



Looking to the Key Human Resources Legal Issues of the Next Decade: The 10/20 Survey

Prepared by the

**International Bar Association
Global Employment Institute**

December 2010



Contents

1. The GEI: A New Global Initiative	3
2. Why a Survey on Global HR issues?	4
3. Goals of the 10/20 Survey	5
4. Methodology	6
5. Survey Results	7
6. General Comments on Results	9
7. Conclusions	15
Schedules	17
Schedule 1	18
Schedule 2	20
Schedule 3	22
Schedule 4	23

© Copyright 2011 International Bar Association. All rights reserved.

The recommendations and opinions expressed herein are those solely of the International Bar Association Global Employment Institute and do not necessarily represent the views of the International Bar Association. No publication without prior permission.

1. The GEI: A New Global Initiative

- 1.1. The International Bar Association Global Employment Institute ('GEI') was established in early 2010. Its primary purpose is to develop for multi-national companies and organisations ('multi-nationals') and worldwide institutions a global and strategic approach to the main legal issues in the human resources and human capital fields (collectively referred to as 'HR').
- 1.2. Drawing on the resources and expertise of the IBA membership, the GEI will provide a unique contribution in the field of employment, discrimination and immigration law, on a diverse range of global issues, to private and public organisations throughout the world. The Institute's objective is designed to enhance the management, performance and productivity of these organisations and help achieve best practice in their HR and management functions from a strategic perspective.
- 1.3. GEI's activities will include:
 - Reports on global and strategic HR legal issues;
 - Reports on the impact of market and business trends on international HR legal practice;
 - Research and analysis on key issues affecting management and HR functions within multi-nationals;
 - Strategic commentary and opinions on discrete areas of employment, discrimination and immigration practice and their relevance to current business trends;
 - Commentary on proposed new or reformed government legislation on major HR legal issues;
 - Commentary and analysis on strategic management and HR legal issues affecting certain globalised industries and market sectors;
 - Training and education of HR professionals and managers on strategic and global HR issues;
 - Organising sessions on global and strategic employment and HR legal issues of topical interest (together with the IBA's Employment and Industrial Relations Law, Discrimination Law, and Immigration and Nationality Law Committees).
- 1.4. The GEI will become the leading voice and authority on global HR issues by virtue of having a number of the world's leading labour and employment practitioners in its ranks, the support and resource of the world's largest association of international lawyers, and its involvement in these activities.

2. Why a Survey on Global HR issues?

- 2.1. These are times of dramatic change: post crisis, increasing globalisation, on-going IT innovation, a new 21st century 'economic order' quite different from the order of the last century, with emerging economic powers (Brazil, China, India) that are moving the axes of the international decision makers. And this process of change is relentless and will no doubt accelerate in the next decade.
- 2.2. Consequently, conventional knowledge on many HR issues from the last decades must be reviewed. The main organisations reflecting and causing these changes are multinationals. But the traditional prototype of multinationals is also changing. As a result of globalisation, IT, new market trends, and changing economic power, there are now all kinds of multinationals – of different sizes (including 'small' multinationals with just a few hundred employees but in more than 20 countries), developing in all areas of economic activity (with an explosion of multinationals in the service sector) and coming from all countries (many multinational in the FT500 do not originate and do not have their headquarters in either North America or Western Europe). They are on a new stage and they are emerging as truly transnational organisations.
- 2.3. These changes are obviously affecting multinationals' future strategies for HR. These modern multinationals will increasingly face very different issues in relation to their transnational workforce. At the same time, these new issues, and the management and HR strategies and policies which will evolve to address them, will both determine and be determined by changes in the national or international legal framework that will regulate these developments.
- 2.4. So it is important to know the perception of multinationals in relation to these new issues and to ascertain the main concerns of multinationals for the next decade on HR issues. The GEI wants to evaluate the implications of these changes for HR law, starting with the results of this survey.

3. Goals of the 10/20 Survey

- 3.1. The survey has been called the '10/20 Survey'. Ten HR issues have been identified by the Executive Council of the GEI to be rated by respondents, and respondents have been asked to consider the period of time until 2020 ('20') when rating the issues. Senior HR managers of more than 200 multinationals from 22 countries have been contacted to consider the importance/interest of these in the coming decade. In brief, respondents were asked to rank the ten issues in order of their importance or interest giving ten points to the most important/interesting issue and one point to the least important/interesting.
- 3.2. At the time of preparing this report, **119** respondents had completed the survey. This is considered to be quite a high rate of return.
- 3.3. Although the purpose of the survey is to determine how important or interesting these issues are for HR managers of multinationals, respondents were not asked to explain their rankings. The interpretation of the survey results is one of the main tasks of the GEI in this report.
- 3.4. It is assumed that the reasons the perceived importance or interest of each issue may differ between respondents. For instance, the justification for the high ranking of an issue could be that it is a relatively new matter and represents a fresh challenge for the HR managers in that organisation which is still struggling to cope with it. Or it could be that the reason for a high ranking is the importance/interest of the issue per se, regardless of the relevance of the issue to that particular multinational. In other cases, a lower ranking could mean that the issue is not unimportant, but rather that the respondent considered that it is already fully integrated in the normal management of the organisation and therefore has little interest as a challenge.
- 3.5. Therefore, a low ranking does not necessarily mean that the issue is not important or interesting (for example, unions and collective bargaining). It could be that the organisation already has sufficient experience to deal with the issue, and its management is viewed as part of the 'normal course of business'.
- 3.6. What then is the main reason for the rating of each issue? This is where the expertise of the GEI comes into play. Based on the many years of experience of the members of the GEI Executive Council, comments are expressed in this report about the reasons for the survey results, both from a general and interrelated perspective, and then in relation to each issue (in Schedule 4); in both cases the consequences of these results for the future evolution of human resources law have been evaluated. Hopefully the comments expressed in this report will assist those who read the report with their own process of assessing the results of the survey. Readers may, based on their experiences and expertise, deduce their own conclusions, which may differ from these expressed in this report. This is why the 'conclusions' in the final section of the report have not been recorded authoritatively or unequivocally but rather in a more tentative way.
- 3.7. On-going feedback on the report, discussion and even disagreement is sought and encouraged receiving further feedback from the members of the Institute is welcomed.

4. Methodology

- 4.1. A copy of the survey is attached as Schedule 1. It is in two parts: section 1 is a general explanation of the survey; and section 2 is the survey itself. Ten HR issues were identified out of a larger initial list by the members of the Executive Council of the GEI as the ten issues which should be included in the survey for ranking by respondents. The Executive Council relied on its considerable experience and expertise in selecting these ten issues and expressing them as in the survey.
- 4.2. Respondents were asked to 'rate the following topics from 1-10 with 10 being most important/interesting issue in the next decade and 1 being least important to you.' The survey was conducted online with the assistance of the IBA. It is important to appreciate that this is not a 'scientific' survey. There is no intention to develop an academic or theoretical model about the results. The objective is to give a general idea about what is concerning the HR managers of multinationals looking out over the next decade, relate those concerns to the experiences of the Institute's members, and promote a discussion and debate among HR lawyers about the results and the observations in this report.
- 4.3. Accordingly, it was decided that the best approach was to seek the views of senior HR managers of multinationals (but excluding national companies). The goal has been to have the ranking of the issues by global organisations, in order to have them evaluated in a transnational, global perspective.
- 4.4. Also, responses have been sought from multinationals in different countries that may be in different stages of economic development. Responses have been received from 22 countries located in all five continents. Some of the multinationals have their head office in the country from which the survey was received, but other responses were received from a different country, perhaps a regional headquarter of multinational.
- 4.5. There is no scientific distribution of companies by countries based on a specific criterion or value (such as the size of the country or its level of economic activity). It is accepted that given this 'flexible' approach, the results are not 'scientific' or exact as some countries (or continents) may be over or under-represented. However, this is not a survey about the different 'sensitivities' that multinationals may have about particular issues depending on their national origin, but rather about global HR issues.
- 4.6. In short, the survey is simply about how transnational organisations that are already 'globalised' assess the relevance or interest of different issues. Therefore, even with its limitations the survey serves its purpose of being a valuable insight into the issues that for HR managers will be important in the next decade.'
- 4.7. The HR managers were also asked if they wanted to mention other issues they considered important. Very few respondents raised other issues. The additional issues mentioned included: transnational data transfer; ageing of the workforce; retirement policies; managing talent; development of high potentials and the growing shortage of skilled labour; international competition laws; whistleblower policy implementation; pension portability; health care, including cost containment; and social security treaties among countries and expats.
- 4.8. The fact that there were few additional subjects mentioned by respondents, together with the high ranking in points of all the issues (all ten issues scored points above 50 per cent of the maximum rating), leads to the conclusion that the ten issues listed in the survey are certainly relevant to HR managers of multinationals and indeed amongst the most important and interesting issues they expect to deal with over the next decade. The question then is not if the issues are relevant or not (all of them are) but how important and interesting they are relative to each other. And based on the survey results the GEI Executive Council has elaborated its comments about the reasons for the high or low importance.

5. Survey Results

5.1. Distribution of points based on 119 survey respondents:

Responses have to date been received from 119 respondents, and the full results are set out in Schedule 2. Their rankings of the issues have been grouped in the following three groups which record the total number of points each issue attracted (respondents could rank any number of issues high or low) and the percentage of the maximum the issue achieved:*

Group A:		
1. New issues	845	71%
2. Work-life balance	798	67%
3. Flat world	748	63%
4. Too different	742	62%

Group B:		
5. Net company	714	60%
6. Codes of conduct	700	59%
7. CSR	686	58%

Group C:		
8. Financial sector remuneration	668	56%
9. Increasing regulation	665	56%
10. Collective bargaining	622	52%

Somewhat different responses were received from respondents in certain countries, most notably the United States, and the distribution of points when these particular countries are isolated is set out in Schedule 3.

* For the full title of the ten issues, see Schedule 1.

