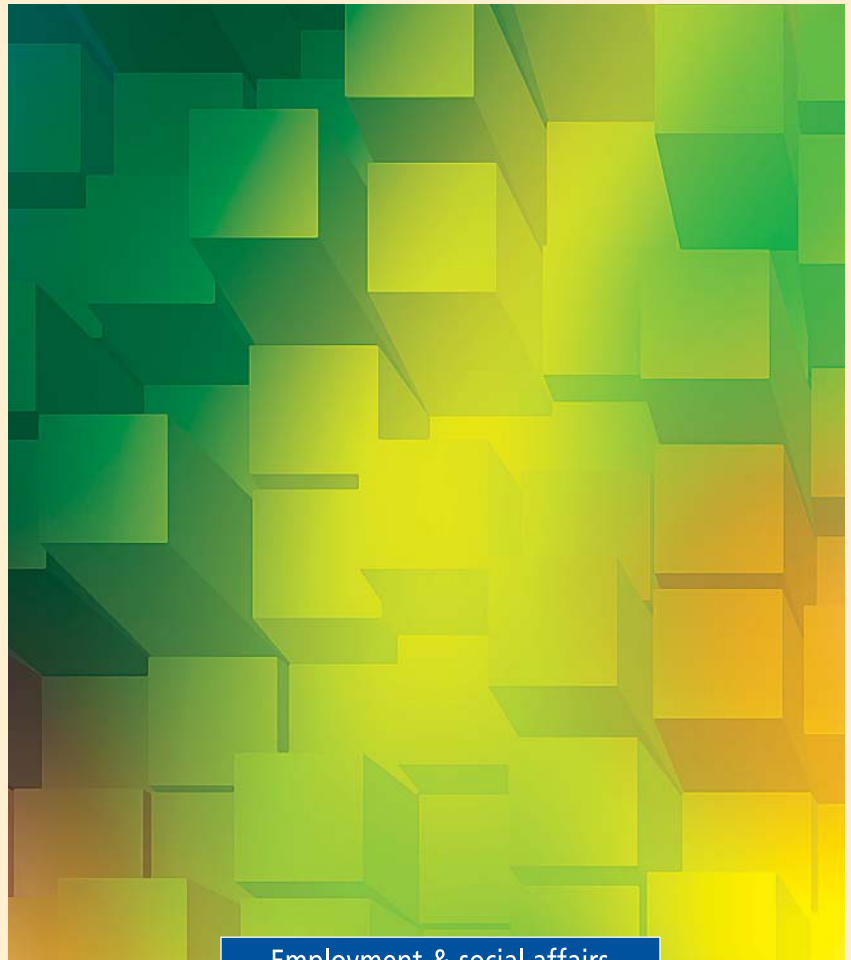




European Foundation for the Improvement of Living and Working Conditions

Industrial relations developments in Europe 2002



Employment & social affairs



European Commission

Industrial relations developments in Europe 2002

This report was edited by EIRO chief editor, Mark Carley. The Commission's Directorate General for Employment and Social Affairs was responsible for Chapter 1. Chapter 2 was written by Andrea Broughton of Industrial Relations Services (EIRO's EU-level centre) on the basis of country reviews provided by the EIRO national centres (see Annex at end for a list of centres). Chapter 3 was written by Marianne Grünell and Robert van het Kaar of the Hugo Sinzheimer Institute at the University of Amsterdam (EIRO's national centre in the Netherlands) – this chapter is based on country reports from the EIRO national centres on the issue of migration and industrial relations. The country reports on which Chapters 2 and 3 are based are available on the *EIRO*online website at <http://www.eiro.eurofound.eu.int>.



www.eiro.eurofound.eu.int

European Foundation for the Improvement of Living and Working Conditions
Wyattville Road, Loughlinstown, Dublin 18, Ireland. - Tel. (353-1) 204 31 00 - Fax (353-1) 282 64 56
e-mail: information@eurofound.eu.int - website: www.eurofound.eu.int

European Commission
Directorate-General for Employment and Social Affairs
Unit D.1
B-1049 Brussels, Belgium Tel. (32-2) 299 11 11 <http://europa.eu.int/comm>



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Industrial relations and industrial change



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European Foundation for the Improvement of Living and Working Conditions
Wyattville Road
Loughlinstown
Dublin 18
Ireland
Telephone: (353 1) 204 31 00
Fax: (353 1) 282 64 56
E-mail: postmaster@eurofound.eu.int
www.eurofound.eu.int

European Commission
B-1049 Brussels
Belgium
Tel. (32-2) 299 11 11
<http://europa.eu.int/comm>

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Foreword

Welcome to the first report on *Industrial relations developments in Europe*, the product of joint cooperation between the European Foundation for the Improvement of Living and Working Conditions and the European Commission's Directorate General for Employment and Social Affairs. The Foundation and the Commission have combined forces to produce a joint overview of the key industrial relations developments in Europe during 2002. This report replaces the European Industrial Relations Observatory (EIRO) *Annual Review*, produced in previous years by the Foundation.

