transport, Metal
2011	Banking, Public administration, Education, Commerce
2012	Sea fisheries, Paper, Insurance, Horeca, Cleaning activities, Private security

Current and future studies (in 2013 and 2014) will examine the following sectors: Food and drink industry, Audiovisual services, Live performance industry, Sports and leisure, Cross-industry social partners, Textiles and clothing, Local and regional government, Construction, Electricity, Road transport and logistics, Chemical industry, Shipyards, Telecommunications and ICT.

## Assessing representativeness

### Defining sectors for study

The first step in each representativeness study is a discussion with the relevant sectoral actors at European level, to agree on the definition of the sector to be studied. The introductory chapter of each study provides details of the given sector definition, in terms of the 'Statistical classification of economic activities in the European Community' (Nomenclature statistique des activités économiques dans la Communauté européenne, NACE) to ensure that the findings can be compared cross-nationally. However, the domains in which the trade unions and employer organisations work, and areas covered by the collective agreements, often do not correspond exactly to the NACE demarcation.

### Data collection

Data at national level is collected by Eurofound's 27 EIRO national correspondents on the basis of a questionnaire. The completed questionnaires, or national contributions as they are called, are published online together with the overview report.

### Involvement of social partners

Representatives of sectoral social partners – at both European and national level – are consulted and required to comment on the information and data collected by the EIRO national correspondents during the preparation of the national and overview reports. This far-reaching exercise, which can take considerable time, aims to ensure that all interested parties are given the opportunity to contribute to the quality of the reports' data and information.

### Evaluation

Once completed, all national reports are checked and validated by national-level sectoral social partners. The

overview report is evaluated at a formal meeting with representatives of the European sectoral social partners, the European Commission and Eurofound's tripartite Advisory Committee on industrial relations.

## Selecting associations for study

For the purposes of the representativeness studies, a European association is deemed a sector-related social partner on the basis of a number of conditions:

- it is on the Commission's list of social partner organisations consulted on behalf of that sector under Article 154 TFEU, and/or it participates in the sector-related European Social Dialogue;
- it has requested that the European Commission consult it under Article 154 TFEU.

The representativeness of European-level sectoral associations is assessed against the number and characteristics of their members at national level. At national level, a national association is included in the studies if:

- it relates to the sector (according to the four criteria of congruence, sectionalism, overlap and sectional overlap – see below for more);
- it is either regularly involved in collective bargaining at national/sectoral level and/or it is affiliated to any relevant European social-partner organisation.

### Defining relationship to the sector

Eurofound's representativeness studies analyse all national trade unions, employer organisations and multi-employer collective agreements that are sector-related. The extent to which, and the manner in which, the bodies and agreements relate to the sector may however differ, in terms of the following four patterns.

- **Congruence** – the domain of the organisation or scope of the collective agreement is identical to that of the NACE demarcation.
- **Sectionalism** – the domain of the organisation or scope of the agreement covers only part of the sector, as defined by the NACE demarcation.
- **Overlap** – the domain of the organisation or scope of the agreement covers the entire sector, along with parts of one or more other sectors. (Studies do not include general associations that do not deal with sector-specific matters.)
- **Sectional overlap** – the domain of the organisation or scope of the agreement covers part of the given sector, as well as parts of one or more other sectors.

### Further information:

*European industrial relations dictionary* – [www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/representativeness.htm](http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/representativeness.htm)

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