5.2. The countries represented in survey:

The 119 responses were received from respondents in the following 22 countries:

United Kingdom:	9
Germany:	9
Spain:	7
Italy:	6
Denmark:	5
Ireland:	4
France:	3
Netherlands	2
(Total	45)

Australia:	13
New Zealand:	6
(Total	19)

USA:	24
Canada:	1
(Total	25)

China:	6
India:	5
Japan:	1
Singapore	1
(Total	13)

South Africa:	5
Nigeria	1
(Total	6)

Mexico:	2
Argentina:	1
Brazil	2
(Total	5)

Russia:	5
(Total	5)

No name	1
(Total	1)

6. General Comments on Results

- 6.1. Three groups of issues have been identified based on their scores by respondents: Group A (highest rate), Group B (middle rate); and Group C (lowest rate). Group A (1 to 4) includes those issues scoring between 845 and 742 points; Group B (5, 6, 7) includes those issues scoring between 714 and 686 points; and Group C (8, 9 and 10) includes the three issues with the lowest rates between 668 and 622 points.
- 6.2. However, it is reiterated that even the issue with the lowest rate (issue 10) had more than 50 per cent of the possible points. That means that all the issues were perceived by HR managers as relevant. Therefore, the issues with the lower rates (8, 9 and 10) are nevertheless issues which respondents considered important and interesting but less so than the other issues.
- 6.3. There is, however, some real distance in the ratings between the issues in Group A and Group C, and in particular the first issue in Group A and the last issue in Group C. The difference between 4 (Group A), 5 and 6 (Group B), 7 and 8 (Group C) is not great.
- 6.4. There is clearly an issue that is of the greatest relevance for multinationals all around the world, namely new HR issues in transnational corporate operations. At the same time, there is one issue that appears to be the least relevant – unions and collective bargaining. There is a large difference in points between issues 10 and 1 (223 points or 20 per cent) but even between issue 10 and issue 9 (the largest difference in points between any two proximate issues). The top ranked issue – by a clear margin – is ‘new human resources issues in transnational company operations (restructuring, outsourcing and insourcing, mergers and acquisitions).’
- 6.5. This is identified as the most important HR issue of the 21st century, linked no doubt to the development of new multinationals (mainly from emerging countries) and the true globalisation of established multinationals (mainly from developed countries). Globalisation implies the extension of multinationals to new countries and new sectors, and the interaction between the diverse businesses in different countries. Transnational corporate operations are, as never before, in the DNA of the multinationals at the beginning of the new century, and there are crucial HR issues related to this new reality. Moreover, the reality is that probably this issue, more than any of the other issues (perhaps with the exception of number 3), reflects the lack of a transnational legal framework for the HR issues which arise from transnational operations.
- 6.6. The problem of ‘which law to apply’ (i.e. the ‘governing’ law) may be part of the reason this issue is identified as a most important and interesting issue for HR managers at multinationals. Transnational operations affecting a high number of countries is per se a complicated subject, and these operations can often be further complicated by the lack of a transnational legal framework, with a need to decide which of the different local laws is applicable. Therefore, the increasing frequency of this operation implies very important HR issues, mainly linked to international mobility, redefinitions of job functions, working conditions and restructuring. At the same time, these HR issues are related to legal questions (such as dismissals, acquired rights, consultation and information) that are far from clear in relation to the applicable law.
- 6.7. The lowest ranked issue was ‘unions and collective bargaining in the 21st century: an international vision of new ways of employees’ participation.’ The low score of this issue is significant, as collective bargaining and unions are a product of the 20th century in their consolidation and extension. As is discussed below, this low ranking should not, however, be construed as a clear sign of the future (as predicted by some since the 1980s) demise of unions and collective bargaining. Although some managers may consider this to be the case, the low score could also mean that this is an issue already assumed by multinationals, and that it is not in the agenda of ‘difficult’ issues. If we take into account the number of European multinationals answering the survey, this is probably the best explanation. It is interesting to note that the US multinationals scored this issue as very important (fifth place). This is in itself a somewhat surprising result given the significantly reduced influence of trade unions in the private sector in the United States in recent years. This ranking by US respondents could simply reflect the particular circumstances of those multinationals. Perhaps it could mean that those respondents are worried about possible new labour legislation, in which there may be a strengthening of unions at plant level.

- 6.8. In Group A, besides issue 1, there are two issues related to the increasing globalisation and with a clear connection between them: transnational mobility of personnel (expatriates); and workforce diversity. As multinationals become truly global, they need to recruit talent from all over the world, to look for the best employees from a worldwide pool, and to make talent flows as smooth as possible within the organisation. This implies of course a greater relevance of diversity for multinationals.
- 6.9. Multinationals have already had to face diversity in different local labour markets. But now the question is not the local diversity of the workforce – mainly due to the massive incorporation of women and immigrants into the labour market, and the increasing relevance of an elderly workforce – but the convenience of having a diverse workforce worldwide, and then the need to integrate this worldwide diverse workforce within a general company policy. The real challenge, the one that could explain the relevance/interest of this issue for HR managers, is the balance of maximizing the advantages of diversity – e.g. better input for the knowledge of a diverse market for the product or service of the company – and minimizing some of its disadvantages (for example, difficulties in consolidating a common ‘corporate culture’ worldwide). Of course, there is a clear relevance of this organisational issue of diversity to the legal question of non-discrimination. It must be clear that they are not the same matter. Non-discrimination, as a strict legal issue, is the basis for diversity. Without a clear antidiscrimination law, applied in practise, it is very difficult to have a diverse workforce. However, even if diversity is the logical consequence of non-discrimination policies, there is no legal requirement for diversity.
- 6.10. Diversity is an organisational choice, based of course on a non-discriminatory policy. However, it could very well happen that, for different reasons, even if an organisation does not discriminate, it does not have a diverse workforce – non diverse pools for job candidates, for instance. In any case, as the workforces of multinationals become more and more diverse, their HR policies have to increasingly reflect this plurality of employees; this is a difficult task, particularly when multinationals move to cultures with quite different values from their original countries. And non-discrimination employment laws then increasingly need a more clear and enforceable international legal framework.
- 6.11. Issue 2 (balancing working and private life) is not directly related to globalisation. It is a matter closely related to the management of the HR organisation and employment conditions. It is of increasing importance in Western countries, where work-life balance has become an important consideration for employees, who even in the middle of a deep crisis, increasingly make their choice of employer based on the compatibility of their work with the circumstances of their private life. However, even if this issue could at first be perceived as only relevant for a Western workforce, it seems that it has already acquired the nature of a worldwide subject, becoming a global issue for multinationals. The relevance of this matter is not only in order to acquire and retain talent. It has two other dimensions that could explain its high rating. One of them is that having a policy facilitating this balancing is a main expression – if not the most important one – of the real application of Corporate Social Responsibility (‘CSR’) in relation to a company’s own employees. It has to be assumed that it is difficult for a company to have a credible CSR policy without an effective and applicable balancing policy.
- 6.12. The other dimension is related to the complexity of managing an organisation in which the company must accommodate business needs (working time, functions) with the needs arising from the private life of employees. This complexity requires a very mature stage in the management of HR, above all when one has to deal with a transnational workforce for which that balance between work and private lives does not mean the same for all employees. Accordingly, the relevance of this issue for HR managers can be understood, and perhaps the main observation is that this issue has become truly a global one, and not just a Western HR concern.

- 6.13. As indicated, the balance issue is clearly one of the main expressions of the position of a company in the area of CSR. However, an employer can have a policy of balance without a clear development of a CSR policy. The reason is that, even if having a CSR policy without a development of the balancing policy is near impossible, the reverse does not need to be the case. In other words, an employer can have a policy of balancing without the clear development of a CSR policy because for that company to develop a balancing policy is a direct and clear question of organisational efficiency, not one of a corporate 'political choice' which is a key issue in relation to CSR.
- 6.14. In any case, the relatively low position of CSR could be interpreted in different ways. Certainly, it could be that the crisis and the acceleration in the process of globalisation have made this issue less pressing, even in a context of acknowledgement of its importance, in comparison to the others. It could be that CSR is already very much included in the regular policies of the company and does not represent a challenge for multinationals. Both explanations are valid, but the first explanation properly has more weight for now. But the question remains about the future of CSR after the crisis. It is possible to consider that the crisis could represent a temporary delay in the development of CSR policies, but that once the crisis is over, it will return to be a top priority in the policy agenda of multinationals, including HR matters such as balancing or health ('wellness') and safety in the workplace.
- 6.15. Interestingly, this issue of work-life balance was only ranked eighth by respondents from US multinationals. It is difficult to know why US HR managers consider this issue of relatively less importance: is it because the issue has already been addressed in US multinationals, or employees in those companies are expected to work harder, or simply that the respondents considered other issues to be more important?
- 6.16. The fifth issue, the 'net company', is the issue most directly related to the interaction between an organisation and IT innovation. The net company implies permanent workforce communication and information not only at local or even national levels, but also, in the case of multinationals, at a global scale. On-going IT innovation will make the multinational company pictured as a great networking of permanent information and communication between all its employees and of the company in relation to the outside world a reality. Of course, the added value of the net company is clear: the development of a 'collective intelligence' which will be the foundation of the knowledge company; and a better integration of the workforce with the possibility of developing a real corporate culture.
- 6.17. The net company, above all in the case of multinationals, is the only alternative. But at the same time, if the IT network is the main source of productivity, innovation and competitiveness of a multinational, there are several challenges to be considered, and their managers seem to appreciate them. For example, having employees permanently online could present a clear organisational challenge in relation to the potential involvement of employees with personal or private matters during working time, a new and hard to control form of absenteeism.
- 6.18. The benefits of the net company could be significantly limited by the reduction in productivity caused by this deviation in the use of the IT tools of an employer for private matters. This is an important question for HR policies of multinationals, with clear legal implications. The challenge of controlling the communications between employees, their web navigation on working time and in the workplace, their use of mobile phones of the employer, and their access to social nets presents quite complex practical and legal questions for employers in many countries. These issues are related to the right to privacy of employees and the so called right to the secrecy of communications. However, it seems that for the modern employer there is no alternative to the net company.
- 6.19. The presence in the workplace, all over the world, of employees that have been educated in the lifestyle of 'social permanent communication' (such as Facebook and Twitter) suggests in many cases deeply rooted education and personal behaviours of working only within a permanent organisational network, of creating added value through a collective knowledge. In this new 'philosophy' of human interaction in the workplace, there is a clear desire for limited managing structure, extending the existing trend towards organisational 'flattening' in the modern workplace. This new workplace will need quite different rules from those developed in the 20th century. Therefore, the application of IT to communication creates clear organisational issues for multinationals integrating new employee generations everywhere in the world and interfacing with complex legal issues.

