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## **New Forms of Employers' Collective Interest Representation? \*\***

This paper examines the motivation of employers to form employers' associations. It also analyzes the willingness of employers to provide associations with sufficient resources and to empower them to negotiate collective agreements. In examining four cases of newly created employers' associations, the analysis finds that the three major explanations for employers' associability – union power, state action, collective goods – are far from mutually exclusive, as much of the existing literature claims. Any one of these three factors alone, or in combination, has the capacity to drive the creation of an association. There is no evidence that a hierarchy exists among these factors in terms of their potential to motivate the creation of a new employers' association.

### **Gibt es neue Formen der kollektiven Interessenvertretung von Arbeitgebern?**

Der Aufsatz untersucht die Gründe und Motivationen von Arbeitgebern zur Gründung von Arbeitgeberverbänden sowie ihre Bereitschaft, diese mit ausreichenden Ressourcen und tarifpolitischer Handlungsfähigkeit auszustatten. Basierend auf der Analyse von vier Fällen neu gegründeter Arbeitgeberverbände werden mit der gewerkschaftlichen Gegenmacht, dem staatlichen Handeln und der Bereitstellung von Kollektivgütern drei Gründe für die Organisationsfähigkeit der Arbeitgeber vorgestellt, die sich in ihrer Wirksamkeit nicht gegenseitig ausschließen. Für die erfolgreiche Gründung eines Arbeitgeberverbandes kann jeder dieser drei Faktoren, ob nun für sich genommen oder in Kombinationen mit anderen, ausreichend sein. Die Analyse kommt auch zu dem Ergebnis, dass es keine Belege für eine klare Hierarchie in Bezug auf ihr Potential für eine Verbandsgründung gibt.

Key words: **Employers' associations, collective bargaining, organization building, union power, collective goods**

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## **Introduction**

There are several countries experiencing concerns about the very future of employers' collective interest representation. Focusing most prominently on the cases of Germany and Sweden, scholars emphasize the weakening of the organizational integrity and political power of employers' associations. This weakness, so the argument goes, results from the increasing importance of the company, which is accompanied by increasing demands for more flexible provisions in terms of wages, hours and working conditions (Schroeder 2000; Thelen 2000; Schroeder/Ruppert 1996; Hornung-Draus 2001; Pontusson/Swenson 2000). Results from other European countries vary. In a large number of those countries (Austria, Belgium, Denmark, Italy, Luxembourg, Netherlands, Norway and Spain) research has indicated stable or even increasing membership levels of employers' organizations. In several cases their involvement in different government bodies as well as in tri-partite pacts remains fairly strong (Behrens/Traxler 2004).

The position of employers within a specific political-economic system, however, is not just a function of their organizational capabilities; it is also defined by the profile of tasks and policies they pursue. Despite the mixed findings concerning employers' strength and stability, however, there are indications that some national peak federations have gone through functional adjustments, most prominently by replacing tasks directly related to collective bargaining with political lobbying (Traxler 2003: 11). Following from these observations the most important question is what role the associations play within the wider system of the political economy, especially in Coordinated Market Economies (Hall and Soskice 2001). This paper analyzes employers' associability, which is less concerned with issues of membership and political strength of existing organizations than with the precise role such organizations play within the economic structures and the benefits they provide on their membership.

To answer the questions about the factors that are conducive to employers' associability we first need to examine the reasons and motivations that helped them set up these associations in the first place. The puzzle is this: What induces companies which are competing in the market place to create and maintain forms of collective interest representation, to provide such associations with sufficient resources, and to empower them to negotiate collective agreements that are binding to every member?

Previous, and frequently theoretically oriented research has suggested three possible answers to this question: the existence of strong unions, the role of the state, and collective action problems. A first line of reasoning assumes that employers' associations are a built-in response to a high degree of strategic coordination on the part of trade unions (Simon 1976; Schmitter/Streeck 1999: 38). Thus, employers do not primarily develop associational capacities on their own, but are dependent on external forces beyond their control. It is the irony of this story that – at least in part – it is up to the adversaries of business to determine its ability to form and maintain collective interest representation (Offe/Wiesenthal 1980).

