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## EUROPSKA RADNIČKA VIJEĆA U HRVATSKOJ: ISKUSTVA I MOGUĆNOSTI ZA DALJNJI RAZVOJ



## EUROPEAN WORKS COUNCILS IN CROATIA: EXPERIENCES AND OPPORTUNITIES FOR FURTHER DEVELOPMENT

Hrvoje Butković, Višnja Samardžija, Jakša Puljiz, Ivana Rukavina

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Knjiga je financirana sredstvima Europske komisije u sklopu projekta „Unapređenje kvalitete i razine zastupanja zaposlenika kroz organizacijske prilagodbe i učinkovito korištenja instrumenta Europskih radničkih vijeća (ERV) od strane aktera industrijskih odnosa“ (referentni broj VS/2020/0040)

This book was financed by the European Commission funded project “Improving the quality and the level of the representation of employees through organizational assimilation and the efficient use of the EWC instrument by parties interested in industrial relations” (grant reference number VS/2020/0040)



ISBN: 978-953-6096-93-0

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IRMO  
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Zagreb, 2021.

**Izdavač – Publisher**

Institut za razvoj i međunarodne odnose – IRMO / Institute for Development and International Relations – IRMO

**Za izdavača – For the publisher**

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**Prijevod i lektura – Translation and language editing**

Poliglot, obrt za prevodenje

**Priprema za tisk – Layout**

Željko Obad

**Tisk – Print**

Intergrafika ttž – d.o.o., Zagreb

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# EUROPSKA RADNIČKA VIJEĆA U HRVATSKOJ: ISKUSTVA I MOGUĆNOSTI ZA DALJNJI RAZVOJ

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## Kratice

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BDP	Bruto domaći proizvod
DZS	Državni zavod za statistiku
EK	Europska komisija
ERV	Europsko radničko vijeće
ETUC (eng.)	Europska konfederacija sindikata
EU	Europska unija
FDI (eng.)	Izravna strana ulaganja
GSV	Gospodarsko-socijalno vijeće
HT	Hrvatski telekom d.d.
HUP	Hrvatska udruga poslodavaca
HZMO	Hrvatski zavod za mirovinsko osiguranje
HZZ	Hrvatski zavod za zapošljavanje
MNK	Multinacionalne kompanije
MRMS	Ministarstvo rada i mirovinskog sustava RH
NN	Narodne novine
PPS (eng.)	Kupovna moć
RBA	Raiffeisenbank Hrvatska d.d.
SBFH	Sindikat bankarskih i finansijskih djelatnika Hrvatske
SGH	Sindikat grafičara Hrvatske
SIE	Srednja i istočna Europa

## 1. Uvod

Činjenica da multinacionalne kompanije posluju u više od jedne zemlje može dovesti do slabljenja pregovaračke pozicije radnika. Pravni i institucionalni okviri prilično se razlikuju od zemlje do zemlje pa ujednačavanje uvjeta rada u istoj kompaniji često predstavlja vrlo težak zadatak. S druge strane, multinacionalne kompanije u pravilu relativno lako mogu preseliti svoje proizvodne kapacitete u zemlje s nižim troškovima rada, što se negativno odražava na pregovaračku poziciju njihovih radnika u najrazvijenijim zemljama (Myant, 2020). U Europskoj uniji (EU) vrlo su izraženi problemi koji nastaju zbog tih okolnosti jer su uvjeti za transnacionalno poslovanje iznimno dobri, a razlike između radno-pravnih praksi i standarda pojedinih država joj uvijek su vrlo velike. S druge strane, multinacionalne kompanije imaju vrlo jaku pregovaračku poziciju u odnosu na nacionalne vlade i institucije EU-a jer su svojim mnogobrojnim aktivnostima postale nezaobilazan čimbenik ekonomskog razvoja diljem EU-a. Institucije Europske unije, svjesne te činjenice, već dulje rade na izgradnji pravne stečevine (fr. *acquis communautaire*) kojom se multinacionalne kompanije potiču da u različitim državama članicama provode slične oblike socijalnog dijaloga, kao i da teže međusobnom približavanju internih politika u domeni rada i zapošljavanja. Ipak, prepreku snažnjem razvoju u tom području predstavljaju Osnivački ugovori EU-a koji pitanja rada i zapošljavanja primarno ostavljaju u ingerenciji država članica.

Europska radnička vijeća (ERV) važan su kamenić u rastućem mozaiku transnacionalnih industrijskih odnosa na teritoriju Europske unije. Pokrenuta su prije više od dvadeset godina, a imaju zadatak olakšati procese informiranja i savjetovanja radnika u multinacionalnim kompanijama na području EU-a. Pravnu osnovu za osnivanje ERV-ova predstavljaju dvije europske direktive (primarna iz 1994. godine i revidirana iz 2009. godine) koje su dio pravne stečevine EU-a i kao takve su prenesene u zakonodavstva svih država članica. Ipak, bez obzira na početni entuzijazam, proces osnivanja novih ERV-ova usporio se nakon prijelomne 2009. godine koja je ostavila dubok trag i na globalnoj i na europskoj ekonomiji. Prema procjenama, više od polovice multinacionalnih kompanija na području EU-a još uvijek nema osnovane ERV-ove premda zadovoljavaju sve uvjete za njihovo osnivanje iz revidirane Direktive o ERV-u. Situacija na području novih država članica lošija je nego u ostatku EU-a jer je u njima postotak multinacionalnih kompanija koje imaju funkcionalan ERV još manji. To ukazuje na činjenicu da ni uprave ni radnici brojnih multinacionalnih kompanija sa sjedištem u novim državama članicama ne razumiju dovoljno važnost tog tijela. Uprave u tim kom-

panijama u ERV-ovima očito vide samo trošak, a radnici nisu dovoljno dobro organizirani kako bi formalno pokrenuli proces njihova osnivanja.

U svjetlu tih promišljanja Institut za javne politike (IPP) iz Bukurešta u suradnji s Institutom za razvoj i međunarodne odnose (IRMO) iz Zagreba, Centrom za ekonomski razvoj (CED) iz Sofije, Institutom za javne poslove (IPA) iz Varšave i Centrom za istraživanje i kreiranje politika (CRPM) iz Skopja pokrenuo je istraživački projekt fokusiran na ERV-ove u odabranim novim članicama EU-a i jednoj zemlji kandidatkinji. Projekt „Unapređivanje kvalitete i razine zastupanja zaposlenika kroz organizacijske prilagodbe i učinkovito korištenje instrumenta Europskih radničkih vijeća od strane aktera industrijskih odnosa“ sufinancirala je Glavna uprava Europske komisije za zapošljavanje, socijalna pitanja i uključenost, a provodi se od veljače 2020. godine do studenoga 2021. godine.

Glavni je cilj projekta unaprijediti i povećati kvalitetu procesa zastupanja zaposlenika u sklopu multinacionalnih kompanija te akterima industrijskih odnosa omogućiti učinkovito korištenje instrumenta ERV-a. Projektom se nastoji pridonijeti općoj evaluaciji i razumijevanju rada ERV-ova u novim državama članicama kako bi se stvorio temelj na kojem socijalni partneri u budućnosti mogu razvijati strategije učinkovitog korištenja tih instrumenata. Usto, kroz različite projektne aktivnosti nastoji se razviti jače transnacionalno povezivanje kako bi se poboljšalo širenje najbolje prakse vezane uz europska radnička vijeća i industrijske odnose općenito. U tom su smislu u sklopu projekta identificirana četiri specifična cilja: i) povećanje učinkovitosti sustava zastupanja radnika u sklopu multinacionalnih kompanija, ii) konsolidacija transnacionalne suradnje kako bi se osigurala stalna razmjena informacija u cilju koordiniranog procesa zastupanja u sklopu ERV-ova, iii) analiza koliko sindikati u državama obuhvaćenima projektom razumiju europsko pravo i relevantne politike, iv) povećanje razine stručnosti sindikata u vezi s europskim pravom i politikama u području industrijskih odnosa treninzima i razmjena primjera najbolje prakse. Očekuje se da će kao rezultat ovog projekta sindikati na nacionalnim razinama država uključenih u projekt uspostaviti zajedničke agende djelovanja u vezi s europskim radničkim vijećima.

Ova studija jedan je od glavnih ishoda navedenog projekta u Hrvatskoj. Publikacija je rezultat kombinacije desk i terenskog-empirijskog istraživanja te smo njome nastojali utvrditi rasprostranjenost ERV-ova u Hrvatskoj i kritički propitati njihovu ulogu i učinkovitost. Pritom smo se uglavnom koristili kvalitativnim istraživačkim metodama.

Nakon uvodnog poglavlja slijedi poglavlje u kojem se razmatra dinamika ekonomskog i socijalnog razvoja Hrvatske u posljednjih desetak godina. Smatrali smo da se na stranicama prvih poglavlja trebamo osvrnuti na ta pitanja kako bi čitatelj bio upoznat sa širim društveno-ekonomskim kontekstom u kojem nastaju i dјeluju ERV-ovi u Hrvatskoj. U trećem

se poglavlju općenito predstavlja koncept ERV-ova te se razmatraju njihova postignuća i nedostaci od sredine devedesetih godina 20. stoljeća, kada su se prvi put pojavili u Europi, pa sve do danas. Četvrtog poglavlje posvećeno je pravnim pitanjima te se u njemu razmatra status Direktive o ERV-u u sklopu hrvatskog zakonodavstva. Ujedno se u sklopu tog poglavlja kratko prikazuju najvažnije značajke industrijskih odnosa u Hrvatskoj. Poglavlje se dijelom referira na rezultate provedenog terenskog istraživanja. Konačno, u sklopu petog i najopširnijeg poglavlja bavimo se percepcijom Direktive o ERV-u među predstavnicima hrvatskih sindikata i poslodavaca. Poglavlje donosi rezultate terenskog istraživanja u sklopu kojeg su održane fokus-grupe s predstavnicima poslodavaca i sindikata (svaka s desetak sudionika) kao i petnaestak intervju s osobama koje su izravno uključene u rad europskih radničkih vijeća, najvećim dijelom kao njihovi delegati. Terensko istraživanje provedeno je u Zagrebu od svibnja do srpnja 2020. godine. Fokus-grupe i intervjuji provedeni su u skladu s protokolom koji je usuglašen među projektnim partnerima kako bi se olakšao posao izrade komparativne studije koju će izraditi koordinator projekta do kraja njegove realizacije. Pitanja u sklopu protokola (upitnika) obuhvatila su širok raspon tema, od pojedinosti sporazuma na temelju kojih su osnovani ERV-ovi preko dinamike njihova rada i pitanja oko kojih se socijalni partneri često ne mogu složiti pa sve do ocjena njihove svrshodnosti i dalnjih razvojnih perspektiva. U zadnjem poglavlju u ovoj studiji donose se zaključci i preporuke za dionike industrijskih odnosa u Hrvatskoj.

Ovom prilikom se zahvaljujemo svim socijalnim partnerima i stručnjacima koji su izdvojili svoje dragocjeno vrijeme i sudjelovali u radu fokus-grupa ili u intervjuima kako bi se stvorila objektivna slika o europskim radničkim vijećima u Hrvatskoj i perspektivama njihova daljnog razvoja. Drago nam je da su prepoznali važnost i potencijale te, zasad prilično zanemarene, teme u sklopu postojećeg korpusa istraživanja industrijskih odnosa u Hrvatskoj.

## 2. Socio-ekonomski profil Hrvatske

U nastavku se daje pregled glavnih ekonomskih pokazatelja za posljednjih desetak godina, pokazatelja o tržištu rada kao i procjena stanja u Hrvatskoj u razdoblju nakon pandemije bolesti COVID-19.

Hrvatsku je prije ekonomске krize 2009. godine obilježilo dulje razdoblje gospodarskog rasta praćeno konvergencijom prema prosjeku dohotka u EU-u. Tijekom razdoblja 2002. – 2008. realni BDP po stanovniku u prosjeku je godišnje rastao 4,5 % te se njegova razina više nego udvostručila dosegnuvši 63 % od prosjeka u skupini EU-28 (mjereno kupovnom moći, eng. PPS). Kao rezultat tog rasta, stvarna konvergencija Hrvatske prema razinama dohotka u skupini EU-28 bila je slična ostalim zemljama srednje i istočne Europe. Do 2008. godine gospodarski se rast uvelike temeljio na domaćoj potražnji financiranoj dugom, što je dovelo do stvaranja makroekonomskih neravnoteža. Glavni pokretači ekspanzije bili su kapitalna ulaganja i privatna potrošnja, dok je doprinos izvoza roba ukupnom rastu BDP-a bio vrlo nizak, osobito u usporedbi s drugim zemljama srednje i istočne Europe. Udio investicija u BDP-u bio je priличno visok (oko 25 %) i usporediv s ostalim brzorastućim gospodarstvima u regiji. Međutim, rast investicija najviše je bio prisutan u sektorima nerazmjjenjivih dobara poput građevinarstva, maloprodaje i finansijskog sektora, što je u oštrot suprotnosti s drugim zemljama srednje i istočne Europe u kojima su ulaganja u (industrijsku) proizvodnju činila gotovo četvrtinu svih ulaganja. Porast potrošnje i investicija uglavnom se finančirao dugom, potaknut snažnim priljevima kapitala i snažnim rastom kredita u domaćem bankarskom sektoru. Nadalje, brzi rast domaće potražnje doveo je do snažnog rasta uvoza, a uz skromne rezultate izvoznog sektora, to je rezultiralo rastom vanjskih neravnoteža.

Čak i u razdoblju prije krize potencijalni rast Hrvatske bio je među najnižima u regiji srednje i istočne Europe (SIE) s ograničenim poboljšanjima produktivnosti. Unatoč relativno visokim stopama rasta tijekom gospodarske ekspanzije 2002. – 2008., potencijalni rast u prosjeku je iznosio samo oko 3 % u usporedbi s prosječnih 5 % u regiji SIE. To je u velikoj mjeri proizšlo iz usporenog rasta produktivnosti, što je, među ostalim, bio odraz velike prisutnosti države u gospodarstvu preko državnih poduzeća, nepoticajnog poslovnog okruženja, loše kvalitete institucija, nepovoljnog sastava izravnih stranih ulaganja i malog izvoznog sektora. Globalna kriza 2008. godine gurnula je gospodarstvo u duboku i dugu recesiju te preokrenula proces konvergencije dohotka koji je prethodno bio u tijeku. Povećali su se troškovi zaduzivanja, priljevi kapitala su presušili, a gospodarstvo je gurnuto na put opadanja zaposlenosti, nelikvidnosti privatnog sektora i nagrizanja poslovnog i potrošačkog povjerenja, što je dovelo do naglog pada investicija i privatne potrošnje. Recesija duga šest godina smanjila je proizvodnju za 12 %, a ulaganja za jednu trećinu, nezaposlenost se udvostručila,

a stopa siromaštva znatno je porasla. To je također dovelo do preokreta u procesu konvergencije, dok su se sve ostale zemlje u regiji SIE, osim Slovenije, nastavile približavati prosječnoj razini dohotka u skupini EU-28.

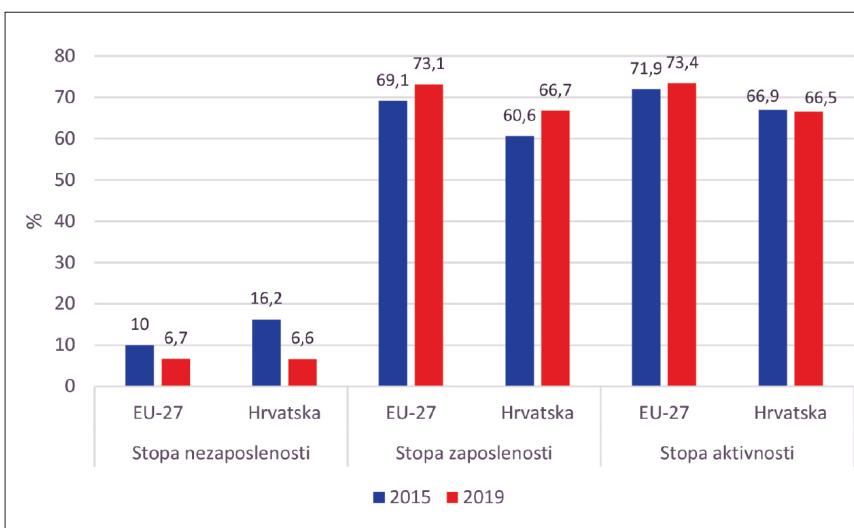
Od 2015. godine povoljnije vanjsko okruženje, zajedno s učincima pristupanja EU-u 2013. godine, pomoglo je gospodarskom oporavku na čvršćim temeljima. U 2015. godini snažan izvoz, zajedno s rastom privatne potrošnje i ulaganja, doveo je do rasta BDP-a od 2,4 %, što je bila prva pozitivna stopa u šest godina. Rast BDP-a temeljio se na širokoj osnovi te je u 2016. godini porastao na 3,5 % prije nego što se u razdoblju 2017. – 2019. spustio ispod 3 %. Izvoz je u tom razdoblju jačao, podržan rekordnim turističkim sezonomama i oporavkom izvoza roba jer se europsko gospodarstvo nastavilo oporavljati, a hrvatske su se kompanije dublje integrirale u europske vrijednosne lance nakon pristupanja EU-u. Istdobno, porast domaće potražnje dogodio se na čvršćim temeljima nego prije krize. Smanjenje poreza na dohodak, niske cijene energije i rastuće povjerenje potrošača u početku su potaknuli privatnu potrošnju, kasnije dodatno potkrijepljenu povoljnim kretanjima na tržištu rada, dok su kućanstva nastavila smanjivati dug. Također, privatna ulaganja zabilježila su solidan rast tijekom razdoblja oporavka praćen značajnim razduživanjem poduzeća. Fondovi EU-a postajali su sve važniji izvor financiranja javnih investicija te su omogućili dodatna ulaganja i smanjili potrebu za financiranjem duga. Očekuje se da će sljedećih godina fondovi EU-a i dalje igrati ključnu ulogu u slučaju javnih investicija, osobito zbog dodatnih sredstava koja pristižu zahvaljujući instrumentu EU sljedeće generacije.

Hrvatska je nakon krize snažno poboljšala svoje izvozne rezultate i izvoz je postao jedan od glavnih pokretača rasta. Ipak, hrvatski izvozni sektor i dalje je mali u usporedbi s drugim zemljama srednje i istočne Europe. To u određenoj mjeri odražava sastav gospodarstva kojim dominira sektor usluga, a posebno usluga s niskom tehnologijom i niskom produktivnošću poput turizma, maloprodaje i građevine. Pristupanje EU-u 2013. godine bilo je važan katalizator jer su hrvatska poduzeća iskoristila priliku za bolju integraciju u europske i globalne lance vrijednosti pomažući tako gospodarstvu da se oporavi od šest godina recesije. Od pristupanja se sastav hrvatskog izvoza također poboljšao u smislu tržišta i tehnološke složenosti.

Velik odljev ljudi posljednjih je godina jako utjecao na hrvatsko tržište rada. Velik broj građana koji napuštaju Hrvatsku ukazuje na to da se hrvatsko gospodarstvo i dalje muči sa stvaranjem dovoljnog broja atraktivnih radnih mjesta, posebno za mlade, ali ukazuje i na šire društvene probleme u zemlji. Prema podacima Državnog zavoda za statistiku (DZS), Hrvatsku je od 2013. godine napustilo oko 190 tisuća ljudi (oko 4,6 % ukupnog stanovništva) koji su se uglavnom odselili u druge zemlje EU-a poput Njemačke, Austrije i Irske. Međutim, stručnjaci za demografiju procjenjuju da je stvaran broj ljudi koji su se odselili mnogo veći od službenog broja.

Sa stopom zaposlenosti od 66,7 % u 2019. godini Hrvatska je među najlošijim zemljama EU-a: niže stope imaju samo Italija i Grčka. Niska stopa zaposlenosti u snažnoj je korelaciji s niskim stopama aktivnosti. Stopa aktivnosti dosegla je 66,5 % u 2019. godini, što je blagi pad u odnosu na 2015. godinu (66,9 %) te je i dalje znatno ispod prosjeka skupine EU-27 koji iznosi 73,4 %. Niske stope aktivnosti posebno su izražene za niskokvalificirane radnike, mlade, žene i starije osobe. Niska stopa aktivnosti starijih osoba (55 – 64 godine) povezana je s praksom prijevremenog umirovljenja. Kod starijih su žena osobne i obiteljske obveze te obveze pružanja skrbi imale važnu ulogu u nepostizanju veće stope zaposlenosti. Drugi važan razlog je invalidnost ili bolest.

Slika 1. Stopa zaposlenosti, nezaposlenosti i aktivnosti u Hrvatskoj i skupini EU-27 u 2015. i 2019.



Izvor: Eurostat

Sudjelovanje žena na tržištu rada nisko je i obilježeno značajnim razlikama u plaćama, nedostatkom fleksibilnih radnih aranžmana i niskim stopama poduzetništva. U usporedbi s prosjekom EU-a (67,3 %), Hrvatska ima jednu od najnižih stopa zaposlenosti žena (61,5 %) i drugi najniži udio žena koje rade u nepunom radnom vremenu (6,7 %) u EU-u, što je mnogo niže od prosjeka za EU (29,9 %). Dakle, može se reći da nedostatak ponude radnih mesta na nepuno radno vrijeme u Hrvatskoj izravno utječe na nisku stopu aktivnosti žena. Nadalje, indeks kojim se mjeri razina poduzetničke aktivnosti pokazuje da je on 1,8 puta niži za žene u odnosu na muškarce (GEM Hrvatska, 2017). U tome se Hrvatska ne razlikuje od prosjeka EU-a koji mu je približan. Posljednjih godina vlasti

značajno ulazu (uz snažnu potporu iz fondova EU-a) u dostupnost rane skrbi i obrazovanja za djecu, odnosno dječjih jaslica i vrtića, što bi trebalo pozitivno djelovati na sudjelovanje žena na tržištu rada u nadolazećim godinama.

Situacija s nezaposlenošću mlađih jako se popravila. Prema podacima Eurostata, stopa nezaposlenosti mlađih smanjila se s 50 % u 2013. na 16,6 % u 2019., što je blizu prosjeka EU-a od 15,0 %. Dok je u 2018. nezaposlenost mlađih iznosila 23,7 %, ona se u 2019. naglo smanjila, uglavnom zbog poboljšane situacije na tržištu rada. Nezaposlenost žena među mlađima i dalje je posebno izražena. U 2018. iznosila je 28,8 %, što je mnogo više od prosjeka skupine EU-28 (14,5 %). Još uvijek nije jasno u kojoj će mjeri trenutačna kriza utjecati na zapošljavanje mlađih. Posljednji podaci HZZ-a pokazuju da je broj nezaposlenih mlađih ljudi u porastu, ali je ukupni porast relativno skroman.

Niska kvaliteta poslova, posebno za mlade, negativno utječe na ponudu radne snage. Hrvatska ima jednu od najviših stopa privremenog zapošljavanja u EU-u i jednu od četiri najviše stope u EU-u u pogledu zapošljavanja mlađih s nepunim radnim vremenom, a pritom više od 60 % mlađih zaposlenika radi na temelju ugovora na određeno vrijeme. Tako visok udio privremenog zapošljavanja također utječe na smanjenje ponude radne snage zbog većeg iseljavanja. Općenito, hrvatski su radnici manje zadovoljni svojim radnim uvjetima od radnika u drugim državama članicama. Podaci iz 2015. godine otkrivaju da je zadovoljstvo uvjetima rada u Hrvatskoj bilo drugo najniže u EU-u, odmah nakon Grčke (Eurofound, 2016). Istovremeno, očekivani troškovi otkaza i dalje su visoki zbog poteškoća s kojima se poslodavci suočavaju kad pokušaju dokazati loš rad ili ponašanje radnika. Sudovi obično presuđuju u korist otpuštenog radnika, a donošenje sudske presude o otkazu traje od tri godine do pet godina. Nadalje, čak i u slučaju „legalnog“ otkaza, poslodavci moraju platiti obvezne otpremnine za svaki otkaz ugovora o radu koji je trajao najmanje dvije godine. Dopušteni su otkazi zbog viška radnika, ali primjenjuju se pravila koja određuju koji se radnici trebaju prvo otpustiti (to jest, poslodavci moraju uzeti u obzir obiteljske obveze radnika) te poslodavci ne smiju zaposliti drugog radnika na predmetno radno mjesto sljedećih šest mjeseci. Takvi uvjeti vjerojatno utječu na proces zapošljavanja jer potiču poslodavce da se više oslanjaju na privremene ugovore.