- 6.20. In relation to issue 6 (multinationals as transnational sources of regulation), it could be surprising, at least for employment lawyers, that multinationals do not find this issue of greater relevance or interest. Perhaps, in relation to codes of conducts or internal plans and programmes on HR matters, the respondents consider them as already well-established tools of internal regulation. However, it is important to point out that there are key legal questions linked to this issue which are far from being settled. For instance, one of the main challenges is the accommodation of the codes of conducts of multinationals to the law of the different countries in which they operate.
- 6.21. The increasing tension between uniformity – after all, codes of conducts are clear transmitters of ‘corporate culture’ – and diversity in relation to each country is supposed to increase, not diminish, with globalisation. However, this tension does not seem to be of great concern to HR managers. This is also the case in relation to IFAs (International Framework Agreements), which is somehow in contradiction to the fact that unions in the main multinationals are following a worldwide policy of asking for their setting and implementation. It would seem either that multinationals are able to resist this union pressure or that they are not concerned by the fact of their negotiations and conclusions. In any case, multinationals are now undoubtedly one of the main sources of transnational regulations on HR matters, and they are the vehicles for the globalisation of common rules. At the same time, such rules tend to be ‘adopted’ by other multinationals or important national companies in an interesting process of benchmarking of best practices.
- 6.22. Therefore, multinationals are and will be a main source of transnational regulations applicable to a worldwide workforce as well as a permanent reference for the internal HR policies of other national and multinational companies. It follows that this reality will increasingly raise the need to accommodate these rules and practices within national and international laws, which will not always be easy. Of course, this issue of diversity versus uniformity in the internal policies of multinationals is very much related to another of the common issues in relation to multinationals, namely the permanent tension between centralisation and decentralisation in HR management (which is viewed by many experts as having been resolved in favour of the former).
- 6.23. This process of an increasing expansion of multinational internal rules concerning HR issues is in contrast with the slow process of elaboration and application of international law concerning HR matters by international organisations such as the International Labour Organisation (‘ILO’). Because of the economic crisis, and the extended view that one of its main causes was the lack of regulation in different areas (mainly finance), above all at international level, there is the view that in the next years we could witness a clear increase of regulation in international law, including that related to HR issues. In other words, an increase in regulation as a way of controlling the potential “excess” of globalisation may evolve. However, at least in HR matters, this possibility of increasing international regulation does not seem to greatly concern HR managers, since this issue only ranks in 9th place. Of course, it could be that respondents see this trend as inevitable, but even so it is hard to believe that this is a valid reason not to be worried about a trend that could have a dramatic effect on the international legal framework of HR policies.
- 6.24. More probably, it could be that respondents still do not see this potential trend. After all, after two years of deep crisis, the debate about the need to regulate at international level certain aspects of financing activity is still going on and without many concrete results. Or it could be that they see this possibility as a future but still abstract trend and they are not now overly concerned about it. That would be surprising, since an increase in international regulation concerning HR matters is doomed to interfere with the internal regulations of multinationals and with the different practices that they follow in different countries

- 6.25. Above all, these potential new regulations will likely follow the highest standards that multinationals adopt in the most (socially and economically) advanced countries. Globalisation would then mean a slow but certain increase of complexity and cost in relation to HR policies. In any case, this is a challenge that apparently does not occupy the top concerns of HR managers, probably because, so far, there is not a clear and specific case of this trend towards more international regulation in this field. It is significant that the issue of internal rules on HR matters is more important for multinationals than the potential intensification of international law on these matters. Multinationals seem to view themselves as the main source of international regulations in the next decade.
- 6.26. Related to the above discussion, it is interesting that the question of remuneration strategies after the crisis and the increasing concern for regulation of this matter (both within and outside the financial sector) is ranked as issue number 8. The main reason for that low profile could be that after several months in which it appeared that the national and international regulation and control of this matter was imminent, this has not eventuated. The limitative regulation of remuneration is no longer viewed as an important development since, at least at an international level, regulatory efforts have so far only led to recommendations without any real 'teeth' for enforcement.
- 6.27. This situation is due to remain unless new developments take place (for example, to clear scandals of 'overpayment' of top managers in companies helped by public financing to overcome situations of insolvency, or the economic crisis reactivates with a new group of companies needing that kind of financing). However, even with the threat of more decisive national and international regulation on this issue, it can be assumed, given that this issue has around 60 per cent of the rating points, that this is a matter that multinationals are not going to exclude from consideration in their internal policies.
- 6.28. Returning to issue 10, the reasons why unions and collective bargaining are such a low concern for HR managers needs to be carefully considered. One reason may be that new ways of employee participation in a business impacts on the relevance of unions and collective bargaining. Of course, it could be that, from a local point of view, after more than a century of dealing with unions and collective bargaining, this is an issue that is seen to be well settled and without real challenges. However, this is certainly not the case when viewed at an international level. International collective bargaining and, in general, international union action and organisational expansion are still far from being consolidated issues. In fact the reverse is true – unions and collective bargaining are very fragile at an international level. This fragility could explain the attitude of HR managers in evaluating this issue. And it could be that HR managers perceive that this fragility is not going to change in the short or medium term. In any case, the fact is that this issue is not perceived as one of major importance in the near future.
- 6.29. Finally, there may be links between individual issues and some driving forces in the background which could help explain the different degrees of importance of these issues. Although all the issues are related to most of the driving forces mentioned below, the link among them could be different. The driving forces are those factors that are promoting specific trends in HR policies.
- 6.30. Five such driving forces are noted: globalisation, IT innovation, regulation, social and personal trends, and new organisational models. Consider the following links between the HR issues and those driving forces: issues 1 and 3 are immediately linked to globalisation and their relevance arises directly from globalisation; issues 2, 4 and 7 are immediately linked to specific social and personal trends impacting the workplace; issue 5 is clearly linked to IT innovation; issues 6, 8 and 9 are linked to a trend for more regulation on national and transnational issues; and issue 10 is probably linked to new organisational models at the workplace.
- 6.31. Of course, these relationships are a simplification, since most of the ten issues are linked to two or more driving forces: for example, issue 10 is linked to regulation and specific social and personal trends; and issue 5 is clearly linked also to social trends and new organisational models. Detailed comment on specific issues and further discussion on their link to the identified driving forces is contained in Schedule 4.

6.32. One last comment. If we go to Schedule 2, we will notice that the ranking of the issues has remain quite stable practically since we begin to process a minimum amount of answers from multinationals (above all after 71 answers). We could conclude from this fact that the results of the Survey are quite reliable with the number of answers on which we have based our Final Report.

7. Conclusions

- 7.1. We are living in times of dramatic changes and conventional knowledge about many HR issues from the last decades must be reconsidered. The main actors both causing and reflecting these changes are multinationals. And those changes are affecting multinationals' future strategies for HR policies.
- 7.2. With this survey, the GEI has sought to evaluate the implications of these changes for HR law. Asking senior HR managers of multinationals to rank the importance of ten top issues in the next decade, the GEI has gained a better understanding about future evolution of the law regulating these issues, and it will help HR managers and lawyers to develop a better understanding of future trends in this complex but vital field.
- 7.3. We have identified, from our survey, three groups of issues based on their scores: Group A (highest score), Group B (middle scores rate), and Group C (lowest rating scores). Group A (1 to 4) includes those issues scoring over 742; Group B (5, 6, 7,) includes those with very similar scores (between 714 and 686); and Group C (8, 9 and 10) includes the three issues with the lowest scores, under 668.
- 7.4. However, it is important to note that even the issue with the lowest rate (10) had more than 50 per cent of the possible points. That means that all the issues were perceived by HR managers as relevant. Therefore, the issues with the lower scores (8, 9 and 10) are nevertheless relevant/interesting but, for reasons that we have tried to identify, to a lesser extent than the other seven issues.
- 7.5. The significant differences in scores arise from the distance in scores between issues, as between the issues in Group A and Group C, above all the first one in the first group and the last one in the third. The difference between 4 (Group A) and 5 (Group B), or 6 (Group B) and 7 (Group C) is not very wide. However, the difference between issues 4 and 7 (the last ones of Group A and B respectively) is meaningful.
- 7.6. There is one conclusion which is clear. There is an issue that is undoubtedly of the utmost relevance for multinationals all over the world, related to the HR issues originated in transnational corporate operations (that is, outsourcing, M&A, etc). At the same time, there is one issue (10) that is clearly the least relevant, with a wide separation in points not only in relation to the first ones (between 1 and 10 there is the startling difference of some 230 points).
- 7.7. The first issue is the most important issue of the 21st century and is undoubtedly linked to the development of new multinationals (mainly from emerging countries) and the true globalisation of the most senior multinationals (mainly from developed countries). Globalisation implies the extension of multinationals to new countries and new sectors, and the interaction between diverse businesses in different countries. Transnational corporate operations are, as never before, in the DNA of the multinationals of the beginning of the new century, and there are important HR issues related to this new reality. Furthermore, the reality is that this issue, more so than in any other issue (perhaps with the exception of number 3) reflects the lack of a transnational legal framework for HR issues arising from transnational operations. The problem of 'which law to apply' could certainly be at the heart of concerns and the relevance of this issue for multinationals HR managers.
- 7.8. The low score of issue 10 is also significant, since collective bargaining and unions are the typical product of the 20th century in their consolidation and extension. As we have indicated, this low score should not necessarily be interpreted as a clear sign of the future (as predicted since the '80s) demise of unions and collective bargaining. Although some managers assume this, the score could also mean that this is an issue already assumed by multinationals and that it is not in the agenda of 'difficult' issues. If we take into account the number of European multinationals answering the survey, this is probably the best explanation. It is interesting that US multinationals ranked this issue very high in their scoring. Perhaps this means that they are worried about changes in labour legislation, which would result in a strengthening of the presence of unions at plant level.