Second, scholars assume that active state intervention provides the building blocks for the creation of employers' association. This may be true in two different respects. At a more general level, with the increasingly systematic intervention in the

economy, the state reduces the importance of the market as a mechanism of resource allocation while proportionally increasing the importance of the polity. Through this process employers may be forced to politicize their interests and to form class or sectoral associations (Schmitter/Streeck 1999: 12). At a more practical level the state might also provide incentives for association building through tax incentives, empowering such organizations to fulfill certain functions previously in the domain of the state, or even by mandating membership.

Third, and as most prominently argued by Mancur Olson (Olson 1965), the universal logic of collective action also applies to employers' associations. According to this theory, employers' associations would be able to provide „collective goods” that single companies would either find impossible to provide or only at prohibitively high costs (for the case of employers' association see also Keller 1988, 1990). From this perspective, employers have a positive interest in association building, which – as Olson has also shown in great detail – needs to materialize by way of overcoming the strong temptation of free-riding. As Traxler et al. (2001: 35) have argued, organizations (of almost any kind) pursue this goal by first, specifying their representational domains, second, by making their members comply with associational goals and collective decisions and finally, by mobilizing power for the advancement of goals.

The existing literature has generally discussed each one of these factors while excluding the others. That is, most authors have attempted to establish one causal factor for the formation of others while excluding the possibility that other factors may play just as important a role in motivating the creation of employer association. In contrast, I argue that all of the three factors discussed above – union power, the role of the state, and collective action – can be the underlying reasons for the establishment of employer association. Moreover, in some cases a combination of these different factors has led to new associations. Finally, I argue that based on the limited case availability, it is not possible to distinguish one factor as clearly being the dominant motivation.

### **Methods and case selection**

To account for such differentiated modes of causation, the following analysis employs a methodology characterized by a high degree of openness to facilitate the analysis of complex contexts or settings. Case study research provides a particularly useful technique for exploring organizational phenomena in areas where current research and theory is underdeveloped (Human/Provan 1997). Research into the causes of organizational associability is usually limited by substantial difficulties in gathering reliable and comprehensive data. Because in many cases, which is particularly true for employers' organized interests, organizations were established more than 50 years ago, data sources are limited and empirical research mostly restricted to historiographic approaches. To avoid these restrictions the following analysis will exclusively refer to rather recent cases of association building, mostly those where associations are no more than 20 years old. This makes it possible to interview key actors about their perceptions for the rationale behind establishing an organization, and where additional documents are still available, allows for cross checking of the information provided by employers' representatives. In addition, this study will focus on employers associations

in the narrow sense rather than on all kinds of business interest associations. Following a definition by Traxler (2001: 317) we distinguish between employers' associations and trade associations. Employers' associations represent their members' collective interests in the fields of labor market issues as well as industrial relations while trade associations represent the product market interests of their membership. There are three important indicators which help us to identify employers' associations and distinguish them from mere trade associations. First, it is the ability and willingness of employers' associations to negotiate collective agreements either directly or indirectly through their affiliates. A second indicator for the associations' involvement in alternative modes of regulating labor markets and industrial relations is their participation in bi- or tripartite consultations on such issues. Finally, the capacity for regulating labor market interests is also suggested by the existence of special departments within associations to deal with such interests.<sup>1</sup>

In general, the creation of new employers' associations is not just a marginal phenomenon and recent cases can be observed in a variety of European countries and in a variety of industries. According to a recent EIRO comparative study (Behrens/Traxler 2004) new EOs have been created in the Information and Communication Technology industry (ICT) in Italy, Norway and Sweden as well as in the temporary employment industry (Luxembourg, Germany). Intense activity in the creation of new EOs could be observed in Portugal and Spain. Since 1983, 208 new associations have been created in Portugal while in Spain the number of affiliates of CEOE, the major national-level employers peak association, has increased from 100 to 230 during the last 15 years, mostly by way of creating new associations in the sub-sectors of the Spanish economy.

