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Employment and Social Developments in Europe 2015

Chapter 2.3.

Social dialogue

Chapter 2.3: SOCIAL DIALOGUE¹

1. INTRODUCTION ⁽²⁾

Social dialogue is considered a building block of the European social model⁽³⁾ and a prerequisite for a well-functioning social market economy. In recent years, however, the social partners have been facing a difficult environment in which to conduct their discussions. Even before the economic and financial crisis hit the European economies and labour markets, social dialogue was being challenged by globalisation, the changing world of work and the individualisation of employment relations. Furthermore, the diversity of industrial relations institutions across the EU had widened further following the enlargement of the EU. In Central and Eastern Europe, social dialogue underwent a difficult transformation following the fall of communism. In these countries, social partners are in a weaker position, the role of tripartite social dialogue is contested and industrial relations institutions such as collective bargaining are less developed than in a number of Western European countries (European Commission, 2013a and 2015a).

Even in the countries where social dialogue was functioning comparatively well, the crisis had a negative impact on its effectiveness and ability to deliver, particularly in the later stages of the recession. While in some Member States strong social dialogue structures have helped to resist the crisis, the collective bargaining systems in others have changed and are now more fragmented. In several cases, the crisis accelerated pre-existing trends, such as declining collective bargaining coverage and more decentralised collective bargaining. While in many countries, decentralised bargaining remains embedded in coordinated systems, in others the key enabling conditions such as firm-level worker representation are not in place. Faced with economic uncertainty employers and workers had more difficulty in agreeing on the correct policy mix or on the required reforms to deal with the crisis. Without consensus, governments and public authorities more frequently took unilateral decisions without social partner support (European Commission, 2015a).

The weakening of social partners and social dialogue undermines the potential contribution social partners can make to job creation, growth, fairness and democratic change as set out in the Commission's agenda. For the EU and Member States to succeed in the growth and jobs challenge there is a need for a broad consensus on the right policy mix and the support from all stakeholders to implement structural reforms, particularly the social partners.

The Commission is committed to giving a new impetus to social dialogue, 30 years after launching EU level social dialogue in Val Duchesse. The 'New start for social dialogue' was launched at a high level event on 5 March 2015 with the participation of representatives of the EU institutions and of EU and national social partner organisations.

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⁽³⁾ Its vital role is recognised by the European Treaties, the EU Charter of Fundamental Rights, the European Social Charter, as well as by ILO conventions.

The ‘New start for social dialogue’ aims at improving the involvement of social partners in the European Semester as well as stepping up their contribution to EU policy- and law-making. It depends on the existence of a well-functioning and effective social dialogue at national level. The European Commission in its Communication on steps towards completing the Economic and Monetary Union (2015b) calls for the Member States to pay greater attention to the contribution of national social partners, in particular to strengthen ownership of reform efforts, notably through stronger involvement in the elaboration of National Reform Programmes.

The guidelines for the employment policies⁽⁴⁾ of the Member States adopted by Council Decision on 5 October 2015 reflect the need for Member States to closely involve National Parliaments and social partners, in line with national practices, in the design and implementation of relevant reforms and policies in order to improve the functioning and effectiveness of social dialogue at national level.

At national level, this calls for adequate resources and support, such as foreseen under the European Social Fund, to be devoted to capacity building of social partners. This concerns particularly those Member States where industrial relations systems have been most affected by the crisis, as well as those where capacity issues predated the economic downturn (including several Central and Eastern European countries).

Continuing the analysis presented in the eight editions of ‘Industrial Relations in Europe’ published over the past 16 years, the chapter will contribute to the discussions between the representatives of the social partners, the Commission and the Member States in the thematic group on ‘social dialogue, economic governance and capacity building’ as part of the ‘New start for social dialogue’.

The aim of this chapter is to provide comparative evidence on the functioning of social dialogue at national level and the involvement of national social partners in the design and implementation of reforms. The first part maps certain key dimensions of national industrial relations systems: membership of trade unions and employer organisations; the structure and coverage of autonomous collective bargaining; the (perceived) level of cooperation and trust in labour relations and industrial action. The second part considers the interaction between social partners and governments in designing and implementing policies and reforms, including the structures in which social partners are involved at national level. Recent examples of social partner involvement in reforms (consultations, tripartite and bipartite agreements) are presented. The concluding section identifies avenues for further inquiry.

Box 1: Terminology and definitions⁽⁵⁾

Social dialogue refers to interactions (such as negotiation, consultation or simply exchange of information) between or among organisations representing employers and workers (the social partners) and public authorities (at EU, national or other levels). The term ‘social dialogue’ is

⁽⁴⁾ *Employment guideline 7: ‘In line with national practices, and in order to improve the functioning and effectiveness of social dialogue at national level, Member States should closely involve national parliaments and social partners in the design and implementation of relevant reforms and policies’.*

⁽⁵⁾ Based on European Commission (2012).

sometimes used more widely to include also dialogue between management and labour at individual workplaces.

Social partners refers (jointly) to the two sides of industry, namely organisations representing workers (trade unions) and employers (employers' associations).

Bipartite social dialogue involves only organisations representing management and labour (the social partners). **Tripartite** social dialogue, sometimes referred to as 'concertation' involves social partners as well as public authorities (such as a national government or EU institutions).

Collective bargaining is one specific form of social dialogue which refers to negotiations between social partners at national, sector, company or another level on pay and other employment and working conditions. It leads to collective agreements which may be of general application in the given country, region, sector or company.

Industrial relations are the collective relationships between workers, employers and their respective representatives, including the tripartite dimension where public authorities at different levels are involved. Industrial relations are the structural and institutional context (including informal institutions) in which social dialogue takes place.

2. The functioning and effectiveness of social dialogue at national level

2.1. National systems: institutional diversity and common challenges

The European Union features a wide variety of national systems of industrial relations. This diversity is recognised in the Treaty on the Functioning of the European Union ⁽⁶⁾ (Art. 152).

Successive rounds of enlargement of the EU have increased this diversity. The Member States that joined the EU in 1995 (Austria, Finland and Sweden) are considered as having among the most encompassing systems of industrial relations. By contrast, many of the Central and Eastern European Member States that joined the EU since 2004 (with the notable exception of Slovenia) ⁽⁷⁾ have comparatively weak social dialogue structures (European Commission, 2013a and 2015a).

In line with comparative research on welfare states (Esping-Andersen, 1990) or the 'varieties of capitalism' literature (Hall and Soskice, 2001), researchers have developed typologies of industrial relations systems. Table 1 presents an overview of five models, based on collective bargaining structures and interactions between social partners and the state. These models can be considered as 'ideal types', meaning that very few individual countries correspond fully to

⁽⁶⁾ TFEU Art. 152 'The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy'.

⁽⁷⁾ Bohle and Greskovitz (2012) identified additional sub-clusters within Central and Eastern European countries, distinguishing between liberal Baltic and Balkan States (Bulgaria, Estonia, Latvia, Lithuania and Romania); welfarist Viségrad states (Czech Republic, Hungary, Poland, Slovakia). These authors also consider Slovenia as similar to corporatist European countries.

any of these regimes. Rather, these models serve as an analytical yardstick, including for analysis within countries. Moreover, they point to a number of institutional complementarities, for instance between collective bargaining and regulation by the state.

In both the organised corporatism and social partnership models, (sectoral) collective bargaining plays a large role in setting working conditions. There is a relatively broad consensus across the political spectrum about the role of social partners on policy-making and their influence is fairly constant over time. The main difference between these models relates to the role of the state in industrial relations. In organised corporatism the state has a limited presence in industrial relations: relatively little is regulated in legislation, instead negotiations between the social partners regulate relations between employers and employees. In social partnership, the possibility of state intervention in industrial relations is more present. The main characteristic of the polarised state-centred model, while being fairly heterogeneous in terms of collective bargaining structures, is regular state intervention in the conflictual relations between employers and workers' representatives. In the liberal pluralism model, there is a limited role for both the social partners and the state in the regulation of employment, which is predominantly shaped by market forces. Industrial relations in this regime are both voluntarist and adversarial. Finally, most Central and Eastern European countries have a fairly short experience of social dialogue, with initial emphasis on managing the transition to a market economy. Collective bargaining plays a limited role in setting working conditions, while the level of industrial conflict is low, and social partners' influence on policy-making is fairly limited.

Table 1: Regimes of industrial relations

	Organised corporatism	Social partnership	Polarised, state-centred	Liberal pluralism	Fragmented/ state-centred
Employee representation	Union based, high coverage	Dual system, high coverage	Variable	Union based, limited coverage	Union based, limited coverage
Main level of bargaining	Sector	Sector	Variable, unstable	Company	Company
Bargaining style	Integrating	Integrating	Conflict oriented	Conflict oriented	Acquiescent
Role of state in IR	Limited (mediator)	Shadow of hierarchy	Frequent intervention	Non-intervention	Organiser of transition
Role of SP in public policy	Institutionalised	Institutionalised	Irregular, politicised	Rare, event driven	Irregular, politicised
Broad geographic region	Northern Europe	Continental Western Europe	Southern Europe	Western Europe	Central and Eastern Europe

Presented in European Commission (2008).

While such typologies are often used to classify individual countries, this approach has been challenged on substantive grounds. Bechter et al. (2012), argue that such country clusters tend to underestimate the diversity within countries, even in ‘emblematic’ cases such as Germany (social partnership) or the UK (voluntaristic labour relations). Conversely, while acknowledging that national differences remain substantial, the authors found that the relative level of organisation in specific sectors is fairly similar across countries (with steel and railways for instance among the ‘stronger’ sectors).

Moreover, several broad economic trends are challenging existing labour relations in most industrialised countries, triggering the erosion of union density or collective bargaining

coverage. First, as international trade and competition intensify, negotiating collective agreements that cover all relevant competitors becomes more difficult.

Second, in recent decades, the structure of economic activity in most economically developed nations shifted away from manufacturing towards an expanding service sector. Many of the established industrial relations systems have their roots in the Fordist economy, characterised by mass production in large plants with workers performing standardised tasks. The service economy, by contrast, features more differentiated activities, smaller establishments (partly due to outsourcing) and more segmented occupational profiles (Iversen and Soskice, 2015). Moreover, the service economy is characterised by more diverse employment relations including new forms of self-employment such as freelance work. This diversification of employment relations affects the ability of trade unions and employers' organisations to organise and represent workers and management ⁽⁸⁾.

Third, the economic crisis accelerated changes in labour relations (in addition to globalisation and de-industrialisation). The initial shock triggered innovative joint responses by social partners, often supported by public authorities, such as short-time working schemes (European Commission, 2010). By contrast, the subsequent double dip recession and fiscal consolidation created a situation in which employers and workers' representatives often found it more difficult to find a consensus (European Commission, 2013a and 2015a).

In view of such common trends, the question arises whether distinct industrial relations clusters continue to exist, or whether countries converge towards a single model. Based on developments in union density, collective bargaining coverage and a bargaining coordination index between 1960 and 2012, Pedersini (2014) found that despite common pressures and trends, there was little sign of convergence over time, particularly between Eastern and Western Europe. The 'membership' of four clusters (Nordic, Continental, Southern European and 'disorganised') remained fairly stable ⁽⁹⁾. The most substantial changes occurred in the Southern European cluster following the recent economic crisis (See also European Commission, 2015a).

2.2. The effectiveness of social dialogue

The effectiveness of social dialogue (in the absence of a commonly agreed single indicator) is often assessed on the basis of different criteria. In this regard, it is important to note that social dialogue can be seen as serving several purposes, ⁽¹⁰⁾ ⁽¹¹⁾ which may be mutually reinforcing.

⁽⁸⁾ See Chapters 1.1. and 1.2.