- 7.9. Another conclusion relates to the importance of identifying the links between the issues and some driving forces in the background which would explain the different degrees of importance of these issues. Although all the issues are related to most of the driving forces mentioned previously, the link between them could be different. 'Driving forces' refer to those factors that are promoting specific trends in HR policies. Five have been identified: globalisation, IT innovation, regulation, social and personal trends, and new organisational models. The following links between the 10 HR issues and those driving forces are suggested: issues 1 and 3 are immediately linked to globalisation, and their relevance arises from globalisation; issues 2, 4 and 7 are immediately linked to specific social and personal trends impacting the workplace; issue 5 is clearly linked to IT innovation; issues 6, 8 and 9 are linked to a trend for more regulation on national and transnational issues; and issue 10 is linked to new organisational models at the workplace.
- 7.10. But these relationships are surely a simplification, since most of the issues are linked to two or more driving forces: for example, issue 10 is linked to regulation and specific social and personal trends; and issue 5 is linked also to social trends and new organisational models. It would be useful to determine in relation to every issue the controlling or immediate driving force.
- 7.11. Finally, we stress the need for the GEI to follow-up on these survey results in the future in order to see how these issues will evolve over the next decade. Certainly in the eyes of senior HR managers surveyed, these issues are going to be decisive in the strategy of HR policies of multinationals. They will be the key to understanding the evolution of those policies in a context of increasing and accelerating globalisation and innovation.
- 7.12. For the GEI, the development of all these issues is going to be of the greatest importance in understanding the future development of employment, labour and immigration laws, both at a national and international level. The ever increasing international practice of lawyers in this field will be shaped to a large extent by the interaction of these issues and human resources law.
- 7.13. Therefore, this first survey by the GEI is just the beginning of its efforts to gain a better knowledge not only of what is happening now in our field, but also of future trends. The GEI is keenly aware that if lawyers want to be of service to their clients, they have to master not only the application of present laws, but also the potential problems that arise from the HR issues that these laws regulate. The so called 'international strategic human resources management', as an emerging field in the last years, has to integrate the present and future evolution of new international legal rules on this field. Accordingly, the GEI believes as a result of the survey that lawyers and HR managers will have to work more closely than ever in the coming years, particularly in relation to how policies on employees should evolve in a context as complex and uncertain as that created by stronger transnational relations and the consolidation of multinationals as the main international players.

Schedules

Schedule 1



[Exit this survey](#)

IBA Global Employment Institute "10/20 HR Survey"

1. About The Survey

The International Bar Association Global Employment Institute (IBA GEI) was formed in early 2010 for the purpose of developing for multinationals and worldwide institutions a global and strategic approach to the main legal issues in human resources and human capital fields.

IBA GEI is undertaking a research survey called "10/20 HR Survey" to identify and analyse the impact of key upcoming issues that will significantly affect the management and human capital functions within multinationals in the next decade. The survey will also assist the Institute in securing constructive thoughts and ideas on identifying potential areas for developing projects.

This is your chance to help determine what are the most relevant topics and discussion areas on human resources law at the international level by rating the topics in the following page.

Next



the global voice of
the legal profession

[Exit this survey](#)

IBA Global Employment Institute "10/20 HR Survey"

2. The Survey

1. Please rate the following topics from 1-10, with "10" being most important/interesting issue in the next decade and "1" being least important to you:

Rating Scale

After the perfect storm: will human resources strategies face an increasing regulation of labour and employments issues at international level?

Multinationals as transnational sources of regulation on human resources: codes of conduct, International Framework Agreements (IFAs)...

Corporate social responsibility in a post-crisis context: new and old issues in a global market

The new regulation of the financial sector and its influence on managers' remuneration strategies

New human resources issues in transnational company operations (restructuring, outsourcing and insourcing, mergers and acquisitions)

Balance of professional and personal life of employees as a key factor in acquiring and retaining talent from all over the world

"Too different?": Non discrimination, management of diversity (by gender, by age, by religion...) and its influence in consolidating a (global) company culture

The "net company" and the "wiki-workplace": The arrival of the "net-gen" and the limits to permanent communication (the use of internet, social nets, etc) at the workplace

A "flat world"? Management of employees' global geographic mobility (expatriates)

Unions and collective bargaining in the XXIst century: an international vision of new ways of employees' participation

Please specify any other topics or relevant areas that you think are important for consideration

* 2. We value your opinion. Thank you for your participation in this brief survey. Please provide the following information:

Organisation

Country:

Prev

Done

Schedule 2

IBA GLOBAL EMPLOYMENT INSTITUTE 10/20 HR Survey

Topics	Points total (119 resp's)	Points total (104 resp's)	Points total (92/94 resp's)	Points total (83 resp's)	Points total (71 resp's)	Points total (51 resp's)	Ranking total (119 resp's)	Ranking total (104 resp's)	Ranking total (92/94 resp's)	Ranking total (83 resp's)	Ranking total (71 resp's)	Ranking total (51 resp's)
After the perfect storm: will human resources strategies face an increasing regulation of labour and employments issues at international level?	665	602	533	479	370	395	9	9	9	9	9	7
Multinationals as transnational sources of regulation on human resources: codes of conduct, International Framework Agreements (IFAS)...	700	630	565	497	440	311	6	6	6	5	4	6
Corporate social responsibility in a post-crisis context: new and old issues in a global market	686	624	561	492	437	318	7	7	7	6	5	5
The new regulation of the financial sector and its influence on managers' remuneration strategies	668	611	544	479	423	322	8	8	8	8	8	4
New human resources issues in transnational company operations (restructuring, outsourcing and insourcing, mergers and acquisitions)	845	765	680	608	527	397	1	1	1	1	1	1
Balance of professional and personal life of employees as a key factor in acquiring and retaining talent from all over the world	798	721	640	564	504	351	2	2	2	2	2	2

Topics	Points total (119 resp's)	Points total (104 resp's)	Points total (92/94 resp's)	Points total (83 resp's)	Points total (71 resp's)	Points total (51 resp's)	Ranking total (119 resp's)	Ranking total (104 resp's)	Ranking total (92/94 resp's)	Ranking total (83 resp's)	Ranking total (71 resp's)	Ranking total (51 resp's)
'Too different?'; Non-discrimination. management of diversity (by gender, by age, by religion...) and its influence in consolidating a (global) company culture	742	671	595	514	427	294	4	4	4	4	7	8
The 'net company' and the 'wiki-workplace': The arrival of the 'net-gen' and the limits to permanent communication (the use of internet, social nets, etc) at the workplace	714	641	567	488	433	289	5	5	5	7	6	9
A 'flat world'? : Management of employees' global geographic mobility (expatriates)	748	679	617	527	461	331	3	3	3	3	3	3
Unions and collective bargaining in the 21st century: an international vision of new ways of employees' participation	622	558	484	424	298	232	10	10	10	10	10	10

Schedule 3

Distribution of points regarding the United States

Distribution of points for US isolated at the time when 119 responses has been reached

1. New issues	157
2. Too different	152
3. Net company	144
4. Codes of conduct	143
5. Collective bargaining	129
6. Increasing regulation	126
7. Flat world	125
8. Work-life balance	124
9. Financial sector remuneration	121
10. CSR	115

If a comparison of the scores is made between responses from US organisations alone and total responses, it is clear that strong disagreement exists on the following issues:

Collective bargaining	No. 5 on the US list of most important issues, and no. 10 on the list based on all responses and thus the issue that generates the least interest in general
Flat world	This issue comes 7 on the US list, and third on the total list
Work-life balance	This issue is ranked eight on the US list, and second on the total list

The issues that the two groups agree most about are:

New issues	On both lists, this issue is first.
Financial sector remuneration	This issue is ranked 9th on the US list and 8th on the total list.
Too different, net company and codes of conduct have a similar ranking.	

Schedule 4

Introduction

Set out below are detailed comments on each of the issues surveyed. The highest-ranked issue is discussed first. The goal is not to elaborate 'closed' theories about the subjects or the explanations of their positions in the ranking, but to give readers some thoughts for further elaboration on these issues according to their main interests. All of these issues are important for multinationals and, therefore, are going to be of great significance for their senior HR managers in the next decade. Section 6 focused on commenting generally on the position of each issue in the ranking and the potential meaning of its position. This section elaborates on that meaning, but also focuses on some of the different contents and significance that these issues could have from a legal overview for HR policies in multinationals. Finally, questions and issues are identified that GEI should follow up in the next years in order to determine their development within the unstoppable path of globalisation and innovation of multinationals on the HR field – questions and issues which are relevant for the short and medium term development of these HR policies and, therefore, for employment, labour and immigration laws.

New human resources issues in transnational company operations (restructuring, outsourcing and insourcing, mergers and acquisitions)

This is by far the highest-ranking issue, scoring 845 points or 71 per cent of a maximum of 1190 points. Clearly global HR managers put this issue at the top of their agenda. This is certainly not surprising, since it is probably the issue most linked to globalisation and to the consolidation of multinationals as truly transnational agents.

There are many potential reasons for this relevance, but the main one is ultimately linked to the accelerating and broader scope of these corporate operations in the international arena, as a clear expression of the real process of globalisation of multinationals. Multinationals are becoming global agents; they are not just companies with headquarters in one country and operating in several countries. They are economic agents participating in the corporate life of many countries and above all consolidating transnational economic traffic. Corporate operations such as merger and acquisitions and outsourcing are not exceptional, but quite the contrary are already included in the normal transnational functioning of multinationals. Even more, their role as global agents is not a choice in order to operate in the transnational front; either they are active in those corporate operations or they will lose their position to competitors.

The 'golden rule' is that in order to be a global agent a business has to act as a transnational economic and corporate agent, and that means its participation in these ever increasing transnational operations. It is clear that these operations almost always involve HR issues. And that involvement can be considered in two respects that are quite challenging for HR managers.

On the one hand, they are very complex issues, related to many aspects of the organisation in global terms: transnational collective bargaining, collective dismissals and working conditions, reorganisations, international transfers of personal, outsourcing of tasks, and teleworking. Of course, all these HR issues do not need to be present in each and every of those transnational corporate operations, but even in an individual situation each of them raises complicated HR decisions and policies.

For these decisions and policies, multinationals need skilled global HR managers to implement real global policies which suggests the main reason for the relevance of this issue in our survey. It is difficult for these policies to be implemented by managers with only local experience or background. Probably there is now a process of multinationals' HR managers taking a qualitative step and becoming global managers, instead of just local managers with some international experience.