This cooperation brings together the complementary strengths of the Foundation and the Commission. Through EIRO, the Foundation has developed a highly-regarded monitoring tool which gathers and disseminates information and analysis on the latest events and issues in industrial relations across the European Union, as well as in Norway and, since 2002, also in a number of the candidate countries which are set to join the Union in 2004. Through its activities and responsibilities, the Commission has, of course, enormous expertise in areas such as EU-level social dialogue and labour law, among other matters. We have thus collaborated to provide a comparative overview of the most significant industrial relations developments at national level in 2002, along with a review of the year's main activities in European social dialogue and EU employment legislation and policy. In addition, drawing on EIRO's network of national centres across Europe, this report includes a chapter which focuses on a theme of increasing significance to EU and national policy-makers and social partners: the impact of migration on industrial relations.

In its 2002 final report, the High-Level Group on Industrial Relations and Change in the European Union stated that 'while industrial relations are embedded in national systems and cultures, they are becoming an area of common interest at European level'. In this context, the Group stressed that research and information exchange are becoming increasingly important, and welcomed and supported 'research and publications with a view to improve and disseminate knowledge in this domain'. We believe that this joint report is a valuable contribution to this process.

Raymond-Pierre Bodin,
Director,
European Foundation for the
Improvement of Living and
Working Conditions

Odile Quintin,
Director General,
Directorate General for
Employment and Social Affairs,
European Commission

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Introduction

The 2002 joint report on *Industrial relations developments in Europe* consists of three chapters.

The first consists of a review of the main developments in social dialogue at European-level during 2002 between trade union and employers' organisations. It also highlights the year's most significant EU legislative developments and other activities of relevance to industrial relations.

The second provides an overview of the main developments in industrial relations in 2002 in the countries covered by the European Industrial Relations Observatory (EIRO) – the EU Member States, Norway and three of the candidate countries due to join the EU in 2004 (Hungary, Poland and Slovakia). This chapter examines the key issues covered by collective bargaining, notably pay, working time, job security and equal opportunities and diversity issues. It also looks at legislative developments during the year as well as the organisation and role of the social partners, industrial action, employee participation, new forms of work (especially telework) and vocational training.

A final thematic chapter examines the highly topical issue of migration from the industrial relations perspective. This chapter provides information on migration levels in Europe as well as the numbers of migrant workers. It goes on to analyse the labour market and employment situation of migrant workers and outlines the key elements of government policy and legislation in this area. This chapter also looks at the views and activities of the social partners in this area, their involvement in migration policy, and the extent to which issues relevant to migration are dealt with in collective bargaining.

Note: The text of this report contains numerous references (eg EU0207103F) to records on the EIROnline database/website. These records provide fuller information on the events and issues in question and can be accessed at <http://www.eiro.eurofound.eu.int/>, using the Site map/Record ID search facility.

EU-level developments in 2002

This chapter reviews the main developments in 2002 in the European-level social dialogue between trade union and employers' organisations, and outlines the year's most significant EU legislative and other activities of relevance to industrial relations.

Social dialogue developments in 2002

Looking back at how the European cross-industry (or intersectoral) social dialogue has evolved since 1985, three stages can be distinguished:

- the first began in 1985 when, at the initiative of the President of the European Commission, Jacques Delors, the social partners embarked upon a bipartite dialogue, the first steps towards creating a 'European bargaining area';
- the social policy Protocol and Agreement attached to the Maastricht Treaty (which came into force in 1993) and subsequently incorporated into the Amsterdam Treaty, gave rise to the second stage, in which agreements were reached by the social partners and implemented by means of Council Directives – on parental leave, part-time work (EU9706131F) and fixed-term contracts (EU9901147F); and
- in December 2001, the social partners' joint contribution to the Laeken European Council (EU0201231N) was a crucial step for the social dialogue, opening up a third stage of independent European-level dialogue.

2002 was the first year of follow-up to the Laeken contribution. During the course of the year, the groundwork was laid for the social partners' independence in terms of their social dialogue, culminating in the presentation of their multiannual work programme in November 2002 at a social dialogue summit held at Genval, Belgium (EU0212206F). The Commission, for its part, provided support and assistance for these developments, in accordance with Article 138 of the Treaty establishing the European Community (TEC), and presented a new Communication (COM (2002) 341 final) on 'the European social dialogue, a force for innovation and change', which was adopted in June 2002 (EU0208203F). Table 1 summarises the main social dialogue developments since 1985.