⁽⁹⁾ Italy is a notable exception, shifting from the Southern European to Continental cluster following the tripartite agreement on collective bargaining of 1993.

⁽¹⁰⁾ See for instance Joint Employment Report 2011; 'High quality industrial relations based on dialogue and trust between strong social partners contribute to solutions towards reducing segmentation and proper labour market functioning. Social dialogue has proved to be effective during the crisis. Establishing consensus is important when austerity measures must be decided, as only a repartition of efforts that is regarded as fair will guarantee socially acceptable and successful reforms. However, the operational capacity of social partner organisations and the quality of industrial relations differs; thus the full potential of autonomous, negotiated solutions based on joint analyses and negotiations between social partners is still to be developed in several Member States'.

⁽¹¹⁾ In-depth employment analysis of the European cross-industry social partners (2015, p. 89); "The crisis has highlighted the important role that social partners can play in strengthening labour markets, but social dialogue

First, there is the key principle of social partners' autonomy, enshrined in the Treaties (Art. 152 TFEU). This refers to social partners' freedom to choose their interlocutors, to identify common priorities and to pursue joint actions at their own initiative. This notion implies that interactions between workers and employers' representatives have an inherent 'process legitimacy' which cannot simply be reduced to joint outcomes. This legitimacy is arguably stronger insofar as participants have a stronger capacity and mandate to represent⁽¹²⁾ their respective interests and show a higher degree of openness to finding common ground with their interlocutors. Closely linked to social partners' autonomy, the concept of horizontal subsidiarity refers to the choice, at EU level, between the legislative approach and the agreement-based approach. The latter is seen as having important benefits in terms of promoting policy orientations that are closely aligned with joint needs of employers and workers, thereby enjoying broad support (European Commission, 2004; Welz, 2008).

Secondly, social dialogue has the potential to identify 'win-win solutions' for workers and employers. Social partners can combine their inherent knowledge of the workplace to jointly produce 'public goods'. They can agree to set minimum standards in terms of working conditions. By jointly investing in training or organising social protection, they can overcome the collective action problems that are associated with such investments. If negotiations are successful, cooperation tends to generate trust between the parties, and vice versa. On the other hand, to the extent that trust between the parties is a precondition for cooperation there may be a double bind or 'Catch-22' if no progress is made on either dimension.

Third, social dialogue can bring benefits at the macro-level, in terms of competitiveness and fairness, and increased resilience during crises. A sizeable body of analytical work assesses the socio-economic impacts of industrial relations systems (See also Hassel, 2015). Overall, the link between different industrial relations institutions on the one hand, and employment and output on the other, appears to be largely contingent on the chosen indicators and to differ between countries. By contrast, there are more robust indications of distributive impacts of different industrial relations systems, where higher union density rates and higher rates of collective bargaining coverage are associated with lower dispersion of income and wages. To the extent that certain groups, including young workers, women and workers with fewer qualifications are less likely to be covered, this may contribute to segmentation of the labour market (European Commission 2006; Betcherman, 2012; Hassel, 2015).

The OECD (2012) has found that coordinated collective bargaining arrangements contributed to resilience⁽¹³⁾ during the crisis, regardless of the predominant bargaining level. However, the OECD analysis also highlights possible interactions with the institutional context, including employment protection legislation and social protection. To the extent that the social partners' role extends beyond workplace bargaining to higher political processes, the

has been under strain in the last years. Therefore, it is important that the agreements and proposals of national social partners are respected. They create 'social trust' and by doing so they create better economic and social outcomes'.

⁽¹²⁾ In-depth employment analysis of the European cross-industry social partners (2015, p. 90) 'Representative, autonomous and independent social partners foster their legitimacy for collective bargaining'.

⁽¹³⁾ A study by Eurofound (2015a) covering all EU Member States found that over the period 1990 to 2013 coordinated bargaining (regardless of the means of coordination) resulted in significantly lower pay outcomes compared to uncoordinated bargaining. Moreover, the results indicate that pay regimes where bargaining occurs predominantly at company level or alternating between sector and company recorded higher wage increases (also relative to productivity) than regimes where pay bargaining takes place predominantly at sector or higher levels.

effects of institutions become more difficult to identify as they interact with other elements of the political or welfare system.

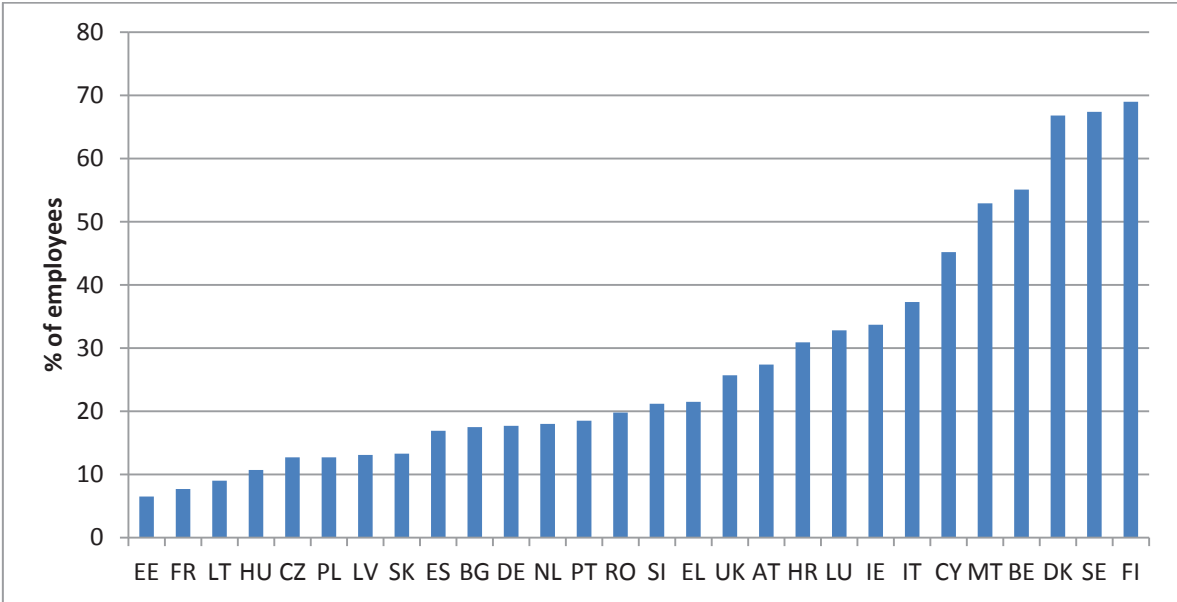
The next section provides an analysis of the relevant industrial relations indicators ⁽¹⁴⁾ across Member States, highlighting both the diversity between the national contexts and consistent cross-country patterns.

2.3. Trade union membership and organisation in the Member States

Trade union density represents the share of all employees ⁽¹⁵⁾ that are trade union members. This variable is considered an (imperfect) proxy for the influence of workers' organisations. Since the 1980s, there has been a secular trend of trade union decline across the large majority of EU Member States. To some extent, the decline in union density was driven by the 'denominator': an increasing number of new employees who chose not to join a trade union. (Visser, 2006). This trend appears to have slowed during the recent crisis, mainly due to a strong fall in employment (European Commission, 2015a).

Over and above the broad common trend, there are substantial differences across countries (Chart 1). Union density is fairly low in many Central and Eastern European Member States. These countries experienced a steep and sudden decline in trade union membership following the fall of communism. Under central planning, most trade unions fulfilled a function of management control rather than representation of workers. Rebuilding relations with workers under a market economy has often proved to be a challenging task (Varga, 2013).

Chart 1: Union density rate



⁽¹⁴⁾ The Joint Assessment Framework developed by the Employment Committee includes several indicators on 'collective interest representation' as background information. In addition to the union density rate (ICTWSS data) and collective bargaining coverage rate (Structure of Earnings Survey data), these include indicators (European Company Survey) on employee representatives at company level (acting as/addressing issues with) and on meetings held by management to express views on what is happening in the organisation.

⁽¹⁵⁾ In a number of countries, a sizeable share of trade union members are not employed (including the unemployed in Belgium or pensioners in Italy).

Source: ICTWSS database (Visser, 2015).

Notes: Share of employees that are trade union members.

Data years: Data years: 2013 for AT, BE, CY, CZ, DE, DK, EL, ES, FI, FR, IE, IT, NL, SI, SK and UK; 2012 for BG, EE, HR, HU, LT, LU, LV, MT, PL, PT, RO and SE.

By contrast, union density rates in Denmark, Finland and Sweden are exceptionally high and, until recently, fairly stable. Trade union involvement in voluntary unemployment insurance (known as the Ghent system) may be a contributory factor since it is a macro (country)-level factor promoting trade union membership in industrialised countries (Ebbinghaus et al., 2011; Schnabel, 2013). Belgium has a similar system, with trade union involvement in the provision of statutory unemployment benefits (including short-time working schemes).

Beyond national differences, trade union density differs across sectors within countries (See Annex 1). It tends to be higher in the public sector compared to manufacturing and the private services sector. The potential drawbacks of membership to workers may be lower in the public sector than in (certain segments of) the private sector, where employer attitudes towards trade unions are more hostile, and membership may be sanctioned in terms of career prospects. The benefits of union organisation to workers are arguably larger in the public sector, as the scope for individual bargaining on working conditions is lower. Relatively strong professional identities for certain groups (medical professions, teachers) further contribute to organisational density, even if status differentiation may lead to fragmentation (European Commission, 2013a). Moreover, relatively low turnover and large establishment sizes in the public sector further facilitate recruitment and retention of trade union members. While the difference between the public and the private sectors are well-described in the literature, the difference between private manufacturing and services is less clear-cut across Member States (Schnabel, 2013).

At company level, trade union density is positively associated with the size of the establishment in which the employee works. The less personal employment relationships in larger organisations are seen as increasing workers' demand for collective interest representation. For trade unions, there are economies of scale in targeting workers in larger organisations (Mrozowicki, 2014). Crucially, in many Member States, thresholds apply to statutory workplace representation (including shop stewards) at the workplace. Such workplace presence is an important channel for the recruitment and retention of members (Waddington, 2015, Ebbinghaus et al. (2011).

Whereas in the early 1980s, women were less likely to be unionised than men, this gap has narrowed over time, and in some cases even reversed (Schnabel, 2013). Substantial differences in union density between men and women now exist in only a few EU Member States, including Germany and the Netherlands. These remaining differences may be linked to gender patterns of part-time employment and/or fixed term contracts.

Young workers are less likely to be unionized than older workers in the majority of industrialised countries. Given the general decline of union density, a cohort or generational effect is likely to be at work. There is no clear evidence that young workers would be less interested in trade unions or collective interest representation per se (Vandaele, 2012). In many countries, union density is also lower among workers near retirement age than among middle-aged workers, which suggests that certain age specific effects apply as well. Arguably, as young workers are more mobile, a shorter time horizon may reduce their interest in becoming trade union members. Crucially, union density tends to be lower among employees

and those under fixed term contracts, compared to workers with an open-ended contract (Hassel, 2015). Young workers are overrepresented among the former.

While their membership is an important resource for trade unions, their capacity to recruit and retain members cannot be equated with their influence and representation. Other dimensions, which are less straightforward to quantify include dedicated structures to represent the interests of specific groups, such as women, migrant workers or younger workers. The strength of trade unions relies on their capacity to mobilise workers, as well as to influence the political agenda (Gumbrell-McCormick and Hyman, 2014). This implies that there is a broader agenda of capacity building.

