

Report: UNI Europa Webinar on Restructuring and Empowering Self-employed Workers – 18 March 2021

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Introduction

This webinar for affiliates was the first of two organised by UNI Europa on cutting-edge issues in collective bargaining (the second, on *Artificial Intelligence and Lifelong Learning*, took place on 25 March), in preparation for its 2021 conference on 27-29 April. The first part of the workshop comprised the presentation and discussion of several cases of union responses to restructuring, complementing UNI Europa's project on restructuring over the last two years. This has included a survey of affiliates, a well-attended international trade union workshop in Ireland, the *Restructuring Processes in the Services Sectors & Trade Union Responses* report, and will culminate in a motion – co-developed with affiliates – at the upcoming conference.

Restructuring in the services sectors

2.1. Challenges and union responses

The sectors least affected by the current crisis and which show positive change in respect of headcount (roughly 11 to 20 percent according to [Eurofound](#)) are primarily white collar services sectors that have been in a state of “permanent restructuring” in recent years, explained Mark Bergfeld (UNI). This has enabled them to transition much of their workload to remote working. On the other hand, service sectors focused on in-person events, such as arts and entertainment, have been badly affected, being much less able to shift their work online.

Meanwhile, a working context is emerging in white collar employment in which HQs and company offices are being either discarded or adapted to fulfil a very different function, Mr Bergfeld noted, which will have wider implications for remote/home working. PepsiCo's German subsidiary has introduced a 'Mobile Working Policy', in cooperation with its works council, which will allow both for a reduction of their office space in Germany and for employees to work from home whenever they wish or to live at a large distance from headquarters. Bayer's operation in Italy has made a similar agreement with trade unions with respect to remote working.

More generally, Mr Bergfeld addressed the causes of the “**permanent state of restructuring**” in services. The companies in question are often publicly traded, such that management can claim to be maximising shareholder value through the restructuring process even if this is often not the primary justification presented – certainly, not in the experience of the property services and sectors represented by UNICARE. Second, decreasing headcount through restructuring often counts very positively towards certain accounting standards and allows companies to present themselves as financially stable in times of economic turmoil; this is particularly the case in labour-intensive sectors and among companies that prioritise having “lean services”. Third, in a context of stagnant growth up to February 2020 and economic decline in the period following, restructuring has been used to deliver *short-term* economic growth for companies (not sustainable growth that provides for all stakeholders). Such an impetus may only grow if economic turnaround remains distant, which is being forecast by some economists on the basis that the world economy was already in a downturn, Mr Bergfeld noted. Lastly, the permanent restructuring agenda can also be based (as documented in the UNI report) on boosting

productivity at the workplace level: a number of significant studies have shown that restructuring and homeworking tend to result in staff working more productively, with greater concentration and over longer hours, with a blurring of working life and leisure that provides employers with opportunities to extract greater value from their employees .

2.2. Advancing collective bargaining in fintech

Finansforbundet in Denmark, a “strong” trade union with a density of 75% in the financial sector and a net worth (“financial power”) of €275m, has taken a path that is “somewhat different to how we usually work in trade unions” in the achievement of a collective agreement with the fintech sector, stated its Vice President Michael Budolfson. After surveying the “worrying” trajectory of the Danish financial sector circa 2015 (from a traditional standpoint), wherein trade union membership had fallen by 19% in banks and credit unions over the previous six years, and after observing huge investments in fintech at the global level, the union asked themselves how they might expand their scope from traditional finance to organising in new sectors.

Since fintech was not yet defined as a sector, a new “bottom-up” approach was formulated (reversing the traditional process), in which the trade union would **build and stimulate industrial development**, support new companies, negotiate a sectoral agreement and *then* organise employees. The process began in 2015 when Finansforbundet partnered with the Danish bankers’ association and the Municipality of Copenhagen to produce a research study showing the potential of growing a fintech sector in the country, on the basis of the high existing level of digital competences and the strong financial sector. Since then, jobs (high-skilled) have grown from 700 to 3,000 and investments from €13m to €470m, while Finansforbundet has gone from hosting 10 small startup companies at its own Trade Union House in 2016 to more than 50 today, in spaces rented through its Copenhagen Fintech Lab partner. The trade union offers administrative support to these companies, including accounting, HR and insurance.