Rad na crno i dalje predstavlja velik dio ukupne gospodarske aktivnosti Hrvatske. Prema nekim procjenama, Hrvatska je uz Bugarsku i Rumunjsku svrstana među prve tri zemlje EU-a po udjelu sive ekonomije u BDP-u (Medina i Schneider, 2018). Rad na crno negativno utječe na uplate pojedinaca za socijalne doprinose, smanjuje državne prihode i remeti pošteno tržišno natjecanje.

Zbog iseljavanja je nedostatak radne snage bio osobito očit prije krize

uzrokovane pandemijom bolesti COVID-19. Daljnje pogoršanje u pogledu nedostatka radne snage moglo bi ozbiljno ograničiti gospodarske aktivnosti u nizu sektora poput turizma i graditeljstva. Politički odgovor vlade bio je višestruko povećanje kvote za zapošljavanje stranaca koja je za 2019. godinu povećana na rekordno velik broj dozvola. Povećan nedostatak radne snage stvara pritisak na povećanje plaća. To posljedično zahtijeva od poduzeća da povećaju svoju produktivnost kako bi izbjegla smanjenje konkurentnosti kao rezultat većih troškova rada. U tom dijelu poseban problem predstavlja kontinuirana neusklađenost između znanja koja se pružaju u redovitom obrazovnom sustavu i potreba poduzeća. Dodatni izazov predstavlja nedovoljno pružanje mogućnosti cjeloživotnog učenja koje bi tvrtkama pomoglo da prevladaju problem nedovoljnog znanja i vještina zaposlenika.

Unatoč povoljnim trendovima, razine siromaštva i socijalne isključenosti u Hrvatskoj i dalje su visoke. Nakon naglog porasta siromaštva tijekom krize (2008. – 2012.) oporavak gospodarstva i, moguće, iseljavanje vratili su stope siromaštva na razinu prije krize. No razina siromaštva i dalje je relativno visoka: s 24,8 % ukupnog stanovništva kojemu prijeti siromaštvo ili socijalna isključenost u 2018. godini Hrvatska je bila iznad prosjeka EU-a koji iznosi 21,9 %. Siromaštvo u Hrvatskoj nerazmjerne utječe na određene skupine stanovništva. Nezaposlene osobe, jednočlana kućanstva i samohrani roditelji s jednim uzdržavanim djetetom ili više uzdržavane djece skupine su koje su najviše pogodjene siromaštvom. Među njima se kao posebno ranjive skupine ističu nezaposleni muškarci, jednočlana kućanstva u dobi od 65 i više godina i ženska sramačka domaćinstva bez obzira na dob sa stopom rizika od siromaštva većom od 40 % (DZS, 2019). U hrvatskoj Strategiji borbe protiv siromaštva i diskriminacije za razdoblje 2014. – 2020. u vrlo ranjive skupine također se ubrajaju osobe s invaliditetom, dio hrvatskih branitelja iz Domovinskog rata i žrtava rata, povratnici, pripadnici romske nacionalne manjine i migranti. Troškovi opće države za socijalnu zaštitu niži su od prosjeka EU-a, ali su viši nego u većini novih država članica. U 2017. godini državni su rashodi za socijalnu zaštitu iznosili 14,3 % BDP-a, dok je prosjek skupine EU-28 iznosio 18,8 % (Eurostat). Procjene pokazuju da izdaci za socijalnu zaštitu znatno utječu na raspodjelu siromaštva jer bi siromaštvo bilo 9 % više bez socijalnih transfera.

Udio javnih izdataka za mirovine u Hrvatskoj stabilizirao se tijekom posljednjih deset godina, ali prema podacima EK-a iz *Izvješća o starenju za 2018. godinu*, u budućnosti bi trebao opadati (EK, 2018). Najvažniji čimbenik koji utječe na budući pad udjela javnih mirovinskih izdataka u BDP-u jest smanjenje budućih relativnih mirovina, odnosno stopa zamjene. Unatoč smanjenju javnih izdataka za mirovine, prihodi od doprinosa za mirovinsko osiguranje i dalje će biti nedovoljni da dugoročno pokriju sve javne mirovinske izdatke. Projekcije iz *Izvješća o starenju za 2018.*

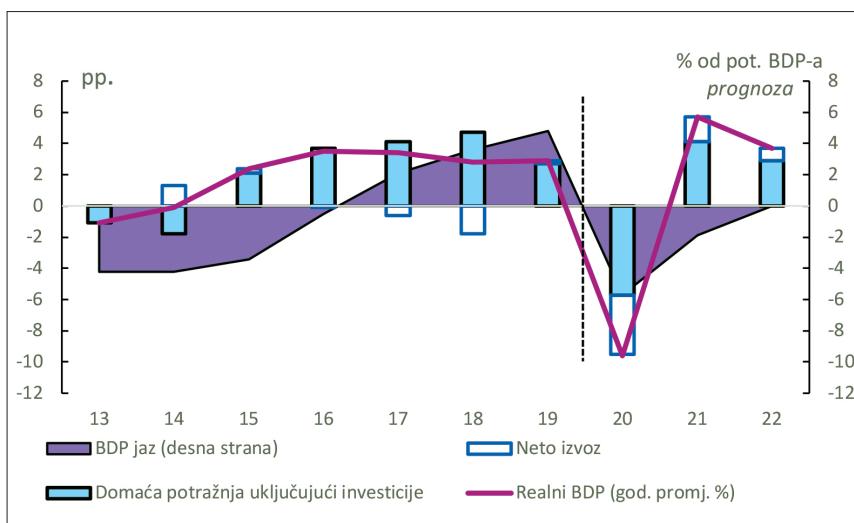
pokazuju da će se hrvatski mirovinski sustav suočiti sa smanjenjem budućih javnih mirovinskih izdataka, ali to će se smanjenje dogoditi zajedno sa značajnim smanjenjem stope zamjene. Ovo smanjenje moglo bi imati značajne socijalne implikacije i najvjerojatnije će dovesti do povećane razine siromaštva kod starije populacije. Iako se polako produžava, radni vijek u Hrvatskoj i dalje je kratak, drugi najkraći u EU-u. To je jedan od ključnih izazova s kojima se suočava hrvatski mirovinski sustav. Iznimno se često iskorištavaju mogućnosti prijevremenog umirovljenja, što rezultira niskom dostatnosti mirovina. Usto, mirovine regulirane posebnim zakonodavstvom najčešće omogućuju prijevremenu mirovinu pod povoljnijim uvjetima od općih propisa. Te mirovine čine značajan broj mirovina i u pogledu broja korisnika i u pogledu ukupnih isplata za mirovine.

Uloga multinacionalnih kompanija (MNK) u hrvatskom gospodarstvu u osnovi je povezana s izravnim stranim ulaganjima (eng. FDI) jer je velika većina MNK-ova u inozemnom vlasništvu. Izravna strana ulaganja u Hrvatskoj prisutna su već tri desetljeća. Prema podacima Hrvatske narodne banke (HNB), Hrvatska je od 1993. godine privukla više od 30 milijardi eura inozemnih ulaganja. Unatoč prilično velikoj vrijednosti izravnih stranih ulaganja po glavi stanovnika (u usporedbi s ostalim zemljama srednje i istočne Europe), njihova se struktura prvenstveno temelji na *brownfield* ulaganjima, a nedostaje *greenfield* ulaganja. Izravna strana ulaganja u proizvodne djelatnosti bila su prilično slaba, pogotovo u usporedbi s drugim državama članicama poput Mađarske ili Slovačke. Sektori koji bilježe najviše stranih ulaganja jesu finansijske usluge (22,4 %), veleprodaja (8,8 %), nekretnine (6,7 %) i telekomunikacije (6,3 %). Poduzeća nastala izravnim stranim ulaganjima danas predstavljaju značajan udio u hrvatskom gospodarstvu i kroz ukupan prihod od prodaje, izvoza, zapošljavanja i kroz prihod od ulaganja. Ta poduzeća čine gotovo jednu trećinu ukupnih ulaganja u Hrvatsku i gotovo 40 % od ukupnog izvoza (Stojić, 2017). Najvažnije zemlje iz kojih dolaze investitori jesu Austrija, Nizozemska, Luksemburg, Njemačka i Italija.

Ekonomска recesija uzrokovana pandemijom bolesti COVID-19 snažno je utjecala na hrvatsko gospodarstvo. U prvoj polovici 2020. godine zabilježen je pad stvarnog BDP-a od 7,8 % u odnosu na prethodnu godinu. U prvom tromjesečju 2020. postignut je blagi realni godišnji rast od 0,4 %, dok je u drugom tromjesečju 2020. zabilježen nagli pad realnog BDP-a od 15,1 % u odnosu na isto razdoblje prethodne godine, što predstavlja prvi međugodišnji pad realnog BDP-a od prve polovice 2014. godine te najveći pad od 1995. godine kad su započele tromjesečne procjene BDP-a. I domaća i neto strana potražnja snažno su negativno pridonijele kretanju realnog BDP-a u prvoj polovici 2020. godine. Gledajući pojedine komponente na rashodnoj strani, najveći doprinos smanjenju stvarnog BDP-a u prvoj polovici 2020. godine donijelo je 25,6 %-tно smanjenje izvoza roba i usluga, prvenstveno zbog snažnog smanjenja izvoza turi-

stičkih usluga. Potrošnja kućanstava pala je za 6,8 %, a pad bruto investicija u osnovni kapital procijenjen je na 6,3 %. S druge strane, još veći pad realnog BDP-a u prvoj polovici 2020. godine ublažen je godišnjim smanjenjem uvoza roba i usluga za 17,5 %, a blagi pozitivan doprinos kretanju BDP-a uslijedio je zbog povećanja državne potrošnje od 2,7 %. Kriza najviše pogađa sektor turizma i prometa unatoč činjenici da je ukupan broj turista koji su posjetili Hrvatsku bio veći nego što se prvotno očekivalo na početku zatvaranja krajem ožujka 2020.

Slika 2. Realni rast BDP-a i doprinosi rastu (2013. – 2022.).



Izvor: Europska komisija (2016, 2019, 2020).

Pomoć za očuvanje radnih mesta koju je uveo Hrvatski zavod za zapošljavanje (HZZ) znatno je ublažila utjecaj krize uzrokovane pandemijom bolesti COVID-19 na trendove na tržištu rada. Podaci za prvu polovicu ove godine pokazuju rast nezaposlenosti, a prosječan broj registriranih nezaposlenih osoba na HZZ-u iznosio je 148,2 tisuće, što je porast od 8,3 % u odnosu na isto razdoblje 2019. godine. U istom razdoblju prosječna administrativna stopa nezaposlenosti iznosila je 8,9 %, što je za 0,7 % više nego u istom razdoblju prošle godine. Podaci o osiguranicima Hrvatskog zavoda za mirovinsko osiguranje (HZMO) pokazuju međugodišnje smanjenje broja osiguranika od 0,5 % u prvoj polovici 2020. godine, prvenstveno zbog međugodišnjeg smanjenja broja osiguranika u djelatnosti pružanja smještaja te pripreme i posluživanja hrane u visini od 13,3 %.

Tablica 1: Prognoza Europske komisije o glavnim makroekonomskim pokazateljima za Hrvatsku

		2019	mild HRK	Tek. cijene	% BDP-a	01-16	2017	2018	2019	2020	2021	2022	Godišnja postotna promjena
BDP		402,3	100,0	1,7	3,4		2,8	2,9	-9,6	5,7	3,7		
Privatna potrošnja		232,8	57,9	1,5	3,1		3,3	3,5	-6,7	4,3	2,9		
Javna potrošnja		79,4	19,7	1,5	2,2		2,3	3,4	3,5	1,5	1,0		
Investicije od roga: oprema		84,6	21,0	2,9	5,1		6,5	7,1	-8,2	5,5	4,5		
Izvoz (dobra i usluge)		-	-	-	-		-	-	-	-	-		
Uvoz (dobra i usluge)		209,1	52,0	4,0	6,8		3,7	6,8	-29,5	29,2	5,7		
Bruto nacionalni dohodak (BDP deflator)		210,1	52,2	4,0	8,4		7,5	6,3	-22,0	22,4	3,9		
Doprinos rastu BDP-a:		400,3	99,5	1,7	5,2		2,7	2,9	-10,1	5,3	3,7		
Domaća potražnja		2,0	3,3		3,7		4,1	4,9	4,1	2,9			
Zalihe		0,1	0,8		1,0		-1,4	-0,8	0,0	0,0			
Neto izvoz		-0,3	-0,6		-1,8		0,2	-3,8	1,6	0,8			
Zapošlenost		0,1	2,4		2,6		3,1	-1,4	0,3	0,6			
Stopa nezapošlenosti (a)		13,5	11,2	8,5	6,6		7,7	7,5	6,9				
Naknade zapošlenima		2,7	0,2	3,8	1,5		2,1	1,2	1,2				
Jedinični troškovi rada za cijelu ekonomiju		1,1	-0,7	3,6	1,7		11,4	-4,0	-4,0	-1,9			
Realni jedinični troškovi rada		-1,3	-1,9	1,6	0,2		10,6	-5,3	-5,3	-3,0			
Stopa štednje kućanstava (b)		-	8,1	8,5	8,6		-	-	-	-			
BDP deflator		2,5	1,2	2,0	1,5		0,7	1,4	1,4	1,2			
Harmonizirani indeks potrošačkih cijena		2,3	1,3	1,6	0,8		0,1	1,2	1,2	1,5			
Uvjeti trgovine robom		0,4	-1,3	-0,5	0,3		-0,8	-0,2	-0,2	-0,5			
Trgovinska bilanca (roba) (c)		-18,2	-17,1	-18,6	-19,3		-13,2	-18,9	-18,8				
Saldo tekuceg računa (c)		-3,9	3,9	2,4	3,1		-1,7	-0,4	0,3				
Neto pozajmljivanje (+) ili posudjivanje (-)		-3,1	6,1	5,2	7,3		0,5	2,1	3,3				
Saldo opće države (d)		-4,3	0,8	0,2	0,4		-6,5	-2,8	-3,2				
Ciklički prilagođen proračunski saldo (d)		-4,2	-0,1	-1,3	-1,7		4,0	-1,9	-3,2				
Bruto inozemni dug		-	-0,1	-1,4	-1,7		-4,0	-2,0	-3,2				
Bruto dug opće države (c)		55,0	77,5	74,3	72,8		86,6	82,4	81,7				

(a) u % ukupne radne snage. (b) bruto štednja podijeljena s prilagođenim bruto raspoloživim dohotkom. (c) u % BDP-a.

(d) u % potencijalnog BDP-a.

IZVOR : Europska komisija (2020, str. 131).

Prema EK-u, za 2020. godinu predviđao se pad realnog BDP-a u iznosu od 9,5 %, dok se u 2021. i 2022. godini previđa njegov rast od 5,7 % i 3,7 % (EK, 2020). Ni BDP, ni zaposlenost, ni nezaposlenost do kraja 2022. godine vjerojatno neće doseći razinu iz 2019. godine. Usto, neizvjesnost u pogledu oporavka nakon krize i dalje je visoka. Ne može se isključiti daljnje pogoršanje globalne pandemije, što bi moglo dodatno smanjiti optimizam potrošača i očekivanja poduzeća. Preostaje vidjeti u kojoj će se mjeri novi instrument oporavka EU-a (*Next generation EU* ili EU sljedeće generacije) upotrebljavati na odgovarajući i učinkoviti način za ubrzanje procesa oporavka. Bude li se pravilno iskoristio, mogao bi poduprijeti ulaganja i strukturne reforme te povećati konkurentnost i otpornost Hrvatske na buduću krizu.

### **3. Europska radnička vijeća: pitanje njihova utjecaja**

Institucije Europske ekonomске zajednice raspravljale su o planovima za razvoj mehanizama transnacionalnog informiranja i konzultiranja između predstavnika multinacionalnih kompanija i radnika još tijekom sedamdesetih godina 20. stoljeća. Međutim, do realizacije tog plana došlo je tek 1994. godine potpisivanjem Direktive o osnivanju europskog radničkog vijeća (1994/45/EZ). Ta vremenska odgoda proizlazi iz činjenice da je tijekom sedamdesetih i osamdesetih godina 20. stoljeća broj prekograničnih spajanja i preuzimanja kompanija u Europi bio relativno nizak, dok je devedesetih godina on utrostručen (Gohde, 2019). U skladu s Direktivom, temelj za osnivanje europskog radničkog vijeća (ERV-a) u svakoj kompaniji predstavlja zasebno pregovaračko tijelo u sklopu kojeg predstavnici središnje uprave i radnika pregovaraju o ugovoru o ERV-u. Svaki takav ugovor propisuje kolektivna prava i obaveze njegovih članova, tj. delegata. No delegati su, osim odredbama spomenutih ugovora, vezani i odredbama nacionalnog zakonodavstva koje je nastalo prijenosom spomenute Direktive (De Spiegeleare i Jagodzinski, 2015).

Otkad je 1996. godine spomenuta Direktiva stupila na snagu, broj ERV-ova postupno je rastao iako se tempo rasta zadnjih godina usporava. U skladu s podacima iz siječnja 2019. godine u Europi su bila aktivna 992 ERV-a, a njih 400 bilo je raspušteno zbog spajanja, usitnjavanja ili stečaja kompanija (Eurofound, 2020). Predviđa se da ERV-ovi danas u Europi okupljaju 17 milijuna radnika koje u ovim tijelima predstavlja oko 20 000 delegata. Ipak, prema nekim procjenama još uvijek iznimno velik broj multinacionalnih kompanija nije osnovao ta vijeća jer preferiraju alternativne oblike transnacionalnog informiranja i konzultiranja s radnicima. Dodatni problem predstavlja činjenica da je, prema podacima iz 2016. godine, 39 % aktivnih ERV-ova djelovalo na temelju tzv. ugovora prije Direktive. To su ugovori koji su sklopljeni prije nego li je Direktiva stupila na snagu te koji stoga odstupaju od nekih propisanih odredbi (Jagodžinski, 2016).

Godine 2009. došlo je do revizije Direktive o osnivanju europskog radničkog vijeća (2009/38/EZ) kako bi se unaprijedili neki operativni aspekti postojećeg zakonodavstva. Revidiranoj Direktivi predstojao je dugotrajan pregovarački proces između socijalnih partnera na europskoj razini, Europske konfederacije sindikata (eng. ETUC) i organizacije BusinessEurope. Pritom je ETUC inzistirao na jasnijem definiranju pojmova informiranja i konzultiranja, većim pravima za delegate ERV-ova u pogledu treninga i njihova slobodnog vremena kao i na vremenskom ograničavanju razdoblja u kojem zasebna pregovaračka tijela pregovaraju o ugovoru o ERV-u. Usto je ETUC inzistirao na smanjenju potrebnog minimalnog broja

zaposlenika kompanije od 1000 zaposlenika i barem 150 u svakoj državi Europskog ekonomskog prostora kao i na definiranju uloge sindikata u sklopu ERV-ova (De Spiegeleare i Waddington, 2017). S druge strane, organizacija BusinessEurope dosta se snažno protivila reviziji Direktive tvrdeći da bi to dovelo do centralizacije i usporavanja procesa donošenja odluka u multinacionalnim kompanijama, čime bi se smanjila njihova profitabilnost (Hahn *et al.*, 2017).

U konačnici, organizacija BusinessEurope nije uspjela blokirati reviziju Direktive, no kompromisno su iz finalnog teksta revidirane Direktive izbačene odredbe o vremenskom ograničavanju pregovaračkog procesa te smanjenom pragu u pogledu minimalnog broja zaposlenika (De Spiegeleare i Waddington, 2017: 295). Pitanje jače uključenosti sindikata donekle je adresirano odredbom o nužnosti informiranja europskih sindikalnih asocijacija kao što je ETUC o početku pregovaračkog procesa za određeni ERV. Jednako tako, pregovaračima je omogućeno da u sklopu pregovaračkog procesa traže pomoć od predstavnika europskih sindikalnih asocijacija (*ibid.*, str. 296). Ipak, neovisno o poboljšanjima revidirane Direktive, predstavnici radnika u sklopu brojnih ERV-ova i dalje smatraju da su procesi informiranja i konzultiranja daleko od optimalnih. Kao problem kod informiranja često se navodi zatrpanjanje članova ERV-ova ogromnom količinom informacija od kojih su samo neke relevantne. Kod konzultiranja problem često predstavlja nedovoljno kvalitetna informacijska podloga, prekratko vrijeme koje se stavlja na raspolaganje kao i činjenica da se konzultiranje često provodi nakon što su odluke već donesene (Hahn *et al.*, 2017). U vrijeme donošenja revidirane Direktive brojni europski sindikalisti izrazili su žaljenje što se u Direktivi ne spominje pregovaranje kao jedna od mogućih aktivnosti ERV-ova. Postoje sporazumi o ERV-ovima koji u određenim situacijama predviđaju aktiviranje pregovaračke funkcije ovog tijela, no riječ je o iznimkama (Kerckhofs, 2017: 280).

Prosječni mandat delegata ERV-a traje četiri godine, dok prosječni ERV ima između 10 i 30 članova (De Spiegeleare i Jagodzinski, 2015: 30). Delegati u ERV-u imenuju ili biraju lokalna radnička vijeća ili sindikati. Alternativno, delegate mogu birati zaposlenici na lokalnoj razini kompanije. U konačnici, način izbora člana ERV-a dosta ovisi o zakonskim rješenjima na razini svake pojedine države pa je stoga i praksa prilično neujednačena (Gohde, 2019). Revizijom Direktive iz 2009. godine propisano je da sve države moraju biti zastupljene s barem jednim članom u sklopu zasebnih pregovaračkih tijela koja pregovaraju s ERV-om te da se broj članova pojedinih država povećava sa svakih dodatnih 10 % u ukupnom broju zaposlenika kompanije (Kerckhofs, 2017: 283).

Brojni ERV-ovi biraju svojeg predsjednika, predsjedništvo, tajnika i izvršni odbor. U nekim sporazumima o ERV-ovima za navedene funkcije upotrebljava se krovni termin „ured ERV-a“. Članovi ureda ERV-a tijekom

cijele su godine u stalnom kontaktu s predstvincima središnje uprave te imaju ključnu ulogu u sastavljanju dnevnog reda svakog sastanka (Gohde, 2019). Prema istraživanju iz 2015., sastancima čak 47 % ERV-ova predsjedao je predstavnik središnje uprave, što se ne smatra najboljim rješenjem. No tu činjenicu ipak ublažava podatak da neovisno o tome tko predsjeda sastankom dnevni red u pravilu predstavlja ishod zajedničkih napora predstavnika radnika i poslodavca (De Spiegeleare i Jagodzinski, 2015: 32). U skladu s odredbama Direktive, sve materijalne i financijske troškove delegata ERV-ova obavezno podmiruje kompanija. Najveći broj sporazuma u tom smislu navodi troškove koji su dozvoljeni, dok manji broj (14 %) ERV-ovima osigurava poseban proračun, što im omogućava veću fleksibilnost (*ibid.*, str. 40). Sektorska distribucija ERV-ova dosta je neujednačena. Prema istraživanju iz 2015. godine tri četvrtine svih ERV-ova u Europi djelovalo je u sektorima metalne i kemijske industrije te usluga. U komparativnom smislu, zastupljenost ERV-ova u tekstilnoj industriji, prometu te javnim uslugama bila je bitno manja. Ipak, ta se razlika dobrim dijelom može objasniti različitom zastupljenosću multinacionalnih kompanija u pojedinim sektorima europske ekonomije (Hahn *et al.*, 2017).

Kad je riječ o tematskom sadržaju sastanaka, treba naglasiti da najveći broj ERV-ova raspravlja o ekonomskoj i financijskoj situaciji kompanije, korporativnim strategijama, evoluciji poslovanja i reorganizacionim pitanjima. U manjoj mjeri diskutiraju se pitanja kao što su zdravlje i sigurnost na radu, stručno osposobljavanje, jednake šanse i društvena odgovornost poduzeća. U konačnici, teme kao što su individualna pitanja, uvjeti rada, plaće i pregovaranje gotovo uopće ne nalaze svoje mjesto na sastancima ERV-ova jer je ta tematika vrlo različito pravno regulirana na nacionalnim razinama pojedinih država (De Spiegeleare i Jagodzinski, 2015).