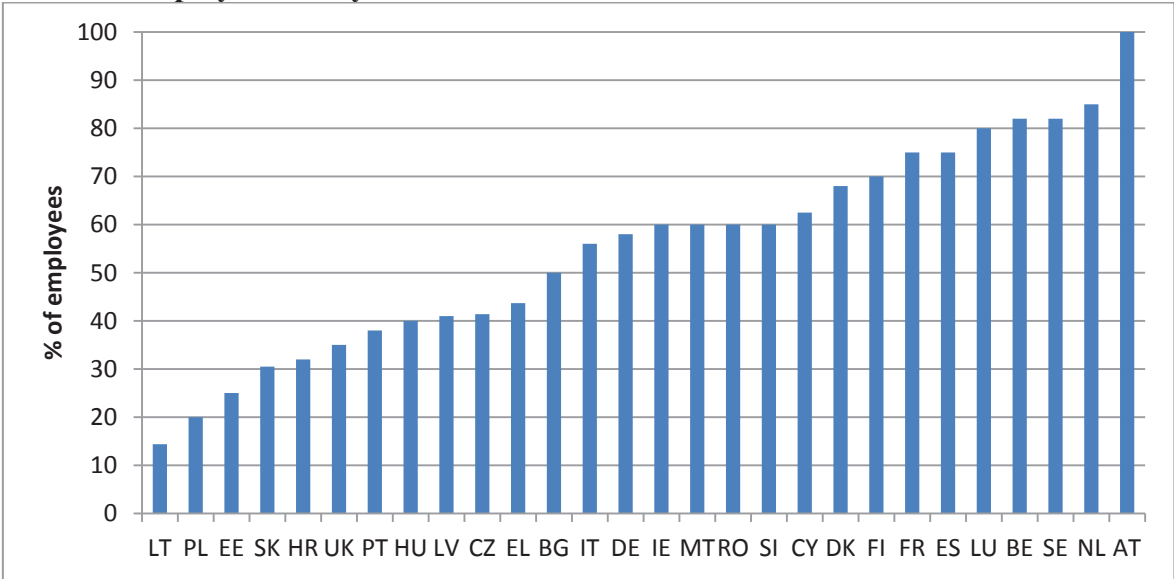
Kahancová (2015) states that in Central and Eastern Europe, traditional resources based on membership and involvement in collective bargaining have lost prominence in favour of unions' increased focus on mobilization, public protests and political support. Still, she concludes; "to achieve sustainable outcomes and find a way out of defensive strategies, CEE trade unions need to continue to develop their internal resources and capacity for action. This is relevant both for union legitimacy and for consolidating national industrial relations systems".

2.4. Membership of employers' organisations in the Member States

Employers' organisations are associations that, as participants in social dialogue, represent the interests of their members in their capacity as employers. These should be distinguished from interest organisations with different aims such as business organisations or chambers of commerce although in practice there may be some degree of overlap.

Employers' organisational density represents the share of employees working in establishments that are affiliated to an employers' organisation (or in other words, the organisation of employers, weighted by establishment size). The share of employees that are covered is larger than the share of firms, given that larger firms are more likely to organise (Traxler, 2000, and Chart 3). Compared to union membership, data on employers' organisations are scarcer (and less consistent, see Annex) but there are no indications that employer organisational density has decreased as strongly as union density.

Chart 2: Employer density rate

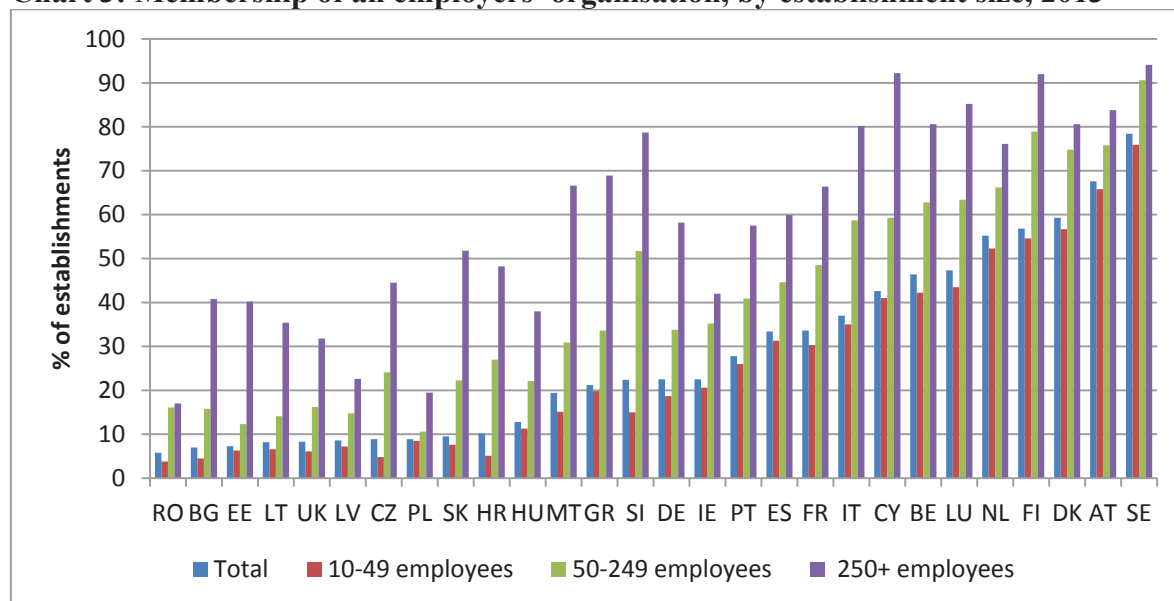


Source: ICTWSS database (Visser, 2015).

Notes: Share of employees working in establishments that are affiliated to an employers' organisation. Data years: 2014 for AT; 2013 for HR, LV, SI and SK; 2012 for BE, BG, FI, FR, IT, LT, LU and PL; 2011 for CZ, DE, EE, IE, NL, PT and SE; 2010 for DK; 2008 for CY, EL, ES, HU, MT and UK; 2007 for RO.

According to the European Company Survey (Eurofound 2015b), the proportion of establishments that are members of an employer organisation that participates in collective bargaining does not differ substantially between sectors. At European level membership is only somewhat higher than the European average of 26% in the transport sector (31%) and the financial services sector (32%).

Chart 3: Membership of an employers' organisation, by establishment size, 2013



Source: Eurofound, European Company Survey 2013.

Notes: Share of companies (with 10 employees or more) that are member of an employer organisation participating in collective bargaining.

Across countries, employer density is closely linked with institutionalisation of sectoral bargaining, including public policy support through extension of collective agreements to non-signatory parties (Visser, 2013). Where extension applies, employers have an incentive to join the organisation(s) that will negotiate a contract that will apply to them, regardless of their membership status.

2.5. Collective bargaining structures and coverage of collective agreements

Collective agreements are concluded by a workers' representative (i.e. on behalf of a group of workers) either with a single employer, or representatives of several employers, typically at sector or cross-industry level (multi-employer bargaining).

By setting working conditions (typically wages) through a collective agreement, employers (in sheltered or local markets) can take these elements out of competition, establishing 'a lower bound'. In doing so, they can save on transaction costs with employees, particularly those linked to conflicts over the distribution of added value. For employees, collective agreements can provide protection against market fluctuations, as well as solidarity between workers with different productivity levels (European Commission, 2015a). While collective agreements cover a priori the signatory parties (particularly on the employer side), public authorities can (in certain cases) extend their validity to non-signatory parties. It should be noted that this practice has decreased markedly since the start of the crisis (Eurofound, 2014; European Commission 2015a).

In recent years, collective bargaining has tended to become more decentralised from the (cross-) industry level to the company level (Eurofound, 2014) ⁽¹⁶⁾. This may be a response to increased international competition and diversification of activities, requiring a closer link between productivity and wages at sector and firm level ⁽¹⁷⁾. Decentralisation takes different forms: in Ireland and Slovenia, 2009 saw the end to a series of centrally negotiated wage pacts, thereby shifting the centre of gravity for bargaining to the company and sector level respectively. In Romania, legislation passed in 2011 abolished cross-industry agreements, thereby promoting decentralisation of level bargaining.

In those Member States where (cross-) industry collective agreements exist, the scope for company level agreements to set working conditions has increased. Opening clauses in higher-level agreements devolve the regulation of a number of issues to lower-level agreements. Opt-out clauses in higher-level (typically sectoral) agreements allow lower-level agreements to derogate from the regulations set in the higher-level agreements (under given conditions). Moreover, in some Member States there have been changes to the favourability principle, by which lower-level agreements are not allowed to deviate from the wages and working conditions agreed at a higher level in a way which would be unfavourable to employees (Eurofound, 2014; European Commission 2015a).

Table 2: Dominant level of bargaining and extent of bargaining coordination, 2014

	1 Fragmented	2	3	4	5 Coordinated
5 Cross-industry					Belgium
4 Cross-industry / sector					Finland
3 Sector		France, Portugal	Italy, Slovenia, Spain	Austria, Denmark, Germany, Netherlands, Sweden	
2 Sector/ company		Bulgaria, Croatia, Cyprus, Greece, Luxembourg,	Slovakia		
1 Company	Estonia, Hungary, Ireland, Latvia, Lithuania,	Czech Republic, Malta, Romania			

⁽¹⁶⁾ Exceptions are Belgium (where the government intervened in wage setting following the failed negotiations for cross-industry agreements) and Finland (where a new cross-industry wage pact was concluded in 2013) (Eurofound, 2014; European Commission 2015a)

⁽¹⁷⁾ See Euro Plus Pact:

'Each country will be responsible for the specific policy actions it chooses to foster competitiveness, but the following reforms will be given particular attention: (i) respecting national traditions of social dialogue and industrial relations, measures to ensure costs developments in line with productivity, such as: review the wage setting arrangements, and, where necessary, the degree of centralisation in the bargaining process, and the indexation mechanisms, while maintaining the autonomy of the social partners in the collective bargaining process; ensure that wages settlements in the public sector support the competitiveness efforts in the private sector (bearing in mind the important signalling effect of public sector wages)'.

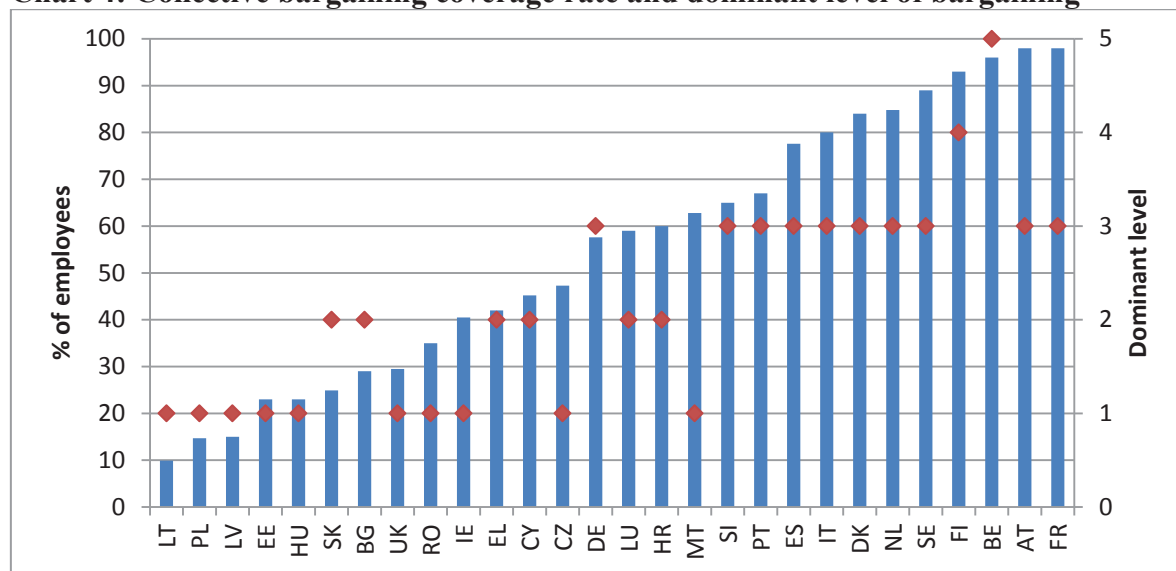
	Poland, UK				
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Source: ICTWSS database (Visser, 2015).