Going further, Finansforbundet undertook a joint initiative with the Finance Employers Association to organise these companies into an Association of Fintech Employers (AF) so that the union might have “someone to negotiate with” in making a sectoral agreement, which is now reaching completion. Covering the whole fintech sector in Denmark, the agreement is similar to that negotiated in banking, including on social standards and wage development. The main task ahead for the union in this new sector, which it has created and fostered, is to organise its members – fintech employees. Ordinarily this would be the first step for a trade union.

There have been additional achievements within this “success story”, Mr Budolfson said: Finansforbunde has gained “a massive amount” of political capital with the national parliament, has become recognised as a “business partner”, has transitioned former freelancers to being organised as workers under collective agreements, and has created a fintech academy to educate its members from traditional finance such that they are able to take on jobs in the new sector. Fintech companies, meanwhile, have seen the value of being covered by a collective agreement as they seek to attract capital and investors, since it allows them to present themselves as “decent”, “sustainable” businesses with good social standards.

2.3. Organising along the services chain

In the financial services sector in Ireland, “permanent restructuring” has involved a permanent state of redundancies and headcount reduction, explained Gareth Murphy (FSU). The lack of a legal structure for union recognition and collective bargaining (including the absence of facilities time for union reps) and the weakness of sectoral bargaining have led to a situation where trade unions organising workers **“from the ground up”** is the only means to achieve the former. Yet, the organisation of campaigning trades unions has had to be “relearned” in the aftermath of the highly centralised ‘social partnership’ model of bargaining existing from 1987-2009.

Even as the growth of US multinational involvement in Ireland's finance, tech and telecommunications sectors has brought a growth in “hostile” anti-union approaches, retail banking (representing the strongest section of FSU's membership) has been declining in staff headcount and workplaces over recent years, and the Single Banking Market promises an intensification of this process. In view of these dynamics, FSU determined a number of strategic priorities. First, to organise to strengthen its membership in the core banks in order to protect jobs, save branches and encourage employer investment in re/upskilling of workers. Second, to grow the union in newer financial services; moving from organising workers among 55 employers in 2018 to 99 by the end of 2020 (FSU has not yet developed collective bargaining in all of these cases). And third, to organise in those new parts of the technology sector and wider economy that they judged to be stable, growing and sustainable, notably the games sector.

Seeking to recruit a base of members within Ireland's relatively small games sector of 2,000 workers, FSU created a survey on terms and conditions aimed at gathering contacts. Around 200 responded, noted Ms Moran, with new members joining in a number of key workplaces. Having initially sought to enact a Sectoral Employment Order for sectoral bargaining 2013 – a measure they abandoned after a [landmark legal case](#) last year – the union shifted their strategy toward workplace organising and campaigning, including mapping conversations and a pay transparency survey of the sector. FSU has since become a “union of choice” for workers in creative areas, leading to the establishment of animation and tech branches. While the pandemic situation has made engagement with some tech workers more difficult due to fears that online communication about union activity might be recorded, other groups of workers have found it more accessible to speak to a union representative through their laptop/PC.

2.4. EWCs in the face of hostile takeovers by private equity

G4S, a security solutions provider with around 530,000 employees across 83-85 countries, currently holds a collective agreement with UNI Europa at EU-level and a global agreement with UNI Global (Ethical Employment Partnership, 2008), stated David Gigg (GMB). Its restructuring programmes have particularly impacted on HR and IT, while the strength of opposition to these has led to the exit from the G4S European Works Council (EWC) of the company's operations in France, Germany, Poland, Sweden, Bulgaria, Hungary and Finland from 2008 on.