Premda Direktiva o osnivanju europskog radničkog vijeća nalaže minimalno jedan plenarni sastanak godišnje, gotovo 30 % ERV-ova redovito se sastaje dva puta godišnje, pa i češće (*ibid.*, str. 34). Sastanci ERV-ova uvelike slijede standardizirani obrazac koji uključuje izvješće uprave o evoluciji poslovanja i budućim perspektivama te sva ostala pitanja na dnevnom redu sastanka. Većina redovitih sastanaka ERV-ova traje dva ili tri dana i strukturirana je u tri faze. U prvoj fazi predstavnici radnika interno se sastaju kako bi izmijenili informacije i pripremili se za informiranje i konzultiranje s predstvincima središnje uprave. U drugoj fazi sastaju se predstavnici središnje uprave i delegati u ERV-ovima kako bi diskutirali o točkama na dnevnom redu sastanka. Konačno, u trećoj fazi održava se interni evaluacijski sastanak predstavnika radnika (delegata) na kojem oni raspravljaju o rezultatima sastanka i donose odluke o dalnjim aktivnostima (Gohde, 2019: 45). Oko 86 % sporazuma o ERV-ovima sadržava posebne odredbe kojima se reguliraju dodatni sastanci u izvanrednim okolnostima kao što je restrukturiranje kompanije kada

su ugrožena radna mjesta. U većini takvih slučajeva radi se o plenarnim sastancima, no neki sporazumi u izvanrednim okolnostima predviđaju samo sastanke članova izvršnog odbora s delegatima ERV-ova iz pogodjenih zemalja ili bez njih. Kod trećine ERV-ova preuvjet za sazivanje sastanka zbog izvanrednih okolnosti predstavlja odobrenje središnje uprave (De Spiegeleare i Jagodzinski, 2015: 34).

Velik kamen spoticanja u radu ERV-ova pitanje je definiranja transnacionalnog djelovanja, zbog čega je čak pokrenuto i nekoliko sudskih sporova (De Spiegeleare i Waddington, 2017: 295). U revidiranoj Direktivi iz 2009. godine propuštena je prilika da se u transnacionalno djelovanje uključe postupci premještanja proizvodnih i uslužnih kapaciteta izvan zemalja Europskog ekonomskog prostora uslijed kojih dolazi do smanjenja zaposlenosti. Jednako tako, Direktivom nije propisano razdoblje tijekom kojeg bi trebalo implementirati mjere na transnacionalnoj razini da bi se smatralo da su one međusobno povezane (Gohde, 2019: 45). Sličan problem predstavlja i pitanje povjerljivosti koju, prema mišljenju brojnih predstavnika radnika, središnje uprave arbitrarno primjenjuju zbog nedovoljno preciznog definiranja u sklopu same Direktive. Prema istraživanju koje je na 500 članova ERV-ova proveo ETUC većina smatra da središnje uprave zloupotrebjavaju taj instrument kako bi ih spriječile da oni slobodno komuniciraju o određenim otvorenim pitanjima s radnicima na lokalnoj razini (*ibid.*, str. 49).

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Zbog neujednačene prethodne prakse revizijom Direktive iz 2009. godine uvedene su odredbe prema kojima su članovi ERV-a dužni izvijestiti o sastanku ERV-a. Posljedično, više od 70 % sporazuma o ERV-ovima sklopljenih nakon što je na snagu stupila revidirana Direktiva uključuju zasebne odredbe o izvođenju (De Spiegeleare i Waddington, 2017). Te odredbe u pravilu obavezuju lokalne uprave da delegatima u ERV-u osiguraju potrebnu infrastrukturu za dijeljenje informacija sa zaposlenicima. Takva infrastruktura može se odnositi na komunikaciju e-poštom, e-biltenima, diseminaciju izvođača internetom ili intranetom te na sastanke, tribine kao i posjete proizvodnim pogonima (Gohde, 2019: 63). Istraživanje sporazuma o ERV-ovima iz 2015. godine pokazalo je da u 71 % slučajeva delegati u ERV-u imaju propisanu obavezu obavijestiti sve radnike na lokalnoj razini kompanije o ishodima završenog sastanka. U oko 8 % slučajeva takva obaveza odnosi se i na članove lokalnih uprava i radničkih vijeća. Međutim, bez obzira na to što u najvećem broju sporazuma o ERV-ovima takva odredba ne postoji, prevladava praksa da delegati u ERV-ovima o ishodima sastanaka uz zaposlenike zasebno obavještavaju i lokalnu upravu (De Spiegeleare i Jagodzinski, 2015: 33).

Kad je riječ o učinkovitosti ERV-ova diljem Europe, slika je prilično neujednačena. S jedne strane, postoje brojni ERV-ovi koji su marginalizirani i svedeni na razinu instrumenata za diseminaciju informacija. S druge strane, neki ERV-ovi postali su moći akteri transnacionalnog socijalnog

dijaloga nadilazeći ovlaštenja koja im je pružila revidirana Direktiva. Usto, kao mjesto sastajanja nacionalnih predstavnika radnika i razmijene ideja, brojni uspješni ERV-ovi stvorili su dodanu vrijednost za zaposlenike iz zemalja u kojima sustavi industrijskih odnosa nisu dovoljno razvijeni (Mählmeyer et al., 2017: 227). Na toj liniji razmišljanja optimisti naglašavaju da ERV-ovi vode k europskom sustavu industrijskih odnosa jer posjeduju potencijal za razvoj paneuropskih politika i umrežavanja. Pesimisti pak smatraju da bi u budućnosti ERV-ovi mogli samo oslabjeti i potkopati postojeće sustave industrijskih odnosa te promovirati socijalni *dumping* (Hahn et al., 2017).

Istraživanja o ERV-ovima nakon finansijske krize iz 2008. godine pokazala su da je priroda transnacionalnog predstavljanja radnika vrlo fragilna. Ona uvelike ovisi o povjerenju, osobnim kontaktima i spremnosti na suradnju svih uključenih aktera. Zbog ekonomske nesigurnosti koju je donijela kriza u godinama koje su uslijedile brojni ERV-ovi napravili su korak unatrag u odnosu na ranije ostvaren stupanj suradnje, često tragajući za nacionalnim rješenjima. Evidentirani su brojni primjeri narušavanja ostvarene kulture solidarnosti i međusobnog povjerenja (*ibid.*, str. 239).

Kako bi se prevladala ovisnost ERV-ova o motivaciji i entuzijazmu pojedinaca, koja je nakon 2008. osobito došla do izražaja, među stručnjacima postoji konsenzus da je potrebno uložiti više napora u razvoj odgovarajućih treninga za nove članove tih tijela. Cilj takvih treninga trebao bi biti učenje o organizaciji kako bi se postigla što bolja integriranost novih članova. Usto, kako su važna i specifična stručna znanja iz područja kao što financijsko poslovanje ili pravo društava koja olakšavaju razumijevanje i rad novih članova (De Spiegelaere i Waddington, 2017). Dobrom praksom kad je riječ o treninzima pokazalo se definiranje broja dana u sporazumima koje delegati mogu provesti u treningu. Jednako tako, grupni treninzi pokazali su se osobito učinkovitima jer, osim širenja specifičnih znanja, pridonose i boljoj socijalizaciji novih delegata (Ghode, 2019: 77). Svakako je pozitivno da više od dvije trećine sporazuma ERV-ova potpisanih nakon stupanja na snagu revidirane Direktive sadržava odredbe o pravu delegata na trening (De Spiegeleare i Jagodzinski, 2015: 38).

## **4. Institucionalni i pravni okvir za rad europskih radničkih vijeća u Hrvatskoj**

### **4.1. Industrijski odnosi u Hrvatskoj**

Industrijske odnose u Hrvatskoj na svim razinama obilježavaju fragmentacija sindikalne scene i jedinstvo poslodavaca. U 2015. godini bilo je registrirano više od 600 sindikata, od kojih je njih oko 150 bilo učlanjeno u četiri reprezentativne sindikalne središnjice. U 2013. godini, kada je provedeno zadnje prebrojavanje, četiri reprezentativne sindikalne središnjice imale su ukupno 365 412 individualnih članova (Šeperić, 2016). Ipak, 2018. godine broj reprezentativnih središnjica smanjen je na tri. Što se poslodavaca tiče, Hrvatska udruga poslodavaca (HUP) obuhvaća oko 5000 poduzeća koja zapošljavaju više od 50 % radnika u privatnom sektoru, odnosno gotovo 400 000 radnika. Stoga je HUP na nacionalnoj razini jedini relevantan socijalni partner na strani poslodavaca. Međutim, unutarnja struktura HUP-a ne poklapa se uvijek sa strukturom sindikalnih organizacija, što slabi socijalni dijalog na granskoj razini. Procjenjuje se da je opća sindikalna gustoća u Hrvatskoj oko 26 %, s trendom opadanja (Šeperić, 2018). Krajem 2014. godine kolektivni ugovori uređivali su prava oko 53 % radnika u usporedbi s oko 61 % radnika 2009. godine (Bagić, 2016). Većinu kolektivnih ugovora predstavljaju ugovori na razini poduzeća. Ipak, većina radnika nije obuhvaćena takvim ugovorima već granskim od kojih su neki odlukom ministra rada prošireni na čitav sektor. Gospodarsko-socijalno vijeće (GSV) predstavlja najviši oblik tripartitnog socijalnog dijaloga u zemlji. To je savjetodavno tijelo koje čine predstavnici vlade, reprezentativne udruge poslodavaca više razine te sindikalnih središnjica koje ispunjavaju uvjete reprezentativnosti. Slabljenje socijalnog dijaloga kao instrumenta pri donošenju odluka može se promatrati kao posljedica gospodarske krize kada je vlada učestalo posezala za unilateralnim odlukama.

Tijekom procesa pristupanja Europskoj uniji Hrvatska je morala uskladiti svoje zakonodavstvo s pravnom stečevinom EU-a te su se u području radno-pravnih odnosa dogodile velike promjene. Socijalni partneri sudjelovali su u procesu prijenosa europskog zakonodavstva u nacionalno zakonodavstvo u vrijeme pristupnih pregovora te u tome i dalje sudjeluju. Promjene u zakonodavstvu nisu se nužno provodile u samom segmentu industrijskih odnosa jer je to područje u nadležnosti država članica. Međutim, u vrijeme pristupanja dogodile su se brojne izmjene Zakona o radu, od kojih su neke bile uvjetovane usklađivanjem s pravnom stečevinom EU-a. Promjene su neizravno utjecale i na industrijske odnose jer su se pojedinim odredbama nastojali potaknuti kolektivni pregovori o nekim pitanjima.

U pogledu radnog vremena uvedene su odredbe koje su osiguravale dodatnu fleksibilnost radnog vremena kroz kolektivne ugovore kako bi se sindikate i poslodavce potaknulo na kolektivno pregovaranje. Ipak, usklađivanje s Direktivom o radnom vremenu nije pratilo načelo da se ne smilju unazaditi prava radnika. Odredbe o radu na određeno vrijeme značajno su fleksibilizirane i otada Hrvatska bilježi značajan porast rada na određeno vrijeme. Dijalog je potaknut i u domeni minimalne plaće. Prvi zakon o minimalnoj plaći donesen je 2008. godine, a onda se zakonskim odredbama poticalo socijalne partnere da pregovaraju o minimalnoj plaći ako žele odstupiti od onoga što zakon propisuje. Tijekom procesa harmonizacije zakonodavstva bilo je nužno fleksibilizirati i neka druga područja osim radnog vremena, primjerice kolektivno otpuštanje viška radnika, suodlučivanje radnika i radnička vijeća. S druge strane, prava su poboljšana u određenim segmentima nacionalnog zakonodavstva (npr. godišnji odmori).

## **4.2. Pregled statusa Direktive o ERV-u u hrvatskom zakonodavstvu**

Godine 2009., kada je u pregovorima s EU-om usklađivanje Zakona o radu bilo uvjet za zatvaranje poglavlja 19., Socijalna politika i zapošljavanje, u tadašnji su zakon unesene odredbe Direktive o europskom radničkom vijeću. No te su odredbe stupile na snagu tek 2013. godine kad je Hrvatska pristupila u EU-u. Prenošenjem spomenute Direktive u nacionalno zakonodavstvo radnici su danom pristupanja Hrvatske u EU-u stekli pravo sudjelovati u odlučivanju u sklopu ERV-a ili preko (jednog ili više) postupaka obavješćivanja i savjetovanja o pitanjima transnacionalnog karaktera. Usvajanjem Zakona o izmjenama i dopunama Zakona o radu iz 2013. godine nacionalno zakonodavstvo u potpunosti je usklađeno i s odredbama revidirane Direktive o osnivanju ERV-a (NN, 73/13). Kasnije je jedan od ciljeva bio i normativno rasterećenje Zakona o radu od odredbi kojima se uređuje postupak sudjelovanja radnika u odlučivanju na transnacionalnoj razini. Zbog toga je 2014. godine posebnim zakonom u nacionalno zakonodavstvo prenesena revidirana Direktiva o osnivanju ERV-a (NN 93/14). Konačno, ovaj *lex specialis* doživio je 2017. godine daljnje manje izmjene i dopune radi usklađivanja s novim europskim zakonodavstvom te je pritom preuzeo još jednu novu direktivu EU-a.<sup>1</sup>

U skladu s hrvatskim zakonskim okvirom, osnivanje Europskog radničkog vijeća provodi se u nekoliko koraka: (i) na inicijativu radnika, predstavnika radnika ili središnje uprave podnosi se zahtjev za pokre-

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<sup>1</sup> Radilo se o Direktivi 2015/1794 Europskog parlamenta i Vijeća (od 6. listopada 2015.) o izmjeni direktiva 2008/94/EZ, 2009/38/EZ i 2002/14/EZ Europskog parlamenta i Vijeća te direktiva Vijeća 98/59/EZ i 2001/23/EZ u pogledu pomoraca.

tanjem pregovora o osnivanju Europskog radničkog vijeća, (ii) osniva se pregovarački odbor; (iii) saziva se konstituirajući sastanak pregovaračkog odbora; (iv) zaključuje se sporazum o osnivanju ERV-a ili o pokretanju drugog postupka sudjelovanja radnika u odlučivanju (NN 93/14, NN 127/17). Postupak pregovora o osnivanju Europskog radničkog vijeća mora se okončati u roku od tri godine od podnošenja zahtjeva za početak pregovora. Ako se u navedenom roku ne uspije zaključiti sporazum o osnivanju Europskog radničkog vijeća, tada se primjenjuju tzv. supsidijarna pravila (*ibid.*). U Hrvatskoj ne postoji poslodavac kod kojeg je osnovan ERV prema našem zakonu. Sve ERV-ove koji djeluju u Hrvatskoj osnovale su inozemne multinacionalne kompanije koje posluju i na teritoriju Hrvatske (intervju, MRMS, 2020).

Čini se da sindikati i poslodavci nisu obraćali posebnu pozornost na prijenos Direktive o ERV-u u naše zakonodavstvo jer tada Hrvatska još nije bila članica EU-a pa stoga delegati iz Hrvatske nisu mogli sudjelovati u radu ERV-a, osim kao promatrači (intervju, SGH, 2020). Godine 2014. uvedena je zakonodavna obaveza izvješćivanja Ministarstva rada o imenovanim predstavnicima (delegatima) iz Hrvatske u ERV-u.

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Kad je riječ o dosljednosti prijenosa Direktive o ERV-u u hrvatsko zakonodavstvo, pojedini hrvatski sindikati ocjenjuju je lošom. Navodi se da Direktiva nije prilagođena situaciji u Hrvatskoj, nego je samo prenesena u Zakon o radu, a potom je prerađena u poseban zakon kada su odredbe malo dorađene (intervju, MATICA, 2020). Nakon što je Direktiva o ERV-u prenesena u hrvatsko zakonodavstvo, korpus europskog zakonodavstva koji se odnosi na ERV s vremenom se proširio te je obuhvatilo procese uključivanja radnika u suodlučivanje. Međutim, prema mišljenjima nekih stručnjaka, te su zakonske nadopune u Hrvatskoj implementirane bez dovoljno promišljanja. Stoga su pojedina pitanja i snaga djelovanja ERV-ova suženi u okvire komunikacije, obavlješćivanja i savjetovanja, a bez mogućnosti stvarnog utjecanja na donošenje odluka (fokus-grupa poslodavaca, 2020).

Direktiva o ERV-u hrvatskim poslodavcima nije primarna jer se na temelju postojećih zakonskih odredbi suradnja zaposlenika i poslodavca odvija isključivo kroz lokalna radnička vijeća. Uloga poslodavaca u Hrvatskoj jest da kroz lokalno radničko vijeće informiraju ERV o svim pitanjima koja oni smatraju relevantnim za položaj radnika u Hrvatskoj (intervju, Erste banka, 2020). Stoga horizontalno okupljanje Hrvatske udruge poslodavaca oko ove teme još ne postoji, dok je prijenos relevantnih informacija s razine Udruge poslodavaca prema upravama i članovima prilično slab. Može se zaključiti da svijest o važnosti ERV-a i razvoj iskustvene prakse među poslodavcima u Hrvatskoj još nisu zaživjeli u dovoljnoj mjeri (fokus-grupa poslodavaca, 2020).

Pojedini sudionici istraživanja iskazali su kritički stav prema zaštiti članova ERV-a koju pruža hrvatski Zakon o europskim radničkim vijećima

ma. Ocjenjuje se kako ta zaštita nije jasno definirana na način da oni ne smiju biti diskriminirani zbog obnašanja svoje dužnosti. Stoga se u ERV iz Hrvatske često šalju članovi radničkog vijeća koji su zaštićeni na temelju drugih zakona (fokus-grupa sindikata, 2020). Drugo pitanje povezano je s izborom delegata za ERV. Prema nekim mišljenjima, provedba neposrednih izbora za ERV, kao što to regulira hrvatsko zakonodavstvo, možda i nije najbolje rješenje. Bolje bi bilo da se članstvo u ERV-u stavi u mandat radničkog vijeća (*ibid.*). Pitanje informiranja i konzultiranja kada se govori o finansijskim izvješćima trebalo bi objasniti i preciznije definirati, što ulazi u poslovnu tajnu. Konačno, pitanje tzv. pravodobnog informiranja u hrvatskom zakonodavstvu također nije dobro riješeno. Ocjenjuje se da bi za donošenje odluke trebalo dati rok od najmanje 14 dana kako bi radničko vijeće moglo provesti konzultacije, umjesto uobičajeno vrlo kratkog roka koji može biti i samo jedan dan (*ibid.*).

Prema podacima ETUI-jeve baze sporazuma o ERV-u, u studenome 2020. godine zabilježena su 44 sporazuma o ERV-u koji se odnose i na Hrvatsku. Od toga je 15 sporazuma sklopljeno prije 2013. godine, što znači da predstavnici podružnica iz Hrvatske nisu imali priliku utjecati na njihov sadržaj, dok su u procesu sklapanja preostalih 29 sporazuma sudjelovali i predstavnici iz Hrvatske. Najveći broj sporazuma (27) sklopljen je u području kemijske i/ili metalne industrije. U području uslužnih djelatnosti zabilježeno je 10 sporazuma (najvećim dijelom u području finančija i trgovine), dok su u području inače dobro razvijene prehrambene industrije zabilježena tek tri sporazuma. U području transporta, drvne industrije i graditeljstva zabilježen je manji broj sporazuma o ERV-u. U skladu s ovom analizom, ne čudi da su u problematiku povezana s ERV-om najbolje upućeni sektorski sindikati koji pokrivaju kemijsku industriju, metalnu industriju i finansijske usluge.

# **5. Interpretacija rezultata terenskog istraživanja: percepcija koristi Direktive o ERV-u s gledišta hrvatskih socijalnih partnera**

## **5.1. Uvodne napomene**

U nastavku su predstavljeni rezultati terenskog istraživanja koje je primarno bilo usmjereni na iskustva hrvatskih socijalnih partnera s radom europskih radničkih vijeća. Terensko je istraživanje zbog pandemije provedeno na daljinu (*online*) tijekom svibnja i lipnja 2020. godine. Sastojalo se od petnaestak intervjuja i dvije fokus-grupe (sa sindikatima i s poslodavcima). Pitanja koja su postavljana sudionicima fokus-grupa i intervjuiranim osobama u osnovi se mogu podijeliti u tri grupe: i) opća pitanja o povijesti industrijskih odnosa u sektoru i kompaniji; ii) iskustva s radom europskih radničkih vijeća; iii) evaluacija rada europskih radničkih vijeća.

Premda je gotovo jednak skup pitanja postavljen predstavnicima sindikata i poslodavaca, odgovori sindikata u pravilu su bili mnogo iscrpniji. Takav ishod bio je očekivan jer su predstavnici sindikata s kojima smo kontaktirali u pravilu bili angažirani kao delegati u ERV-ovima pa su stekli mnogo više iskustva u radu tih tijela. S druge strane, odnos poslodavaca s ERV-ovima više je formalan pa poslodavci kojima smo se obratili na neka pitanja nisu niti mogli iscrpnije odgovoriti. Izjave iza kojih ne navodimo izvore u pravilu predstavljaju usuglašeni stav svih ili velikog dijela sudionika terenskog istraživanja. Institucije iz kojih dolaze ispitanci posebno su istaknute među izvorima.

O zaključcima terenskog istraživanja raspravilo se sa socijalnim partnerima i stručnjacima iz Njemačke koji se bave radom europskih radničkih vijeća ili izravno sudjeluju u njihovu radu. Ta se aktivnost trebala provesti u sklopu višednevног studijskog boravka u Njemačkoj, no zbog pandemije je realizirana na daljinu (*online*) tijekom rujna i listopada 2020. godine.

## **5.2. Kvaliteta sporazuma o ERV-u**

U sklopu provedenog terenskog istraživanja predstavnici sindikata gotovo su u podjednakom omjeru pozitivno, tj. negativno ocijenili kvalitetu sporazuma o ERV-u kompanija iz kojih dolaze. Pozitivne ocjene uglavnom su obrazlagali stavom da sporazum omogućuje međusobnu interakciju, isticanje lokalne problematike, dobivanje odgovora na određena pitanja kao i aktivnu ulogu sindikata u procesima odabira i imenovanja delegata u ERV-u ako je sindikat reprezentativan, kvalitetan i solidaran. Nadalje, kao važni aspekti kvalitete sporazuma o ERV-u istaknuti

su: dobro definirana dinamika sastanaka, tehnička podrška, kvalitetna regulacija finansijskih pitanja i pitanja povjerljivosti kao i osiguranje istinske podrške uprave.

Negativne ocjene u pogledu kvalitete sporazuma o ERV-u uglavnom su obrazlagane lošom praksom, tj. nekvalitetnom suradnjom i nejednakom mogućnošću utjecaja pojedinih zemalja na odluke ERV-a. Nadalje, pokazalo se da se nekim sporazumima o ERV-u nije uspjelo spriječiti donošenje selektivne odluke pri restrukturiranju poduzeća kada je zaposlenost u matičnoj zemlji kompanije očuvana na štetu zaposlenosti u Hrvatskoj. Dio predstavnika sindikata nije bio upoznat sa specifičnostima predmetnih sporazuma o ERV-u. Pokazalo se da većina predstavnika sindikata smatra da uključenost sindikata predstavlja važan čimbenik kada se govori o kvaliteti sporazuma o ERV-u jer tek njihova neovisna pozicija osigurava istinsko zalaganje za interese radništva. Za razliku od drugih aktera, sindikati imaju na raspolaganju različite instrumente kolektivnog pritiska poput mogućnosti sazivanja i vođenja štrajka.

Razmatrajući pitanje sporazuma o ERV-u, predstavnici poslodavaca istaknuli su da je Direktivom o ERV-u postupno uređeno kako će se doći do sporazuma. Ako se ne može doći do sporazuma, dolazi do postupne primjene minimuma prava iz Direktive, što su neke države različito uredile u svojem zakonodavstvu. Sama Direktiva o ERV-u strukturirana je na način da je središnja točka zakonodavstvo društva osnivača. Stoga u slučaju da se ne dogovori sporazum dolazi do primjene odredbi zakonodavstva društva osnivača. Ipak, jednom kad je pokrenut postupak osnivanja ERV-a, svima je u interesu da se zaključi sporazum kako bi se uredila pitanja funkcioniranja tog tijela te modaliteti provedbe obavješćivanja i savjetovanja (fokus-grupa poslodavaca, 2020). Zbog toga je sporazum o ERV-u usmјeren na zajedničke principe i smjernice rada, dinamiku sastanaka te ostala važna pitanja poput funkcija, prava i obveza delegata u ERV-u. Usto je važno da sporazum omogućava promoviranje vrijednosti, stavova i kulture u određenoj grupaciji. Predstavnici poslodavaca naglašavaju da se sporazum o ERV-u ne odnosi na lokalnu problematiku, već samo na onu transnacionalnu. Lokalna problematika regulirana je nacionalnim zakonodavnim okvirom jer se porezni i finansijski tretmani razlikuju od zemlje do zemlje. Iskorak prema boljem razumijevanju sporazuma o ERV-u, ističe se, predstavlja potpisivanje zasebnog pravilnika kojim se reguliraju prava delegata u ERV-u (intervju, Strabag BRVZ, 2020).