On the other hand, not only are these corporate operations increasingly creating complex HR issues on a transnational level as never before, but they force managers and lawyers to face a growing legal challenge: the local character of most applicable law to these HR issues. In this regard it is possible to observe the delay of international HR law in relation to

the dynamics of the market. Increasing internal regulation by multinationals is not enough, since they have to deal with local laws unsuited for transnational matters. Unsuitable because some of the main HR questions related to these corporate operations find quite different legal regulation in different countries. ILO conventions and recommendations (the main international organisation with rules on these issues) are mainly focused on developing in each country a minimum set of rules, not in establishing transnational law for transnational operations. Even in the case of transnational communities which are generally regarded as highly regulated (e.g. the European Union) most of their rules on legal HR issues are efforts at 'harmonisation', not aimed at the possibility of transnational operations (transnational transfers and the application of the EU Directive on this issue is probably the best example).

Obviously, restructuring, outsourcing and insourcing projects and mergers are highly complex initiatives for transnational organisations, and also in terms of human resources law. Any such a project will potentially involve a number of problematic aspects such as:

- staff reactions
- trade union reactions
- cross-border issues
- staff relocation
- redundancies and associated issues such as selection criteria and impact on staff morale
- new hires (domestic or abroad)
- data protection
- employee rights
- assignment of rights to external service providers
- customer reactions
- public/image implications
- management challenges
- expatriates
- culture
- training/education

In short, such projects could well involve a number of labour and employment law issues, regardless of where the organisation is in the economic cycle.

In addition the HR subjects discussed in the survey may be associated with corporate operations which are in a quite different stage of development and organisational 'maturation' and do not necessarily imply the same set of problems from a HR perspective. Transnational restructurings have been occurring for some years and, therefore, there already exists considerable HR experience. However, outsourcing and its HR problems are creating new developments. That is the case when outsourcing is linked to teleworking (which law to apply). Also, the move to outsourcing is directly related to a search for lower labour cost countries (China was preferred some years ago to Mexico; now Vietnam or Thailand is taking the place of China). At the same time, experience already shows that there is not a one-way trend in some of these outsourcing operations: some companies, after following a clear process of outsourcing, have reversed the trend and have moved to insourcing. On the other hand, restructuring does not always mean dismissals at international level, since the same multinational reducing the workforce in some countries could be increasing its workforce in other countries. Therefore, there is not a general trend for multinationals, particularly consolidated multinationals, to downsize its workforce.

As already indicated, this issue is relevant for business in a wide range of different situations, for example in connection with cost reductions, efficiency gains, product portfolio changes, growth or downsizing, and mergers and demergers.

But the statement does not necessarily say anything about the reason for the changes. Indeed, the reason may differ from one organisation to another. Even where the reason is economic, two organisations may choose the same initiative but in very different circumstances. For example, outsourcing may be relevant for an organisation which is going through a period of financial difficulty, but also for an organisation which is experiencing a boom in business but does not have the necessary resources in-house to keep pace with the increasing demand.

The issue is of major commercial importance to the organisation. Notwithstanding the change (restructuring, outsourcing or insourcing) or the reason for it (boom or negative growth period), the financial impact of the initiative will be significant. As a result, there is much focus on such changes by the executive management and board of directors. If something goes wrong, those involved in the process risk being held accountable – including HR managers.

Given the relevance and complexity of this issue, the GEI will monitor it closely. It will be interesting to see if the frequency and the importance of these transnational corporate operations (involving many transnational HR sub-issues) will create the need to have a set of real transnational employment, labour and immigration laws, and if so the extent to which this law will have to develop from the gathering of practical experience from individual cases.

Balance of professional and personal life of employees as a key factor in acquiring and retaining talent from all over the world

With 798 points or 67 per cent of 1190 points, work-life balance scores second highest on the global HR agenda. This issue is linked to both social and personal trends (as it is the case of CSR) and new models of HR organisations (those typical of the so called 'knowledge company'). It may seem surprising that this issue is ranked so highly in an economic downturn – but perhaps not.

The prominence of the issue on the global HR agenda may be surprising if it is seen as a separate issue during an economic downturn, namely as the risk of becoming unemployed increases. In other words, the requirements to employers are relaxed based on the premise that it is better to have a job, even if balancing it is a priority for the employee, than to be unemployed. Therefore, employees will not demand too much from employers in order to keep their job.

However, the issue can also be viewed from a completely different angle. If there is no balance between an employee's professional and personal lives, the employee may succumb to stress and the consequences of inefficiency and sickness. In the worst case, the employee will stop working altogether. It is therefore expensive – and an unnecessary cost – for the employer if employees are forced into a situation where the job they hold does not lend itself to healthy work-life balance. The costs of sickness, inefficiency, termination of employment and recruitment of new employees are tremendous.

Consequently, for efficiency, production and cost management reasons, it is very important for HR managers to always have 'the right person in the right job', as this will pave the way for a work-life balance that will allow the best possible situation for both employees and employer. Obviously, employees may have problems in their personal life which may also cause stress at work, but this aspect is not discussed here.

Perhaps what is also reflected in the high ranking of this issue on HR's list is the much-debated subject that people's professional and personal lives have a tendency to fuse and thus create a greater risk of imbalance. A major factor here is that an increasing number of jobs can be carried out away from a company's premises. Teleworking has become a common phenomenon, at least in the Western Hemisphere, and has thus contributed to blurring the line between people's personal and professional spheres. On the one hand, the rising popularity of teleworking has created a high degree of flexibility and has thus benefited employees and employers alike, but on the other hand it has created a risk of imbalance.

Also, changing family patterns (such as many families in the Western world have two working parents) may be a contributing factor to why employees are increasingly experiencing a different and much heavier pressure and feeling that they simply have too little time on their hands.

There is another very important factor: it has been common knowledge for quite some time now that a reasonable work-life balance may be a factor in talent attraction and recruitment. For the new generations of employees, the balance tends to become a 'condition sine qua non' for joining a specific company, feeling being part of an organisation and remaining at it. Therefore, it has become a clear tool for attracting and retaining talent. In that context, it is not surprising that a reasonable work-life balance is also seen as a key retention factor. Here, too, a reasonable work-life balance and, by extension, reduced exposure to stress and its associated problems, play a crucial role.

Of course, work-life balance is not a new issue. It has ranked high on the agenda for a number of years, so it is interesting to see that it continues to be in focus even in an economic downturn. The fact that work-life balance is still an important HR issue also prompts the thought that the reason why it still ranks so high on the agenda may be that nobody has yet found a definitive solution to the problem or developed any tools to effectively control the balance.

At the same time, it could be a clear consequence of the fact that this issue has many links to the work organisation and the working conditions of employees and is continuously developing new sets of problems and sub-issues. Of course, the prominence of work-life balance in this survey and in the minds of HR may be a reflection of the extent to which employers have taken over responsibility for the psychological well-being of their employees – a responsibility that goes beyond their work life. As a continuation of the stress debate, there is the health debate – physical exercise in the workplace, use of psychologists and coaches – a trend which is rapidly spreading despite the economic downturn.

In addition, there are also increased demands for longer childbirth leave, more days off when a child is ill, and earmarking some of the childbirth leave for the father – to mention only some of the more problematic elements of work-life balance.

As a matter of fact, the relevance of this issue in our survey can be a clear expression of this increasing complexity and new matters implicated in it, and of its ever increasing relevance for organisational efficiency of the multinationals. This relevance seems to be regardless of the national origin of multinationals or their specific economic situation of the multinationals. Therefore, it is difficult to consider that this is merely another 'Western HR issue', quite alien to the multinationals born in emerging countries.

The law needs also to give new answers to this trend, as issues such as part time contracts, teleworking contracts, sabbatical leaves, and flexible working time are not in many cases well regulated at local level, lack an international legal framework and are not well regulated in a global sense in the internal codes of the multinationals.

Some of the trends to facilitate this balance have been slow in their evolution: for example, the rate of teleworkers, even if increasing, is much lower than predicted; and the even distribution of domestic tasks between men and women is still in many countries far from being a reality. This last factor could represent a handicap for the promotion of contractual models such as part timing, since it could be seen as a way of creating a second rate workforce mainly comprised of female or young employees. Interestingly in most advanced countries the question of balance is even more related to old people care which can affect to a much greater number of employees than it is to childcare which may affect fewer employees.

Last but not least, balancing is an issue that, in academic theory, is linked to CSR. However, it seems that managers do not find this connection in practice, since this latter issue is lower in our survey ranking. It seems that balancing has much more to do with organisational efficiency and hiring and retaining talent than with the CSR policy of the company, at least in the mind of HR managers, many of which, on the other hand, do not have responsibility on CSR issues. This issue is also related to some other issues included in our survey, such as the ever increasing number of expatriates (expatriation

is becoming a permanent professional path for many managers) which creates a real challenge for balancing, since living abroad and international travel are not the best way to reconcile personal/family life with working life.

At the same time, even if it is said that balancing seems to already be a universal issue, it could have a very different meaning for employers and employees with different cultural, social and national backgrounds. A global policy on balancing will have to be carefully drafted in order to take into account national, ethnic, religious and cultural diversity, since it could involve quite sensitive issues linked to employees' private life.

Because of the relevance of this issue, its structural and global nature, its many links with organisational and personnel issues of global of multinationals and the many legal issues it raises in employment, labour and immigration law, the GEI has identified it as a likely new project for 2011, attempting to identify and analyse in depth all those aspects that seems so significant and challenging for HR managers of multinationals.

A 'flat world'?: Management of employees' global geographic mobility (expatriates)

Number 3 on the list of the most important issues for global HR managers, with 748 points, is management of seconded employees. This issue scores 63 per cent of 1190 points. Again, this is an issue – in the same way as the highest-scoring issue in the survey – which contains numerous elements and facets. In addition, it is in itself an issue which is characterised by the fact that multinationals are dealing with it on a daily basis. Global organisations increasingly have global staff, as their market becomes global and 'the world grows smaller'.

This issue is clearly linked to economic and corporate globalisation, but also to IT innovation (the possibility of being in permanent communication) and new social and personal trends (the extension of a more global culture, due to that permanent communication and some structural changes in transportation that facilitates a permanent interchange of people). These factors represent a lessening of the traditional problem for labour mobility of expatriates.

There have been of course expatriates for a long time, but in recent years there has been a dramatic increase in their numbers. More companies of all size and nationalities have a higher number of expatriates of very diverse occupations and qualifications that have to be abroad more frequently and for a longer period of time. Due to the consolidation of transnational companies of all size and nationalities, there is already a large worldwide pool of 'international employees'. And this trend will continue and accelerate.