While a ‘dominant’ level of bargaining can be identified in Member States (Table 2), it should be noted that in most countries where multi-employer bargaining exists, different levels of bargaining influence each other with possible coordination between units at a given level. Such links can be achieved through different means. First, the state may impose wages instead of allowing bargaining (e.g. Belgium in 2014). This implies a low level of autonomy of social partners. Second, the state may also sponsor bargaining, including through social pacts, with social partner involvement (e.g. Finland in 2014). Third, peak level organisations may provide guidance to their members in setting conditions at lower levels (intra-associational guidance). With pattern bargaining a leading sector sets the pace for negotiations in other sectors (for instance the metal sector in Austria and Germany).

Across countries, there is a strong association between the main level at which collective bargaining takes place and the overall share of employees covered by collective bargaining. Where collective bargaining (if any) occurs mainly at company level, relatively fewer employees are covered altogether. In the EU, coverage rates range from less than 10% to nearly full coverage. There was a steady erosion of bargaining coverage in the Member States from the early 2000s until the start of the economic crisis in 2008, after which it accelerated, driven by particularly sharp declines in a number of countries (Greece, Romania and Portugal) (European Commission, 2015a).

Chart 4: Collective bargaining coverage rate and dominant level of bargaining



Source: ICTWSS database (Visser, 2015)

Notes: Collective bargaining coverage represents the share of employees covered by collective (wage) bargaining agreements (excluding sectors or occupations that do not have the right to bargain).

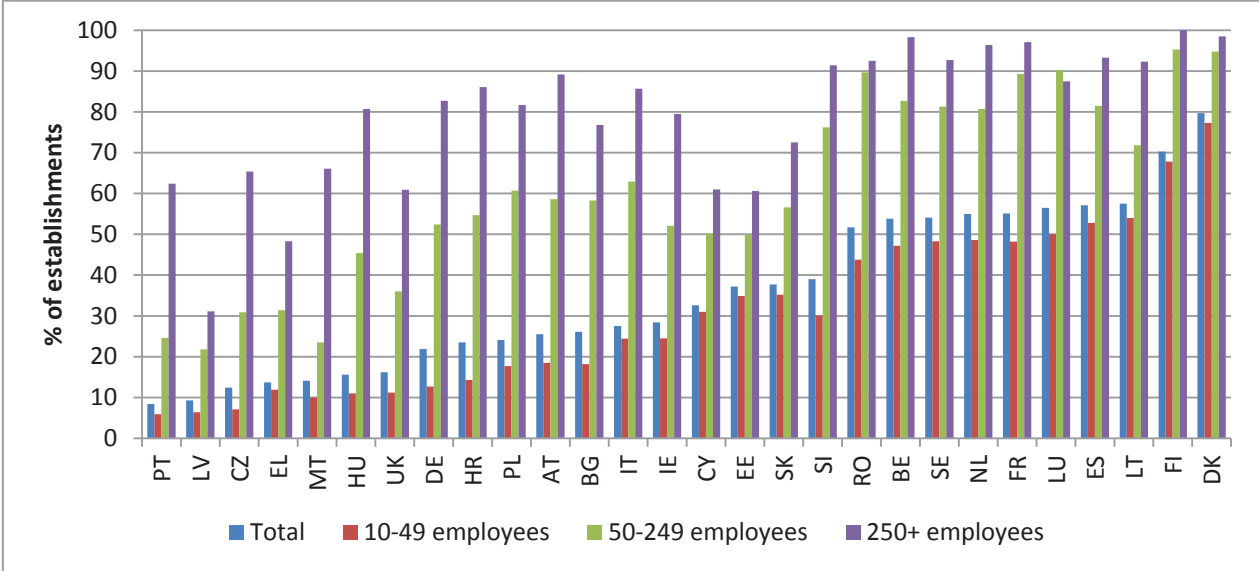
Dominant level of bargaining: 5 = bargaining predominantly takes place at central or cross-industry level and there are centrally determined binding norms or ceilings to be respected by agreements negotiated at lower levels; 4 = intermediate or alternating between central and industry bargaining; 3 = bargaining predominantly takes place at the sector or industry level;

2 = intermediate or alternating between sector and company bargaining; 1 = bargaining predominantly takes place at the local or company level.

Data years: dominant level: 2014 for all Member States; collective bargaining coverage: 2014 for FI and PT; 2013 for AT, BE, CY, CZ, DE, DK, EL, ES, HU, LV, NL, RO, SE, SI, SK and UK; 2012 for BG, EE, FR, LT, LU, MT and PL; 2010 for IT; 2009 for HR and IE

In a context of decentralised collective bargaining, structures for workers' representation are crucial. In the case of Portugal, it appears that the decentralisation of bargaining, given the rarity of workplace structures for representation, resulted in an (at least temporary) fall in collective bargaining coverage (CSR SWD 2015). There is a large diversity of such structures across Member States, including in the role of trade unions in electing or delegating representatives, or the presence of works councils that are directly elected by employees (even if the latter often have strong informal contacts with trade unions) . The share of establishments that feature an official trade union representation vary considerably across countries. As smaller establishments are far less likely to feature official employee representation (Eurofound 2015b), the share of SMEs in the economy is a crucial variable, in addition to the rights and (legal) modalities related to workplace representation structures.

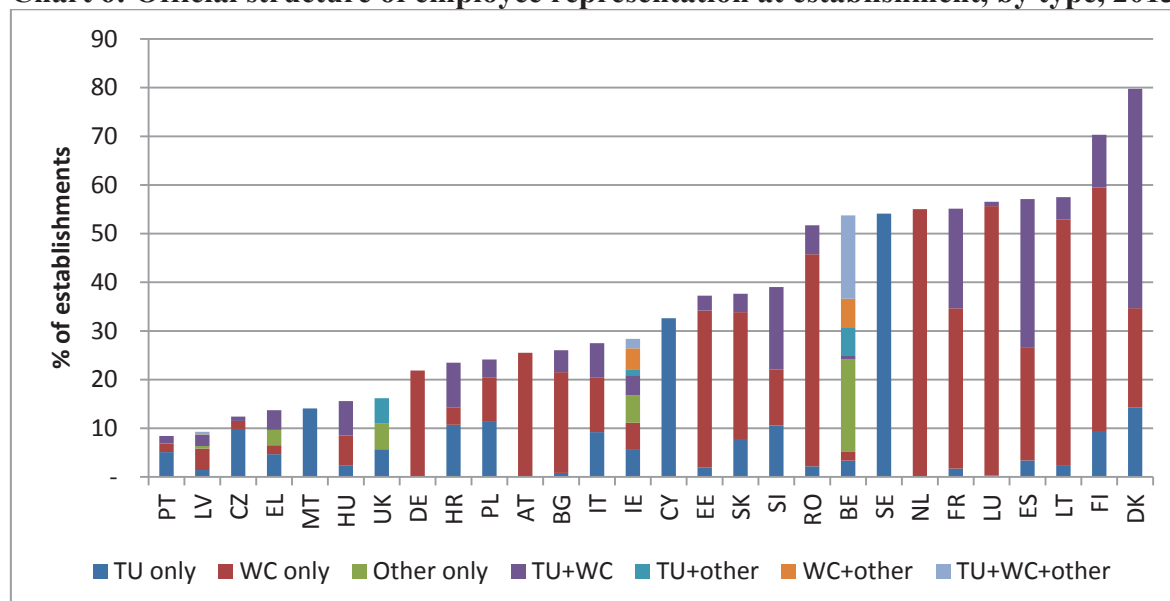
Chart 5: Official structure of employee representation at establishment, by establishment size, 2013



Source: Eurofound, European Company Survey 2013.

Notes: Share of establishments (with 10 employees or more) where an official structure of employee representation (trade union representation or shop steward; works council; joint platform; non-union employee representation, or other sector specific) is present.

Chart 6: Official structure of employee representation at establishment, by type, 2013



Source: Eurofound, European Company Survey 2013.

Notes: Share of establishments (with 10 employees or more) where an official structure of employee representation (trade union representation or shop steward; works council; others e.g. joint consultative committees, non-union staff association) is present. TU = Trade union delegation; WC = Works council (or workers representative).

2.6. Trust, cooperation and conflict

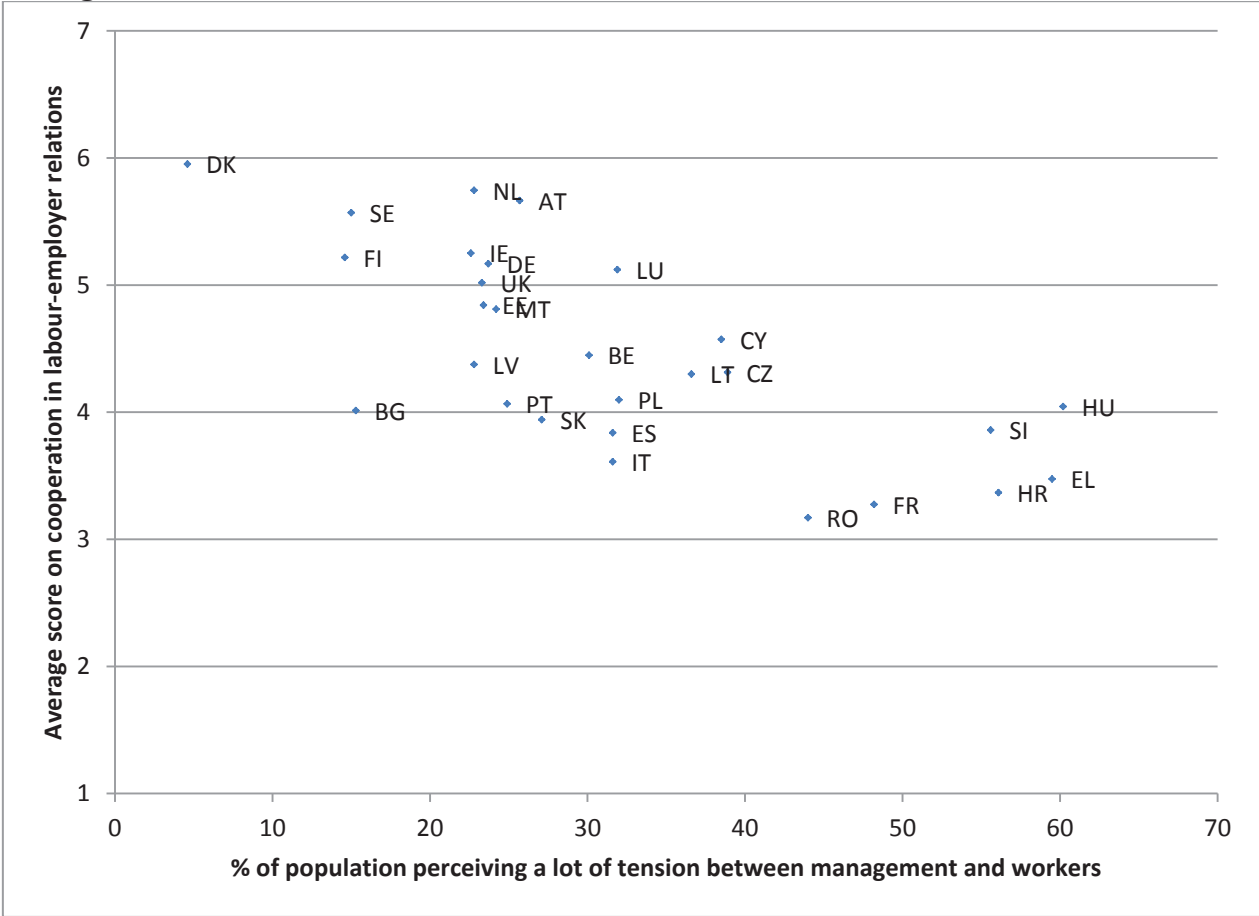
Trust and cooperation between employers and workers is a precondition for successful dialogue. A good ‘climate’ of labour relations can be considered an outcome of social dialogue as such to manage tensions between management and workers.