Poslodavci ističu da je ideja o ERV-u utemeljena na procesnom uređenju odnosa te da je njihova primarna funkcija informativna i u jednom dijelu savjetodavna, bez funkcije suodlučivanja. Središnjoj upravi nije cilj stavljanje ključnih pitanja na dnevni red sastanaka ERV-a jer se to ostavlja na nacionalnoj razini ili nekoj drugoj centralnoj točki. Naglašavaju da je temelj sastanka ERV-a komunikacija, predstavljanje poslovnih odluka i poslovnih planova (fokus-grupa poslodavaca, 2020).

### 5.3. Dinamika rada ERV-ova

U većini slučajeva sastanci ERV-ova održavaju se dva puta godišnje i prosječno traju od dva do tri dana. Inicijativa za održavanje sastanka dolazi od matične kompanije, uglavnom preko Odjela za ljudske potencijale ili Tajništva, ili poziv upućuje izravno predsjednik ERV-a matične kompanije. Formiranje dnevnog reda sastanka odvija se prema unaprijed utvrđenim postupcima poput popunjavanja standardiziranog upitnika koji obuhvaća i prijedloge tema iznesenih na prethodnom sastanku (intervju, Erste banka, 2020). Ipak, koncept formiranja dnevnog reda sastanaka razlikuje se od kompanije do kompanije. Tako se negdje dnevni red formira u suradnji s delegatima dopunama nacrta dnevnog reda koji sastavi Upravni odbor ERV-a (intervju, RBA Hrvatska, 2020). Drugdje se pitanja za sastanke dogovaraju se tijekom cijele godine te se prije samog sastanka šalju upravnom odboru ERV-a (intervju, IKEA Hrvatska, 2020 i Colas, 2020). U nekim slučajevima postoje smjernice matične kompanije o razradi dnevnog reda i tema na sljedećim sastancima pa centrala ERV-a dnevni red sastavlja na temelju tih smjernica (intervju, HT, 2020 i A1, 2020). Dosadašnja praksa pokazala je da nije dobro ne pripremiti se za sastanke ili iznenaditi upravu s pitanjima jer se u tom slučaju odgovori ne dobivaju odmah (intervju, IKEA Hrvatska, 2020).

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Tijekom dana određenih za sastanke ERV-a predstavnici uprave matične kompanije prisutni su na jednom sastanku, najčešće drugom. Prvi sastanak služi za izlaganja delegata ERV-a, delegiranje pitanja predsjedniku ERV-a i internu diskusiju svih delegata ERV-a, dok drugog dana predstavnici uprave drže svoja izlaganja i diskutiraju o postavljenim pitanjima. Treći dan rezerviran je za razgovore među delegatima te za doношење i usvajanje zaključaka sastanka. Postoje i primjeri gdje najprije izlaže uprava, nakon čega slijede diskusija, interna diskusija među delegatima te potom slijede zaključci (intervju, RBA Hrvatska, 2020; General Electric Hrvatska, 2020; Erste banka, 2020). U nekim kompanijama članovi uprave prisutni su na većini sastanaka.

Sastanci se uglavnom održavaju u zemlji u kojoj se nalazi sjedište kompanije. Ako se sastanci održavaju više puta godišnje, tada se obično jedan od tih sastanaka održava u zemlji sjedišta kompanije, dok se drugi, po principu rotacije, održavaju u nekoj od ostalih zemalja. Delegati većinom raspravljaju o unaprijed poznatim temama kao i o rezultatima rada na lokalnoj razini. Sindikati ističu da se u sklopu sastanaka ponekad i otvoreno raspravlja s predstvincima uprave, kod čega može biti prisutan i aspekt konzultiranja. Kad je riječ o pitanjima otpuštanja ili pitanjima koja se odnose na barem dvije zemlje, poslodavac je obvezan provesti savjetovanje. U jednom slučaju opisan je postojeći koncept savjetovanja i njegova primjena. Ono se odvijalo posredstvom radne grupe predstavnika iz predmetne zemlje i radne grupe stručnjaka do pet ljudi (intervju, HT, 2020).

Pri ocjeni kvalitete transnacionalne suradnje u sklopu sastanaka ERV-a sindikati su podijeljeni te je podjednako ocjenjuju dobrom i lošom. Kad je riječ o lošoj praksi, susreću se odgovori da postoje jezične prepreke u komunikaciji te da finansijski podaci i izvješća središnje uprave ponekad nisu pravovremeni. U nekim je kompanijama suradnja u širim transnacionalnim regijama iznimno loša jer je sindikalna aktivnost u pojedinim zemljama vrlo slaba. Zbog nekvalitetne komunikacije sindikati su ponekad primorani predviđati stavove i odluke središnje uprave na temelju pokazatelja o ulaganjima u doškolovanje zaposlenika, investicijama i novim zapošljavanjima (fokus-grupa sindikata, 2020).

S druge strane, brojni su primjeri dobre prakse kada se radi o kvaliteti transnacionalne suradnje. Primjerice, moguće je predstavnike uprave zamoliti da iziđu iz dvorane dok delegati, od kojih su mnogi ujedno i predstavnici sindikata, ne usuglasne stavove. Općenito se ističe da je komunikacija u poduzećima koja imaju dobro organizirane sindikate jača i kvalitetnija jer sindikati, za razliku od drugih predstavnika, imaju mogućnosti formalnog pritiska. Postoje i primjeri udruživanja sindikalnih snaga na razini grupe kako bi se podržali radnici na specifičnoj lokalnoj razini (intervju, HT, 2020). Ispitanici naglašavaju da je vrijednost ERV-a mnogo veća u pogledu razmjene informacija i povezivanja ljudi nego što je stvaran utjecaj ERV-a na krajnji ishod određenih odluka i politika. Direktiva je, kaže se, kvalitetna kada ju promatramo kroz aspekt obavješćivanja, no isto se ne može reći po pitanju savjetovanja (intervju, SBFH, 2020).

Predstavnici poslodavaca slažu se da se transnacionalna suradnja može donekle razlikovati ovisno o tome doživljava li središnja kompanija sebe kao autoritet koji nadzire i kontrolira lokalne kompanije ili svoju ulogu vidi u pružanju pomoći pri podizanju lokalnih kompanija primjerima najbolje prakse. Poslodavci su podijeljeni u pitanju transnacionalne suradnje te s jedne strane navode da je ona na visokoj razini i dobro organizirana, da postoji konstruktivna informacijska suradnja i međusobno uvažavanje. S druge strane, navode se primjeri gdje je prijenos informacija i znanja slabo ili nedovoljno razvijen. Nadalje se navodi da funkcija ERV-ova u Hrvatskoj nije dovoljno sazrela u kontekstu povezivanja kompanija i razvoja iskustvene prakse (fokus-grupa poslodavaca, 2020).

Predstavnici sindikata i poslodavaca ističu da je najčešći oblik informiranja radnika stavljanje obavijesti na oglasnu ploču. U nekim slučajevima to je i jedini način informiranja. Istaknuli su i primjere informiranja o ishodima sastanaka ERV-a preko radničkog vijeća, e-poštom, na Facebook stranici te slanjem službenog e-letka (jednom do dvaput godišnje). Jednako tako, brojni su primjeri upotrebe intraneta kroz koji se plasiraju najnovije informacije i obavijesti s održanih sastanaka. Upotrebljavaju se i nove tehnologije u komunikaciji poput virtualnih sastanaka sa zaposlenicima ili virtualnih tribina. U nekim slučajevima moguća je i izravna

komunikacija s radnicima u vezi sa sastancima ERV-a te radnici mogu uputiti prijedloge i sugestije. No postoje i primjeri slabe diseminacije informacija u obliku kratkih zapisnika sa sjednica ERV-a koji su isključivo usmjereni na zaključke (fokus-grupa sindikata, 2020 i fokus-grupa poslodavaca, 2020). U nekim slučajevima, kada se radi o bitnim poslovnim promjenama, zabilježena je i praksa savjetovanja tijekom kojeg radničko vijeće ima osam dana da se očituje (intervju, Erste banka, 2020).

Kao problem sindikati navode učestalo kategoriziranje informacija sa sastanaka ERV-ova kao povjerljivih, što onemogućava kvalitetno informiranje radnika. No ovdje je potrebno istaknuti pozitivnu ulogu hrvatskog zakonodavstva prema kojemu delegat u ERV-u ima obvezu informiranja zaposlenika o važnim aspektima sastanka. Ako delegat procijeni da su teme na sastancima relevantne za zaposlenike, ima i pravo i obvezu informiranja tako da opiše i prepriča zaposlenicima o čemu se radi bez prosljedivanja samog dokumenta (intervju, HT, 2020). Međutim, dok se predstavnici sindikata žale na pretjeranu upotrebu instrumenta povjerljivosti, poslodavci to drugačije vide. Oni naglašavaju da Direktiva o ERV-u i zakonodavni okvir ostavljaju dostatan prostor za klasifikaciju informacija kao povjerljivih. Dio informacija ima povjerljiv karakter. To se, primjerice, odnosi na finansijska izvješća koja bi bez aktiviranja odredbi o povjerljivosti mogla prije doći do radnika nego do dioničara ili investitora. Stoga predstavnici poslodavaca naglašavaju da je zadatak delegata u ERV-u prikupljanje informacija prije nego što one postanu dostupne ne lokalnoj razini kako bi se formirao stav. Detaljno informiranje radnika nije uvijek optimalno rješenje jer su neki zaključci složeni i ne moraju se detaljno proslijediti radnicima (fokus-grupa poslodavaca, 2020).

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Resursi koji se stavlju na raspolaganje predstavnicima sindikata uglavnom su finansijske naravi, u obliku financiranja troškova prijevoza i smještaja za delegate kada je riječ o sastancima ERV-a, dodatnih edukacija za delegate, potpora za učenje stranih jezika, podmirivanja troškova prevoditeljskog tima itd. Troškove organizacijskog sastanka najčešće pokriva matična kompanija. Međutim, u nekoliko primjera istaknuto je da se troškovi sastanka pokrivaju zajednički, npr. dnevnice i troškovi puta idu na teret lokalne kompanije, a troškove smještaja i dodatne troškove pokriva organizator sastanka.

Teme koje se razmatraju na sastancima ERV-ova raznovrsne su i pokrivaju poslovne i finansijske rezultate kompanija, razvojne strategije, tehnološke promjene kao i određene transformacije u poslovanju. Pokrivaju se i specifična područja poput pitanja zaštite na radu. Diskusija se često vodi i o započetim aktualnim projektima koji su za poduzeće globalno važni. Problem iz perspektive sindikata predstavlja činjenica da zakonodavni okvir nije jednak za sve države pa se brojna pitanja iz područja radno-pravnih odnosa ne mogu u potpunosti ujednačiti. Za transnacionalna pitanja (npr. zaštita na radu ili ženske kvote) pokušavalo se

u određenim primjerima predložiti jednako rješenje za sva poduzeća. U nekim se slučajevima otišlo korak dalje usvajanjem izjava, sporazuma i kodeksa kojima se promovira ujednačavanje praksi i standarda na razini čitave grupacije. Tako se može osigurati pravo na rad od kuće jedan dan u tjednu, dodatne liječničke preglede ili pak sudjelovanje u edukacijama. Ponekad su takvi dokumenti „mrtvo slovo na papiru”, no u većini slučajeva oni podrazumijevaju razrađen način primjene i kontrole (fokus-grupa sindikata, 2020).

Odgovori na lokalna pitanja dobivaju se pojedinačno, a razmatranje prava i statusa pojedinih zaposlenika nije moguće zato što multinacionalne kompanije ne posluju u okviru jednog zakonskog okvira (intervju, Erste banka, 2020). Posljedica pandemije uzrokovane bolešću COVID-19 jest održavanje sastanaka ERV-a na daljinu (*online*) te pojačan fokus na zaštitu zdravlja i buduće prioritete poslovanja u novonastalim uvjetima (fokus-grupa poslodavaca, 2020). Važno je istaknuti da uz službeni postoji i neslužbeni dio sastanaka ERV-a na kojem se razmjenjuju iskustva pa delegati mogu dobiti uvid u transnacionalne probleme lokalnih kompanija poput pitanja zaštite na radu. Sindikati i poslodavci u jednakoj mjeri ističu problem jezičnih barijera jer dok je prevođenje u sklopu službenog dijela sastanka ERV-a prilično uobičajeno, neslužbeni se dio sastanka ne prevodi, što otežava interakciju s delegatima koji ne vladaju dobro engleskim jezikom.

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## 5.4. Evaluacija rada ERV-ova

Sagledavajući uspjehe ERV-a, predstavnici sindikata navode da je ovaj instrument u brojnim zemljama poboljšao brzinu komunikacije između središnje uprave i lokalnih zaposlenika, čime je unaprijeđen socijalni dijalog i na lokalnoj razini. Postoje primjeri gdje je upravo zbog potrebe djelovanja u sklopu ERV-a pokrenut proces osnivanja radničkih vijeća na lokalnoj razini kompanije (intervju, RBA Hrvatska, 2020). Također, kao iznimno pozitivno postignuće navodi se sklapanje kolektivnih ugovora u zemljama u kojima oni ranije nisu postojali (intervju, Phoenix-Farmacija, 2020). U nekim izoliranim slučajevima na inicijativu delegata u ERV-ovi ma riješila su se pitanja koja su inače lokalna, kao što je neplaćanje prekovremenog rada u zemljama u kojima je sindikat slab ili ne postoji (fokus-grupa sindikata, 2020). Konačno, postoji konsenzus predstavnika sindikata o formalno-pravnoj pozitivnoj ulozi ERV-ova pri otpuštanju, kada središnja uprava mora aktivirati i savjetodavnu funkciju ovog tijela.

Kad je riječ o uspjesima, poslodavci navode da ERV-ovi predstavljaju dodatni kanal kroz koji su svi zaposlenici uključeni u rasprave o transnacionalno važnim temama. Pozitivni primjeri za lokalne kompanije uključuju provedbu različitih transnacionalnih projekata kompanija. Jedan takav uspješan projekt bio je *Zdravlje na radnom mjestu* koji je

uključivao različite edukativne aktivnosti (intervju, Strabag BRVZ, 2020). Važno je i ujednačavanje politike benefita za zaposlenike koja varira od zemlje do zemlje. Međutim, ističe se da je u tom slučaju teže jamčiti uspjeh zbog neujednačenog zakonodavnog i poreznog okvira. Kao pozitivan primjer poslodavci ističu pilot-projekt u tvrtki Heineken Hrvatska o finansijskom izvješćivanju i ubrzanju digitalizacije koji se testirao na području Hrvatske. U sklopu tog projekta razgovori s ERV-ovima uključivali su razmatranje učinaka projekta na kolektivna otpuštanja u Hrvatskoj i restrukturiranje poslovanja kompanije (fokus-grupa poslodavaca, 2020). Razmatrajući neuspjehi ERV-ova, predstavnici poslodavaca relativiziraju ih naglašavajući da se ključne odluke pri restrukturiranju, akviziciji ili prodaji ipak donose lokalno. Također ističu da sastanci ERV-ova ne postoje radi suodlučivanja već se na njima uglavnom diskutira, dok su konačne odluke prepuštene središnjoj upravi i lokalnim kompanijama (*ibid.*).

Među neuspjehi ERV-ova predstavnici sindikata ubrajaju činjenicu da se savjeti koje ERV-ovi daju često ne primjenjuju. Jednako tako, postoje primjeri kada savjetodavna funkcija ERV-ova nije aktivirana premda je trebala biti. Tako je u jednom slučaju došlo do otpuštanja 105 osoba usred krize uzrokovane pandemijom bolesti COVID-19, a protivno obavijesti koja je dva dana ranije došla od ERV-a (intervju, OMKO, 2020). Dodatni primjeri odnose se na prijenos administrativnih radnih mesta u drugu državu bez prethodno obavljenog savjetovanja, nenajavljene prodaje određenih podružnica i sl. Pri suzbijanju takvih kršenja problem je što je u Europi iznimno malo sudske prakse vezano uz ERV-ove (fokus-grupa sindikata, 2020). Među neuspjehi ERV-ova predstavnici sindikata ubrajaju i neriješeno pitanje pojmovnog razgraničenja između lokalnog i transnacionalnog djelovanja, uz učestala odstupanja zakonskih odredbi između pojedinih država. Predstavnici sindikata smatraju da uprave često transnacionalna pitanja pokušava prikazati kao lokalna. Tek se u kasnijim fazama zbog pritiska sindikata i ERV-ova u nekim slučajevima takva pitanja podižu na transnacionalnu razinu (intervju, IKEA Hrvatska, 2020).

Opća ocjena suradnje u okviru ERV-ova koju su dali predstavnici sindikata većinom je pozitivna. Na sastancima ERV-ova otvoreno se razgovara o problemima u pojedinim zemljama, pri čemu razvijenje zemlje nastoje pomoći manje razvijenima. Na sastancima se može prikupiti dosta informacija i razmijeniti iskustvo i dobra praksa. Komunikacija i povjerenje koje se ostvaruje s kolegama ocjenjuju se iznimno korisnima (fokus-grupa sindikata, 2020). Ipak, u pojedinim slučajevima suradnja u ERV-ovima ocjenjuje se nešto slabije nego prethodnih godina te je prosječna ocjena na fokus-grupi sindikata bila nešto niža od ocjene vrlo dobar. U tom se smislu ističe da je ERV kao instrument dobar i potreban, ali da danas treba nadogradnju jer će, ostane li u sadašnjem obliku, vrlo brzo izgubiti smisao (*ibid.*).

Predstavnici poslodavaca naglašavaju da ERV nije tijelo kroz koje zaposlenici lokalno mogu uspostaviti neku suradnju s poslodavcem. Suradnja zaposlenika i poslodavca odvija se isključivo kroz lokalno radničko vijeće. U tom smislu poslodavci smatraju da je ERV tijelo koje bi primarno trebalo imati svrhu educiranja članova lokalnih radničkih vijeća jer obično su delegati ERV-a ujedno i članovi radničkih vijeća. Ta edukacija ne bi smjela biti ograničena na radnička prava, već bi trebala šire zahvaćati u struku u kojoj se djeluje. Dakle, važno je poticanje znanja i kompetencija članova radničkih vijeća kako bi oni bili bolji partneri poslodavcu (intervju, Erste banka, 2020).

Za predstavnike sindikata opći problem Direktive o ERV-u jest njezina ograničenost. U tom se smislu zalaže za jačanje Direktive dalnjim razvojem europskog zakonodavstva kako bi prava koja iz nje proizlaze mogla biti bolje usmjerena i kvalitetnije provedena kroz nacionalno zakonodavstvo (intervju, SBFH, 2020). U sadašnjim je uvjetima uloga ERV-ova prvenstveno savjetodavna i formalna, bez stvarnog utjecaja na politike multinacionalnih kompanija (fokus-grupa sindikata, 2020). Predstavnici sindikata smatraju da se rad ERV-ova može unaprijediti tako da se povećaju kazne za prekršitelje, ujednači zaštita delegata od diskriminacije, kroz izbjegavanje izravnih izbora za delegate te, najvažnije, davanjem većih ovlasti ERV-ovima. Ocjenjuju da bi trebalo izbjegavati praksu da se na sastanke ERV-ova šalju zaposlenici iz Odjela za ljudske potencijale umjesto predstavnika radnika ili sindikata.

Nasuprot sindikatima, poslodavci smatraju da je pravni i institucionalni okvir u domeni ERV-ova odgovarajući. Naglašavaju da u Hrvatskoj treba raditi na razvoju dobrih praksi, usredotočiti se na detalje i raditi na razumijevanju ovog instrumenta. Kao problem ističu da jedan dio radničkih sindikata radi protiv bilo kakve vrste radničke participacije u kojoj sami ne sudjeluju. Kada se pišu zakoni, sindikati aktivno usmjeravaju stvari u pravcu smanjivanja važnosti radničkih vijeća jer smatraju da im instrument radničkog vijeća oduzima važnost. Kao dobar primjer u tom smislu navode njemačku praksu u kojoj postoji jasna podjela uloga pa sindikati imaju ulogu koja je više granska, dok je uloga radničkih vijeća više korporativna. To su uloge koje se međusobno ne isključuju i gdje nema prostora majoriziraju jedne strane (fokus-grupa poslodavaca, 2020).

Razmatrajući opću učinkovitost ERV-ova, predstavnici sindikata ističu da se pozitivan učinak ostvaruje samo тамо где постоје како радниčko vijeće и djelotvoran sindikat. То отвара могућност да прије доношења стратешких оdluka delegati u ERV-ovima kažu што misle о njima. Pritom se naglašava da sindikati i radnička vijeća nisu konkurenti već se nadopunjavaju. Samo sindikat može kolektivno pregovarati, а radničko vijeće može tražiti od uprave да ga se unaprijed obavijesti, što sindikat ne može. Iskustvo pokazuje da kada se predsjednik sindikata zalaže za нешто, poslodavac prema tome ima drugaćiji odnos nego u slučaju

kad zahtjev dolazi od člana radničkog vijeća koji iza sebe nema sindikat. (intervju, HT, 2020). Međutim, većina predstavnika sindikata smatra da multinacionalne kompanije osnivaju ERV-ove i radnička vijeća tamo gdje sindikati nemaju jak utjecaj, što ugrožava kvalitetu transnacionalnog socijalnog dijaloga i dovodi u pitanje sam smisao ovog instrumenta (fokus-grupa sindikata, 2020).

Predstavnici sindikata smatraju da bi se u cilju povećanja opće učinkovitosti ERV-ova trebao ujednačiti način na koji ovaj instrument shvaćaju poslodavci i sindikati. Poslodavci, kaže se, instrument doživljavaju prvenstveno kao obvezu i formu koja se mora zadovoljiti. Sindikati imaju iluziju da će dodatnim obavezama iz same Direktive prisiliti poslodavce da prepoznaju vrijednost i važnost demokracije na radnom mjestu. Stoga bi bilo važno da obje strane u instrumentu Europskog radničkog vijeća prepoznaju zajednički interes (intervju, RBA Hrvatska, 2020).

Prema mišljenju predstavnika poslodavaca, opća učinkovitost ERV-ova i perspektive utjecaja tog instrumenta na radne odnose u Hrvatskoj mogu se ocijeniti srednjom ocjenom. Smatraju da hrvatski sindikati ne razumiju u potpunosti ovaj instrument te da ga nedovoljno primjenjuju. Ističu da je ERV nužan instrument koji treba visoko vrednovati kao oblik povezivanja svih radnika u sklopu neke multinacionalne kompanije. Zaključno, ERV se među predstavnicima poslodavaca doživljava kako dobar okvir za uspostavljanje komunikacije i međusobnog povjerenja jer je u Hrvatskoj prisutna visoka razina nepovjerenja između poslodavaca i predstavnika radnika (fokus-grupa poslodavaca, 2020).

## 6. Zaključci i preporuke

### 6.1. Zaključci

Direktiva o osnivanju europskog radničkog vijeća donesena je 1994. godine kao odgovor na rastuću internacionalizaciju poslovanja kao i sve veću važnost multinacionalnih kompanija u ekonomskoj strukturi država članica EU-a. Direktiva se odnosi na sve kompanije s više od 1000 zaposlenika te barem 150 zaposlenih u drugoj državi članici. Direktivom se određuje da se zaposlenike u barem dvije države treba informirati i konzultirati kada se planiraju buduća zapošljavanja, promjene u organizaciji i proizvodnji kompanije, zatvaranje ili prodaja nekih poduzeća i sl. U skladu s Direktivom, multinacionalne kompanije na inicijativu uprava ili radnika osnivaju europska radnička vijeća kao posebna tijela u kojima su radnici čitave grupacije zastupljeni preko svojih delegata koji sudje-luju u procesu informiranja i konzultiranja s predstavnicima središnje uprave.