At the same time, it is more and more evident that there is a lack of an international legal framework for expatriates. Local laws are inadequate probably more than with any other issue, to address the problems arising from this issue. Of course, internal codes of conducts, handbooks and policies are convenient, but they don't give an appropriate legal security in case of litigation from expatriates based on local laws. And this lack of legal security contrasts with the high number of expatriates' matters related to contract termination, retirement, frequent or unscheduled mobility and disputes with social mobility. There is always the risk of 'forum-shopping', looking for the most protective law in different issues and in different times of the labour contract.

Notwithstanding globalisation, labour and employment law is still very much subject to local regulation in the same way as are issues such as taxes and social security. This means that, on this issue, global HR must navigate in a local environment regulated by local law, notwithstanding that the organisation's headquarters may be located elsewhere. HR managers therefore do not possess the same knowledge of local matters and local law and regulation in relation to secondment and similar arrangements as HR managers do in the country in which the headquarters are located.

In addition, the rules and regulations that come into play when employees are seconded are often quite complicated in themselves, for example immigration law, tax law, social security, and requirements to integration. Apart from hard law, there are more 'soft issues' concerning cultural differences, such as language, acceptable behaviour, and matters relating

to accompanying family such as school and housing. Matters that are typically governed by local employment law include transfer of pension entitlement, notice periods, remuneration, and other employment rights. Also, seconded employees are a very mobile group of employees. Secondments are often relatively short-term and followed by another spell in another country or (just as potentially troublesome) repatriation.

Again, this issue is costly. Employees on secondment often have contracts that are quite substantial financially. For example, contracts may contain long notice periods or major compensation payments, which serve as security for the employee, who takes on an increased risk when accepting to work from another location. In addition, there are the not insignificant costs associated with moving to another country, preparing the entire family, relocation and travelling allowances, factors that involve a greater focus on the circumstances of each individual employment relationship and a wide range of issues.

This issue calls for solutions rather than analysis. The issues involved are well-known, but it seems that creativity may have lost out as HR managers are facing the same problems today that they did years ago – even more intensely in a globalised world. The next step for the GEI could therefore be to consider and formulate possible solutions in relation to this issue.

‘Too different?’: Non-discrimination, management of diversity (by gender, by age, by religion...) and its influence in consolidating a (global) company culture

This issue is fourth on the list of issues that can keep HR managers awake at night, scoring 742 points or 62 per cent of 1190 points. It is clear that diversity is linked to a social trend and to globalisation, but with implications for new models of HR organisation.

Until some years ago, the main source of diversity for a few Western countries was immigration. Now, there are many countries with immigration in which diversity is becoming an important matter. And there are now other sources of diversity, such as labour mobility and a diverse and interactive workforce in multinationals working in different countries forming a truly global workforce.

It is important to differentiate between the legal issue of non-discrimination and the HR issue of diversity. There is a legal duty not to discriminate. As a general rule, there is not a legal duty to have per se a diverse workforce. But the basis for diversity is of course non-discrimination law. Allowing discrimination is the most direct way of preventing diversity. But once a business consolidates and applies non-discriminatory rules, diversity becomes an organisational issue linked to the social and labour market surrounding the company. As a matter of fact, the issue about diversity comes mainly from the 1990s largely originating in the US, once the legal question of non-discrimination from the '60s (the Civil Rights Act) was well developed.

Diversity is considered to be an irreversible social trend linked to globalisation and efficiency. The issues suggest huge challenges for management, essentially when considered in a transnational perspective, which may help explain the high score in the survey. There is no doubt that diversity could for many reasons be an important asset for the company, but it also requires more sophisticated management: for resolving a higher degree of conflicts in the organisation, for consolidating a minimum common corporate culture, for avoiding discrimination, and for setting efficient and quick ways of accommodating different perspectives of employees with very diverse backgrounds.

As stated above, ‘diversity’ has become a much-used term and often in a context signalling that diversity is something organisations would like to have. And one of the things that can be put under the heading of ‘diversity’ is non-discrimination.

The diversity issue is two-fold: one part of it is diversity management, including ensuring that no discrimination takes place; and the other part is the potential influence it has on the consolidation of a global company culture. With regard to diversity management, the fact that HR managers believe that they have a challenge here may be due to any number of reasons. In global organisations, non-discrimination guidelines and policies must generally be anchored in the local reality. A good example is the huge difference between what would be seen as sexual harassment in Southern Europe and in the Bible Belt in the US. In the context of discrimination, the risk of misunderstandings is probably significantly greater than in many other contexts. In addition, discrimination cases are often the result of employee behaviour in the organisation, and although discrimination is most often committed by employees against other employees, the organisation as the employer is ultimately responsible for it.

In other words, it is not enough for an employer to lay down guidelines and policies; it must also ensure that its employees comply with and adhere to the guidelines and policies and interpret and observe them in a given situation in the way that was intended by the employer. This part of the process may be particularly problematic due to differences in culture.

Furthermore, discrimination cases often find their way into the media – mainly because a lot of feelings are at stake, not only on the part of the victim, but sometimes also even on the part of the alleged perpetrator – and may thus generate negative publicity and potentially do a lot of damage to the employer's image and reputation. Comparatively, the financial implications of unsuccessfully defending a discrimination case are often substantial.

Another factor that may contribute to HR managers finding diversity management a challenge is that this area is strongly characterised by complex local legislation and local case law. Additionally, a reverse or shared burden of proof often applies, which means that it is generally difficult for employers to prevail in court. And, more often than not in these cases, the choice is 'between cholera and the plague', in other words, employers risk losing in court, whatever strategy they decide to pursue.

An example of legislation that renders full compliance impossible would be if, for example, an employer decides not to second an employee of a certain ethnic origin to a country where there is reason to believe that the employee would be in danger because of his ethnic origin. In a situation like that, it cannot be ruled out that the employee in question could successfully challenge the employer's decision if a court disagreed with the employer in its view of the danger potential. Conversely, if the employer posts the employee to the country in question to avoid a discrimination complaint and the employee finds himself in a dangerous situation due to his ethnic origin, it cannot be ruled out that the employer may be held liable for breach of health and safety legislation.

In any event, global HR managers find difficult to master local statutory and case law in this field and must rely on external advisers to obtain such local knowledge. This is probably making HR managers uncertain and, combined with the fact that culture – local culture – is a major factor in these situations it is an issue that is difficult for them to gauge and navigate, as it is not familiar HR territory.

As mentioned, if things go wrong, there will be consequences externally in relation to customers and image as well as recruitment, and internally in relation to retention and work climate. And there are usually substantial amounts to be paid in compensation.

The other part of this issue is the question of whether it is possible to have too much diversity, that is, if global organisations can be too diverse. And, if so, whether this would adversely affect the consolidation of a company culture, that is, if building and nurturing a company culture would be more difficult.

The rationale behind this could be that fostering a common culture is easier if the employees have the same cultural background and are more or less the same. If there are common traits, it will be easier to foster a common culture.

On the other hand, it could be argued that for global organisations, diversity in itself could be a feature of the company culture and that management and HR need to be careful that diversity is high on the list of requirements, for example, to staff composition. Moreover, it would be difficult for multinationals to serve a global and very diverse worldwide market without a diverse workforce.

This diversity issue will be of paramount importance as globalisation proceeds. Therefore, the GEI must as one of its priorities follow the evolution of it in the next few years. As indicated above, diversity will be immediately dealt with in the context of the balancing issue. But there are many aspects to this issue, not least the evolution of law on discrimination at an international level.

The ‘net company’ and the ‘wiki-workplace’: The arrival of the ‘net-gen’ and the limits to permanent communication (the use of internet, social nets, etc) at the workplace

This issue is ranked fifth out of the 10 issues, with 714 points scoring 60 per cent of 1190 points. This ranking could be interpreted as indicating that organisations have this matter on their agenda although not at the very top. Formulating and implementing basic policies in this area may no longer be an issue, given that most large organisations are probably already past that stage. However, there are important challenges ahead.

Given the cultural change that has already taken place in relation to the social use of information and communication technologies, and the fact that we are in the middle of a trend that will only accelerate as the generations who have grown up with the internet and for whom social nets form an integral part of their lives and their way of communicating enter the workplace, it may seem surprising that those factors are not seen as more challenging by our HR managers, since they will affect many aspects in relation to the workplace.

Maybe there is a generational difference to be seen in how this issue is ranked. Global HR managers are of course aware of developments that are currently taking place in this area and have been taking place for the last 10-15 years. But perhaps global HR managers represent an age group for whom social media is not such an integral part of living as for younger employees.

There are many aspects linked to this matter, from formal to substantive questions. Thus, the debate about whether it is okay to dismiss employees by text message or e-mail is a relatively new phenomenon. The same applies to how the use of e-mail, texts and MMS has affected the written language and hence external corporate communications, as well as internal corporate communications.

It would seem that the speed and ease with which we communicate and messages (whether wanted or not) can be spread to a wide range of recipients should also give rise to some concern.

An increasingly important subject in this connection is the young generation’s use of social media. Facebook, Twitter and similar media are currently redrawing or blurring the boundaries between private and public spheres and professional and personal life. It is not about the relatively simple question of employees’ internet use at work, but a far broader and more complicated perspective. For example, how can organisations keep a check on what employees (former, current and prospective) say about them on Facebook or similar media? And how many organisations are able to keep track of what information is available about them on the internet?

As stated above, this issue is clearly linked to IT innovation. But at the same time it has a cause /effect relationship to new social trends for constant communication and the consolidation of networking teams as a way of new models organisation. Indeed, the net company is in permanent change in relation to its HR policies: ‘flattening’, permanent and open communication as a way of working.

The net company has its main expression in the truly multinational company: it could mean the application of the same general rules at the same time in the whole worldwide organisation, with permanent feedback from its employees, and with a real common culture applicable through a minimum common assets of rules known by all the members of the global organisation.

As a matter of fact, as we comment below in relation to our next issue, the implementation of the new IT techniques for permanent worldwide communication is key to the possibility of developing internal rules by multinationals that involve managers from all over the world in their formulation and implementation.

Therefore, we can assume that the permanent IT revolution will promote global organisations that will be constantly evolving. The new generations of employees will be part of a more 'socially interactive' workforce whose purpose will be to develop a 'collective intelligence' within the company: it is the worldwide 'knowledge company' in its full expression.