To control for the specific context in which association building takes place, cases were selected from a broad range of industries but also from different countries as well as from different levels of the industrial relations system. For practical reasons, cases from Germany represent the majority of the sample but to avoid a national bias a case from Poland and one from the European level are included.

### **Deregulating the airwaves: *Tarifgemeinschaft Privater Rundfunk***

The German Employers Association for Private Broadcasting (*Tarifgemeinschaft Privater Rundfunk*, TPR) was founded in 1990 as an association of 8 private radio stations and TV networks. Until the 1980s broadcasting was mainly the domain of quasi public stations (so called „öffentlich-rechtlicher Rundfunk“) that were managed under the close guidance of state agencies, employers, labor unions, religious communities and other recognized interest groups. As part of an attempt at deregulation, the government later decided to grant licenses to private stations as well, and thus initiated the creation of a new and growing market for private broadcasting. In addition to new TV stations such as RTL and SAT, a number of regional or state level private radio stations were created. While initially this new industry was not covered by industry-

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<sup>1</sup> There are many cases where associations are both employers and trade associations. Because these associations fulfill the minimum requirements as laid out above, so called „dual associations“ are treated as employers associations.

wide collective bargaining and thus hourly wages and working conditions were determined at the company level (mostly on an individual basis)<sup>2</sup>, this situation quickly changed. The three big private TV stations, in particular, soon felt the heat of the unions' pressure, which accused them of making use of excessive (even unpaid) overtime work and other work practices which were considered to be sub-standard. While private radio stations were not particularly concerned about union opposition because they were not very vulnerable to any potential strike threat, the big TV stations thought differently about this problem. Although it is easy to run a private radio station only with managerial staff and a sophisticated computer system, TV networks, in contrast, feared that any disruption would hurt them bitterly<sup>3</sup>. At the time of the creation of the TPR, union power within the media industry was fragmented because employees were represented by three different unions, the media workers union (IG Medien, affiliated with the DGB), the White Collar Workers' Union (DAG, independent until 2001) and the Association of German Journalists (DJV, independent); but the threat of exercising union power was strong enough to drive the TV stations to initiate the Tarifgemeinschaft Privater Rundfunk (TPR). Later, the TPR became party to a framework agreement on employment conditions which was negotiated with the three unions. Among other points, the agreement included a special working time model which allowed for an annual working time account.

Throughout the 1990s, the TRP was able to recruit some new members into the association but it never reached the critical mass to be able to offer a full range of membership services such as legal services in the field of labor and employment law or advice in the management of human resources. While other associations affiliated with the BDA, such as the Gesamtmetall employers' association or the employers for the chemical industry, consider these services to be important for satisfying their membership's expectations, the TPR pursues a more low-profile approach, which limits services to recommending qualified consultants or law firms. Collective bargaining is truly at the center of the TPR's activities and the association prides itself for having negotiated a number of innovative and beneficial collective agreements<sup>4</sup>. In 1997, the broadcasting employers extended their repertoire and joined the Confedera-

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<sup>2</sup> The entire media industry, electronic media as well as print media, is notorious for contracting out important sections of their businesses, which is particularly true for content-related occupations. Many writers, journalists, but also camera teams, are formally self-employed. Some consider self-employment to be beneficial because it enables them to operate more freely on the market. There is, however, a large section of the self-employed, who consider themselves to be part of the regular workforce, because they work mostly for the same station and are often even integrated into the company's work organization, but who are deprived of the benefits of a regular employment relationship.

<sup>3</sup> Relating to Interview 08/21/2002; because my interview partners spoke under the condition of confidentiality, their names are omitted.

<sup>4</sup> Interview 08/21/2002; besides the annual working time account, which was mentioned above, the associations also emphasize the absence of provisions on seniority based wage increases, which are quite common in the newspaper industry, as well as a recent 2-year wage settlement which provides wage increases far below the standard set by the metal industry.

tion of German Employers' Association (Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA). It was the TPR's major aim to influence legislation. When the red-Green coalition government took office in 1998 and started to draft a number of reform bills in various areas, broadcasting employers were eager to have their voice heard. This was true in the case of the reform of the Works Constitution Act but – even more important – in the case of copyright law. According to a high-ranking representative of the TPR, these reforms were too important to leave them exclusively to representatives of the newspaper employers or the construction industry, which were already strong players in the process of political lobbying.