One possible proxy measure for the ‘quality’ of the industrial relations system, is the (perceived) quality of employer labour relations at national level (see Blanchard and Philippon, 2006; Feldman, 2008). The Executive Opinion Survey by the World Economic Forum collects data among executives, asking them to score cooperation on a scale from generally confrontational to generally cooperative. Average scores per country, as well as relative country positions are fairly stable over time (2006-2015).

In a similar vein, the European Quality of Life Survey conducted by Eurofound⁽¹⁸⁾ provides data on perceived tensions between different social groups, including management and workers. The two alternative measures and data sources appear to be largely consistent. Denmark, Finland, and Sweden are seen to have highly cooperative relations marked by few tensions, which is in line with the categorisation presented in Table 1. By contrast, the data suggest that labour relations are particularly tense in France, Romania, Croatia and Greece.

⁽¹⁸⁾ An alternative data source is the European Company Survey (Eurofound), which collects data among management and employee representatives regarding cooperation and mutual trust at the establishment level. These data refer only to establishments with employee representation, which makes it difficult to interpret and compare data across countries, particularly those where workplace representation is very limited (see charts 5 and 6). Eurofound 2015b suggests that the level of mutual trust is fairly similar across establishments of different size (noting again that smaller establishments are less likely to feature employee representation) and across different sectors.

Chart 7: Cooperation in labour-employer relations and perceived tensions between management and workers



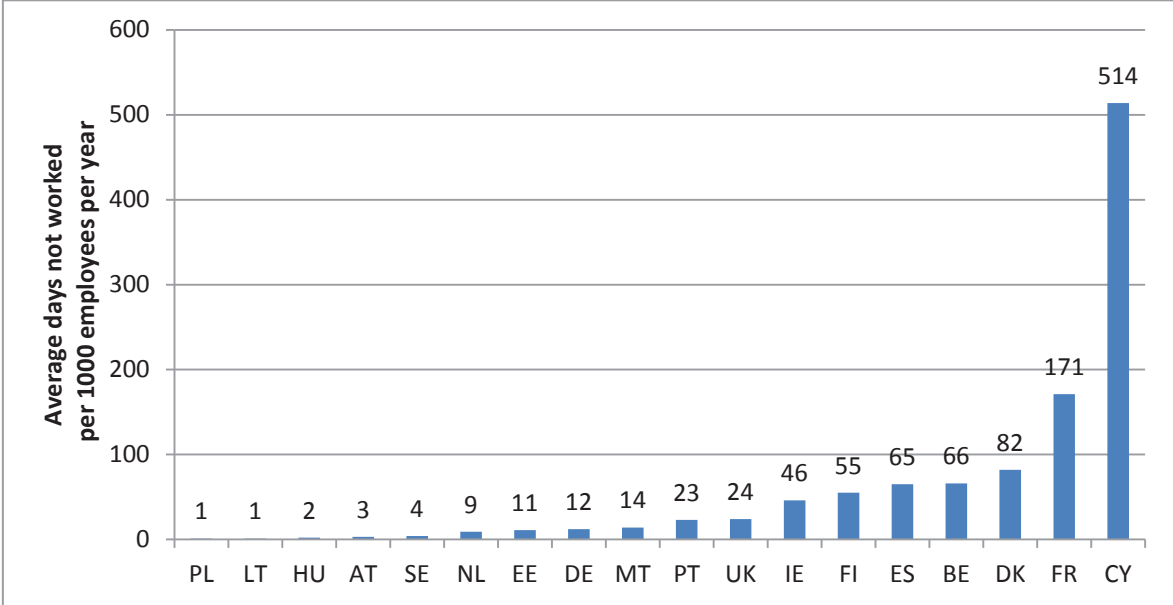
Sources: Cooperation: World Economic Forum, Executive Opinion Survey 2012-13; Tension: Eurofound, European Quality of Life Survey 2012

Notes: Cooperation: weighted average score on a scale of 1 (generally confrontational) to 7 (generally cooperative) as scored by executives; Tension: share of the population who report that there is a lot of tension between management and workers in their Member State (choosing between 1 = no tension, 2 = some tension, 3 = a lot of tension).

Industrial action could be considered an alternative indicator for tensions in collective labour relations (¹⁹). Such action includes strikes (at the initiative of workers) and lock-outs (initiated by employers). Across Western Europe, the number of days not worked due to strikes fell markedly between 1990 and 2009. While country rankings remained fairly stable, the overall trend tended to produce downward convergence (Vandaele, 2011). Strike activity increased after the start of the crisis with a marked shift from industrial to public sector strikes (Gall 2013).

¹⁹ It should be noted however, that strikes may be political in nature, targeting government policies rather than employers.

Chart 8: Days not worked due to industrial action, 2009-2013



Source: European Trade Union Institute, strikes in Europe dataset.
 Notes: Insufficient or no data for BG, CZ, EL, HR, IT, LU, LV, RO, SI and SK; ES: excluding (general) strikes in 2012 and 2013; PT: 2010-2013 excluding strikes in public administration; HU: 2009-2010 and 2012; FR: 2009-2012.

Across countries there appears to be no clear bivariate link between industrial action and perceived tensions or cooperation between management and workers: Cyprus is an outlier in terms of industrial action (2009-2013), while chart 7 suggests moderate cooperation/tensions between workers and employers. National averages tend to peak in given years, in some cases driven by developments in a specific sector (in Cyprus, there was a protracted strike in the construction sector in 2013). Beyond issues of data comparability across countries, industrial action data must also be seen in the context of the national industrial relations systems in which they occur, for instance modalities regarding the right to strike in the public sector.

2.7. Associations between different dimensions

Table 3 represents the bivariate associations between variables across Member States, measured through the correlation coefficient. There is a strong correlation between employers' density rates and coverage of collective agreements, and to a lesser extent, between collective bargaining coverage and union density. As mentioned earlier, the two measures that capture cooperation/tensions between employers and workers are consistent. By contrast, there is no clear linear association between industrial conflict and any of the other measures (even when omitting outlier Cyprus). Moreover, there appears to be a positive association between both trade union and employer organisation rates and perceived cooperation in labour employment relations, which is to some extent driven by outliers (including Denmark and Sweden).

Table 3: Correlations between main indicators

	Union density	Employer density	Bargaining coverage	Cooperation labour - empl	Tension mgmt - workers	Industrial action
Union density	1 28	,498** (,007) 28	,562** (,002) 28	,491** (,008) 28	-,436* (,020) 28	,183 (,468) 18
Employer density	,498** (,007) 28	1 28	,822** (,000) 28	,424* (,024) 28	-,232 (,234) 28	,162 (,522) 18
Bargaining coverage	,562** (,002) 28	,822** (,000) 28	1 28	,285 (,141) 28	-,186 (,343) 28	,059 (,816) 18
Cooperation in labour - empl	,491** (,008) 28	,424* (,024) 28	,285 (,141) 28	1 28	-,710** (,000) 28	-,176 (485) 18
Tension mgmt - workers	-,436* (,020) 28	-,232 (,234) 28	-,186 (,343) 28	-,710** (,000) 28	1 28	,234 (,349) 18
Industrial action	,183 (,468) 18	,162 (,522) 18	,059 (,816) 18	-,176 (485) 18	,234 (,349) 18	1 18

First row Pearson correlation coefficient

Second row Sigma (two-tailed)

Third Row N (number of cases)

Box 2: Capacity building

The European Commission provides support to build the capacity of social partners at EU level, as well as at national level.

The European Commission's promotion of **European social dialogue** includes financial support, mainly in the form of grants to social partners and other industrial relations stakeholders. On the basis of Article 154 TFEU, the most important financial programmes are the headings in the EU budget earmarked for support to social dialogue; information and training measures for workers' organisations; information, consultation and participation of representatives of undertakings; and improving expertise in industrial relations²⁰.

In this regard, it should be noted that the European social partners at cross-industry level included capacity-building as one of their eight priorities in their 2015-2017 work programme 'Partnership for inclusive growth and employment'. They notably recognise that greater efforts are needed to ensure an effective implementation in all Member States of the autonomous agreements²¹ concluded at EU level. Moreover, several of the 43 European

²⁰ <http://ec.europa.eu/social/main.jsp?catId=629&langId=en>

²¹ Such EU-level social partner agreements are implemented in accordance with the procedures and practices specific to management and labour and the Member States' — in other words, the agreement will be

sectoral social dialogue committees (for instance in education) pursue joint actions to build capacity, including at national level (see European Commission, 2015a).

The Commission recognises the need to develop administrative capacity of partners (including social partners) that participate in the implementation of ESIF (**European Strategic Investment Funds**), and to support exchange of good practices between such partners. Social partners have been for many years a key stakeholder in the implementation of European Union's shared management funds, in particular in the context of the European Social Fund, as members of the ESF Committee. The Delegated Regulation establishing a European Code of Conduct on Partnership (ECCP), adopted in 2014, paves the way for a substantial improvement in the manner partners are involved in policies and reforms in view of the alignment of the funds to the European semester. This active involvement necessitates the empowerment of all partners, in particular the ones with limited human resources. Continuous capacity building of the partners is therefore crucial. Within the context of the implementation of the ESIF, Member States shall use part of their technical assistance to ensure that partners, in particular social partners, have the necessary capacity to participate in the implementation of the Partnership Agreement and the Operational programmes.

Furthermore, in line with the strategic partnership for social dialogue between the **ILO** and the European Commission, which has been renewed for the period 2014-2017, capacity building activities are developed together with the international training centre of the ILO in Turin. Such (training) activities involve representatives from employer and workers' organisations from EU Member States, candidate countries and in some cases also EU level organisations.

3. The involvement of social partners in the design and implementation of reforms and policies

3.1. The role of social dialogue/social partners in the political decision-making process

Interactions between public authorities and social partners on policy development and implementation take different forms. One framework distinguishes between exchanges of information, consultation and negotiations leading to agreements (ILO, 2013).

The provision of **information** to social partners can be considered the most basic process of social dialogue, but may be a crucial condition for a more substantive involvement of social partners in the policy process. Alternatively, if social partners send their positions to public authorities on their own initiative, this can be considered an information exchange.

Consultation refers to a structured process whereby public authorities invite social partners' views on policy orientations or implementation. Social partners' positions may be either that of individual organisations or shared views (joint positions). Crucially, even if consultation itself may be mandatory in some Member States for given policy issues, its outcome does not

implemented by the signatories' national member organisations, in ways consistent with the industrial relations systems in each Member State.

bind any of the parties. The actual influence of such views on the policy process varies, sometimes framed in terms of the distinction between 'being heard' and 'being listened to'. Establishing the actual impact is not always straightforward. As part of a consultation, public authorities may enter into a dialogue with social partners on their views and their implications for the policy agenda. In some cases, a structured response by the government to social partners' advice is foreseen⁽²²⁾.

Negotiations aim at achieving agreements between government and social partners. Such agreements are binding upon the signatories. **Social pacts** are arguably the most comprehensive forms of (tripartite) social partner involvement in the design and implementation of policies and reforms. Such pacts are "publicly announced formal policy contracts between the government and social partners on incomes, labour market or welfare policies, that identify explicit policy issues and goals, the means to achieve them and designate the tasks and responsibilities of the signatories" (Avdagic, 2011, pp. 25-26).