Godine 2009. Direktiva je revidirana kako bi se bolje definirali određeni pojmovi i unaprijedili neki operativni aspekti. Međutim, kriza iz 2008. godine negativno se odrazila na proces osnivanja novih ERV-ova koji je usporen, a istovremeno su u brojnim funkcirajućim vijećima primijećeni određena stagnacija i nazadovanja jer su se rješenja sve više tražila na nacionalnoj razini. Ipak, nakon više od dva i pol desetljeća Direktive o ERV-u teško je donositi opći sud o njezinoj učinkovitosti jer je praksa vrlo različita. S jedne strane, gotovo polovica multinacionalnih kompanija na području EU-a još uvijek nije osnovala ERV-ove. S druge strane, među funkcirajućim ERV-ovima istovremeno se nalaze primjeri moćnih aktera transnacionalnog socijalnog dijaloga kao i marginaliziranih tijela svedenih na puku diseminaciju informacija.

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Izgledno je da će pitanja ERV-ova biti sve važnija za Hrvatsku s obzirom na činjenicu da je u posljednjih desetak godina zemlja duboko integrirana u jedinstveno tržište EU-a, što je povećalo važnost i inozemnih i domaćih multinacionalnih kompanija. Izravna inozemna ulaganja predstavljaju gotovo trećinu svih investicija u Hrvatskoj te na njih otpada gotovo 40 % hrvatskog izvoza. Recesija izazvana pandemijom bolesti COVID-19 snažno se odrazila na hrvatsko gospodarstvo koje bilo je nezapamćene gubitke. Stoga je iznimno važna učinkovita primjena novog instrumenta ekonomskog oporavka *Nova generacija EU* u čijoj će implementaciji multinacionalne kompanije zasigurno igrati veliku ulogu.

Hrvatska je kao najnovija članica EU-a relativno kasno počela primjenjivati Direktivu o ERV-u, tek od 2013. godine. Stoga i ne čudi da zasad ne postoji nijedan ERV osnovan po hrvatskom zakonu. Pritom se misli na ERV koji bi osnovala multinacionalna kompanija sa sjedištem u Hr-

vatskoj. No bez obzira na to, zakonodavstvo koje je nastalo prijenosom Direktive o ERV-u primjenjuje se u nekim svojim odredbama kao što je način biranja delegata za ERV-ove, vezano uz modele informiranja sa sastanaka ERV-ova i sl. Hrvatski socijalni partneri različito ocjenjuju kvalitetu tog zakonodavstva, ali prevladava mišljenje da bi se ono moglo unaprijediti kako bi bolje ocrtavalo realnost djelovanja multinacionalnih kompanija u Hrvatskoj.

Predstavnici hrvatskih sindikata kao najveće uspjehe ERV-ova izdvajaju njihove posredne učinke. U to ubrajaju bržu komunikaciju između središnje uprave i lokalnih zaposlenika te unapređenje socijalnog dijaloga na lokalnoj razini kroz osnivanje radničkih vijeća, pa čak i sklanjanje kolektivnih ugovora tamo gdje ih ranije nije bilo. Pritom se često radilo o posljedicama transfera primjera najbolje prakse iz zemalja s duljom tradicijom industrijskih odnosa, što pokazuje da, suprotno uvriježenim stajalištima, djelovanje multinacionalnih kompanija može rezultirati i unapređenjem radno-pravnih odnosa na lokalnoj razini. Smatraju da ključ uspjeha ERV-ova predstavlja sindikalno organiziranje jer samo tamo gdje postoji jak sindikat ERV funkcionira kao nešto više od foruma za diseminaciju informacija. Predstavnici hrvatskih sindikata zalažu se za donošenje nove Direktive o ERV-u koja bi proširila ovlasti ERV-ova i dodatno obvezala poslodavce, osiguravajući tako zamjenu praksi zadovoljavanja puke forme, prisutnih u nekim kompanijama, istinskim transnacionalnim socijalnim dijalogom.

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Za razliku od hrvatskih sindikata, predstavnici hrvatskih poslodavaca rezervirani su prema ideji širenja ovlasti ERV-ova. Oni su zadovoljni postojećom funkcijom tih tijela koja je informativna i u jednom dijelu savjetodavna. U tom smislu ne vide ERV kao instrument za ujednačavanje položaja zaposlenika u različitim državama gdje grupacije djeluju. Za njih je ERV prvenstveno forum za jačanje transnacionalne komunikacije sa zaposlenicima te za širenje kulture i vrijednosti multinacionalnih kompanija. Usto, hrvatski poslodavci smatraju da ERV-ovi imaju važnu edukativnu ulogu. Smatraju da se tako mogu educirati delegati o vještinama i znanjima koja će im kao članovima lokalnih radničkih vijeća pomoći da postanu bolji partneri svojim lokalnim poslodavcima u doноšenju strateških odluka. U konačnici, poslodavci vide ERV kao dobar instrument za jačanje povjerenja između hrvatskih radnika i poslodavaca jer je u usporedbi s ostalim članicama EU-a to povjerenje trenutačno prilično narušeno.

## 6.2. Preporuke

### *Preporuke za hrvatske sindikate*

- Radnicima u multinacionalnim kompanijama treba pomagati i poticati ih da se organiziraju jer je njihov stupanj organizacije često ključan pri osnivanju europskih radničkih vijeća. Zakonski okvir radnicima zaposlenima kod poslodavca ili povezanih poslodavaca omogućuje pokretanje postupka utemeljenja pregovaračkog odbora za osnivanje ERV-a. Sindikati bi trebali osvijestiti to pravo među radnicima u multinacionalnim kompanijama jer je veliki broj ERV-ova u Europi osnovan upravo tako.
- Sindikati bi trebali organizirati edukacije za delegate u ERV-ovima jer se tako može spriječiti da predstavnici središnjih kompanija nameću dnevni red sastanka. Sindikati bi predstavnike ERV-ova trebali educirati i usmjeravati da na sastanke dolaze pripremljeni te da se na njima poнашају konstruktivno i proaktivno. Također je jako važno da delegati razvijaju odnos od povjerenja sa zaposlenicima u lokalnim kompanijama, uvijek vodeći računa o njihovim stavovima i prijedlozima.
- Delegate u ERV-ovima sindikati bi trebali poticati na iniciranje konkretnih koraka u cilju ujednačavanja praksi i standarda na razini čitave grupacije. To podrazumijeva usvajanje pravnih instrumenata kao što su izjave, sporazumi i kodeksi kojima se reguliraju određeni aspekti rada i zapošljavanja. Praksa je pokazala da se tako može unaprijediti položaj radnika u čitavoj grupaciji.

- Sindikalne središnjice i granski sindikati trebali bi mnogo jasnije artikulirati pitanje ERV-ova u javnom prostoru. Ta je tema slabo zastupljena u hrvatskoj javnosti i medijskom prostoru, što bi trebalo promjeniti ciljanim kampanjama. Cilj tih napora trebao bi biti podizanje razine svijesti o važnosti transnacionalnog socijalnog dijaloga. O problemu nepostojanja ERV-ova u multinacionalnim kompanijama sa sjedištem u Hrvatskoj trebalo bi javno raspravljati kako bi se poslodavce potaknulo na djelovanje u tom pravcu.

### *Preporuke za hrvatske poslodavce*

- Razumijevanje ERV-ova među hrvatskim poslodavcima nije dovoljno zaživjelo, pogotovo u smislu povezivanja kompanija i razvoja iskustvene prakse. Stoga bi u okviru HUP-a trebalo organizirati posebnu koordinaciju predstavnika kompanija iz Hrvatske koje imaju ERV-ove. Koordinacija bi kompanije koje zadovoljavaju uvjete za osnivanje ERV-ova trebala poticati na to u cilju jačanja transnacionalnog socijalnog dijaloga i ostvarivanja svih benefita koji tim putem dolaze.

- Visoka kvaliteta sastanaka ERV-ova zahtijeva angažman i sudjelovanje obje strane. Stoga bi poslodavci trebali osvijestiti činjenicu da među brojnim sindikatima postoji prilično nezadovoljstvo ishodima sastanaka ERV-ova. Kako bi se riješili lošeg imidža, poslodavci bi trebali mijenjati praksu u skladu s kojom se savjeti ERV-ova u pravilu ne uvažavaju. Jednako tako, ignoriranje procesa savjetovanja u slučajevima gdje je to zakonski propisano trebalo bi postati stvar prošlosti.

- Uspješan rad ERV-ova ovisi, među ostalim, o finansijskim i tehničkim resursima koje im poslodavci stave na raspolaganje. U multinacionalnim kompanijama u Hrvatskoj često se javlja problem nedovoljno dobro definiranih finansijskih i tehničkih obaveza između središnje kompanije i lokalnih kompanija o radu i organizaciji ERV-ova. To je prije svega problem nedovoljno preciznih formulacija u okviru sporazuma o ERV-ovima. Potrebno je riješiti to pitanje kako se rezultati rada ERV-ova ne bi dovodili u pitanje iz tehničkih razloga.

#### *Preporuke za europska udruženja sindikata*

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- Revidirana Direktiva o ERV-u osigurala je sudjelovanje europskih sindikalnih udruženja u pregovaračkom procesu za osnivanje ERV-ova. Jednako tako, pregovaračima je omogućeno da u sklopu pregovaračkog procesa traže pomoć predstavnika europskih sindikalnih asocijacija. Ipak, ovaj bi proces u budućnosti trebalo unaprijediti kako bi prijenos znanja između europskih sindikalnih udruženja i sindikata na lokalnoj razini kompanija poprimio sustavnije oblike.

- Europska udruženja sindikata trebala bi na razini EU-a lobirati za novu reviziju Direktive o ERV-u. U sklopu tog postupka trebale bi osigurati mnogo veće novčane kazne za prekršitelje zakonskih odredbi o radu ERV-ova. Takav je iskorak važan jer je praksa pokazala da multinacionalne kompanije ponekad radije plaćaju kazne nego da se pridržavaju zakona kada je riječ o ERV-ovima. Također bi sve multinacionalne kompanije koje do sada nisu osnovale ERV-ove trebalo obvezati da to učine. Trebalo bi prevladati situaciju u kojoj postoji mogućnost neosnivanja ERV-ova.

- ERV-ovi mogu biti uspješni samo ako su njihovi delegati educirani za posao koji rade. Educiranje delegata u ERV-ovima prečesto zanemaruju i lokalne kompanije sa svojim sindikatima i središnje uprave multinacionalnih kompanija. Zato bi europska udruženja sindikata u budućnosti trebala uspostaviti vlastiti sustav treninga i edukacije za nove delegate u ERV-ovima kojima će ih se educirati za funkciju koju obnašaju.

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NN – Narodne novine. Zakon o europskim radničkim vijećima. NN 93/14, 127/17

NN – Narodne novine. Zakon o minimalnoj plaći. NN 118/18

NN – Narodne novine. Zakon o radu. NN 73/13, NN 93/14

NN – Narodne novine. Zakon o reprezentativnosti udruga poslodavaca i sindikata. NN 93/14, 26/15



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## **Upitnik**

### **za vođenje intervjeta i fokus grupe s predstavnicima sindikata i poslodavaca**

#### ***Učinci pristupanja u EU na industrijske odnose***

1. Koji su glavni učinci pristupanja Hrvatske Europskoj uniji na području industrijskih odnosa (odnosi između poslodavaca/sindikata i zaposlenika)? Koja su poboljšanja nakon početka provedbe EU direktiva u ovom području?

#### ***Stupanj uključenosti socijalnih partnera u provedbu politika industrijskih odnosa***

1. Jeste li sudjelovali ili bili uključeni u proces transponiranja europskog u nacionalno zakonodavstvo? Na koji način (studije, reagiranja)?

2. Jesu li u Hrvatskoj organizirane konferencije, sastanci ili informativna događanja na temu europskih industrijskih odnosa? Ako da, tko ih je organizirao, jeste li bili uključeni?

3. Je li organizacija u koju ste udruženi organizirala informativna događanja s liderima nacionalnih sindikata / poslodavaca na temu EU zakonodavstva u području industrijskih odnosa? Tko je s Vaše strane sudjelovao, kako su informacije diseminirane?

4. Koji su najvažniji europski pravni akti koji su transponirani u nacionalno zakonodavstvo? Zašto?

5. Za koje segmente europskog zakonodavstva u području industrijskih odnosa smatrate da trebaju biti bolje implementirani u Hrvatskoj, zašto?

6. Na koji način ste doprinijeli podizanju razine svijesti o pozitivnim praksama u provedbi EU zakonodavstva i politika u području industrijskih odnosa? Jeste li surađivali s partnerima iz europskih federacija u koje ste udruženi? Ako da, kakav je bio odgovor od Vlade RH?

## *Iskustva s Europskim radničkim vijećima*

1. Do koje mjere ste upoznati s Europskim radničkim vijećima (ERV)? Koja je uloga sindikata / poslodavaca u ERV-ovima?
2. Koliko je bila dosljedna transpozicija ERV direktive u nacionalno zakonodavstvo u Hrvatskoj? Postoje li nedorečenosti ili kontradikcije, što bi trebalo korigirati?
3. Jeste li diskutirali problematiku ERV-ova s ostalim socijalnim partnerima prije transponiranja direktive u nacionalno zakonodavstvo? Kako je bilo njihovo mišljenje? Jeste li raspravljali ili pregovarali o ovoj temi nakon transponiranja?
4. Jeste li sudjelovali u radu nekog ERV-a? Obrazložite kvalitetu tog specifičnog sporazuma, kakvi su resursi stavljeni na raspolaganje ERV-u (financijski, tehnički, oprema, treninzi itd.)?
5. Na koji način se odvija sastanak ERV-a? Tko daje inicijativu za slanje poziva, koliko traju sastanci, rješe li se otvorena pitanja već u prvoj diskusiji, na koji se način informacije sa sastanka komuniciraju zaposlenima?  
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6. Obrazložite pozitivne i negativne primjere pregovora / tema o kojima se diskutiralo na ERV sastancima kojima ste prisustvovali?
7. Kako ocjenjujete transnacionalnu solidarnost i suradnju u okviru ERV-a s partnerima iz drugih zemalja? Postoje li prepreke u komunikaciji i oprečna mišljenja? Kako unaprijediti taj odnos?
8. Ukoliko u Vašoj kompaniji ne postoji ERV, koji se drugi instrumenti koriste? Koje su teme predmet diskusija na sastancima? Na koji se način odvijaju informacijski i komunikacijski tokovi?
9. Tko u tom slučaju inicira slanje poziva, koje se teme diskutiraju, koliko sastanaka se organizira, načini konzultiranja radnika? Postoje li neke druge teme koje bi trebalo uključiti u dnevni red sastanaka, zašto one nisu diskutirane?
10. Kako se zaposlenici informiraju o rezultatima konzultacija (u okviru ERV-a ili izvan njega)? Postoji li elektronički newsletter koji se distribuira zaposlenicima ili se koriste drugi načini, koji?
11. Kakva je učestalost informiranja i konzultiranja sa zaposlenicima (u okviru ERV-a ili izvan njega)? Tko pokriva organizacijske troškove takvih sastanaka?

12. Koje bi aspekte ovih sastanaka trebalo poboljšati? Jesu li sljedeće teme diskutirane na ERV-u ili drugim transnacionalnim sastancima: učinknak procesa donošenja odluka u kompaniji, proračun i alociranje finansijskih sredstava, zaštita i tehnička oprema, opis radnih zadataka, kompetencije, borba protiv zloporabe prekovremenog rada, nešto drugo?

13. Jesu li pravila o povjerljivosti aktivirana vezano uz određene diskusije na ERV-u? Ako da, o kojim se temama radi? Jesu li pravila o povjerljivosti jasna i dosta, kakav je njihov učinak (pozitivan/negativan) na informacijske aktivnosti kompanije?

14. Postoje li procedure koje omogućuju interno rješavanje konflikata generiranih od strane poslodavaca putem kojih se zaobilazi poštivanje obaveza o informiranju i konzultiranju zaposlenika?

### *Evaluacija i zaključci*

1. Kako biste ocijenili suradnju u okviru ERV sastanaka na kojima ste sudjelovali?

2. Omogućava li pravni i institucionalni okvir primjerene uvjete za provedbu ERV instrumenta u Hrvatskoj, kao u starim članicama EU-a (npr. Francuska, Njemačka)? Ukoliko ne, koji su razlozi slabe primjene ERV-a?

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3. Ocijenite djelotvornost ERV-a u industrijskim odnosima ocjenom u rasponu od 1 do 5 (ocjena 1 predstavlja minimalno, a 5 maksimalno zadovoljstvo). Koja je dodana vrijednost ERV-a u odnosu na klasične aktivnosti sindikata / poslodavaca?

4. Postoje li razlike u pristupu ERV-u u ogranicima kompanije u Hrvatskoj u odnosu na one u drugim zemljama? Koji su glavni izvori konflikata? Kako je ERV povezan s drugim instrumentima prekograničnog socijalnog dijaloga u vašoj kompaniji?



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# EUROPEAN WORKS COUNCILS IN CROATIA: EXPERIENCES AND OPPORTUNITIES FOR FURTHER DEVELOPMENT

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## List of Abbreviations

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CBS	Central Bureau of Statistics
CEA	Croatian Employer's Association
CEE	Central and Eastern European countries
CES	Croatian Employment Service
CNB	Croatian National Bank
CPII	Croatian Pension Insurance Institute
CTUPP	Croatian Trade Union in Printing and Publishing Industry
CUBFW	Croatian Trade Union of Banking and Financial Workers
EC	European Commission
ESC	Economic and Social Council
ETUC	European Trade Union Confederation
EU	European Union
FDI	Foreign Direct Investments
GDP	Gross Domestic Product
HT (hr.)	Croatian Telecom
MLPS	Croatian Ministry of Labour and the Pension System
MNC	Multinational Corporations
OG	Official Gazette
PPS	Purchasing Power Standard
RBA	Raiffeisen bank

# 1. Introduction

The fact that multinational corporations operate in more than one country can lead to a weakening of the workers' negotiating position. Legal and institutional frameworks vary greatly from country to country, and ensuring uniform working conditions within a single corporation is often a challenging task. On the other hand, it is relatively easily for multinational corporations to relocate manufacturing capacities to countries with low labour costs, negatively impacting on the negotiating position of employees in more developed countries (Myant, 2020). In the European Union (EU), such circumstances cause significant problems: the conditions for transnational operations are exceptionally favourable, but the differences between the labour and legal practices and standards in certain countries are rather pronounced. Multinational corporations enjoy a strong bargaining position in relation to national governments and EU institutions, given that their numerous activities have contributed to EU-wide economic development. Aware of this fact, European Union institutions have long been working on making changes to its legislative framework, called the *acquis communautaire*. The aim is to stimulate multinational corporations to implement similar forms of social dialogue within the different Member States, and to strive to ensure uniform internal policies in the spheres of labour and employment. However, the founding treaties of the EU represent a barrier to meaningful development in this field, since labour and employment matters are primarily in the jurisdiction of the Member States.

The European Works Council (EWC) is an important tile in the growing mosaic of transnational industrial relations within the European Union. They were created more than 20 years ago with the task of facilitating the processes of informing and consulting employees of multinationals on EU territory. The legal basis for the establishment of EWCs are two European Directives (the initial one from 1994, and an amendment in 2009) that form part of the EU *acquis communautaire*, and as such are transposed into the national legislation of all Member States. Despite the initial enthusiasm for the process of establishing new EWCs, it stagnated after 2009, leaving its mark on both the global and European economies. According to some estimates, more than half of all multinational corporations in the EU have not yet established an EWC, despite meeting all the criteria from the amended Directive. In new EU Member States the percentage of multinationals with a functional EWC is even lower. This indicates that both management and employees of numerous multinationals seated in new Member States have a poor understanding of the

importance of such a body. Boards of these companies evidently view the EWC as nothing more than an expense, while workers are not organised enough to formally initiate the process of its establishment.

In light of these considerations, the Institute for Public Policy (IPP) in Bucharest, in cooperation with the partner organisations: Institute for Development and International Relations (IRMO) in Zagreb, Centre for Economic Development (CED) in Sofia, Institute for Public Affairs (IPA) in Warsaw, and the Centre for Research and Policy Management (CRPM) in Skopje, started a research project focusing on EWCs in selected new EU Member States and one candidate state. The project, "Improving the quality and the level of the representation of employees through organizational assimilation and the efficient use of the EWC instrument by parties interested in industrial relations", is co-financed by the European Commission DG for Employment, Social Affairs and Inclusion, and the implementation period is from February 2020 to November 2021.

The project's main objective is to improve the quality of the employee representation process within multinational corporations, and increase the effective use of the EWC instrument by all sides in industrial relations. The project aims to contribute to the general evaluation and understanding of the work of EWCs in new Member States so as to lay the foundations for social partners to develop future strategies for the effective use of these instruments. Furthermore, a range of project activities aim to develop stronger transnational connections, to foster the spread of best practices concerning the European Works Council and industrial relations in general. This project identifies four specific goals: i) increase the efficacy of the worker representation system within multinational corporations, ii) consolidate transnational cooperation so as to ensure the constant exchange of information, enabling the coordination of representation processes within EWCs, iii) analyse the degree to which unions understand European law and relevant policies in countries included in the project, and iv) increase the level of expertise among unions concerning European law and policy in the area of industrial relations, via training and the exchange of best practices. An expected project result is that unions at the national level of the countries included in the project will establish a coordinated agenda of activity concerning the issue of European Works Councils.

This study is one of the main outcomes of the project in Croatia. Its publication is the result of a combination of desk and field-empirical research aimed at identifying the distribution of EWCs in Croatia, and critically analysing their roles and efficacy, primarily through the use of qualitative research methods.

Following the introduction, the second section analyses the dynamics of economic and social development in Croatia over the past decade.

We decided to address this issue at the beginning of the report in order to familiarise the reader with the broader socio-economic context within which EWCs in Croatia were established and function. The third section gives a general overview of the concept of EWCs, and considers their accomplishments and shortcomings since they first appeared in Europe in the 1990s. The fourth section is dedicated to legal issues and an analysis of the status of the EWC Directive within Croatian legislation. This section also provides a brief overview of the most important characteristics of industrial relations in Croatia, referring in part to the results of the field research that was conducted. Finally, the fifth and most comprehensive section addresses the perceptions of the EWC Directive among representatives of Croatian unions and employers. This section presents field research results, in which focus groups were held with employer and union representatives (each group with ten participants), and fifteen interviews with persons directly involved in the work of European Works Councils, primarily as delegates. The field research was conducted in Zagreb in the period from May 2020 to July 2020. Focus groups and interviews were conducted in accordance with the protocol agreed to by the project partners - so as to facilitate the task of developing a comparative study that will be compiled by the project coordinator before project completion. The questions asked within the protocol (questionnaire) covered a broad range of topics, from details about the agreement pursuant to which the EWCs are established, to the dynamics of their work and the issues that are frequent points of contention between social partners, assessments of their effectiveness and purpose, and potential for further development. The final section of this report presents conclusions and recommendations for all sides of industrial relations in Croatia and beyond.

We would like to take this opportunity to thank the social partners and experts who participated in focus groups and interviews. Giving up their valuable time allowed us to obtain an objective overview of European Works Councils in Croatia, and determine opportunities for their further development. We are pleased that they recognised the importance and potential of this somewhat overlooked issue within the body of research that has been conducted on industrial relations in Croatia.

## 2. Socio-economic profile of Croatia

An overview of the main economic indicators for the past ten years is given below, with indicators of the labour market and an assessment of the situation in Croatia in the post-Covid period.

Prior to the 2009 economic crisis, Croatia enjoyed a longer period of economic growth accompanied by convergence towards the EU average income. From 2002 – 2008, real GDP per capita rose annually at an average of 4.5%, and its level more than doubled, reaching 63% of the EU-28 average (at PPS). As a result, Croatia's real convergence with EU-28 income levels was similar to that in other Central and Eastern European (CEE) countries. Until 2008, economic growth was mainly driven by largely debt-financed domestic demand, leading to a build-up of macroeconomic imbalances. The main drivers of expansion were capital investments and private consumption, while the contribution of exports in goods in overall GDP growth was very low, particularly in comparison with other CEE countries. The share of investment in GDP was relatively high (about 25%) and comparable with other fast-growing economies in the region. However, growth was largely in the international non-tradable sectors, such as construction, retail and the financial sector, which stands in sharp contrast with CEE countries, where manufacturing investments accounted for nearly a quarter of all investment. The rise in consumption and investments was largely debt financed, fuelled by strong capital inflows and robust credit growth in the domestic banking sector. Further, rapid growth of domestic demand led to a strong import growth, with only a modest performance of the export sector, giving rise to a growth in external imbalances.