While the extension of the TPR's activities to the field of political lobbying can be considered to be part of an approach towards modest field enlargement, the association found itself unable to offer its membership a full range of services or – to frame it in the language of organizational theory – „collective goods”. In addition, even the modest field enlargement activities were put at stake when in December 2002 the TPR decided to disaffiliate from the BDA due to TPR's severe budget constraints. Following the initial impulse for association building, TPR is still mainly focusing on issues of collective bargaining. In spring 2001, after two major TV stations had left the association, chances for increased membership services have even deteriorated further. Total membership came down to 12 companies and revenue from membership dues decreased by 60 % so that the TPR had to introduce a cost cutting program<sup>5</sup>. As part of this program, the associations dismissed its full-time managing director, gave up its national office, and consequently moved the TPR's administration into the outer office of one of a member's radio stations.

The case of the private broadcasting employers shows clearly that raw union power alone might be sufficient to drive the creation of a national employers' association. The lesson to be learned from the TPR case, however, also reveals that without providing a sufficient range of membership services which prove to be appealing enough to allow companies to maintain their membership, the association remains fragile.

### **Helping the industry grow: Deutscher Sportstudio Verband**

The German Employers Association for Fitness Studios and Sports Facilities (Deutscher Sportstudio Verband e.V., DSSV) was founded in 1984 as an association of independent owners of sports-studios. While prior to the 1980s, the overwhelming share of exercising activities was provided through local sports clubs (Sportvereine) which were mostly run on a non-commercial basis and which offered a full range of team sports as well as individual exercising activities to their members, in the 1980s the first private for-profit fitness studios opened their doors. This development was largely inspired by American gyms, which could be found in major metropolitan areas.

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<sup>5</sup> Membership loss is not the only problem in terms of the association's budget. In contrast to many other German employers' associations, whose dues structure is made contingent on a member's total wage bill, the TPR's dues revenue is a function of a company's revenue from advertising. Given that advertising is very volatile and depends on market fluctuations, this makes the TPR's activities closely dependent on the business cycle.

In the following years private sport studios experienced a remarkable growth. Between 1990 and 2001 the number of facilities increased by 60%, membership numbers by 217% and the industry's revenue by 263% with growth still continuing (Kamberovic/Kretzschmar 2002). In 1984, at about the time when 1,000 mostly independent fitness studios were offering their services to a growing crowd of sweat-dripping customers, Refit Kamberovic took the initiative and founded the DSSV. Kamberovic, an enthusiastic kick boxer, company consultant, and still managing director of the DSSV, pursued the mission to further the acceptance of the fitness philosophy (Fitnessgedanken) in Germany and thus helped the industry to grow (Interview 07/26/2002). At the center of the DSSV's activities was the aim to train and educate the owners of fitness studios in all aspects of the industry, but most prominently in different exercising programs. Later, when membership numbers increased and needs for training became more widespread and complex the DSSV created its own institute to educate fitness trainers (Bildungs-Institut des DSSV). In addition, the association concluded partnerships with sports/health departments of the American University in Washington DC, the University of Zagreb (Croatia) and the Technical University of Karlsruhe (Germany). In contrast to pure business or trade associations, however, the DSSV, from the very beginning, considered issues of labor and employment law as well as of wages, hours, and working conditions to be among its more important tasks.<sup>6</sup> As part of its goal to become an employers association the DSSV, in 1986, joined the Hamburg regional branch of the BDA. In 1998 it became a full member of this confederation. The most surprising aspect of the DSSV is that, until this very day, the association does not negotiate any collective agreements with unions. This is true for industry level agreements as well as company level agreements. This is no coincidence: Although the DSSV offers its members full support in the field of wages, hours, and working conditions and also issues non-binding guidelines which are designed to help the owners of fitness studios develop a wage scale, the overwhelming majority of members resists industry or company level collective bargaining and prefer to stay non-union (according to Interview 07/26/02). Although sportstudio employers fall under the jurisdiction of ver.di, the unified service sector union, until recently the union had not openly approached the DSSV to enter collective bargaining. Prior to the establishment of ver.di in 2001, there were no apparent pressures to bring employers to the bargaining table. Even later, when ver.di limited jurisdictional conflict among unions within the service sector and when one of the world's most powerful unions was established, the DSSV did not face any severe pressure from organized labor. While this might change in the future, it is obvious from this case, that the creation of the DSSV occurred independent of any state guidance or union power. From the very beginning the DSSV presented itself as an association to support the growth of a new industry and to help small firms to raise their level of professionalism. Ser-