The conditions for the emergence and institutionalisation of social pacts are extensively examined in the academic literature. These studies consider consecutive 'waves' of pacts that had been observed across Europe, if not in all EU Member States. In the 1970s, amid high inflation and rising unemployment, social pacts tended to combine wage moderation with publicly financed employment and social policies (including unemployment insurance, pensions and early retirement, state-sponsored employment programmes). These pacts tended to involve a limited number of highly centralised interest associations, with strong internal control mechanisms to discipline the rank and file to respect the agreement (Baccaro, 2003; Schmitter and Grote, 1997).

After a period of relative inactivity in the 1980s (including a series of failed attempts to renew existing pacts), a second series of social pacts was observed in the 1990s. Many of these pacts still covered wage issues, but active labour market policies and employment protection legislation became the main focus (Avdagic et al., 2011), possibly under the influence of the Maastricht convergence criteria (particularly targets for inflation and government finance). Pacts were also concluded in countries such as Italy or Ireland, where the trade union movement was relatively fragmented (Baccaro, 2003). However, through internal coordination they managed to conclude agreements with employers and governments. The focus shifted from institutions to strategies and actors, particularly (electorally weak) governments seeking support for policies.

A third series of pacts – 'post-euro and post enlargement' but pre-crisis – was seen in the 2000s (Natali and Pochet, 2010). Keune and Pochet (2010) raise the question of the relative absence of social pacts in Central and Eastern Europe (with the notable exception of a series of pacts in Slovenia, and an attempt at a pact in Poland). This absence is linked partly to the low capacity of social partners in terms of low membership and limited coordination in collective bargaining, and partly to governments' alternatives to pacts in reaching their goals.

The most recent crisis has seen the unravelling of pacts in countries where they seemed to be fairly institutionalised, such as Slovenia. More generally, it appears that social pacts are

⁽²²⁾ For instance in the Netherlands, the government responds within three months of receiving unanimously supported advice from the socio-economic council SER (either following a consultation or on its own initiative). In particular, this response sets out the motives for not following such advice.

fragile constructions, vulnerable to both external pressures and to shifts in the preferences and power distribution between the three sets of actors (Avdagic et al., 2011).

Box 3: The role of social partners in the European Semester. Main findings (Eurofound)

In 2015, Eurofound launched a comparative study to map, analyse and assess the role of national social partners (SP) in the European Semester, focusing on employment and social policy issues (rather than fiscal policy or the Macro-economic Imbalance Procedure). This study was part of Eurofound's four-year programme (2012-2016), which considers the impact of new forms of economic governance at European level on national social partners.

The study is based on contributions from Eurofound's network of national correspondents through the collection of comparative information and cross-national analysis of the national responses to a questionnaire. The observation period covers the European Semester 2011-2014. By involvement of social partners the study – in general – understands information and consultation. If other forms (e.g. co-decision) were relevant, this is indicated.

In the vast majority (22) of Member States, national social partners are involved in the definition and/or implementation of the National Reform Programmes (NRP). In most of these Member States, previously established social dialogue structures are used. In others (e.g. Sweden), the formal structure for consultation between SPs and the government was established by specific memoranda. In certain Member States (including Italy), the involvement of social partners has been irregular and variable over time. In Croatia, Hungary and Romania, no social partner involvement in the NRP was reported. The Member States where macroeconomic adjustment programmes replaced NRPs - Ireland and Portugal (2011-2013) and Greece (from 2011) are a specific case.

In general, Southern and Central-Eastern European countries tend to have an involvement which is less developed. In certain Nordic and Central-Western European countries, social partners are not heavily involved in the NRP, but do wield substantial influence over policy-making (e.g. Luxembourg, Finland). Social partners' involvement also depends partly on the degree of priority given to the European Semester by public authorities at national level (strategic document versus ex-post reporting).

The study shows that there are significant differences between countries in procedures by means of which the national social partners are involved in the NRPs. In this sense, the study reports that in 10 countries (Austria, Belgium, Denmark, Estonia, Lithuania, Malta, the Netherlands, Poland, Sweden and Slovakia) social partners are consulted in a regular and predictable manner, consider having enough time for information and consultation and are consulted on equal footing. Thus, social partners' involvement is highly institutionalised in these countries. However, the study also reports that only in 5 Member States (Belgium, Finland, the Netherlands, Malta and Sweden) the social partners have a strong impact on the content of the NRPs.

3.2. National institutions and practices for involving social partners in the design and implementation of policies

Practical arrangements for involving social partners in policy design and implementation differ substantially, both across and even within Member States, and can be differentiated by a number of key features. First, national bodies for social partner involvement may have different **objectives**. These range from purely consultative bodies to councils that (also) serve to negotiate and conclude agreements, and monitor their implementation. The mandate of an institution may be more or less explicit.

Second, the institutions may differ in **scope**: while some are a forum to discuss a wide (but clearly delineated) range of socio-economic issues (such as the Czech RHSD CR) others focus on particular issues such as gender equality, occupational health and safety or wages. Where competences over labour market and social policy are decentralised, regional councils may exist (for instance in Belgium for the Flemish, Walloon and Brussels Capital Region).

Third, the **composition** of national structures for social partner involvement differs. Bipartite institutions are composed solely of employers and workers' representatives. This does not, however, preclude logistic or financial support by the government (which may be substantial). In tripartite bodies, social partner representatives (the two sides of industry) meet the representatives of relevant public authorities. In addition, in several Member States (including Hungary and Malta) there are bodies that gather not only social partners and government, but also representatives of civil society. These organisations are neither trade unions nor employers' organisations, but represent specific interests (for instance consumer groups, NGO's representing the interests of certain vulnerable groups in the population, or environmental organisations).

Finally, national bodies for social partner involvement may be more or less **formalised and/or permanent**. While many Member States organise dialogue through an official 'socio-economic council', informal structures may be equally if not more influential. One example is the Belgian 'Group of Ten', gathering the (11) senior negotiators of cross-industry social partners. While this is not a formal body, it plays a crucial role in the national industrial relations system and the formulation of policies, and acts as the main forum for the negotiation of the biannual inter-professional agreements. Finland increasingly relies on 'continuous negotiation' by social partners through joint projects and temporary working groups, the composition of which may vary according to the subject matter (Eurofound national profile). Cyprus has similarly seen the emergence of dedicated (tripartite) technical committees.

Beyond specific bodies dedicated to (bipartite or tripartite) social dialogue, it should be noted that social partners may be represented on boards or advisory councils (most prominently in social security institutions or public employment services). In addition, labour courts in several Member States include social partner representatives or members nominated by them.

3.3. The involvement of social partners in the design and implementation of policies and reforms in the European Semester

Social partners are involved to varying degrees in the design and implementation of reforms in the EU Member States within the context of the European Semester. The data for this

analysis were compiled from Commission Staff Working Documents/Country Reports and the Council Country Specific Recommendations for 2011-2015. This overview does not provide an exhaustive picture of all social partner involvement in reforms, which would allow the calculation of a ‘degree of involvement’. A certain ‘selection bias’ can be assumed, insofar as the involvement of social partners is more likely to be reported than the absence of such involvement. In addition, where certain country specific recommendations specifically refer to the role of social partners⁽²³⁾, one could expect the staff working documents to report on this. The overview covers a series of examples, highlighting recurrent features that may be relevant in view of future cycles of the European Semester, and the involvement of social partners in the policies and reforms.

3.3.1. Expertise, consultations and debates

Social partners have been involved in their capacity as **experts** when designing policies. In Denmark (2015), social partners (along with government, municipalities and regions) were represented in an Expert Group on Vocational Youth Education, whose aim is to address the lack of private apprenticeships and high drop-out rates. The Danish government (2015) also tasked an expert commission (composed of academics, independent experts, and social partner representatives) to propose reforms to the unemployment benefit system. Issues to be discussed include eligibility criteria, compensation rates, financial robustness, full-time/part-time and voluntary versus mandatory insurance. In Spain, the July 2014 agreement signed by the government and the social partners sets out the intention to assess, together with the Autonomous Communities, the various models of income replacement schemes in terms of coverage and their link to employability. In Finland (2014-2015), an expert group composed of social partners, competent ministries, Finnish social security institutions and the Centre for Pensions produced a report on the employability of persons with partial work ability.

Expert reports can provide input to discussions and consultations with social partners. In Croatia (2015) the authorities (in cooperation with experts) have completed a comprehensive analysis of wage determination and wage-setting practices in both the private and the public sectors and in state owned enterprises, to provide the basis for a tripartite discussion with social partners. In Luxembourg (2015), the General Inspectorate of Social Security declared its intention to present a new study on the financial situation of pensions in 2016. Based on this report, additional fiscal consolidation measures could be discussed with social partners.

⁽²³⁾ The large majority of country-specific recommendations that refer explicitly to social partners call for their **consultation** on reform wage setting mechanisms (Belgium 2011 to 2015; Bulgaria 2011, 2014 and 2015; Cyprus 2011 and 2012; Spain 2011 and 2015; France 2015; Croatia 2015; Italy 2015; Luxembourg 2011, 2013, 2014 and 2015; Malta 2011 and 2012; the Netherlands 2014; Portugal 2015; Romania 2014 and 2015; Slovenia 2012, 2014 and 2015) and human capital development (France 2013). Further CSRs calling for social changes to labour law (France 2011; Croatia 2014; Lithuania 2013; Slovenia 2012); changes to collective bargaining (Portugal 2014 and Italy 2015) to pension reforms (Austria 2011 and Netherlands 2013), older workers (Finland 2011) and unemployment benefits (France 2015).

For Finland, the CSRs (from 2012) refer to ‘**fully respecting the role** of social partners’ in reforms of the wage setting system (2012, 2013 and 2015).

Several French CSRs refer to reforms to be undertaken ‘**in association with**’ social partners, on labour costs (2013) and unemployment benefits (2013 and 2014);

A Slovenian CSR in 2014 calls for the **development of a comprehensive agreement** on wages. Three CSRs refer to **existing agreements** (Bulgaria 2011 on pensions; France 2013 for a cross-industry agreement; Italy 2011 for a 2009 agreement on collective bargaining).

Conversely, in certain consultation processes, **important information may be lacking**. In Bulgaria, minimum wages are established in consultation with social partners, but there appears to be a lack of effective and transparent consultation based on macro-economic indicators. While the situation was similar in Romania, the authorities launched an assessment study of the recent minimum wage increases. Based on this they are planning to start a discussion on the criteria to be followed in setting the minimum wages with the social partners towards the end of 2015.

Reforms where a consultation of the social partners is explicitly mentioned (in the staff working document) include the Croatian Labour Act of August 2014, which was preceded by ‘discussions’ with social partners. While no details are provided regarding the views of the social partners, they do participate in a working group to monitor the implementation and impacts of the labour market reform (with the first regular report envisaged for January 2015). In Malta, in line with national practice, social partner consultation preceded the preparations for a national apprenticeship scheme. In 2012, following consultation with the social partners and other main stakeholders, the Italian government adopted a draft ordinary law with a view to reforming labour market functioning. Following a debate among social partners in 2014, the Dutch government introduced proposals for the future of the pension system in the summer of 2015.

A number of reforms that were under discussion with social partners have not materialised such as discussions in Malta on pension reform (2013) and wages (2014), or discussions in Poland on possible changes to labour law, as well as on pension schemes for the armed forces and for miners.

Elsewhere, consultations are underway. The Lithuanian social partners are involved in discussions on a ‘New Lithuanian Social Model’, a comprehensive package for the regulation of labour relations and job creation, the state social insurance system and the reduction of poverty and social exclusion.