However, at the same time, the net company represents great challenges for the organisation from a legal point of view, many of which still have not received a satisfactory answer from national laws and less so from an international legal perspective. As already mentioned, there is a conflict between the right of employers to control information and communication of employees at the workplace through IT means owned by the company, and the right to privacy of employees. Employers must develop some kind of control for many reasons: to limit employees' time not dedicated to work but to personal matters and to avoid illicit behaviour among employees in which they could have some kind of legal responsibility, just to mention two. However, local laws are giving quite different answers to these legal problems, and it is quite difficult for multinationals to have a transnational common policy on these issues.

Therefore, the net company offers multiple advantages to companies, but also presents huge legal challenges for multinationals' policies.

This issue would be suitable for a more detailed analysis in a later report, and the GEI is interested in following the HR and legal consequences that the next stages in the IT revolution will have in the multinational organisations and for their workforces.

Multinationals as transnational sources of regulation on human resources: codes of conduct, International Framework Agreements (IFAS)...

With 700 points, this issue scores 59 per cent of 1190 points, very near the score of the issue about the 'net company'. And the two issues rank almost on a par with the issue of CSR in a post-crisis context. This issue is clearly linked to the driving forces of globalisation and regulation.

For many years, but increasingly now, multinationals have felt the need to have a minimum of internal rules in order to facilitate the functioning of the organisation on global terms. The step from the first stage of multinationals – companies operating in several countries, but with production centralised in just the headquarter country – to the present stage of multinationals as really global organisations, with productions and distribution in many countries and service multinationals operating in most of the world, is having a great impact on HR policies.

First, even just in quantitative terms, with the increasing number of multinationals and with the increasing number of multinationals that are truly global organisations, it is clear that now they have themselves created the main source of transnational rules applicable to a transnational workforce. Certainly the increasing role of some international organisations, such as the ILO, must not be overlooked but, in comparison, multinationals are much more influenced on HR policies by internal policies than by international labour law. The fields in which those internal policies operate have been exponentially extending in the last decade, and everything suggests that this process will continue in the next

decade: hiring procedures and tests, disciplinary procedures, dress and behaviour codes, expatriate rules, outside of work conducts or social habits, rules on the use of IT company property, relationship with clients and providers, procedures in case of harassment, policies on remuneration programmes such as bonus or stock options, programmes on performance appraisals, and policies on work-life balance.

Secondly, these internal rules are not only affecting more and more subjects and becoming increasingly more extensive, but they are also becoming more and more complex and decisive in the determination of the foundations of the policies on HR matters of multinationals all over the world. In the end, all those procedures, programmes, codes applicable all over the world are linked to the core values of the companies. They translate the corporate culture for thousands of employees on global terms.

Because of this increasing importance, the tension in the development of these policies originates in two main dilemmas. The first one is related to the diversity-uniformity dilemma. As much as corporations would like to have common policies, their process of globalisation means that they have to find a balance between uniformity and diversity by way of identifying a set of common rules and then different alternatives in order to give some flexibility to those practices according to local and regional differences. To some degree, internal rules from multinationals have to develop more sophisticated legal techniques that just the one of saying the do and don't rules. Minimum common rules and diversification on regulatory techniques seem the only way of facing that increasing dilemma between uniformity and diversity.

The second dilemma is between centralisation and decentralisation in the development, application and compliance of those internal rules. For many years, multinationals, aware of local diversity including legal differences, have had a preference for decentralised decision making process on HR policies. Now, even if the execution of the internal rules is trusted to local management, it is increasing the degree of determination of these policies and, above all, the control of the application of these rules – compliance is already a central issue. Therefore, there has been a clear trend for centralisation. But at the same time IT developments have facilitated the participation of local managers in the elaboration and application of those policies, as well as the central control of the compliance with these internal rules. Therefore, centralisation could have been promoted by the need to have common policies, but at the same time permanent communication between managers have made possible the implication of them worldwide in the elaboration of those policies, the consideration of local differences and the execution of those policies by local managers with the ultimate control by central managers. All those developments have had a clear influence in the great importance and development of multinationals' internal rules as a significant source of HR policies.

Of course, one of the greatest challenges that this development has had to face, now and in the future, is the harmonisation of these common internal rules with local employment and labour laws. Several decades ago, it could be said that this was the main challenge for internal rules. Without denying its present and future importance, there are several factors that are helping in this process of harmonisation. Of course, more flexible common policies are one of them. Another is the increasing and permanent communication among HR managers all over the world, which facilitates that flexible approach. Moreover, the increasing international nature of employment and labour law and immigration practices is also facilitating that harmonisation.

This easier process of harmonisation, together with the finding of solutions to those basic dilemmas about uniformity/diversity and centralisation/decentralisation, could explain the position of this issue in the survey. From it, we can probably deduce that multinationals have already assumed this source of regulation as regular and normal in their management, and that this is an important but not a definite, unresolved problematic issue.

It may be, as we said, that codes of conduct are developed in new areas and that they are implemented in new jurisdictions/cultures but, fundamentally, the challenges in relation to codes of conduct must be assumed to be relatively manageable for HR managers – that we are dealing with core HR activities here.

Slightly more complicated is the task of understanding why IFAs (International Framework Agreements) apparently do not seem to cause any immediate problems for HR managers. The concept of IFAs is a direct consequence of globalisation and an example of international trade union cooperation. Although the IFAs known to us at this point are extremely general, they nevertheless impose a number of restrictions/obligations on employers, and the number of these kinds of agreements is increasing. IFAs are probably the most important challenge to the unilateral nature that until now have had most of the internal rules of multinationals, which have been enacted in many occasions without bargaining or even consultation with employees' representatives. Even more important, a common general clause integrated in most of these policies, quite relevant of this unilateral nature, is that those policies do not create 'acquired rights' and that they can be unilaterally change by the company.

In any case, the GEI will follow very closely the development of multinational internal rules as an ever increasing and important source of regulatory globalisation on HR issues. In particular, the GEI will follow the potential development of IFAs as they could mean the introduction of new ways of collective bargaining and unions' influence in these internal rules. International organisations, such as ILO, are well aware of this new source of global regulation and are quite focused on identifying trends on this regard and their influence on more traditional international labour law such as ILO's conventions and recommendations, the main set of international legal rules so far.

Corporate social responsibility in a post-crisis context: new and old issues in a global market

As mentioned above, with 686 points CSR scores a very similar number of points as the 'net company' and codes of conduct issues, namely 58 per cent of 1190 points, which means that all three issues have the attention of HR managers, but without causing them the greatest concern.

There could be several explanations for the position of this issue on the survey. Certainly, one could argue that with the economic crisis CSR has gone down in the agenda of multinationals. That could be the case for some multinationals and it can't be ruled out that an economic shock like the one multinationals have seen in the last two years could influence their perception of CSR. However, besides the fact that this crisis has been quite irregular in relation to multinationals depending on the sector and the country, the fact is that those multinationals that have answered the survey are too big and too complex as to have their concern on this issue determined only by their short term economic situation. CSR has been too important an issue as to be just an eventual subject exclusively linked in their potential relevance to the exact economic situation of the company: greater if the economic situation is positive, smaller if the economic situation is negative.

Another explanation could be that, since the survey has been directed to HR managers, they are not the ones in charge, at least for the most part, of the CSR matter. That could be also linked to the fact that, for many managers, it is still unclear the relationship between CSR and human resources policies. The common idea about CSR is that is mainly linked to the 'governance' of corporations and to clients/consumers policies of the companies. Therefore, the possible connection between CSR and employees is either less clear or of lesser importance. That could explain why an issue such as balancing labour and private life, that is theoretically linked to CSR (although with a clear and strong connection with HR policies) is considered very relevant compared to the significance that our managers have adjudicated to CSR.

There is yet another reason why CSR and HR policies can be separated in the mind of HR managers. Most of the HR issues are linked to legal labour and employment labour relation issues. Labour and employment law or immigration law determines to a great extent most HR decisions. In other terms, law plays a very relevant role in HR policies. However, CSR is considered to a great extent as a field outside the strict realm of legal duties. It is the realm of 'voluntary' decisions and policies, not strictly imposed by law. In this regard, HR policies, with their strong connection with the law, could be perceived as pertaining to a different 'world' from CSR in relation to multinationals' general policies.

Last but not least there could be still another explanation. For many years, CSR has been viewed as quite a ‘Western’ issue, that is to say, primarily a concern of American and European companies but alien to the culture of non-Western companies, above all of multinationals originated in emerging countries. That could have been the case for some years. However, it is now difficult to think that CSR is not a global issue and of great concern to any multinational, wherever it comes from. Certainly, in the US and in many countries across Europe, law or codes of best practices have implemented a requirement for financial statements to also include a ‘social and ethical report’. The UN has also put CSR on the agenda with its Global Compact initiative and the ten principles. The same could be said of the ILO, which has implemented more and more recommendations and general policies on this matter. Many organisations are working actively to achieve sustainability and are checking suppliers and subcontractors to ensure compliance in all parts of the supply chain with regard to fundamental human rights, ILO conventions and, for an increasing number of them, the values they have adopted in the drive to achieve a sustainable and socially responsible business. One only has to check some well-known recent publications on CSR to see how global this issue has become (for example, *Corporate Social Responsibility*, Kluwer Law International and IBA, 2005 ; and *The Oxford Handbook of Corporate Social Responsibility*, OUP, 2008).

Besides, most of the multinationals contacted are truly global, acting in many regions of the world. Therefore, CSR has been or will have to be addressed by them sooner or later. Therefore, we are inclined to think that the relative low position of CSR in the survey has more to do with the above mentioned ‘unconnection’ between CSR and HR policies in the minds of HR managers, induced even by the fact that CSR policies are adjudicated to other non HR departments, than to the fact that CSR is less important due to the economic downturn or that it is not yet a global issue.

Based on the above, some thought should be given to why CSR does not feature at the top of the issues list and on a par with work-life balance.