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<sup>6</sup> Section 2 of the DSSV's constitution (enacted on 04.12.1984) explicitly considers „social policy issues“ („sozialpolitische Belange“) as part of its mission. In the overwhelming majority of constitutions of employers associations, this term stands for issues such as wages, hours and, working conditions, which are usually subject to collective bargaining with unions. In a number of associations, special committees that deal with collective bargaining are called „social policy committee“ (Sozialpolitischer Ausschuss).

vices such as the training of new entrepreneurs, but also support in fields of labor and employment law and human resource management, were essential for small employers who lacked the opportunities to gather this knowledge on their own and who did not have the financial means to purchase such expertise externally.

Apparently, the quality of those services in the fields of marketing and logistics proved to be so compelling to sport studio owners, that even firms from abroad, particularly from Austria, Switzerland and Finland, joined the German DSSV. While section 5 (1) of the associations' constitution offers membership to studios from other European countries, the DSSV will provide a new structure for multi-national membership and thus intends shortly to create a true European federation of employers in the fitness studio industry.

### **Creating associational competition: the Polish PKPP**

Within an entirely different context of political economy, basic services such as training and educating new entrepreneurs and providing basic support in the field of law also proved to be the major purpose of the Polish Confederation of Private Employers (Polska Konfederacja Pracodawcow Prywatnych, PKPP). In contrast to the development within major capitalist market economies, the building of employers' associations in Poland proved to be much more uneven. While the first association, the Union of Industrialists of the Kingdom of Poland, was created as early as 1905, employers' collective interest representation even survived through changes in the political status of Poland. After the war, when communists assumed power in Poland, employers' associations ceased to exist and it took until the beginning of the 1980s, before private business people started to create new representative structures. So called „Economic Societies” were built up and first had to operate illegally because the authorities refused to recognize them. In November 1989 various organizations of employers and business people united to form the Confederation of Polish Employers (KPP), a competitor to the PKPP which is still in existence today. Later, when the lower house of the Polish parliament passed the Act on Associations, the KPP was guaranteed independence from the state administration and from self-governing bodies and also gained the right to give opinions on draft legislation. As part of what Iankova calls „transformative corporatism”, the KPP was later included to become part of tri-partite consultations between the state, labor unions and employers and thus established itself as a well recognized and powerful partner at the peak level, but also at the level of regional tri-partite bodies (Iankova 1998).

While at least until 1996, tri-partite consultations proved to be very effective and in turn infused employers and unions with new sources for legitimacy this changed later on. Labor unions, in particular, were weakened in line with the ongoing process of privatization of former state owned companies and conglomerates because they faced significant difficulties to organize employees in the growing number of mostly small private companies. While aggregate union membership (mostly represented by the two peak federations „Solidarity” and OPZZ) was still at 18% in the year 1991, unionization rates further declined to reach 11% in 1999 and only 6% in July 2002 (Gardawski 2002c). This marked weakness of organized labor had important repercussions for employers' collective interest representation in that it failed to spark any



counter movement. Surprisingly, the approximately 10 sectoral and regional employer associations which later formed the Polish Confederation of Private Employers (PKPP) were founded in 1998, at a time when union membership continued to decline as did strike rates<sup>7</sup> and when the Tripartite Commission (Komisja Trójstronna) virtually ceased to function (Gardawski 2002a).