The path to the current takeover can be traced back to December 2018, explained Mr Gigg, when G4S announced that it would separate its cash and secure solutions businesses into two companies. This eventually led to the sale of the majority of cash businesses (in Europe and globally) to the Brink's security company in February 2020, along with secure solutions businesses in certain countries. The EWC for G4S, established in 2005 (dating back to 1996 in G4S' antecedent companies) was heavily involved in the information and consultation process around these changes. During this process, GardaWorld began considering an offer for G4S, and after BC Partners private equity firm bought a controlling interest in the former, a formal offer for G4S was placed in September 2020 (190 pence per share). Allied Universal, also with substantial private equity interests, put an offer of 210 pence per share in November 2020.

Addressing these offers, the EWC submitted detailed **opinions to shareholders and current management** (as reported in the [Financial Times](#)), demanding, first, commitments on job security, health and safety, and human rights responsibilities, and, second, improvements in cooperation with trade unions (including social dialogue and collective bargaining), greater information and consultation rights and the protection of the global framework agreement.

On 16 March, it was announced that Allied Universal had reached the threshold to complete the acquisition of G4S, and this will go ahead, it appears, on around 6 April 2021. At that point, Mr Gigg emphasised, it will be key to ensure that EWC, global and local agreements are protected and extended and that the situation of all G4S workers improves, wherever they are based. In this light, it has been crucial to gain an understanding of how private equity is functioning in these takeovers and to maintain a high level of international organisation among unions, noted Mr Gigg. On 3 March, UNI Global organised a G4S trade union alliance meeting that included representatives of 500,000 security guards from 29 countries, demanding the extension of the global framework agreement with G4S in the context of the Allied Universal takeover.

Organisation, representation and collective bargaining for self-employed workers

3.1. Self-employment in the services sector: a worker is a worker

The second part of the webinar, introduced by UNI Europa Regional Secretary Oliver Roethig, looked at two cases of how self-employed workers may be empowered to exert their rights of collective bargaining and freedom of association. UNI hosted its first affiliates seminar on this topic in 2019, which fed into a [report](#) on experiences and practices across Europe. The former is now contributing to a discussion at EU level that Mr Roethig described as a “sea change” in the European Commission’s (EC) approach. Where previously the self-employed were regarded primarily within the framework of enterprises, the EC is now seeking to clarify their situation, with the intention that self-employed people who are genuine workers should not have their rights to collective bargaining undermined by **EU competition laws**. The position of UNI Europa is that “a worker is a worker” – self-employed workers should have the same rights as those with an employment contract – and it is working with the European Trade Union Confederation and other union confederations to get this position established in European law and practice.

3.2. What the solo self-employed (can) achieve together

The rights of self-employed workers to carry out collective bargaining are enshrined in Germany's Collective Agreement Act (Section 12a), such that where more than 30% of a freelancer's income comes from one client, a collective agreement can be concluded on their behalf, explained Matthias von Fintel (ver.di). Such agreements have indeed been negotiated since the 1970s and this has led to significant gains in income for some self-employed workers.

What is covered in collective agreements for employees may thus, on a particular basis, be agreed for the self-employed: from remuneration to pension provision, paid holiday, paid parental leave or sick leave. Organising in public broadcasters, ver.di has a "golden rule" of always negotiating agreements for both types of worker over the same period of time – concluding them simultaneously – which allows for solidarity between workers. Authorial rights may also be covered by collective agreements, which is crucial, given that many self-employed workers in the field of media and culture gain significant income in this way. Collective agreements for the self-employed can also yield results concerning loss of work or termination of work that are similar, given certain conditions, to those included in employee contracts.