It may not seem surprising, however, that work-life balance is an issue that is very much in HR’s focus and therefore one of the highest-ranking issues in this survey. Work-life balance, in theory and even from an academic overview, would normally be seen as an issue to be included in CSR. However, in practice, for multinationals, and certainly it seems for HR managers, this connection is not clear. The fact that we separate these issues in the survey seems to confirm to them that the issues are seen as distinct. For them, the balancing issue is not so much a CSR subject as a HR matter, with increasing importance at the workplace organisation and in the hiring and retention of talent.

The GEI will have to follow the relationship between HR policies and CSR. Even though for many experts and global organisations and even for many multinationals the relevance of employees matters on the CSR policy is already quite clear, it seems that there is still a long way to go in this connection.

The new regulation of the financial sector and its influence on managers’ remuneration strategies

Eighth on the list at 668 points or 56 per cent of 1190 points is the issue of whether the restrictions and controls that are currently being implemented in the financial sector all over the Western world in relation to the remuneration of managers and top managers is the beginning of a trend, spilling over into other sectors, and whether this is a matter of concern for HR managers.

This issue is in the lower half of the list of issues that concern HR managers. This low ranking is somewhat surprising given that this matter has been so present in the media and in the political debate and affects a core matter for HR strategies. One would have thought that it would have been near the top of our managers’ concerns.

There could be several reasons for this surprising result. Perhaps this issue is seen as primarily relevant to the financial sector, and accordingly the ranking of the issue has been affected by what kinds of organisations participated in the survey, since the number of financial institutions surveyed was very limited.

However, even if remuneration of risk takers and executives in the financial sector is very much on the minds of the general public and public authorities, changes to executive remuneration strategies is relevant to other sectors,.

Another reason could be related to the timing of our survey. It was not until mid-2009, early 2010 that more decisive steps were taken in the European Union and the US in this regard, and therefore this restrictive trend on managers' remuneration may not have been 'assimilated' at the time of this survey as a potential concern for future HR policies. Specifically, the European Commission issued a set of recommendations on July 2009 concerning remuneration policies in the financial sector (including bonuses) and a set of recommendations aimed at listed companies, but only in 2010 have more decisive steps been taken. In the US, it was not until the beginning of 2010 that regulated limits began to apply to top-paid executives' remuneration at the most distressed financial institutions that were negotiating bailout agreements with the federal government.

Yet another explanation for the low ranking of this issue could be that the HR managers participating in the survey do not see this issue as a problem, even if these limitations spill over into other sectors and are directly affected by them. In other words, HR managers could be confident that they can successfully integrate any such limitations into their strategy without affecting the positive results of their HR policies.

Notwithstanding these explanations, it is likely that the possibility of general limits on managers' remuneration is going to deeply affect some of the main aspects of HR policies. One just has to look to the 'battle' for talent that there is now in certain sectors such as the IT companies in the Silicon Valley and the need to attract managers with higher salaries to appreciate that this issue could have a great impact on HR policies.

Therefore, it may be important to monitor how general policies on managers' remuneration in various sectors affects the war for talent: will it mean, for example, at least in industries and jobs that are not tied to certain countries or locations, that the best talent will simply move to countries that have no restrictive legislation or remuneration?

Moreover, if in future pay is linked to real company performance and payments such as bonuses are deferred until it can be established with certainty (or at least with a higher degree of security) that commercial decisions and initiatives have promoted sustainable/long-term results for the organisation, it may affect a wide range of matters relating to decision-makers/executives in the organisation and their employment and remuneration.

GEI will have to follow closely the evolution of this issue in order to evaluate if, as we suspect will be the case, it will become more important in the agenda of HR managers as limitations on executives' remuneration affect more sectors and become more specific.

After the perfect storm: will human resources strategies face an increasing regulation of labour and employments issues at international level?

Scoring 665 points or 56 percent of 1190 points, this issue ranks on a par with the issue concerning financial sector remuneration and whether they will spill over into other sectors; it is also very near on points with the issues concerning codes of conduct, CSR and the 'net company'. As in the case of the issue concerning limitations on managers' remuneration, this is a topic that could be primarily linked to the crisis of 2008 and, as with that issue, we could have expected a higher ranking for it.

Clearly a score of more than 50 per cent indicates that this matter is one which concerns HR managers. However, one would have thought that the 'threat' of a trend for 'hyper-regulation' (as a consequence of the theory that the financial crisis has been linked to the 'de-regulation' trend which originated largely in the US in the 1980s) would have been of more concern to the HR managers participating in the survey.

Moreover, even if this issue is immediately linked to the recent economic crisis it may have deeper roots, given that the trend for more international regulation – for more 'international law' – is an historical trend linked to globalisation. Hence regulation at a national level, but even more so at an international level. Since the financial crisis is global, the political

position sustained by important political sectors in many countries is that international institutions and bodies should impose more regulation in order to control the increasing globalisation of the economic system.

If we assume that this historical trend is correct, now accelerated by the crisis, then the impact on multinationals' HR policies could be very significant.

Even if this trend for more regulation has an initial impact in non HR fields, such as international trade or transnational financial relations, it could have a clear impact on bodies such as the ILO and, for instance, in the further development of international 'social clauses' on trade agreements or global codes on CSR. If this happens, the HR internal rules of multinationals as a new and important source of regulation on global HR policies could be deeply affected. As we have already pointed out, the main challenge for the application of these ever increasing internal rules has mainly related so far to the question of their compatibility with national law.

However, if the impact of transnational law on HR issues enacted by international organisations increases as a consequence of a new post-crisis position of these organisations in favour of a new wave of international regulation, then the internal rules of multinationals on HR issues will face a different challenge: they will have to adjust to laws applicable to all or most of the countries in which they operate.

Besides, this potential wave of new international regulation could affect issues that so far have been not that relevant to international labour, employment and immigration law, such as CSR or IFAs.

For example, in the European Union this trend for further regulation on HR issues could accelerate in the next few years. The most recent documents of the European agenda on social matters clearly reflect this trend, above all in relation to policies such as the right of information and consultation of workers' representatives on transnational corporate decisions by multinationals affecting employment and labour issues.

As we said, given the consequences that increasing regulation of international HR law could have on the internal policies of multinationals, GEI will have to follow up on whether there is a trend in the next decade towards a more decisive attitude of international organisations to enact new law in that field.

Unions and collective bargaining is the 21st century: an international vision of new ways of employees' participation

With 622 points, this issue scores 52 per cent of 1190 points, which means that although of importance for HR managers, compared with the other issues they were asked to consider in this survey, it received the lowest score. There could be several explanations for this low position. But we have to take into account that we were asking for three sub-issues that can't be considered, at least in a global perspective, as just one subject: trade unions, collective bargaining, and new ways of employee participation.

There could be collective bargaining without unions, although at the beginning of collective bargaining in Europe there was the development of unions as new regulatory agents in labour relations. At the same time, there could be ways of workers' participation without unions and even without collective bargaining, at least in a formal way. Precisely our goal in including this possibility of new ways of participation was to see if even in those countries in which unions and collective bargaining have a quite limited development, HR managers thought that employee participation was either necessary or unavoidable.

As indicated, there could be several reasons for the position of this issue in the survey. One of them is, of course, that unions and collective bargaining are already an 'assumed matter' in HR managers' agenda: they have been with Western multinationals for more than a century, either in their original countries or in other Western countries. Therefore, many of these multinationals know already how to deal with them. In other words, they do not represent a great challenge compared to the most recent end of the 20th/beginning of the 21st century's issues. Western multinationals have been

dealing with unions many decades, either in the West or in the emerging economies. However, this explanation wouldn't account fully for the 'internationalisation' of unions and collective bargaining, which could be viewed as a new development that impose new challenges for most multinationals. The fact is that unions, even if going behind multinationals in the process of globalisation, are due to progressively become global organisations or at least international networked organisations. Considering the strength of unions in Europe or in China and, to a lesser extent, in the US, it is difficult to assume that unions are going to remain national or regional organisations. In different ways, certainly with different kind of problems and challenges, they are due to become multinationals organisations by themselves and to promote their activities at this transnational level, including collective bargaining.

The other explanation is that unions and their main activity, collective bargaining, are considered as institutions in decline and, therefore, that they are due to have a more and more marginal role in the next decades in the main labour relations systems, either in the West or in the emerging economies. One can't rule out the importance of this explanation, but we probably have to look ahead further in time than the next decade. It is true that unions in Europe are showing some signs of getting weaker in relation to the past. However, above all in Continental Europe, home of quite a number of important multinationals, this decline is going very slowly and it not clear that is representing an historical, irreversible trend. The Chinese labour relations system, with all its particularities, is based on strong unions, and their multinationals acting abroad does not seem to have special problems in dealing with local unions. Therefore, the future of unions and collective bargaining is still, at the beginning of the 21st century, quite uncertain.

Probably, the best explanation is a mix of the two mentioned above, depending on the sector and the original country of the multinationals.

However, it is more difficult to explain the position of this issue if we considered the third aspect of the issue: 'new ways of employees' participation'. As the experience in the US and other countries have shown in the last decades, even without the presence of unions at company level, employers and employees have felt the need for the development of new methods to accomplish two main goals: to know employees' views in different organisational matters and to get them more implicated and committed on company's development. Again, with or without unions, with or without collective bargaining, a quite accepted idea all over the world for the right growth of multinationals is that they have to have a quite involved workforce. There could be no 'high performance' working organisation, which is essential for having an ever increasing competitive multinational, without some form of employees' participation. And it is somehow surprising that this component of our issue didn't encourage HR managers to give more relevance to the whole issue. There could be several explanations for this. One, of course, is that its relevance was somehow 'obscured' by the presence of the other two, more classical, sub-issues – unions and collective bargaining. Another one could be that these new ways of employees' participation are still considered as a very local question, since it is very linked to the national particularities of the labour system.

In any case, this issue raises two questions that the GEI shall follow up on in the next years: the process of globalisation of unions and collective bargaining (the already mentioned IFAs are going to be one of the main manifestation of this development) and the future rise of new ways of workers participation, which seems unavoidable for the fulfilling of the needs of this 'high performance workplace' that is considered as prerequisite for having more competitive and productive multinationals. One must take into account that the group of HR managers surveyed is a random sample. No attempt has been made to achieve an even balance between, for example, the manufacturing industry and the knowledge sector, and this is a factor that may have an effect if there is a bias in the organisations surveyed towards services and knowledge-based organisations, which (where other factors are equal) have fewer blue-collar workers and thus, traditionally, less of an attachment to trade unions.