Even in the pre-crisis period, Croatia's potential growth was among the lowest in the CEE region, with limited productivity improvements. Despite relatively high growth rates during the 2002–2008 economic expansion, potential growth averaged only 3%, in comparison to the average 5% in the CEE region. This largely stemmed from sluggish productivity growth, as a reflection of the high state presence in the economy via state-held enterprises, a cumbersome business environment, poor quality of institutions, unfavorable composition of foreign direct investments (FDI) and a small export sector. The 2008 global crisis pushed the economy into a prolonged recession and reversed the income convergence process that had been underway. Borrowing costs increased, capital inflows dried out, and the economy was pushed in a path of declining employment, private sector illiquidity and eroding business and consumer confidence, leading to a sharp drop in investments and private consumption. The six-year recession reduced output by 12% and investments by one-third, unemployment doubled, and the poverty rate increased substantially. This also led to a reversal in the convergence

process, while all other countries in the CEE region, except Slovenia, continued approaching the average income level in the EU-28.

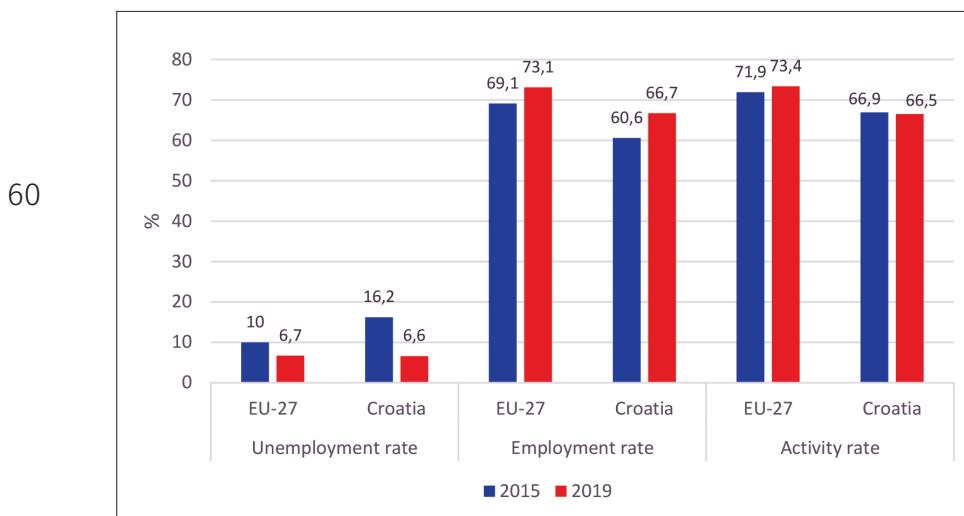
Since 2015, a more favourable external environment, together with the effects of accession to the EU in 2013, facilitated economic recovery on stronger foundations. In 2015, strong export, coupled with a growth of private consumption and investment, led to 2.4% GDP growth, the first positive rate in six years. GDP growth was founded on a broad basis, accelerating to 3.5% in 2016 before slowing to less than 3% in 2017 – 2019. Export performed strongly during that period, supported by record-breaking tourism seasons and the recovery of goods exports, given the continuing recovery of the European economy, and Croatian companies deepening their integration into European value chains following EU accession. Meanwhile, the growth in domestic demand was based on more solid foundations than in the pre-crisis period. Income tax cuts, low energy prices and rising consumer confidence initially boosted private consumption, and later this was further supported by favourable movements on the labour market, while households continued to deleverage. Private investment recorded solid growth during this recovery period, accompanied by significant corporate deleveraging. EU funds became an increasingly important source of financing for public investments, enabling additional investments and reducing the need for debt financing. It is expected that EU funds will continue to play a crucial role in public investments in the years to come, particularly due to the additional resources made available via the EU Next Generation instrument.

In the post-crisis period, Croatia strongly improved its export performance, with exports becoming a strong driver of growth. However, the Croatian export sector remains small compared to other CEE countries. To a certain extent, this reflects the composition of the economy, which is dominated by the services sector, particularly low-tech and low-productivity services, such as tourism, retail distribution and construction. EU accession in 2013 was an important catalyst as Croatian firms took advantage of the opportunity to better integrate into the European and global supply chains, thereby aiding the economy to recovery after six years of recession. Since accession, the composition of Croatia's exports has also improved in the sense of markets and technological complexity.

Emigration has had a strong impact on the Croatian labour market in recent years. The large number of citizens leaving Croatia indicates that the country is struggling to create sufficient numbers of attractive jobs, particularly for youth, and also indicates the wide-reaching social issues in the country. According to the data of the Central Bureau of Statistics (CBS), some 190,000 people have left Croatia since 2013 (accounting for about 4.6% of the total population), mainly to other EU countries such as Germany, Austria and Ireland. However, demography experts have assessed that the actual number of emigrants is much higher than this official number.

With an employment rate of 66.7% in 2019, Croatia is among the weakest countries in EU, with lower rates recorded only in Italy and Greece. This low employment rate is strongly correlated with persistently low activity rates. In 2019, the activity rate reached 66.5%, which was down slightly from 2015 (66.9%), and still well below the EU-27 average of 73.4%. The low activity rate is particularly pronounced for low skilled workers, youth, women, and the older population. The low activity rate for older persons (55 – 64 years) is tied to the practice of early retirement. For older women, personal, family or care responsibilities have played an important role in the failure to achieve higher employment rates. A second important reason is disability or illness.

Figure 1. Employment, unemployment and activity rates in Croatia and the EU-27 in 2015 and 2019



Source: Eurostat

The proportion of women on the labour market is low, with a significant pay gap, lack of flexible working arrangements and low rates of entrepreneurship. In comparison with the EU average (67.3%), Croatia has one of the lowest employments rates for women (61.5%), and the second lowest rate of women working part time (6.7%) in the EU, much lower than the EU average (29.9%). Therefore, it can be said that in Croatia, the lack of available part time jobs has directly affected this low activity rate for women. The index measuring the level of entrepreneurial activity indicates that it is 1.8 times lower for women than for men (GEM Hrvatska, 2017). In this case, Croatia does not differ from the EU average, which is

at about the same level. In recent years, the authorities have made substantial investments (with strong support from EU funds) in the availability of early childhood care and education, i.e., children's nurseries and preschools, which would have a positive effect on the participation of women on the labour market in the coming years.

The situation with youth unemployment improved substantially in 2019. According to Eurostat data, the youth unemployment rate was reduced from 50% in 2013 to 16.6% in 2019, which is near the EU average of 15.0%. While youth unemployment was at 23.7% in 2018, it declined sharply in 2019, due primarily to the improved situation on the labour market. Female unemployment among youth is still particularly high. In 2018, it was 28.8%, which is much higher than the EU-28 average (14.5%). It is still unclear the extent to which the current crisis will influence youth employment. The most recent Croatian Employment Service (CES) data indicate that the number of unemployed youths is rising, though the total increase has been relatively modest.

Low quality jobs, particularly for youth, negatively impacts labour supply. Croatia has one of the highest rates of temporary unemployment in the EU, and one of the four highest rates in the EU concerning part-time unemployment of youth, with more than 60% of young employees working on temporarily (fixed-term) contracts. Such a high ratio of temporary employment also plays a role in reducing labour supply through higher emigration. Generally speaking, Croatian workers are less satisfied with their working conditions than workers in other Member States. Data from 2015 revealed that work condition satisfaction in Croatia was the second lowest in the EU, immediately after Greece (Eurofound, 2016). Meanwhile, the expected costs of dismissals remain high, due to difficulties employers face when trying to prove poor performance or misconduct. Courts typically rule in favour of the dismissed worker, and 3 to 5 years can pass before the final verdict is passed on the dismissal. Furthermore, even in the case of a "legal" dismissal, employers are required to pay mandatory severance for every termination of a labour contract that lasted at least two years. Redundancy dismissals are permitted, though rules are in place that determine which workers must be dismissed first (i.e., the employer must take the worker's family situation into consideration), and employers may not hire another worker for that same position for the next six months. Such conditions are likely to affect employment, as it drives employers to rely more heavily on temporary contracts.

Undeclared work still represents a high share of Croatia's total economic activity. According to some estimates, Croatia, with Bulgaria and Romania, are the three EU Member States with the highest ratio of shadow economy in GDP (Medina & Schneider, 2018). Undeclared work negatively affects individual payments for social contributions, reduces government revenues and disrupts fair market competition.

Due to emigration, labour shortages were particularly evident prior to the COVID-19 crisis. Further worsening of the workforce shortage could seriously hinder economic activities in a series of sectors, particularly in tourism and construction. As a policy response, the Government has been repeatedly increasing the quota for employing foreign persons. In 2019, this quota was increased to a record high number of permits. Increased shortages in the labour force also creates an upward on wages levels. This in turn demands that companies boost their productivity so as to avoid reduced competitiveness as a result of the higher labour costs. In that part, a particular issue is the ongoing mismatch between the knowledge provided through the regular education system and the needs of companies. An additional challenge is the lack of life-long learning opportunities which help businesses overcome the problem of insufficient knowledge and skills among workers.

Despite favourable trends, the poverty and social exclusion levels in Croatia remain high. After a sharp increase in poverty during the crisis (from 2008 to 2012), economic recovery and, to a certain extent, emigration, returned the poverty rates back to pre-crisis levels. However, the poverty level continues to be relatively high, with 24.8% of the total population at risk of poverty or social exclusion in 2018. This puts Croatia above the EU average of 21.9%. Poverty in Croatia disproportionately affects certain population groups. Unemployed, single-person households and single parents with one or more dependent children are the groups most impacted by poverty. Among them, as particularly vulnerable groups are unemployed males, single-person households over the age of 65, and single female households regardless of age, with a risk of poverty rate of over 40% (CBS, 2019). Croatia's strategy to combat poverty and discrimination for the period 2014 – 2020 also includes as very vulnerable groups persons with disabilities, a portion of the Croatian Homeland War veterans and war victims, returnees, members of the Roma national minority, and migrants. The general government expenditures for social protection are lower than the EU average, but higher than in most new Member States. In 2017, Croatia's government expenditures for social protection amounted to 14.3% of GDP, while the EU-28 average was 18.8% (Eurostat). This assessment shows that social protection expenditures have a significant impact on the distribution of poverty, as poverty would be 9% higher without these social transfers.

The share of public pension expenditures in Croatia has stabilised over the past ten years, but according to the EC data from the 2018 Aging Report, this should decline in the future (EC, 2018). The most relevant factor influencing the future decline in the share of public pension expenditures in GDP is the reduction in future relative pensions, i.e., the replacement rate. Despite a decrease in public pension expenditures, revenues from pension insurance contributions will continue to be in-

sufficient to cover all public pension expenditures in the long term. The forecasts from the 2018 Aging Report show that the Croatian pension system will face a reduction in future public pension expenditures, but this reduction will occur simultaneously with a substantial decrease in the replacement rate. This reduction could have prominent social implications and will most likely lead to an increased rate in poverty among the elderly. Though it is slowly being lengthened, the working life duration in Croatia continues to be short, and is the second shortest in the EU. This is one of the key challenges the Croatian pension system faces. Widely used early retirement options result in low pension adequacy. With that, pensions regulated under special legislation often enables early retirement under more favourable conditions than the general legislation. These pensions account for a significant number of pensions, both in terms of the number of beneficiaries, and in terms of the total pension bill paid.

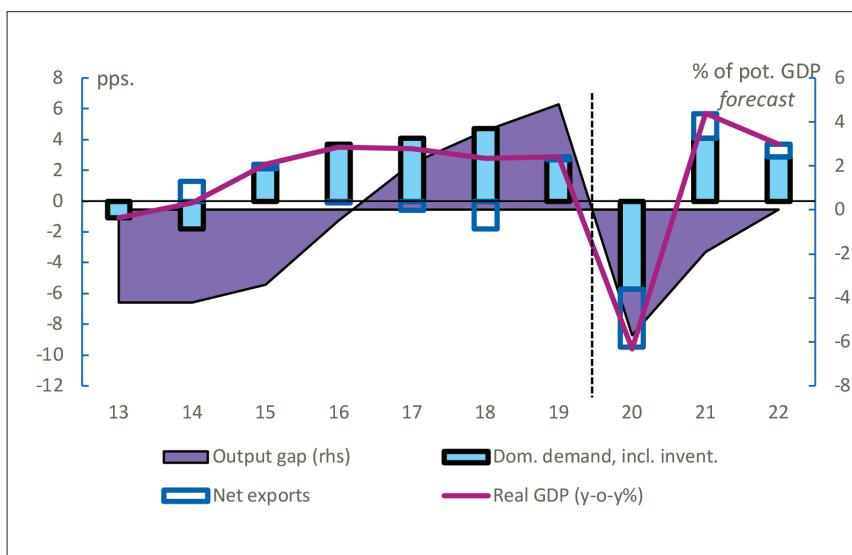
The role of multinational corporations (MNC) in the Croatian economy is intrinsically related to the role of FDI, since the large majority of MNCs are foreign owned. Foreign investments in Croatia have been present for the past three decades. According to the data of the Croatian National Bank (CNB), since 1993, Croatia has attracted over EUR 30 billion in foreign investments. Despite the relatively high per capita value of FDI (in comparison with other CEE countries), their structure is primarily based on brownfield investments, while greenfield investments are lacking. FDI in the manufacturing industry have been relatively weak, particularly in comparison with other countries such as Hungary or Slovakia. The sectors receiving the most FDI are financial services (22.4%), wholesale (8.8%), real estate (6.7%) and telecommunications (6.3%). FDI companies today represent a significant share of the Croatian economy, either through total sales, exports, employment, or investment income. FDI companies account for nearly one-third of the total investments in Croatia, and nearly 40% of total exports (Stojić, 2017). The most important source countries of investors are Austria, Netherlands, Luxembourg, Germany and Italy.

The economic recession caused by the COVID-19 pandemic has strongly impacted the Croatian economy. In the first half of 2020, a 7.8% drop in real GDP was recorded over the year. In the first quarter of 2020, a slight real yearly based growth of 0.4% was achieved, while the second quarter recorded a sharp drop in real GDP of 15.1% in comparison to the same period the year before. This was the first cross-year decrease in real GDP since the first half of 2014, and the biggest drop since 1995 when quarterly estimates of GDP began. Both domestic and net foreign demand strongly contributed negatively to the movement of real GDP in the first half of 2020. In looking at individual components on the expenditure side, the highest contribution to the reduction of real

GDP in the first half of 2020 was the 25.6% drop in the export of goods and services, primarily due to a strong reduction in the export of tourism services. Household consumption dropped by 6.8%, and the drop in gross fixed capital formation was assessed at 6.3%. On the other side, a sharper decline in real GDP in the first half of 2020 was mitigated by an annual 17.5% decrease in the import of goods and services, and a slight positive contribution to GDP developments followed from an increase in state spending of 2.7%. The crisis hit the tourism and transport sectors hardest, despite the fact that the total number of tourists visiting Croatia was higher than initially anticipated in the assessment made in late March 2020.

Figure 2. Real growth in GDP and contributions in 2013–2022

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Source: European Commission (2016, 2019, 2020).

Support for job preservation introduced by the Croatian Employment Service (CES) significantly alleviated the effects of the COVID-19 crisis on labour market trends. Data for the first half of this year show an increase in unemployment, and the average number of registered unemployed persons with the CES was 148.2 thousand, marking an increase of 8.3% over the same period in 2019. In the same period, the average administrative unemployment rate was 8.9%, which was just 0.7% higher than in the same period the year before. Data on insured persons of the Croatian Pension Insurance Institute (CPII) showed an inter-annual reduction in the number of insured persons of 0.5% in the first half of 2020, particularly due to the year-on-year reduction of 13.3% in the number of

Table 1. European Commission forecast on the main macroeconomic indicators for Croatia

	2019 bn HRK	Curr. Prices% GDP	01-06	2017	2018	2019	2020	2021	2022	Annual percentage change
GDP	402,3	100	1,7	3,4	2,8	2,9	-9,6	5,7	3,7	
Private Consumption	232,8	57,9	1,5	3,1	3,3	3,5	-6,7	4,3	2,9	
Public Consumption	79,4	19,7	1,5	2,2	2,3	3,4	3,5	1,5	1	
Gross fixed capital formation	84,6	21	2,9	5,1	6,5	7,1	-8,2	5,5	4,5	
of which: equipment	-	-	-	-	-	-	-	-	-	
Exports (goods and services)	209,1	52	4	6,8	3,7	6,8	-29,5	29,2	5,7	
Imports (goods and services)	210,1	52,2	4	8,4	7,5	6,3	-22	22,4	3,9	
GNI (GDP deflator)	400,3	99,5	1,7	5,2	2,7	2,9	-10,1	5,3	3,7	
Contribution to GDP growth:										
Domestic demand		2	3,3	3,7	4,1	4,1	-4,9	4,1	2,9	
Inventories		0,1	0,8	1	-1,4	-0,8	0	0	0	
Net exports		-0,3	-0,6	-1,8	0,2	-3,8	1,6	0,8		
Employment		0,1	2,4	2,6	3,1	-1,4	0,3	0,6		
Unemployment rate (a)	13,5	11,2	8,5	6,6	7,7	7,5	6,9			
Compensation of employees/head	2,7	0,2	3,8	1,5	2,1	1,2	1,2			
Unit labour costs whole economy	1,1	-0,7	3,6	1,7	11,4	-4	-1,9			
Real unit labour cost	-1,3	-1,9	1,6	0,2	10,6	-5,3	-3			
Saving rate of households (b)	-	8,1	8,5	8,6	-	-	-	-	-	
GDP deflator	2,5	1,2	2	1,5	0,7	1,4	1,2			
Harmonised index of consumer prices	2,3	1,3	1,6	0,8	0,1	1,2	1,5			
Terms of trade goods	0,4	-1,3	-0,5	0,3	-0,8	-0,2	-0,5			
Trade balance (goods) (c)	-18,2	-17,1	-18,6	-19,3	-13,2	-18,9	-18,8			
Current account balance (c)	-3,9	3,9	2,4	3,1	-1,7	-0,4	0,3			
Net lending (+) or borrowing (-) vis-a-vis ROW (cc)	-3,1	6,1	5,2	7,3	0,5	2,1	3,3			
General government balance (d)	-4,3	0,8	0,2	0,4	-6,5	-2,8	-3,2			
Cyclically-adjusted budget balance (d)	-4,2	-0,1	-1,3	-1,7	-4	-1,9	-3,2			
Structural government gross debt (d)	-	-0,1	-1,4	-1,7	-4	-2	-3,2			
General government gross debt (c)	55	77,5	74,3	72,8	86,6	82,4	81,7			

(a) as a % of total labour force. (b) gross saving divided by adjusted gross disposable income. (c) as a % of GDP. (d) as a % of potential GDP.

Source: European Commission (2020, p. 131).

insured persons in accommodation activities and the preparation and service of food.

According to the EC, a 9.5% drop of the real GDP is forecast for 2020, with subsequent growth of 5.7% and 3.7% in 2021 and 2022 (EC, 2020). The 2019 levels of GDP, employment and unemployment will likely not be achieved until the end of 2022. The high level of uncertainty concerning post-crisis recovery remains. Further aggravation of the global pandemic cannot be excluded, and this could further reduce consumer optimism and company expectations. It remains to be seen to what extent the EU's new recovery instrument Next generation EU will be applied appropriately and effectively to accelerate recovery. If this instrument is used properly, this could support investments and structural reforms and increase Croatia's competitiveness and resiliency to a future crisis.

### **3. European Works Councils: The issue of their influence**

During the 1970s European Economic Community institutions were already discussing plans to install a mechanism for sharing transnational information and facilitating consultation between representatives of multinationals and their employees. However, it was not until 1994 that this plan was realised, when the Council Directive on the Establishment of a European Works Council (1995/45/EC) was adopted. The delay was due to the fact that during the 1970s and 1980s the number of cross-border mergers and acquisitions of companies in Europe was relatively small – and then tripled during the 1990s (Gohde, 2019). Pursuant to the Directive, the foundation for the establishment of a European Works Council (EWC) in any company was a special negotiating body, within which the representatives of the central company management and workers could negotiate the EWC agreement. Such an agreement lays down the collective rights and duties of its members, i.e., delegates. However, the delegates are bound not only by the provisions of the said agreement, but also by the regulations of the national legislation arising from the transposition of this Directive (De Spiegeleare and Jagodzinski, 2015).

Since this Directive came into effect in 1996, the number of EWCs has been gradually growing. However, the tempo of growth has slowed in recent years. Pursuant to data from January 2019, there were 992 active EWCs in Europe, while 400 had been disbanded due to company mergers, fragmentation or bankruptcy (Eurofound, 2020). Today, it is estimated that EWCs in Europe encompass some 17 million workers, represented by about 20,000 delegates. However, some assessments suggest that there are still many multinationals which have not established such a council - preferring instead alternative forms of transboundary information and consultation with workers. An additional issue has been identified in the data from 2016 in which 39% of active EWCs function on the basis of pre-Directive agreements. These agreements were concluded prior to the Directive entering into force, and as such derogate from some of its prescribed provisions (Jagodziński, 2016).

In 2009, the Directive on the establishment of a European Works Council was amended (2009/38/EC) in order to advance certain operational aspects of the existing legislation. The revised directive was preceded by a lengthy negotiation process between social partners at the European level, the European Trade Union Confederation (ETUC) and BusinessEurope. In this, the ETUC insisted on: a clear definition of the terms ‘information’ and ‘consultation’, greater rights for EWC delegates regarding training and their free time, and time limits to the periods in which dedicated negotiating bodies can negotiate the EWC agreement.

Furthermore, the ETUC insisted on reducing the required minimum number of company employees from 1000 to at least 150 in each country of the European Economic Area, and defining the role of unions within the EWC (De Spieghelaere and Waddington, 2017). On the other hand, BusinessEurope strongly opposed the revision of the Directive, claiming that it would lead to centralisation and slow the process of decision making within multinational companies, which in turn would reduce their profitability (Hahn et al., 2017).

Ultimately, BusinessEurope did not succeed in blocking the Directive's amendment. However, a compromise was reached, in which the provisions on time limits for the negotiation process and the reduction of the threshold of the minimum number of employees were removed from the final version of the amended Directive (De Spieghelaere and Waddington, 2017, p. 295). The issue of stronger inclusion of unions was partly addressed with a provision making it necessary to inform European trade union associations, such as the ETUC, of a negotiation process commencing for a specific EWC. Furthermore, negotiators were given the ability to seek assistance from representatives of European trade union associations within the negotiating process (*Ibid*, p. 296). Despite the improvements in the revised directive, worker representatives within numerous EWCs continued to claim that the processes of information and consultation were far from optimal. For instance, one issue relating to information that often arose was the overburdening of EWC members with large amounts of information, where little of it was relevant. In consultation, commonly cited problems were the lack of a sufficiently strong information base, too little time available, and the fact that consultations were often carried out after decisions had already been made (Hahn et al., 2017). At the time of the Directive amendment, numerous European unionists had expressed regret that the Directive did not specify negotiating as one of the possible activities of the EWCs. There are EWC agreements which envisage an active negotiating function for this body in certain situations, though these are exceptions (Kerckhofs, 2017, p. 280).

The average mandate of EWC delegate is four years, while the average EWC is made up of ten to thirty members (De Spiegeleare and Jagodzinski, 2015, p. 30). EWC delegates are appointed or selected within local workers' councils or unions. Alternatively, delegates can be selected by employees at the local company level. Ultimately, the method of selecting EWC members truly depends on the legal solutions at the level of every state, and therefore these practices are far from uniform (Gohde, 2019). The 2009 revision of the Directive prescribed that all countries must be represented by at least one member within the bodies negotiating the EWC, and that the number of members of an individual state increases with each additional 10% in the total number of employees (Kerckhofs, 2017, p. 283).