The status of ‘debates’ or ‘discussions’ with social partners is not always clear-cut in that they may include elements of consultation or negotiation. These consultation processes should be analysed more systematically to cover not only social partners’ views on the subject matter but also the subsequent outcomes in terms of policy.

3.3.2. Social partner agreements and government intervention

Reforms reported under the European Semester also include several **social partner agreements**, some of which were subsequently enacted into law.

In 2009, Bulgarian social partners reached an agreement on the reform of the pension system, which was implemented by the government. After the freezing of the reform for a couple of years in 2013-2014, the Bulgarian social partners were again involved in the newly-agreed pension reform in July 2015.

In November 2011, the Finnish social partners concluded a framework agreement to extend working lives and upgrade skills. This was followed by a social partner agreement in March 2012 to raise the part-time pension age limit; to limit early retirement, to raise pension contributions and to reinforce older workers’ obligations to take part in activation measures.

The government is committed to implementing the reforms no later than January 2017. The social partners negotiated and agreed on specific arrangements (including retirement ages, starting age for pension accrual, early retirement schemes and survivors' pensions, exemptions for arduous work) in Autumn 2014. The effects of the reform are to be monitored every five years on a tripartite basis. In addition, the social partners concluded a wage agreement in 2013.

In France, a cross-industry agreement resulted in the 2013 law on securing employment 'loi sur la sécurisation de l'emploi'. The reforms aim at combating labour market segmentation, simplifying the dismissals procedure while facilitating workers' transitions in the labour market. Implementation of certain arrangements (particularly regarding dismissal) depends on subsequent negotiations at branch and company levels.

In Italy, a series of productivity pacts were concluded with regard to wage setting. In a 2009 reform of the bargaining framework envisaged centrally-negotiated wage increments were linked to the cost of living, while introducing the possibility of opening clauses (i.e. upward and downward derogations with regard to the sectoral wage agreed at the national level). An agreement of 2011 increased the scope for company level bargaining. A Pact of 2012 – not signed by the CGIL trade union - linked agreements not only to cost of living but also to the economic and competitive situation of the country and given sectors. It also provided for further scope to decentralise wage setting to the company level. Overall, the effectiveness of the reform depends on take-up at the decentralised level. A further agreement (including all social partners) was signed in 2013, supporting the wage setting agreements with tax rebates on productivity-related pay increases in second tier contracts²⁴. Changes to representativeness criteria at the company level in the manufacturing sector were agreed in 2014.

The Dutch social partners agreed on a series of targets for public and private sector employers to hire persons with disabilities. The agreement is flanked by a legal act of 2015, implying that financial penalties will apply to enterprises that do not fulfil the quota.

In Portugal, following the freeze of minimum wages under the financial assistance programme, the Council of Ministers, in agreement with social partners, decided to increase the monthly minimum wage and to cut employers' social security contributions (TSU) for workers already receiving the minimum wage.

The Spanish social partners agreed on wage moderation (including suspension of cost of living adaptations) for the period 2012-2014, and have reached a pre-agreement for 2015-2017.

Slovenian social partners and the government concluded a tripartite agreement on wage setting in the public and private sector in 2015.

In several Member States, social partners are involved in the **management of social security** schemes (European Commission 2013a). The Dutch social partners agreed on a rise in the pension age for second pillar pensions, to bring them into line with the pension age for first pillar pensions, as well as on a decrease in the accrual rate exempted from taxes (December 2013). Moreover, as part of the 'Sociaal Akkoord' (April 2013), the Dutch social partners agreed to reduce the duration of benefits under the publicly funded unemployment insurance

²⁴ For additional information, see the In-depth Review for Italy 2014, http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/op182_en.htm

scheme, while allowing for an extension funded by the social partners. The measures are part of a broader pact which also covers reforms of employment protection legislation.

As co-managers of social security institutions the French social partners reached a multiannual tripartite agreement in 2012 on the functioning of the ‘Pôle emploi’ (merger of jobseekers' placement services and unemployment benefits agencies). In 2013, they reached agreement on supplementary pension schemes in the private sector, temporarily suspending cost-of-living adaptations to reduce the deficit of the system. In March 2014, the social partners agreed on measures to reduce the deficit of the unemployment benefit scheme and to allow jobseekers to retain previously acquired rights to unemployment benefit in future periods of unemployment rather than forfeit them when taking up a job.

Some **recurrent patterns** emerge from these agreements. First, in several cases, public authorities provide financial support (through tax rebates or reductions in social security contributions) to reforms and policies agreed with the social partners. However, the scope for such measures depends on the state of public finances⁽²⁵⁾.

Second, cross-industry framework agreements rely on take-up at the lower level, such as Italy's wage pacts and the French Law on ensuring employment. This requires a degree of coordination and consensus between the national-level signatories and local representatives.

Third, negotiations and agreements may divide social partners. The Italian 2012 Productivity Pact was not signed by CGIL. The pension reform was reported to be particularly controversial among trade unions in the Netherlands.

Fourth, reaching an agreement often requires a considerable amount of time and reaching consensus may prove elusive. There have been several instances where governments set a deadline for an agreement, in the absence of which they would legislate. For example in France, a law on the social dialogue has been adopted in 2015 following the failure by the social partners to reach an agreement in time.

The reforms implemented under the European Semester include several examples where the government took the initiative without agreement by social partners. In Belgium, the legislative framework provides for a key role for social partners as regards wage setting. In case social partners fail to come to a comprehensive agreement, the federal government can decide to step in, as it has done in recent years. In addition, in 2015 the government introduced a suspension of wage indexation schemes foreseen in industry-level collective bargaining agreements. In Bulgaria, negotiations on the minimum social security thresholds in different sectors of the economy take place each year between the social partners. These binding bi-partite agreements are then translated into law by the Bulgarian government. For economic sectors where no agreement is reached between the social partners, the government reserves the right to issue an administrative increase of the minimum social security thresholds. In Germany, a minimum wage was introduced by the government in 2015, applicable to all sectors from 2017. Thereafter, the level of the minimum wage would be adjusted by a committee of social partner representatives. The Hungarian minimum wage,

⁽²⁵⁾ (For Belgium, the 2015 Country Report highlights the role of ‘midwife’ traditionally played by the federal government in previous cross-industry wage agreements, supporting these through wage subsidies, social allowances and reductions in social security contributions. In a context of a narrowing budgetary manoeuvre, scope for such support is reduced significantly).

which until 2011 was set in negotiation with social partners, is now fixed by the government in consultation with social partners and other actors represented in the tripartite council.

Social partner agreements sometimes followed state intervention. In Cyprus, a series of CSRs (2011 and 2012) and measures under the economic adjustment programme (2013-2016) related to the adaptation of the wage setting system particularly wage indexation. Whereas this issue was reported as ‘non-negotiable’ for social partners in 2011, a dialogue was initiated in 2012. Following government measures to suspend indexation in the public sector a tripartite agreement for the private sector was reached, suspending indexation until 2016.

In Luxembourg, wage indexation was postponed by the government in 2011, following an agreement with the social partners. This was followed by a legally enacted modulation of the system between 2012 and 2014. In 2014, the government asked the social partners to agree on amendments to the system before summer, otherwise it would legislate. Social partner involvement in policies and reforms are a set of complex dynamics which often play out over the medium term.

In terms of progress towards the country specific recommendations, several reforms designed or implemented by social partners addressed or anticipated challenges in national labour markets and social security systems. In other cases, the measures taken by, or in association with, social partners represent only partial or limited progress. Where consensus on reform is elusive, it may imply a complex balancing exercise between building broad consensus and promoting ownership of reforms, while addressing socio-economic challenges in a timely manner.

4. Main findings

This chapter documented key dimensions of national industrial relations systems in the EU in all their diversity. This concluding section discusses some of the key elements or criteria that would allow looking into the functioning of social dialogue at national level, including the involvement of social partners in policies and reforms.

Employers' organisations and trade unions are the leading actors in social dialogue. As membership organisations, a number of common challenges in terms of representation emerge. In a context of declining union density, trade unions across Europe organise a proportionately smaller share of younger workers, employees on fixed term contracts, in relatively small establishments and those working in the private services sector. While employer density rates appear to have been more stable over time, in the majority of countries smaller firms are less likely to be members of employers' associations.

With regard to collective bargaining, the coverage rate of collective agreements varies considerably across countries. Overall, it tends to be lower in Member States where collective bargaining occurs predominantly at the company level. Moreover, in many countries, bargaining at company level remains fragmented. While trustful and cooperative labour relations appear to exist in different institutional settings, the question remains how social partners with few members, in a context of fragmented bargaining can develop their views and contribute to policy making at national level.

Most Member States have at least one structure through which to involve social partners in policy-making. These vary considerably in number, objective, scope and composition. The

existence of an official structure cannot be considered as an indication of its influence in policy-making. Moreover, informal or temporary structures may actually be more influential.

An overview of national social partners' reforms in the Semester, while not exhaustive, showed concrete examples of social partners' contributions to the policy agenda. In some cases, it implies a delicate balancing exercise between addressing pressing socio-economic challenges, while achieving a broad consensus in respect for autonomy of the social partners.

Taking due account of diversity of national systems, this overview does suggest that certain elements for social dialogue at national level are mutually supportive: social partners with high levels of capacity and mutual trust, engaging in an outcome-oriented dialogue, the results of which are taken into account by the public authorities (ranging from consultation, tripartite agreements, or institutional support to bipartite agreements). From an analytical perspective, a more systematic mapping of these dimensions would be helpful in highlighting the specificities of national systems, but also facilitate the identification of key conditions or enabling factors across Member States.

Data sources

The Database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts (ICTWSS) is a dataset compiled by Prof Jelle Visser of the Amsterdam Institute for Advanced Labour Studies (AIAS). For a detailed code book and methods, see <http://www.uva-aias.net/208..>

The European Social Survey (ESS) is an academically driven cross-national survey among the population aged over 15. It has been conducted every two years across Europe since 2001. The survey measures the attitudes, beliefs and behaviour patterns of diverse populations in more than thirty nations.

The European Company Survey (ECS) has been carried out every four years since its inception in 2004-2005 by Eurofound. The ECS is a questionnaire-based representative sample survey carried out by telephone in the language(s) of the country. Interviews take place with the manager responsible for human resources in the establishment and when possible with an employee representative.

The European Quality of Life Survey (EQLS) is a pan-European survey among the adult population, carried out every four years by Eurofound. It examines both the objective circumstances of European citizens' lives and how they feel about those circumstances and their lives in general.

The World Economic Forum (WEF) Executive Opinion Survey is a survey among business executives from small and medium-sized enterprises and large companies, administered each year in over 140 economies.

The European Trade Union Institute (ETUI) Strikes in Europe dataset (by K.Vandaele) compiles data on the number of days not worked due to industrial action per 1,000 employees, as well as on the prevalent regime of the collective bargaining system; on the legal status of the right to strike and its strictness in the market sector and government sector.