After the PKPP was registered in January 1999 the association experienced a period of remarkable growth, bringing together 14 regional organizations and 22 industry federations by 2002. As of spring 2001, the last time when data is available, the association represented companies with a total workforce of more than half a million mostly from small and medium-sized companies from the private sector (Draus 2002). From the very beginning, the PKPP presented itself as a force to support the rules of free market economy in opposition to what was perceived to be the restraining impact of a powerful state and strong trade unions. In a programmatic document titled the „Capitalist Manifesto” the association laid down its general mission: „Without prevalent awareness that development of companies is driven by profits, even the worthiest social and public causes stand no chance of ever being achieved. Heated arguments about how to divide the state coffer’s money will not generate economic growth.” The paper concludes with „Capitalists of the 21<sup>st</sup> Century, Unite ... with us!” (PKPP 2000: 7). This explicit political program to support and to accelerate Poland’s transformation into a free market economy manifested itself at the level of the peak federation in terms of substantial activities in the area of political lobbying. Three major national conferences on competitiveness (March 2000), social dialogue (November 2000) and labor markets (April 2001) drew large audiences and – almost as important – received much attention from power holders. Such conferences were frequently attended by federal ministers, bank presidents and representatives from public administrations.

At the level of the regional affiliates such conferences are also quite common, but serve a slightly different purpose. For example the regional affiliate for the Pomeranian region organizes frequent meetings with speakers from the public administration (Voivodship), local court presidents, regional tax offices, and customs offices. Themes are mostly related to the companies’ concrete problems and the aim is to help the association’s membership develop a close network of personal contacts with relevant authorities (Interview 08/09/2002). Despite seeking to participate in changing the very structures and rules of the political economy, which seems to be the major purpose of the PKPP’s activities at the national level, the regional activities seek to make existing structures work in the interest of the association’s membership.

Collective bargaining, in contrast, is not a major activity of the association. Particularly in small and medium-sized companies, wages, hours and working conditions

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<sup>7</sup> According to Towalski (2002) the number of working days lost through strikes was highest in 1992 when it reached 2,360,400, declined to 500,000 in the two following years, and further decreased to 43,500 in 1998. This gradual decrease of strike activities was punctuated in 1999, when the number of days lost was again at 106,900, but at this time the process of association building was already concluded.

are mostly determined in negotiations between management and individual workers<sup>8</sup>. Collective bargaining between employers and trade unions mostly occurs at the level of the individual company. Although a recent report states that in Poland 136 multi-employer agreements are in force, there are only 8 agreements which could be classified as „proper sectoral agreements” (Ladó 2002)<sup>9</sup>. Although the PKPP and its affiliates are not directly involved in negotiating collective agreements, they are pursuing some important tasks in the field of labor relations. At the national level, the PKPP established a standing committee on relations with labor unions and, after the Tripartite Commission was invigorated following the 2001 parliamentary elections, negotiations with trade unions (particularly with the OPZZ) were put on the agenda again. At the local level, the association provides important services which help its member companies deal with issues such as human resource management. The association also helps to provide external advice in the field of labor and employment law (Interview 08/09/2002).

Because the PKPP is largely focused on political lobbying and supporting members in the field of labor relations, its range of tasks is rather narrow. In line with the absence of major collective bargaining duties in the association members do not need to delegate substantial powers and also do not have to devote substantial financial resources to maintaining their membership status. In fact, companies' financial contributions to the PKPP's regional affiliates are quite modest and are based on a flat rate. Both factors - low dues and little delegation of power - might lower the barrier to becoming a member of that association and thus eases the process of association building.

While any active union role in its creation is not visible, the PKPP successfully managed to offer a new kind of interest representation, which could not be provided by their competitor, the long established Confederation of Polish Employers (KPP). According to Draus (2001) it is a key motivation for the creation of the new association to provide a form of interest representation which goes way beyond the well represented interest of state-owned undertakings or those privatized undertakings which are still controlled by the state.