Around half of workers in Germany's public broadcasters are self-employed. They are organised into three or more unions, including ver.di, and freelancers such as journalists and members of orchestras have often been brought together on the basis of demanding minimum fees for their work. Over the last five years, noted Mr von Fintel, ver.di has undertaken a "two-pronged" strategy in relation to so-called "**bogus**" **freelancers**, who work so much for one broadcaster or whose activities are so integral to its operations that their contractual relations can be considered false, and, as such, they might be argued in court to hold the role of an employee. First, ver.di carefully analyses these workers' contracts and informs them whether they could go to court to get a real employment contract. Most respond "no" due to the perceived risks: e.g., they don't want to lose their job. Hence, the union systematically identifies bogus freelancers in a mapping exercise and organises them as members, agreeing in advance on the number required to organise actions. Once numbers are sufficient – in most cases well over 50 percent of self-employed workers in an organisation join the union – legal procedures can be launched.

Alongside this legal strategy, ver.di proposes an alternative to the broadcasting companies in question: to conclude a collective agreement with these workers, with the objective of obtaining permanent employment contracts for the latter. Such agreements also fix hours, working time, in some cases, retirement and pension benefits and other complex issues. To exert further pressure, the union has also organised strikes for the self-employed and freelancers (as permitted under German law) in this situation. Until an employment contract or equivalent conditions are obtained, nonetheless, ver.di will not terminate legal proceedings. In the case of the Norddeutscher Rundfunk public broadcaster based in Hamburg, the union has almost 30 legal proceedings underway to obtain collective agreements for 200 bogusly self-employed workers. And in respect of Bavaria's Bayerischer Rundfunk, there are almost 200 legal proceedings underway. This constitutes a great deal of work for the union, but the strategy has been successful – forcing companies to offer honest, fair conditions to bogus freelancers.

The union's second area of campaigning for the self-employed has been in the use of regional laws to achieve equal co-determination rights (voting, standing for election, etc.) in works councils at half of the public broadcasters (six out of twelve). The national law in this area applies to civil servants and public service employees but does not provide for the representation of self-employed workers (this is also the case for private companies).

3.3. Strengthening the rights and position of self-employed workers

The Netherlands is seeing a “huge increase” in self-employed workers, stated Andrée Ruiters (FNV), in the context of a labour market where one third of the 9 million workers are on flexible, zero hours or temporary contracts. This picture is reflected in the public broadcasters, and FNV Media & Cultuur has campaigned for two years using collective agreements to reduce the volume of successive temporary contracts. At the same time, the large group of freelancers at the public broadcasters work on very low rates of pay and under very precarious conditions. Because self-employed workers in the Netherlands do not have the same legal rights as in Germany with respect to collective bargaining, they are not included in the collective agreement that covers over 4,900 workers. The only examples of collective agreements on remuneration for the self-employed have been in FNV's architects branch and in the dance sector.

FNV has, nonetheless, taken up the principle that employees should not be put in competition with freelancers working at low rates, as is the current practice, but that there should be a “level playing field”. Although employers have consistently refused to discuss freelancers' rates within the framework of collective agreements, FNV has made “important” progress in another way over the last year. It has agreed a **Fair Practice Code** regulating public broadcasting companies' agreements with freelancers, setting minimum rates at 150% of collectively agreed minimum wages for employees. The code is not internal to the companies, but an agreement between the trades unions, the employers' association and the governing organisation of public broadcasters (NPO). The first of its kind in the Netherlands and a “revolutionary” step according to Ms Ruiters, the agreement was concluded for an indefinite period and came into force on 1 December 2020. A committee including representatives from employer and union sides will resolve any problems with the code and evaluate it in December 2021, when FNV will seek to negotiate improvements based on the latest information from its freelancer members.

FNV has endeavoured to ensure that the code takes adequate consideration of how freelancers' earnings compare with employees' monthly salaries, holiday benefits, allowances, pension premiums and sick pay, in addition to correcting for inflation and indexations. Nevertheless, FNV considers the code to be simply a “good starting point” and Ms Ruiters emphasised the importance of continuing to define it as a lower threshold, rather than allow employers to consider it as the norm, as is often the case. Freelancers will, however, still have to negotiate their own rates, based on their experience and on the nature and conditions of the work.

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