Numerous EWCs select their own chairperson, central management board, secretary and executive board. Some EWC agreements use the umbrella term “EWC Office” for all of the above functions. Members of EWC offices are in constant contact with central management representatives throughout the year, and play a key role in preparing the agenda of each meeting (Gohde, 2019). According to research from 2015, 47% of EWCs were chaired by a representative of central management, which is not considered to be the best solution. However, this is compensated by the fact that regardless of who chairs the meeting, the agenda is generally the result of joint efforts by employee and employer representatives (De Spiegeleare and Jagodzinski, 2015, p. 32). Pursuant to the provisions of the Directive, all EWC delegates’ material and financial costs must be covered by the company. Most agreements list permitted costs, while 14% of EWCs secure a special budget which allows for greater flexibility (*Ibid*, p. 40). The sectoral distribution of EWCs is very uneven. According to a 2015 study, nearly three-quarters of EWCs in Europe operated in the metal and chemical industries and services. In comparison, the representation of EWCs in the textile industry, transport sector, and public services was significantly lower. However, this difference can largely be explained by the diverse representation of multinational companies in the individual sectors of the European economy (Hahn et al., 2017).

Regarding the thematic content of meetings, it should be stressed that most EWCs discuss the company’s economic and financial standing, corporate strategies, business evolution and reorganisation issues. To a lesser extent, issues such as health and occupational safety, professional development, equal opportunities and corporate social responsibility are discussed. Ultimately, topics that are individual issues, such as working conditions, salaries and negotiation are not brought up at EWC meetings, as these issues are diversely regulated at the national level of individual Member States (De Spiegeleare and Jagodzinski, 2015).

Though the Directive on the establishment of a European Works Council requires a minimum of one plenary meeting per year, nearly 30% of EWCs regularly meet twice a year or even more often (*Ibid*, p. 34). The EWC meetings largely follow a standardised format that includes a report by management pertaining to business evolution and future opportunities, and all other issues listed on the meeting agenda. Most regular EWC meetings last two or three days, and consist of three phases. In the first phase, the worker representatives meet internally to exchange information and prepare for information and consultation with representatives of central management. In the second phase, representatives of central management and EWC delegates meet to discuss the points on the meeting agenda. Finally, in the third phase an internal evaluation meeting is held between the worker representatives (delegates), where they discuss the results of their meeting and make decisions concern-

ing the next steps (Gohde, 2019, p. 45). Some 86% of EWC agreements contain special provisions that regulate additional meetings under exceptional circumstances, such as company restructuring that threatens jobs. In most cases, these are plenary meetings. However, some agreements envisage that exceptional circumstances foresee only meetings of members of the executive board with or without EWC delegates from the affected countries. In about one third of EWCs, convening a meeting due to exceptional circumstances requires authorisation from central management (De Spiegeleare and Jagodzinski, 2015, p. 34).

A point of contention regarding the work of EWCs is the issue of defining transnational activities, and several lawsuits have even been filed (De Spiegelaere and Waddington, 2017, p. 295). The 2009 revised Directive missed the opportunity to include the procedures of transferring manufacturing and service capacities outside the countries of the European Economic Area that lead to reduced employment. Moreover, the Directive does not prescribe the time period within which measures should be implemented at the transnational level, in order to consider that they are mutually connected (Gohde, 2019, p. 45). The second important problem is the issue of confidentiality, which according to numerous employee representatives, is arbitrarily used by central management due to the lack of a precise definition within the Directive itself. According to research conducted by ETUC on 500 EWC delegates, the majority felt that central management was abusing this instrument in order to prevent them from freely communicating about certain outstanding issues with workers at the local level (*Ibid*, p. 49).

The 2009 Directive amendment introduced provisions on conducting reporting about EWC meetings by its members, given that this practice had previously been quite varied. Consequently, over 70% of EWC agreements concluded after the revised Directive entered into force include separate provisions on reporting (De Spiegelaere and Waddington, 2017). These provisions, as a rule, require the local administration to secure the necessary infrastructure needed for EWC delegates to share information with employees. This infrastructure may relate to communication via email, newsletters, dissemination of reports via the Internet or intranet, meetings, tribunes and visits to production plants (Gohde, 2019, p. 63). Research conducted on EWC agreements from 2015 showed that in 71% of cases, EWC delegates have a prescribed obligation to notify all workers at the local company level of the outcomes of the completed meeting. In about 8% of cases, this obligation also pertains to members of the local management and workers' councils. However, regardless of the fact that most EWC agreements do not contain such provisions, it is the overwhelming practice that EWC delegates notify the local management board and employees of the meeting outcomes separately (De Spiegeleare and Jagodzinski, 2015, p. 33).

With regard to the efficacy of EWCs throughout Europe, this is also highly variable. On the one hand, there are numerous EWCs that have been marginalised and reduced to the level of an instrument for disseminating information. On the other hand, some EWCs have become powerful players in transnational social dialogue, elevating themselves with the authority provided by the revised Directive. Furthermore, as the meeting place for national worker representatives and as a venue for the exchange of ideas, numerous successful EWCs have created added value for employees in countries where industrial relations are not sufficiently developed (Mählmeyer et al., 2017, p. 227). With this in mind, optimists stress that EWCs lead towards a European system of industrial relations, since they have the potential to develop pan-European policies and networking. Pessimists, however, believe that in the future EWCs will only weaken and undermine existing systems of industrial relations, and promote social dumping (Hahn et al., 2017).

Research into EWCs after the 2008 financial crisis has shown that the nature of transnational worker representation is very fragile, and largely depends on trust, personal contacts and the willingness of participants involved to cooperate. In the years that followed, due to the economic uncertainty brought about by the crisis, numerous EWCs went backwards in their relations when compared to previous levels of co-operation, often seeking out national solutions. Numerous examples of erosions in achieved cultures of solidarity and mutual trust were also recorded (*Ibid*, p. 239).

In order to overcome the dependence of EWCs on the motivation and enthusiasm of individuals, particularly seen after 2008, experts agree that it is necessary to invest greater efforts into the development of adequate training for new members (delegates) of these bodies. The aim of this training is to teach members about the organisation, so as to achieve the best possible integration of all members. Specific expert knowledge is also very important, particularly in areas such as financial operations or company law. It facilitates the work of new members and improves their understanding (De Spiegelaere and Waddington, 2017). Good practice concerning training includes defining, within the agreement, the number of days that delegates can spend in training. Also, group training has proven to be particularly effective: in addition to spreading specific knowledge, it also contributes to the better socialisation of delegates (Ghode, 2019, p. 77). It is certainly positive that more than two-thirds of EWC agreements signed after the revised Directive entered into force contain provisions on the right of delegates to training (De Spiegeleare and Jagodzinski, 2015, p. 38).

## **4. Institutional and legal framework for the work of European Works Councils in Croatia**

### **4.1. Industrial relations in Croatia**

At all levels, industrial relations in Croatia are characterised by the fragmentation of the union scene and the unity of employers. In 2015, more than 600 unions were registered, of which about 150 were registered in one of the four central representative union associations. In 2013, at the time of the last count, the four central representative union associations had a total of 365,412 individual members (Šeperić, 2016). However, in 2018, the number of representative associations was reduced to three. With regard to employers, the Croatian Employer's Association (CEA) encompasses some 5000 companies that employ more than 50% of workers in the private sector, or nearly 400,000 workers. Therefore, at the national level, CEA is the only relevant social partner on the side of employers. However, the internal structure of CEA does not always overlap with the structure of the union organisations, weakening social dialogue at the level of individual branches. The general union density in Croatia is estimated at about 26%, and it is declining (Šeperić, 2018). At the end of 2014, collective agreements regulated the rights of some 53% of workers, in comparison with 61% of workers in 2009 (Babić, 2016). Most collective agreements are agreements at company level. However, the majority of workers are not encompassed by such agreements, but by branch agreements which have been expanded to an entire sector by virtue of a decision of the labour minister. The Economic and Social Council (ESC) is the highest form of tripartite social dialogue in the country. This is an advisory body comprised of representatives of the government, representatives of higher-level employer associations and union headquarters that meet the conditions of representativeness. The weakening of social dialogue as a decision-making instrument can be seen as a consequence of the economic crisis, when the government frequently sought unilateral decisions.

During the process of accession to the European Union, Croatia was required to align its legislation with the EU *acquis communautaire*. Significant changes ensued in the field of labour relations. Social partners participated in the process of transposing the European *acquis* into national legislation during accession negotiations, and continue to work together on this issue. Changes in legislation did not need to be implemented in the industrial relations segment, given that this area remains under the competence of Member States. However, during the accession process, numerous amendments were made to the Labour Act, some of which were a condition of alignment with the EU *acquis*. These changes indirectly affected industrial relations, since individual provisions were aimed at spurring collective bargaining on certain issues.

Regarding the issue of working hours, provisions were introduced to increase flexibility through collective agreements so as to stimulate unions and employers to start collective bargaining. However, alignment with the Directive on working hours was not in line with the principle that amendments should not worsen the rights of workers. The temporary labour provisions were made much more flexible, and since then Croatia has recorded a significant increase in temporary (fixed-term) labour. Dialogue concerning the minimum wage also took place. The first minimum wage law was passed in 2008, with legal provisions encouraging social partners to negotiate on the minimum wage if they wanted to derogate from what was stipulated in the act. During the process of legislation alignment, it was necessary to introduce flexibility in other areas too - such as collective redundancy dismissals, and joint decision making by workers and workers' councils. On the other hand, rights were improved in specific segments of national legislation (e.g., pertaining to annual leave).

## 4.2. Overview of the status of the EWC Directive within Croatian legislation

In 2009, when aligning the Labour Act was a condition for opening negotiations in the Chapter 19 Social Policy and Employment in the EU accession process, the provisions of the Directive on the establishment of the European Works Council were transposed into valid law. However, those provisions did not enter into force until 2013 when Croatia became a full EU Member State. With the transposition of this Directive into national legislation, as of the date of Croatia's accession to the EU, workers gained the right to participate in decision making via the EWC or via (one or more) information and consultation procedures on issues of a transnational nature. With the adoption of the Act on Amendments to the Labour Act in 2013, national legislation was fully aligned with the provisions of the revised Directive on the establishment of EWCs (OG 73/13). Later, one of the objectives was reducing the normative burden of the Labour Act and provisions that regulate the procedure of worker participation in decision making at the transnational level. For this reason, the revised Directive on the establishment of EWCs was transposed into national legislation as a separate law in 2014 (OG 93/14). Finally, further minor amendments were made to this special law, *lex specialis*, in 2017 for the purpose of alignment with the new European legislation - with the transposition of another new EU Directive.<sup>1</sup>

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<sup>1</sup> This refers to Directive 2015/1794 of the European Parliament and of the Council (of 6 October 2015) on amendments to Directives 2008/94/EC, 2009/38/EC and 2002/14/EC of the European Parliament and of the Council and Council Directives 98/59/EC and 2001/23/EC concerning seafarers.

In accordance with Croatian legislation, establishing the European Works Council requires several steps: (i) the request to initiate negotiations for the establishment of a European Works Council is filed at the initiative of workers, worker representatives or central management; (ii) the special negotiating body is established, (iii) the constituting session of the special negotiating body is convened, (iv) the agreement on the establishment of the EWC is concluded, or another procedure of worker participation in decision making is established (OG 93/14, OG 127/17). The negotiating procedure for establishing the European Works Council must be completed within a period of three years from the date of filing the application for the start of negotiations. If an agreement on the establishment of the European Works Council cannot be concluded in that time frame, then the subsidiary requirements come into force (*Ibid*). In Croatia, there are no employers in which an EWC has been established based on Croatian law. All EWCs operating in Croatia were established by foreign multinationals operating in Croatia (Interview, MLPS, 2020).

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It would appear that unions and employers did not acknowledge the transposition of the EWC Directive into Croatian legislation, given that at the time Croatia was still not an EU Member State, and therefore Croatian delegates could not participate in the work of EWCs except as observers (Interview, CTUPP, 2020). Since 2014, there has been a legal obligation to notify the Ministry of Labour of all appointed representatives (delegates) from Croatia in the EWCs.

Certain Croatian unions have concluded that the consistency of transposition of the EWC Directive into Croatian legislation is poor. They state that this directive was not adapted to the actual situation in Croatia. Instead, it was transposed first into the Labour Act, and then revised and issued as a special law in which the provisions were slightly amended (Interview, MATICA, 2020). After the EWC Directive was transposed into Croatian legislation, the corps of European legislation pertaining to EWCs expanded over time, and this encompassed the processes of including workers in decision making. However, according to certain experts, these legal amendments were implemented in Croatia without sufficient consideration. Therefore, the strength of EWC activity has been limited to the areas of communication, information and consultation, without the opportunity of making a real impact on decision making (Focus group of employers, 2020).

The EWC Directive is not a matter of primary interest for Croatian employers, as pursuant to the existing legal provisions, the cooperation between employees and employers takes place exclusively through local workers' councils. In Croatia, the employer's role is to inform the EWC via the local workers' council on all issues they feel relevant for the position of workers in Croatia (Interview, Erste Bank, 2020). For that reason, the Croatian Employer's Association is yet to reach consensus on this issue.

Furthermore, transfer of relevant information from the level of employer association towards management boards and members is quite poor. Therefore, it can be concluded that in Croatia awareness of the importance of EWCs and the collective expertise among employers has still not been sufficiently developed (Focus group of employers, 2020).

Certain participants in the research were critical of the provision concerning protection of EWC members within the Croatian Act on European Works Councils. They say that this protection is not clearly defined, and that they should not face discrimination for the performance of their duties. Therefore, in Croatia, members of workers' councils that are protected pursuant to other laws are often appointed to EWCs (Focus group of unions, 2020). The second issue pertains to the selection of delegates for the EWCs. According to some, conducting direct appointments for EWCs, as regulated under Croatian legislation, might not be the best solution. It would be better for membership in the EWC to be part of the mandate of the workers' council (*Ibid*). The question of information and consultation with regard to financial reports needs to be explained, with precise definitions of what constitutes a business secret (Focus group of unions, 2020). Finally, the issue of timely information is also not properly resolved in Croatian legislation. It is recommended that at least a 14-day period is set for decisions, allowing the workers' council to conduct consultations. Instead, the deadlines are currently much shorter – often as short as one day (*Ibid*).

According to the ETUI database of EWC agreements, in November 2020 there were forty-four EWC agreements pertaining to Croatia. Of those, fifteen agreements were concluded prior to 2013. This means that representatives of branches from Croatia did not have the opportunity to influence their content, while representatives from Croatia were involved in the conclusion of the remaining twenty-nine agreements. Twenty-seven of the agreements were concluded for the chemical and/or metal industry. In the service industry, there are ten agreements (mostly in the area of finance and trade), while the otherwise highly developed food industry only has three agreements. In the area of transport, the timber industry, and construction, there are fewer EWC agreements. Pursuant to this analysis, it comes as no surprise that the unions covering the areas of the chemical industry, metal industry and financial services are most familiar with EWC issues.

## **5. Interpretation of the field research results: Perceived benefits of the EWC Directive according to Croatian social partners**

### **5.1. Introductory remarks**

The following is an overview of field research results, primarily focused on the experiences of Croatian social partners with the work of the European Works Councils. Given the pandemic circumstances, the field research was conducted online during May and June 2020, and consisted of fifteen interviews and two focus groups (one with unions and one with employers). The questions posed to focus group participants and in interviews can be divided into three groups: i) general issues pertaining to the history of industrial relations in the sector and in the company, ii) experience with the work of European Works Councils, and iii) evaluation of their work.

Even though a nearly identical set of questions was posed to union and employer representatives, as a rule, union responses were given in much greater detail. This outcome was expected, as the union representatives contacted were already engaged as EWC delegates, and as such gained more experience in the work of these bodies. On the other hand, the relationship of employers with EWCs was more formal, and accordingly, the employers contacted were not able to give in-depth answers to some of the questions. As a rule, the statements given, which remain anonymous, presented a uniform stance by all or most participants in the field research activities. The institutions to which our participants belong are listed as sources in the references section.

The conclusions were then discussed with social partners and German experts that deal with or directly participate in the work of European Works Councils. This was meant to take place during a study visit to Germany - but had to be conducted online due to the pandemic, during September and October 2020.

### **5.2. Quality of EWC agreements**

Within the conducted field research, union representatives were nearly evenly split regarding positive and negative assessments of the quality of EWC agreements in their companies. Positive assessments mostly reflected the stance that the agreement enables mutual interaction, emphasis of local issues, obtaining responses to specific questions, and the active role of the union in the process of selecting and appointing EWC delegates if the union is representative and based on solidarity.

Another important aspect of the quality of EWC agreements that was emphasized was the properly defined meeting schedule, technical support, proper regulation of financial issues and confidential issues, and ensuring genuine support from management.

Negative assessments of the quality of EWC agreements were primarily concerning poor practices, in the sense of a lack of quality co-operation and unequal opportunities of certain countries to influence EWC decisions. Furthermore, it was stressed that the EWC agreements had failed to prevent selective decisions during company restructuring when employment in the company's home country was preserved at the expense of employment in Croatia. Some of the union representatives were not familiar with the specific details of the EWC agreements. Most union representatives considered that union inclusion is an important factor when discussing the quality of EWC agreements, as their independent position ensures true backing of workers' interests. Unlike other participants, unions have different means of collective pressure at their disposal, such as the ability to call and implement strikes.

When considering EWC agreements, employer representatives stressed that the EWC Directive regulated how agreement should be reached. If an agreement cannot be reached, there is the gradual application of the subsidiary rights from the Directive, which is regulated differently in the national legislation of certain countries. The EWC Directive itself is structured in such a way that it is the central point of legislation for the founding company. Therefore, in the case that an agreement cannot be reached, the provisions of the legislation of the founder company apply. However, once the EWC establishment procedure is initiated, it is in the interest of all sides to conclude an agreement, so as to regulate the functioning of this body, and the modes of implementing information and consultation (Focus group of employers, 2020). This is why the EWC agreement is directed towards shared principles and work guidelines, meeting schedules and other important issues such as the functions, rights and duties of EWC delegates. Furthermore, it is important that the agreement enables the promotion of values, attitudes and cultures within a given group. Employer representatives stress that the EWC agreement does not pertain to local issues, but only to transnational issues. Local issues are regulated under national legislation, because tax and financial regulations differ from country to country. It was stressed that signing a separate ordinance to regulate the rights of EWC delegates would be a step towards better understanding the EWC agreement (Interview, Strabag BRVZ, 2020).

Employers stressed that the idea of the EWC is based on the procedural regulation of relationships. Their primary function is informative and partly advisory, without any function in shared decision making. Central management does not aim to place critical issues on the agenda

of EWC meetings, instead leaving them to the national level or another central means of resolution. They emphasise that the foundation of the EWC meeting is communication, and the presentation of business decisions and business plans (Focus group of employers, 2020).

### 5.3. Dynamics of the work of EWCs

EWC meetings are usually held twice a year, lasting an average of two to three days. The initiative to hold a meeting comes from the parent company, usually via the human resources department or secretariat. Alternatively, an invitation is sent directly from the EWC chairperson of the parent company. The meeting agenda is prepared based on previously defined procedures, such as filling out the standardised form that includes a proposal of topics mentioned at the previous meeting (Interview, Erste Bank, 2020). However, the process of forming the meeting agenda differs from company to company. For some, the agenda is developed in cooperation with delegates via amendments to a draft agenda compiled by the EWC executive council (Interview, RBA Hrvatska, 2020). In other companies the meeting topics are defined throughout the year, and are then sent by the EWC executive council before the meeting itself (Interview, IKEA Hrvatska, 2020; Colas, 2020). In other situations, the parent company has guidelines relating to the development of the agenda and topics to be covered at the next meetings, and based on this the EWC compiles the agenda (Interview, HT, 2020; A1, 2020). The current practices have shown that it is best not to be unprepared for the meeting, or to surprise management with questions. In such cases, answers are not received immediately (Interview, IKEA Hrvatska, 2020).

On the day of the scheduled EWC meetings, company management representatives are present at one of the meetings, usually the second one. The first meeting consists of presenting the EWC delegates, delegating questions for the EWC chairperson, and internal discussion amongst all EWC delegates. On the second day management representatives hold their presentations and discuss the questions posed. The third day is reserved for discussions between delegates, and making and adopting the meeting conclusions. There are examples where management first holds its presentations, which is followed by discussions, then internal discussions amongst delegates, and final conclusions (Interview, RBA Hrvatska, 2020; General Electric Hrvatska, 2020; Erste Bank, 2020). In some companies, the members of the management board are present for the majority of the meetings.

Meetings are usually held in the country where the company headquarters are located. If meetings are held multiple times a year, usually one of those meetings is in the country of the company headquarters, while the remaining meetings are held in other countries, usually on a

rotation basis. In most cases, the delegates discuss already defined topics, arising from work at the local level. The unions did stress that open discussions can occasionally be held with management representatives, and in this there is an aspect of consultation. For example, issues of dismissals or issues that concern at least two countries require the employer to conduct consultations. In one case, the existing concept of consultation and its application was described. In this specific case, as mentioned in the field research, this was conducted through the mediation of the working group of representatives from the home country, and a working group of up to five experts (Interview, HT, 2020).

Unions are divided in their assessment of the quality of transnational cooperation within EWC meetings, with an equal share of positive and negative assessments. Poor practices included language barriers in communication, and the fact that financial data and central management reports were occasionally not provided in a timely manner. In some companies, the cooperation within broader transnational regions is exceptionally poor, because union activity in certain countries is at a very low level. Thanks to poor quality communication, unions are sometimes forced to predict central management stances and decisions - based on indications such as investment in employee training new recruitment etc. (Focus group of unions, 2020).

On the other hand, there are numerous examples of good practices within transnational cooperation. For example, management representatives may be asked to leave the room until the stance of delegates (many of whom are also union representatives) can be agreed upon. Generally, it was stressed that in companies where unions are well-organised, communication is stronger and better organised, because unions, unlike other representatives, have the option of engaging in formal pressure. There are also examples of unions joining forces at the group level so as to support workers at a specific local level (Interview, HT, 2020). Survey participants emphasised that the value of EWCs is much higher in the exchange of information and in connecting people, compared to the actual influence of the EWC on the ultimate outcome of certain decisions and policies. The directive is said to be of good quality when viewed through the aspect of information, but the same cannot be said when it comes to consultation (Interview, CUBFW, 2020).

Employer representatives agree that transnational cooperation varies somewhat, depending on whether the central company views itself as an authority which oversees and controls the local company, or whether it views its role as facilitating the local company to advance by applying the best practices. Employers are divided on the issue of transnational cooperation, saying that it is at a high level and well-organised on the one hand, with constructive informational cooperation and mutual respect. On the other hand, they claim that there are examples where the

transfer of information and knowledge is poor or insufficiently developed. Some also state that the function of EWCs in Croatia has not yet matured in the context of connecting companies and in the development of collective expertise (Focus group of employers, 2020).

Union and employer representatives stress that the most common form of informing workers is posting a notice on the notice board. In some cases, this is the only means of sharing information. Some examples of sharing information about the outcome of EWC meetings were highlighted, such as mediation by the workers' council, via e-mail, the company's Facebook page or via the official newsletter (once or twice a year). There were also numerous examples of using the intranet to disseminate the latest information and announcements from meetings that were held. New communication technology is also being used, such as virtual meetings with employees or virtual round tables. In some cases, direct communication with employees regarding EWC meetings is possible, through proposals and suggestions. However, there are also examples of poor information dissemination via sparse minutes of EWC meetings that focus exclusively on the conclusions (Focus group of unions, 2020; Focus group of employers, 2020). In some cases, where important business changes are involved, there is also the practice of consultation, in which the workers council has a period of eight days at its disposal to give its input (Interview, Erste Bank, 2020).

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A problem mentioned by the unions is the frequent classification of information from EWC meetings as confidential, which makes it impossible to properly inform employees. However, here it is necessary to stress the positive role of Croatian legislation, in which the EWC delegate is obliged to inform employees about important aspects of meetings. If the delegate determines that the meeting topics are relevant for employees, they have the right and the duty to pass on such information. This is done by describing and summarising the issue to employees without forwarding the actual document (Interview HT, 2020). However, while union representatives complain about the excessive use of the instrument of confidentiality, employers view this differently. They stress that the EWC Directive and legislative framework leave sufficient space for the classification of information as confidential. Some of the information does have a confidential nature. This primarily pertains to financial reports which, without activating the provisions on confidentiality, could reach workers before they are reviewed by stakeholders or investors. Therefore, employer representatives stress that it is the task of delegates at the EWC to collect information before it becomes available at the local level, so as to define their stance. Employees being informed in detail is not always an optimal solution, as some conclusions are complex and need not be shared with employees in great detail (Focus group of employers, 2020).