### **Re-inventing the association: FIEC**

In two respects the European Construction Industry Federation (FIEC) is a rather unusual case of association building. Most obviously, it is not an employers' association but a confederation of employers associations which organizes 31 national member organizations from 24 countries. While relationships with employers in the con-

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<sup>8</sup> As the government complains, these individual negotiations frequently involve frivolous schemes, which are intended to evade taxes. A recent survey revealed that small and medium-sized companies, in particular, are breaking the law. All of the companies in the sample claimed that it is the prevailing conditions which lead to their tax evasion and to the division of workers' pay into a taxable part (usually equal to the statutory minimum wage) and a tax-free part, which is often higher than the former (Gardawski 2002b).

<sup>9</sup> The remaining agreements mostly concern branches of the public sector.

struction industry are more remote and mediated by national associations,<sup>10</sup> the core puzzle, which is at the center of this analysis, applies to those associations as well: not only employers' associations, but also confederations, need to find a way to draw power and money from their affiliates. While at the level of an association, market competition is an important factor which affects the relationship among the member companies, there is an equivalent at the level of the confederation. Here, multiple rivalries as well as competition among members account for many of the difficulties of association building.

Second, FIEC is not a new kid in town. Established as early as 1905 for almost 90 years the association restricted itself to a narrow range of tasks which were a far cry from what might constitute an employers' association. What the European Commission thought about most of the European level sectoral employers' federations also applied to FIEC: "... the majority of which regard themselves purely and simply as industrial or economic associations without any mandate for social affairs" (quoted in Keller 2001a: 205). This situation changed remarkably after the European Commission had decided to reinvigorate the instrument of the social dialogue. By way of several communications (1993, 1996, 1998) the Commission itself developed the procedural rules which allow the social partners to take a privileged role in European social policy. Thus, European level unions and employers' representatives are encouraged to negotiate voluntary framework agreements which will later be implemented at the national level. This is to be the case „either in accordance with the procedures and practices specific to management and labour and the Member States or ... at the joint request of the signatory parties, by a council decision on a proposal from the Commission." (Keller 2001b: 88).

While different forms of a *sectoral* social dialogue had already been in place since the 1960s, additional resources provided by the European Commission as well as an entire renewal of the framework of the sectoral dialogue opened a window of opportunity for European construction employers and the European Federation of Building and Woodworkers (EFBWW). In 1991 both associations decided to first create what is known as an „informal working group" which provided the basis for mutual information and consultation. Later, in 1998, when the Commission decided to renew the framework of the sectoral dialogue and empower social partners to conclude binding framework agreements on social issues, FIEC and EFBWW even filed a request to have their sectoral dialogue committee registered.

With this new legal framework FIEC substantially altered and extended its policies by including social issues, and thus converted itself from a narrow interest association into a European level employers' association. In the 10 years of social dialogue, FIEC created and extended a special „social commission" and consequently increased the staff at its Brussels office (FIEC 2001: 24). This also had a positive effect on the quality of FIEC's work in this field and even union representatives acknowledge that they often have a hard time matching employers' professional work because they lack the resources necessary to do so (Interview 07/18/2001-a). Although FIEC and

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<sup>10</sup> It should be noted that several of FIEC's affiliates are federations on their own because companies' membership is with a lower level association.

EFBWW did not yet implement a regulation which was to be transposed into a directive, both partners agreed on numerous subjects, some affecting European level regulation. In the field of health and safety both partners filed a joint statement on request of the Bilbao-based European Agency for Health and Safety at Work (Interview 07/18/2001-b). Other issues which were discussed in the framework of the social dialogue concern vocational training, the free movement of workers, and the proposed directive on the „freedom of movement for third-country nationals” in particular. Although both sides describe the dialogue as cooperative and beneficial, FIEC is not yet ready to enter true negotiations over matters such as working time. Despite this self-limitation, FIEC has an interest in moving ahead with negotiations on the so called „soft issues”, such as safety, free movement and training, and criticizes the Commission, more precisely the Commission's Joint Interpreting and Conference Service, for slowing down the dialogue (Küchler without year).

This case of a conversion of a previously narrow interest representation into an employers' association with a strong focus on social issues could not have taken place without the support of the European Commission. While union's exercise of political power did not play any role in this case, the EFBWW's support and active collaboration was important to set up and extend the social dialogue and thus helped FIEC to substantially extend its focus beyond technical and a limited range of legal issues.