Annex 1: Union density, % employees, by sex, age category, contract type, establishment size and broad economic sector, 2012 or latest data year

	Total	Sex		Age category				Contract type	
		Men	Women	15-29	30-44	45-59	60+	Open-ended	Fixed-term
LT	7	7	7	2	5	10	(13)	7	7
HU	8	8	8	5	9	10	(0)	9	2
EE	9	7	11	6	8	11	11	9	(9)
PT	9	9	9	6	9	11	(5)	11	(5)
FR	10	12	8	4	10	11	(17)	11	1
EL	10	13	7	3	8	18	(22)	13	(5)
CZ	10	10	10	3	11	11	(14)	11	3
SK	12	10	13	9	8	13	(29)	12	(14)
PL	12	13	11	5	11	18	(16)	16	3
BG	13	12	14	(7)	8	17	(12)	15	5
LV	15	13	16	4	12	21	(19)	16	14
DE	18	21	13	13	12	22	18	19	10
ES	19	20	18	8	18	29	(7)	22	10
IT	24	26	23	(12)	24	30	(20)	26	(21)
UK	25	23	26	9	25	30	(29)	28	18
NL	25	31	19	8	23	35	(26)	27	17
HR	27	27	27	11	29	31	(44)	31	(11)
RO	29	27	30	14	30	36	(32)	31	(21)
AT	31	38	25	16	32	41	(41)	36	11
SI	32	30	37	(14)	30	44	(27)	38	(13)
IE	34	31	36	15	35	43	(32)	42	27
CY	44	43	45	(15)	45	58	(39)	43	(68)
LU	46	50	39	35	48	55	(38)	49	(17)
BE	48	52	44	47	47	52	(34)	48	(52)
SE	71	68	74	46	69	81	77	73	(54)
FI	76	75	77	60	75	83	(72)	77	70
DK	82	78	86	52	88	89	(82)	85	70

Source: calculations based on European Social Survey

Notes: Current members of trade unions or similar organisations among employees having performed paid work over the last 7 days.

Data years: 2012, except 2010 for EL, ES and HR; 2008 for LV and RO; 2006 for AT; 2004 for LU.

Industry and construction corresponds to NACE Rev 2 B->F; Private services to G->N; Public services to O-> S. Agriculture not included due to small sample sizes in most MS.

Data are broadly consistent with union density rates presented in chart. Higher density in ESS for DK, FI and SE may be linked to 'trade union or similar organisation' as these Member States feature union linked voluntary unemployment insurance funds. Total rates for EL, IT and PT based on ESS are substantially lower, compared to ICTWSS.

Cells light shade: Chi² test with p<= 5%, dark shade p<=1%

Point estimates based on a limited number of observations (due to size of the sample or of subcategories in certain MS) may be imprecise. Data based on fewer than 100 observations are therefore put between brackets.

The main aim of the table is to illustrate common patterns across Member States.

	Total	Establishment size, employees					Broad economic sector		
		<10	10-24	25-99	100-499	500+	Industry and construction	Private services	Public services
LT	7	6	3	8	8	(32)	6	5	11
HU	8	1	6	7	8	28	5	8	11
EE	9	4	7	12	11	(24)	7	5	17
PT	9	3	11	13	(21)	(0)	4	8	18
FR	10	1	9	12	15	16	8	6	14
EL	10	5	12	16	(17)	(16)	(11)	10	(6)
CZ	10	4	9	7	10	24	8	8	18
SK	12	7	13	11	11	(33)	9	8	21
PL	12	3	4	10	15	32	12	5	19
BG	13	6	14	17	(17)	(25)	13	8	18
LV	15	9	13	18	(28)	(35)	-	-	-
DE	18	9	12	15	20	26	20	13	19
ES	19	11	22	23	(21)	(25)	15	13	28
IT	24	9	(16)	(34)	(34)	(37)	(18)	16	39
UK	25	5	17	27	27	40	20	14	38
NL	25	19	26	28	28	24	26	16	35
HR	27	16	(21)	32	(31)	(49)	31	15	17
RO	29	8	29	37	36	(45)	-	-	-
AT	31	23	29	38	39	(48)	-	-	-
SI	32	(15)	(9)	33	39	50	36	24	40
IE	34	16	29	38	53	48	32	22	48
CY	44	31	(40)	59	(69)	(38)	(59)	37	(51)
LU	46	29	39	56	52	51	-	-	-
BE	48	44	46	53	49	48	60	43	44
SE	71	57	65	71	79	84	74	59	79
FI	76	63	75	80	80	85	83	64	84
DK	82	76	79	86	87	77	81	76	89

REFERENCES

- Avdagic, S., 'The conditions for social pacts. A fuzzy-set analysis of the resurgence of tripartite concertation', in S. Avdagic, M. Rhodes and J. Visser (eds), *Social Pacts in Europe. Emergence, evolution and institutionalization*, Oxford: Oxford University Press, 2011.
- Avdagic, S., Rhodes, M. and J. Visser, 'Introduction', in S. Avdagic, M. Rhodes and J. Visser (eds), *Social Pacts in Europe. Emergence, evolution and Institutionalization*, Oxford: Oxford University Press, 2011.
- Baccaro, L., 'What is Alive and What is Dead in the Theory of Corporatism', *British Journal of Industrial Relations*, 41(4), 2003, pp. 683-706.
- Bechter, B., Brandl, B., & Meardi, G. 'Sectors or countries? Typologies and levels of analysis in comparative industrial relations', *European Journal of Industrial Relations*, 0959680112452691, 2012.
- Betcherman, G., 'Labor market institutions: a review of the literature', *World Bank Policy Research Working Paper*, (6276), 2012.
- Blanchard, O., & Philippon, T., 'The quality of labor relations and unemployment', *National Bureau of Economic Research*, No w10590, 2006.
- Bohle, D., & Greskovits, B., *Capitalist diversity on Europe's periphery*. Cornell University Press, 2012.
- Ebbinghaus, B., Göbel, C., & Koos, S., 'Social capital, 'Ghent' and workplace contexts matter: Comparing union membership in Europe', *European Journal of Industrial Relations*, 17(2), 2011, pp. 107-124.
- Esping-Andersen, G., *The Three Worlds of Welfare Capitalism*, Princeton University Press, 2011.
- ETUC, BUSINESSEUROPE, CEEP, UEAPME, 'In-depth employment analysis', 2015.
- Eurofound, 'Changes to wage-setting mechanisms in the context of the crisis and the EU's new economic governance regime', Publications Office of the European Union, Luxembourg, 2014.
- Eurofound, 'Pay developments in different wage bargaining settings in Europe', Publications Office of the European Union, Luxembourg, 2015a.
- Eurofound, 'Third European Company Survey – Overview report: Workplace practices – Patterns, performance and well-being', Publications Office of the European Union, Luxembourg, 2015b.
- Eurofound (forthcoming), 'Role of the social partners in the European Semester', Publications Office of the European Union, Luxembourg.

European Commission, 'Partnership for change in an enlarged Europe - Enhancing the contribution of European social dialogue', Communication from the Commission, COM(2004) 557 final, 2004, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1449583326483&uri=CELEX:52004DC0557>.

European Commission, 'Industrial Relations in Europe 2006', Publications Office of the European Union, Luxembourg, 2006.

European Commission, 'Industrial Relations in Europe 2008', Publications Office of the European Union, Luxembourg, 2008.

European Commission, 'Industrial Relations in Europe 2010', Publications Office of the European Union, Luxembourg, 2010.

European Commission, 'Social Europe Guide, Volume 1: Social Dialogue', Publications Office of the European Union, Luxembourg, 2012.

European Commission, 'Industrial Relations in Europe 2012', Publications Office of the European Union, Luxembourg, 2013a.

European Commission, 'Strengthening the social dimension of the Economic and Monetary Union', Communication from the Commission to the European Parliament and the Council, COM(2013) 690 final, 2013b, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1449590703629&uri=CELEX:52013DC0690>.

European Commission, 'Industrial Relations in Europe 2014', Publications Office of the European Union, Luxembourg, 2015a.

European Commission, 'On steps towards Completing Economic and Monetary Union', Communication from the Commission to the European Parliament, the Council and the European Central Bank, COM(2015) 600 final, 2015b, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1449590397602&uri=CELEX:52015DC0600>.

Feldmann, H., 'The quality of industrial relations and unemployment around the world', *Economics Letters*, 99(1), 2008, pp. 200-203.

Gall, G., 'Quiescence continued? Recent strike activity in nine Western European economies. *Economic and Industrial Democracy*', 34(4), 2013, pp. 667-691.

Gumbrell-McCormick, R., & Hyman, R., *Trade unions in western Europe: Hard times, hard choices*, Oxford University Press, 2013.

Hall, P. A., & Soskice, D., *Varieties of capitalism: the institutional foundations of comparative advantage*. Oxford University Press, 2001.

Hassel, Anke, 'Trade Unions and the Future of Democratic Capitalism', in: P. Beramendi, S. Häusermann, H. Kitschelt, H. Kriesi (eds.): *The Politics of Advanced Capitalism*, Cambridge University Press, 2015.

International Labour Office, 'National Tripartite Social Dialogue. An ILO Guide for improved governance', Geneva, International Labour Office, 2013.

Iversen, T. and Soskice, D., 'Redistribution and Power of the Advanced Nation State', in: J.E. Dolvik and A. Martin (eds), *European Social Models from Crisis to Crisis. Employment and Inequality in the Era of Monetary Integration*, Oxford: Oxford University Press, 2015.

Kahancová, M., 'Central and Eastern European trade unions after the EU enlargement', transfer: *European Review of Labour and Research August 2015*, Vol. 21, No 3, 2015, pp. 343-357.

Keune, M. and P. Pochet, 'Conclusions: trade union structures, the virtual absence of social pacts in the new Member States and the relationship between sheltered and exposed sectors', in P. Pochet, D. Natali and M. Keune (eds.), *After the euro and enlargement - Social pacts in the EU*, Brussels: European Trade Union Institute, 2010.

Eurofound, 'Changes to wage-setting mechanisms in the context of the crisis and the EU's new economic governance regime', Eurofound, Dublin, 2014.

Meardi, G., 'Industrial relations after European state traditions?', *Economy and Society in Europe. A Relationship in Crisis*, Cheltenham, Edward Elgar, 2012, pp. 100-123.

Mrozowicki, A., 'Varieties of trade union organizing in Central and Eastern Europe: A comparison of the retail and automotive sectors', *European Journal of Industrial Relations*, 20(4), 2014, pp. 297-315.

Natali, D., and P. Pochet, 'Introduction: The last wave of social pacts in Europe: problems, actors and institutions' in P. Pochet, D. Natali and M. Keune (eds.), *After the euro and enlargement - Social pacts in the EU*, Brussels: European Trade Union Institute, 2010.

OECD, 'What Makes Labour Markets Resilient During Recessions?', *Employment Outlook 2012*, chapter 2, Paris: OECD, 2012.

Pedersini, R. 'European industrial relations between old and new trends', *Stato e mercato*, (3), 2014, pp. 341-368.

Schmitter, P. and Grote, J.R., 'The Corporatist Sisyphus: Past, Present and Future', *European University Institute Working Paper*, SPS, No 97/4, 1997.

Schnabel, C., 'Union membership and density: Some (not so) stylized facts and challenges', *European Journal of Industrial Relations*, 0959680113493373, 2013.

Traxler, F., 'Employers and employer organisations in Europe: membership strength, density and representativeness', *Industrial Relations Journal*, 31(4), 2000, pp. 308-316.

Vandaele, K., *Sustaining or abandoning 'social peace'? Strike development and trends in Europe since the 1990s*, Brussels, ETUI, 2011.

Vandaele, K., 'Youth representatives' opinions on recruiting and representing workers: A twofold unsatisfied demand?', *European Journal of Industrial Relations*, 18(3), 2012, pp. 203-218.

Varga, M., 'Refocusing studies of post-communist trade unions', *European Journal of Industrial Relations*, 19(2), 2013, pp. 109-125.

Visser, J., 'Union membership statistics in 24 countries', *Monthly Labour Review*, 129, 38, 2006.

Visser, J., 'Wage bargaining institutions—from crisis to crisis' (No 488), Directorate General Economic and Monetary Affairs (DG ECFIN), European Commission, 2013.

Waddington, J., 'Trade union membership retention in Europe: The challenge of difficult times.' *European Journal of Industrial Relations* (2014): 0959680114538708, 2015.

Welz, C., 'The European social dialogue under articles 138 and 139 of the EC treaty: actors, processes, outcomes', (Vol. 36), Kluwer Law International, 2008.