The resources available to union representatives are primarily of a financial nature, in the form of financing travel and accommodation costs for delegates to attend EWC meetings. Additional delegate training, foreign language courses, and settling the costs of the translation team, are also covered. The costs of organising a meeting are most often covered by the parent company. However, in some cases, it was stressed that meeting expenses are covered jointly, e.g., per diems and travel costs are covered by the local company while accommodation costs and other expenses are covered by the meeting organiser.

The topics addressed at the EWC meetings are diverse and cover company business and financial results, development strategies, technological change and specific business transformations. Specific areas such as occupational safety are also covered. Discussions are often held on projects currently underway that are of global relevance for the company. From the union perspective, it is a problem that the legislative framework is not the same in all companies. As a result, many issues in the area of labour and legal relations cannot be completely uniform. For transnational issues (such as occupational safety or women's quotas), attempts have been made to propose the same solution for all companies on specific issues. In some cases, it was taken one step further, with the adoption of statements, agreements and codes aimed at promoting equal practices and standards at the level of the entire group. This may include ensuring the right to work from home once a week, additional medical examinations, or even participation in training. Occasionally, such documents are nothing but ink on paper, but in most cases, they imply a developed means of application and control (Focus group of unions, 2020).

Responses at the local level are obtained individually, and it is not possible to consider the rights and status of individual employees, since multinational corporations do not operate solely within a single legislative framework (Interview, Erste Bank, 2020). The COVID-19 crisis means that EWC meetings need to be held in an online format, and strengthening the focus on health protection and future business priorities in the newly emerged circumstances is also necessary (Focus group of employers, 2020). It is important to stress that there is also an unofficial part of the EWC meeting, where experiences are shared and in which delegates can gain insights into the transnational problems of local companies, such as the issue of occupational safety. Unions and employers equally stressed the issue of the language barrier; while simultaneous interpretation is a standard practice in the official part of the EWC meeting, it is not during the unofficial part, which hinders interactions with delegates who do not speak English well.

#### 5.4. Evaluation of the work of EWCs

In reviewing the success of EWCs, union representatives state that in numerous countries, this instrument has improved the speed of communication between central management and local employees, and therefore advanced social dialogue at the local level. There are examples of the processes of establishing workers' councils being initiated at the local company level for the purpose of inclusion in the EWCs (Interview, RBA Hrvatska, 2020). Also, an excellent accomplishment was the conclusion of collective agreements in countries which did not previously have any (Interview, Phoenix-Farmacija, 2020). In some isolated cases, the initiatives of EWC delegates successfully contributed to resolving local issues, such as non-payment of overtime in countries where unions are weak or non-existent (Focus group of unions, 2020). Ultimately, there is consensus among union representatives pertaining to the positive formal-legal role of EWCs concerning dismissals, when central management must activate the consultative function of this body.

In regards to success, employers stated that EWCs represent an additional channel through which all employees are included in discussions about transnationally relevant topics. Positive examples for local companies include the implementation of different transnational company projects. A successful example was the project *Workplace Health*, which included various educational activities (Interview, Strabag BRVZ, 2020). Achieving equal employee benefit policies is also important, despite varying from country to country: success in this area is difficult to guarantee due to the non-uniform legislative and taxation frameworks. A positive example mentioned by employers was a pilot project in the company Heineken Hrvatska pertaining to financial reporting and accelerating digitalisation, which was tested in Croatia. As part of that project, discussions with the EWC included the considering of project impacts on collective dismissals in Croatia, and restructuring company operations (Focus group of employers, 2020). In considering the failures of the EWCs, employer representatives put them into perspective, stressing that key decisions for restructuring, acquisitions or sales are still made at the local level. They also stressed that the EWC meetings are not held for the purpose of joint decision making, but are instead a venue for discussion, while final decisions are left to central management and local companies (*Ibid*).

Among EWC failures, union representatives mentioned that advice given by the EWCs is often not applied. Also, there are examples of the advisory function of EWCs not being activated even though it should have been. In one case, there was a dismissal of 105 people during the COVID-19 crisis, contrary to the notification that was given two days earlier by the EWC (Interview, OMKO, 2020). Other examples relate to moving

administrative roles to another country without first conducting consultations, or the unannounced sale of certain branch offices, etc. In combating such violations, the problem lies in the fact that there is very little judicial practice concerning EWCs in Europe (Focus group of unions, 2020). Union representative listed another EWC failure: the unresolved boundaries between local and transnational activities, with frequent derogations from the legal provisions between individual countries. Union representatives suggest that management boards often try to pass off transnational issues as local ones. Such issues are occasionally raised to the transnational level – but only during later stages and with pressure from unions and EWCs (Interview, IKEA Hrvatska, 2020).

The general assessment of cooperation within the EWCs, as given by union representatives, was mostly positive. EWC meetings are a venue for open discussion on issues in individual countries, where the more developed countries aim to help out the less developed ones. A great deal of information can be learned and the expertise is shared at these meetings. Communication and trust forged between colleagues was assessed as exceptionally useful (Focus group of unions, 2020). However, in certain cases the cooperation within the EWCs was assessed as being somewhat poorer than it was in previous years, and the average grade given at the focus group with the unions was just below 'very good'. They stressed that the EWC is a good, necessary instrument, but that it requires an upgrade, because if it remains in its current form it will quickly lose its purpose (*Ibid*).

Employer representatives stress that the EWC is not a body through which employees at the local level can establish cooperation with their employer. Cooperation between employees and the employer takes place exclusively through the local workers' council. In that sense, employers believe that the EWC is a body that should primarily have the purpose of training local worker council members, as EWC delegates are usually also members. This training should not be limited to workers' rights, but should also broadly touch upon the profession. It is important to stimulate knowledge and the competencies of members of workers' councils, so as to ensure they are better partners to employers (Interview, Erste Bank, 2020).

For union representatives, a general problem with the EWC directive is that it is a loose framework. In that sense, they support strengthening the directive through the further development of European legislation, to ensure that the rights ensuing therefrom can be better directed and more effectively implemented through national legislation (Interview, CUBFW, 2020). In the current conditions, the role of EWCs is primarily consultative and formal, without any real influence on the policies of multinational companies (Focus group of unions, 2020). Union representatives believe that the work of EWCs could be improved by increasing penalties for violations, ensuring uniform protection of delegates

from discrimination, avoiding direct appointments of delegates, and most importantly, by granting greater authority to EWCs. They propose that the practice of sending employees from human resources departments to EWC meetings, instead of worker or union representatives, should also be avoided.

Unlike the unions, employers believe that the legal and institutional framework in the domain of EWCs is adequate. They stress that in Croatia more work is required in developing good practices, paying closer attention to details, and working to understand this instrument. A problem identified is that one part of the workers' unions is against any kind of worker participation in which they themselves are not involved. When laws are drafted, they actively direct matters towards reducing the significance of workers councils, as they feel that the institution of the workers council reduces their own significance. A good example is in the German practice, where there is a strong understanding of this institution, and unions play a role that is more sector-related, while the role of the workers' council is more corporate. These are roles that are not mutually exclusive, and where one cannot overpower the other (Focus group of employers, 2020).

In considering the general efficacy of EWCs, the union representatives stress that a positive effect is achieved only where there is a strong workers council and an effective union. This opens the door to allow EWC delegates to give their opinion before strategic decisions are made. In this, they stress that the unions and workers councils are not competitors, but instead complement one another. Only the union may enter collective bargaining, while only the workers council can request from management that they are informed in advance. Experience has shown that when the union president advocates something, the employer has a different attitude towards it compared to when the request comes from a member of the workers council that is not backed by a union (Interview, HT, 2020). However, most union representatives believe that multinationals establish EWCs and workers' councils where the union does not have a strong influence. This threatens the quality of transnational social dialogue and brings into question the purpose of this instrument (Focus group of unions, 2020).

Union representatives believe that in order to increase the general efficacy of the EWCs, it is necessary to improve both employer and union understanding of this instrument. Employers, they say, view this instrument primarily as an obligation that must be implemented. Unions, on the other hand, have the illusion that through additional obligations in the Directive itself they will be able to force employers to recognise the value and importance of democracy in the workplace. Therefore, it is important for both sides to recognise their joint interests in this instrument (Interview, RBA Hrvatska, 2020).

Based on the opinion of employer representatives, the general efficacy of EWCs and the potential of this instrument to influence labour relations in Croatia is graded as satisfactory. They believe that the Croatian unions do not fully understand this instrument, and that it is insufficiently used. They stress that the EWC is a necessary instrument that requires greater recognition for its role in connecting all workers within a multinational corporation. To conclude, the EWC is viewed among employer representatives as a good framework for establishing communication and building mutual trust, given that there is a high level of mistrust between employers and worker representatives in Croatia (Focus group of employers, 2020).

# **6. Conclusions and recommendations**

## **6.1. Conclusions**

The Directive on the establishment of a European Works Council was launched in 1994 in response to the growing internationalisation of operations, and the increasing significance of multinationals in the economic structure of EU Member States. It pertains to all multinational companies with more than 1000 employees, and at least 150 employees in at least one other Member State. The Directive stipulates that employees in at least two countries must be informed and consulted when planning future employment, organisational changes, production changes, the closure or sale of companies etc. Pursuant to the Directive, a multinational corporation establishes a European Works Council at the initiative of management. It functions as a special body where the workers of the entire group are represented via delegates who participate in the process of information and consultation with representatives of central management.

The Directive was amended in 2009 in order to better define certain terms and to improve several operational aspects. However, the 2008 crisis had a negative impact on the process of establishing new EWCs. The process was slow, while numerous functioning councils experienced a certain stagnation and regression, since solutions were increasingly sought at the national level instead. After more than two and a half decades of the EWC Directive, it is difficult to draw conclusions about its efficacy, since practices vary considerably. On the one hand, nearly half of all multinationals in the EU have still not established an EWC. On the other, among the functioning EWCs, it is possible to find examples of both powerful drivers of transnational social dialogue and marginalised bodies reduced to mere disseminators of information.

It is certain that the issue of EWCs will become more important in Croatia, given the fact that the country has become tightly integrated into the single EU market over the past decade - increasing the significance of multinational companies, both foreign entities and those seated locally. Direct foreign investments account for nearly a third of all investments in Croatia, and are responsible for virtually 40% of all Croatian exports. The recession caused by COVID-19 has strongly impacted the Croatian economy, which is currently suffering unprecedented losses. Therefore, it is extremely important to ensure efficient use of the new economic recovery instrument, *EU Next Generation*, and multinationals are sure to play an important part in its implementation.

As the EU's newest member, since 2013, Croatia had a relatively late start in applying the EWC Directive. Therefore, it should not be surprising

that there is still not a single EWC established under Croatian law, i.e., established by a multinational company seated in Croatia. Regardless, the legislation created from the transposition of the EWC Directive is applied in several of its provisions, such as the manner of appointing EWC delegates, models of disseminating information from EWC meetings, and more. Croatian social partners have given various assessments of the quality of this legislation. The overwhelming opinion is that it could be improved in order to better reflect the reality of how multinational corporations operate in Croatia.

Representatives of Croatian unions stated that the greatest success of the EWCs has been their direct effects. This includes: faster communication between central management and local employees, improved social dialogue at the local level with the establishment of workers' councils, and the conclusion of collective agreements where there previously had not been any. This often involved transfers of best practices from countries with a longer industrial relations tradition, which shows that contrary to general belief, the activity of multinational corporations can also result in improved labour and legal relations at the local level. They believe that the key to the success of EWCs is in union organization, as it is only in places with a strong union that the EWC functions as more than just a forum for disseminating information. Representatives of Croatian unions support adopting a new EWC Directive to expand the authority of the EWCs. This would further oblige employers, thereby ensuring that the practices currently implemented by some companies just for the sake of checking off boxes are replaced by genuine transnational social dialogue.

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Unlike the Croatian unions, the representatives of Croatian employers are more reserved towards the idea of expanding EWC authority. They are satisfied with the current function of these bodies, which is informative and also partly consultative. In that sense, they do not view the EWC as an instrument for ensuring the uniform position of all employees in the various countries in which the group operates. For them, the EWC is primarily a forum for improving transnational communication with employees, and for expanding and improving the culture and values of multinational corporations. Furthermore, the Croatian employers state that EWCs play an important educational role. They make it possible to educate delegates with the skills and knowledge needed to help them as members of local workers' councils and become better partners with local employers while making strategic decisions. Ultimately, employers view the EWC as a good instrument for strengthening trust between Croatian workers and employers, since this trust is currently quite eroded in comparison to other EU Member States.

## 6.2. Recommendations

### *Recommendations for Croatian trade unions*

- Workers in multinational corporations should be assisted and encouraged to organise themselves, as their level of organisation is oftentimes of key importance for the establishment of the European Works Councils. The legislative framework provides the opportunity for workers employed with an employer or associated employers to initiate the procedure for establishing the negotiating body for the establishment of an EWC. Unions should raise awareness of this opportunity amongst workers in multinational corporations, as a large number of EWCs in Europe were established in this manner.
- Unions should organise training for EWC delegates, to prevent representatives of central company management from forcing their meeting agenda. Unions should educate EWC delegates and instruct them to come prepared, and to conduct themselves constructively and proactively at the meetings. Also, it is imperative that the delegates develop a relationship of trust with employees in local companies, always making sure they hear their positions and proposals.
- 88 - EWC delegates should encourage unions to initiate constructive steps aimed at unifying practices and standards at the group level. This includes adopting legal instruments such as statements, agreements and codes, which regulate certain aspects of work and employment. In practice this has proven to be a good way of improving the position of workers within the entire group.

- Union headquarters and branches should better articulate EWC issues in the public sphere. There is a lack of awareness about the EWCs in the Croatian public and media, and this needs to be changed through targeted campaigns. The aim of these efforts should be to raise awareness of the importance of transnational social dialogue. The problem of the lack of EWCs in multinational companies seated in Croatia should be discussed publicly, so as to encourage employers to move in that direction.

### *Recommendations for Croatian employers*

- Croatian employers do not have a strong understanding of EWCs, in particular how they could connect companies and create collective expertise. Therefore, a special coordination of Croatian company representatives that have an EWC should be formed within the Croatian Employers' Association. This coordination should encourage companies that meet the requirements for the establishment of an EWC to do so,

with the aim of strengthening transnational social dialogue and achieving all the benefits that this brings.

- The quality of EWC meetings demands the engagement and participation of both sides. Therefore, employers should become aware of the fact that there is a degree of dissatisfaction among numerous unions with the quality of EWC meeting outcomes. To improve this poor impression, employers should alter the practice of not taking any consideration of the EWC advice. Ignoring the consultation process in instances where they are legally stipulated should also become a thing of the past.
- The successful work of EWCs depends on, among other things, the financial and technical resources made available by the employer. The issue of insufficiently defined financial and technical obligations between central management and the local companies pertaining to the work and organisation of the EWC is a common problem in multinational companies in Croatia. Above all, it is an issue of imprecise wording in the EWC agreement. This needs to be resolved to ensure that the result of the work of EWCs is not jeopardized due to technical matters.

#### *Recommendations for the European trade union associations*

- The revised EWC Directive secured the participation of European trade union associations in the negotiation process for the establishment of EWCs. Also, negotiators are able to seek assistance from representatives of European trade union associations during the negotiation process. In the future, this process should be worked out in greater detail to ensure a more systematic form of knowledge transfer between European trade union associations and unions at the local company level.
- European trade union associations should lobby at the EU level for a new revision of the EWC Directive. Within this procedure, there should also be higher fines for those violating the legal provisions concerning the work of EWCs. Such a step forward is important because practice has shown that multinational corporations would rather pay a fine occasionally than abide by the law when it comes to EWCs. It is also necessary to require all multinational corporations that have not yet established EWCs to do so. The current situation, in which the establishment of an EWC is still optional, should be changed.

- EWCs can only be successful if their delegates are trained for the work that they perform. Too often, EWC delegates' training and education is neglected, both by the local company and its unions, and by central management of the multinational. Therefore, the European trade union associations should set up their own system of training and education for new EWC delegates, to properly prepare them for their functions.

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## ANNEX

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## **List of companies and institutions covered by the field research**

Focus group of unions. 1 June 2020 (IKEA Hrvatska Ltd., INA d.d., PHOENIX Farmacija Ltd., Raiffeisenbank Hrvatska d.d., Zagrebačka banka d.d., Heineken Hrvatska Ltd.)

Focus group of employers. 3 June 2020 (Institute of Public Finance Zagreb, Croatian Employers Association – CEA, Heineken Hrvatska Ltd., Faculty of Law of the University of Zagreb)

Interview Erste & Steiermärkische Bank d.d. 18 June 2020

Interview Colas Hrvatska d.d. 19 May 2020

Interview METRO Cash & Carry Ltd. 19 June 2020

Interview IKEA Hrvatska Ltd. 10 June 2020

Interview Siemens Hrvatska d.d. 11 June 2020

Interview OMCO Croatia Ltd. 11 June 2020

Interview Heineken Hrvatska Ltd. 15 June 2020

Interview CTUPP - Croatian Trade Union in Printing and Publishing Industry. 16 June 2020

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Interview Raiffeisen Bank Hrvatska d.d. 18 June 2020

Interview MATICA – Association of Croatian Trade Unions. 23 June 2020

Interview General Electric Hrvatska Ltd. 26 June 2020

Interview MLPS - Croatian Ministry of Labour and the Pension System. 17 July 2020

Interview CUBFW - Croatian Union of Banking and Financial Workers. 23 June 2020

Interview Hrvatski Telekom d.d. 10 July 2020

Interview Strabag BRVZ Ltd. 15 July 2020

Interview INFOSYS LIMITED d.d. 16 July 2020

Interview A1 Hrvatska Ltd. 27 August 2020

**Questionnaire**

**for conducting interviews and focus groups with  
trade unions and employer's unions**

***Effects of EU accession on industrial relations in Croatia***

1. What were the main benefits of Croatia's accession to the European Union regarding industrial relations (relationship between employers and employees)? Have you noticed any improvements in industrial relations following the implementation of the Directives?

***Level of involvement of social partners in the implementation of  
industrial relations policies***

1. Have you participated/were involved in the process of transposing the respective European legislation into national legislation? How did you participate (studies, feedback etc.)?

2. From what you know, were there conferences/meetings/information events organized on the topic of European industrial relations in your country? If yes, who organized them? Did you participate?

3. Did the organization you are affiliated with, organize any informational events with the leaders of the national employers/trade unions on the topic of EU legislation on industrial relations which were transposed into national legislation? Who participated, how was the information distributed, where can the studies be found?

4. Which are the most important European legal acts transposed into national legislation? Why?

5. Which European-level legal acts regarding industrial relations you would like to see better implemented in Croatia, and why?

6. In what manner did you contribute to increasing the awareness of the national government regarding best practice in implementation of EU industrial relations legislation and policies in Croatia? Did you collaborate with foreign colleagues within the European federation that you are affiliated with? If yes, what response did you get from the government?

### ***Experience regarding the European Works Councils***

1. How familiar are you with the European Works Councils? What is the role of the employer's associations / trade unions in the EWC?
2. How accurate was the transposition of the EWC Directive in national legislation? Are there inconsistencies or contradictions? Are there points, which can be improved?
3. Did you discuss the topic of EWCs with other social partner representatives before it was introduced into national legislation? What was their opinion regarding the instrument? Have you discussed/negotiated on this topic since it was introduced into national legislation?
4. Were you part of or have you participated in a reunion of an EWC? Please comment on the quality of the specific EWC agreement, what resources are put at the disposal of the functioning of the EWC (budget, technical equipment, trainings, etc.)?
5. How is a meeting of the EWC carried out? Who takes the initiative to send the invitation, how long does a meeting last, is everything resolved in a first discussion or are more necessary, how is the information received at the meeting communicated to the rest of the employees?  
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6. Can you please elaborate some positive and negative examples of negotiations/topics of discussions from EWCs where you have participated?
7. How do you evaluate the cooperation within the EWC with the other management partners from other countries? Are there obstacles in communication or divergences in opinions? How can the relationship be improved?
8. In the absence of an EWC, what structure within the company fulfils the role of consultation and negotiation of the employees? Which subjects have been topics of discussion in meetings regarding consultations and information?
9. If there is no EWC in the company, how are the information and consultation meetings carried out? Who has the invitation initiative, how the employees are consulted, what subjects are discussed, how many meetings are there etc.? Are there any other subjects that you would have liked to have been included in the consultations but were not discussed? Why they were not discussed?
10. How are the employees informed about the results of the consultations and information meetings (EWC or non-EWC)? Is there an e-mail /newsletter sent out by the employers or by the union representatives or how?

11. What is the frequency of the information and consultation of the employees (through EWC and other methods)? Who supports the organization expenses of such meetings?

12. Are confidentiality rules imposed on you regarding certain subjects during EWC discussions? If yes, regarding what subjects? Are the confidentiality rules: clear, sufficient, too strict, what is their impact (positive/negative) on the information and consultation activities of the company?

13. Are there procedures within your company that would allow an internal resolution of conflicts generated by employers without having to respect the obligation of information and consultation of employees?

### *Evaluation and conclusions*

1. How would you assess the overall cooperation/collaboration between the representatives of the employers and the representatives of the employees within the EWC meetings you have participated in?

2. Does the legal framework and the set-up of industrial relations provide appropriate conditions for application of the EWC instrument in Croatia, as is the case in the EU old member states (France or Germany)? If not, what are the obstacles and what solutions do you see to overcome them? If there is a low application of the EWC instrument in the country, discuss the reasons for this.

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3. How would you assess the overall efficiency of the EWC as an instrument of industrial relations? Please respond by using the 1 to 5 rating scale (where 1 stand for the minimal satisfaction and 5 for the maximal). What is its added value, in your opinion, over the general representation activities done by the employer unions?

4. Do you see any differences in the approach to/collaboration with EWCs between the company branches in your country and company branches in other European countries? If so, what are the main sources of conflicts/tensions? How is EWC instrument interconnected with other instruments of cross-border social dialogue like transnational company agreements (TCAs), board-level employee representation (BLER) in your company / country?

# IRMO

## INDUSTRIAL RELATIONS IN CROATIA AND IMPACTS OF DIGITALISATION ON THE LABOUR MARKET



## INDUSTRJSKI ODNOŠI U HRVATSKOJ I UČINCI DIGITALIZACIJE NA TRŽIŠTE RADA

Višnja Samardžija, Hrvoje Butković, Ivana Skazlić

# IRMO

## DIGITALNA TRANSFORMACIJA TRŽIŠTA RADA U HRVATSKOJ



## THE DIGITAL TRANSFORMATION OF THE LABOUR MARKET IN CROATIA

Hrvoje Butković, Višnja Samardžija

**IRMO**  
Institut za razvoj i međunarodne odnose  
Zagreb, 2021.



Knjiga je objavljena u okviru projekta financiranog sredstvima Europske komisije  
The book is published within the project funded by the European Commission

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#### O KNJIZI

Europska radnička vijeća imaju veliku ulogu u poboljšanju položaja zaposlenika multinacionalnih kompanija u njihovim matičnim poduzećima. Osim svoje najvažnije funkcije obavešćivanja i savjetovanja, Europska radnička vijeća otvaraju prostor jačanju europske solidarnosti. Ujedno, promovirajući najbolju praksu, ova tijela mogu u velikoj mjeri posredno pomoći razvoju sindikata u zemljama gdje oni nisu dovoljno organizirani, te potaknuti sklapanje kolektivnih ugovora tamo gdje ih ranije nije bilo. Na temelju provedenog terenskog istraživanja i sekundarnih izvora autori razmatraju praksu dosadašnjeg djelovanja kao i perspektive daljnog razvoja Europskih radničkih vijeća u Hrvatskoj. Ovo je prvo sveobuhvatno istraživanje Europskih radničkih vijeća u Hrvatskoj koje će zasigurno doprinijeti boljem razumijevanju njihovog položaja i značaja za industrijske odnose.

Dr. sc. Predrag Bejaković

#### ABOUT THIS BOOK

European Works Councils play a major role in improving the position of employees of multinational companies, within their parent companies. In addition to their most important functions of informing and providing consultation, European Works Councils increase the potential for strengthening European solidarity. By promoting best practice, these bodies can indirectly and to a great extent help the development of trade unions in countries where they are not sufficiently organized, and encourage the conclusion of collective agreements where they previously did not exist. Based on the conducted field research and secondary sources, the authors assess the work of European Works Councils in Croatia, as well as the prospects for their further development in the country. This is the first comprehensive research study of the European Works Councils in Croatia, and will certainly contribute to a better understanding of their position and their importance for industrial relations.

Predrag Bejaković, PhD