### **New forms of employers' collective interest representation?**

The cases presented above reveal that opportunities for the creation and growth of employers associations still exist. This can be observed in different countries, in a variety of different industries and at various organizational levels. But as the case studies have also shown, there is no apparent universal logic or blueprint for association building. As indicated in table one, the patterns of factors which lead to association building exhibit a remarkable degree of diversity. In the case of FIEC, the union confederation's activity was crucial to pursue a sectoral social dialogue, which, in turn, led to the conversion of the association into a true European employers' association. Yet, it was unions' active collaboration rather than union power which mattered. State impact was the dominant factor for association building in that the Commission provided the basic framework and the incentives which enabled the social dialogue. The results of the dialogue, joint statements, and resolutions, might provide some benefits for FIEC's affiliates. At the current state of development, however, there is

**Table 1: Impact of different factors of associability**

| Association/<br>Federation | Established in | Union Power | State Action | Collective<br>Goods |
|----------------------------|----------------|-------------|--------------|---------------------|
| TPR                        | 1990           | ++          | -            | +                   |
| DSSV                       | 1984           | -           | -            | ++                  |
| PKPP                       | 1998           | -           | +            | ++                  |
| FIEC                       | 1905/1991      | +           | ++           | +                   |

++ dominant factor

+ factor has some impact

- no impact or marginal impact

legitimate doubt whether the outcomes of the dialogue have enough potential to drive the process of association building.

In the case of the PKPP, collective goods provided by the national association, but also by its regional and industry-level affiliates, provided the dominant force for association building. While efforts by the government to reinvigorate regional and national level tri-partite consultation infused the PKPP with some legitimacy, organized labor had no, or just a marginal, impact. The same can be said about the German sports studio employers, DSSV, who for more than a decade were off the union's radar screen. While state intervention was not visible, collective goods played the dominant role in creating the association and helping it to grow.

Finally, the decisive factor in the case of the TPR was clearly the threat and exercise of union power. While the state had some impact because it was a government decision that helped create a private broadcasting industry, it had only marginal impact on employers' associability. Collective goods mattered in that collective bargaining agreements helped companies develop new working time patterns that provide the basis for more flexible systems of work organization.

In reviewing all four cases analyzed in this paper, it appears that: first one driving factor is sufficient to account for association building, and second, that there is not one best practice of association building. While we cannot rule out a cumulative effect when two or more factors are present, it is striking, however, that not a single case can be classified as a true multiple-factor case. The analysis also demonstrates that there is no clear hierarchy among the three factors. The TPR, as the only „union response“ case, does not seem to be able to develop a stronger and more sustainable association than the other cases in this sample. While industry-wide collective bargaining seems to function without major disruptions, the association is troubled by substantial loss of membership. In contrast, PKPP and DSSV, as the two cases strongly driven by the „collective goods“ factor, display much stronger and faster organizational growth than the TPR. They have only been able to do this, however, by drawing limited powers and resources from their membership. At this point of development, associations either end up in a high growth/low competencies or a stagnation/high competencies pattern.

While this account so far has analyzed the rationales for association building and the profiles of the new associations that emerge from it, it also presents important insights for the development of employers associations in general. There is little reason to believe that the four new associations examined here will converge to a joint type of association with a common profile of membership services and organizational structure. Instead, if these findings hold for other forms of organizational development – be it the transformation of already existing associations or the creation of new entities through mergers and split-offs – we would expect to find more heterogeneity within the employers' camp in terms of organizational structures and policies for interest representation. Future research will tell if such a more differentiated structure of interest representation will affect the ability of employers' national peak federations to aggregate the increasingly diverse interests among their affiliates. In the end, more differentiated representative systems such as in Italy, Portugal or even Norway, which are based on multiple peak federations with more or less clearly differentiated organ-

izational domains, might be more hospitable to increasing diversity among their affiliates than systems of interest representation based on a single peak federation as, for example, in the case of Germany.

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