Table 1 Main stages in EU-level social dialogue since 1985

1985	Launch of the 'Val Duchesse' bipartite social dialogue. Social partners reach joint opinions.
1993	Maastricht social policy Protocol. Social partners reach agreements implemented by means of Directives.
2001	Social partners' joint contribution to Laeken summit.
2002	For the first time, agreement reached by social partners to be implemented by the partners in accordance with procedures and practices specific to the social partners in the Member States. Social partners' independent multiannual work programme (2003-5).
2003-5	Social partners to implement their work programme.

In this section we examine in more detail the key social dialogue developments in 2002, looking at the first instances of the social partners taking a more independent approach to cross-industry dialogue, then at the Commission's initiative to modernise the dialogue through its June Communication, and finally at the culmination of the moves towards greater independence – the cross-industry partners' multiannual work programme for 2003-5.

First examples of the social partners' independence

The Maastricht social policy Protocol and Agreement gave the social partners the right to be consulted on the Commission's legislative initiatives in the social field and to negotiate agreements, including on the issues covered by such consultations. The social partners have made use of this option on three occasions, requesting the Commission to implement their agreements – on parental leave, part-time work and fixed-term contracts – by means of Directives. In 2002, a 'joint framework of actions for the lifelong development of competencies and qualifications', forwarded by the social partners to the Barcelona European Council on 14 March 2002 (EU0204210F), and an agreement on telework signed in July 2002 (EU0207204F), together with their joint deliberations on restructuring (the Commission consulted the social partners on restructuring in January 2002 and they are currently considering the matter and are working on it at their own pace – EU0201235F) represented the first signs of the partners' desire to seek greater autonomy for their dialogue, a desire which culminated in their joint work programme. This autonomy took different forms: for training, in preparatory work and follow-up; for telework, in monitoring of implementation; and for restructuring, via a longer-term process.

The framework of actions on lifelong learning

The 'framework of actions' for the lifelong development of competencies and qualifications is arguably the best example of the social partners' independence. The background was that the social partners, in a joint statement issued in June 2000, decided to set up a working group 'to identify ways of promoting access to lifelong learning and developing the skills of all men and women'. Brief details of the framework of actions agreed in March 2002 are set out in box 1 below. The framework was agreed by: the European Trade Union Confederation (ETUC), whose delegation included representatives of the liaison committee for managerial and professional staff, which brings together the ETUC-affiliated Council of European Professional and Managerial Staff

Box 1 Framework of actions for the lifelong development of competencies and qualifications, 14 March 2002

The document starts with a preamble setting out the challenges facing companies and employees in a society which demands increasingly rapid adjustments and increased investment in human capital.

The development of lifelong competencies is seen as the indispensable response to changes in society and depends, in the social partners' opinion, on four priorities:

1. identifying and anticipating the competencies and qualifications needed at company, national and/or sectoral level;
2. recognising and validating competencies and qualifications to ensure that employees' skills are transferable and to facilitate their occupational mobility;
3. informing, supporting and providing guidance, for example through a one-stop facility in the Member States; and
4. mobilising resources which must involve a whole range of players (public authorities, companies, employees), not just the social partners, through innovative, diversified channels.

(EUROCADRES) and the independent European Confederation of Executives and Managerial Staff (CEC); the Union of Industrial and Employers' Confederations of Europe (UNICE), in cooperation with the European Association of Craft and Small and Medium-sized Enterprises (UEAPME); and the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP).

For the first time, the social partners decided to implement a 'non-regulatory' agreement by setting in place objectives and guidelines at European level, taking as their basis regular national status reports and regularly and systematically assessing the progress achieved.

The agreement includes a monitoring clause which states that the social partners will draw up each year, from 2003 to 2005 inclusive, an annual report on the national operations carried out on the four priorities set out in the framework for action. After three annual reports, the social partners will assess by 2006 the impact on both companies and workers. The social dialogue working party on education and training will be responsible for the assessment and the four priorities may be updated in consequence.

This follow-up is the first example of the social partners making use of new means for action, ie the 'open method of coordination', as recommended by the High-level Group on Industrial Relations (see table 2 below).

The approach advocated in this framework agreement on training is innovative in several respects. Notably, it aims to go beyond the traditional approach (the right to training and equal access to training) which prevailed during the period of the social partners' joint opinions on this issue from 1985 to 1995. In these joint opinions, the social partners endeavoured to ensure general access to training by focusing on vocational training in the narrow sense.

This time, the partners wanted to make a fresh start, with training taking on a broader dimension: first, by looking at training from the wider angle of learning, both formal and informal; and then by introducing the concept of competencies, which have to be validated and recognised so as to facilitate geographical mobility, by extending the scope to all categories (young people, employees, job-seekers) and all age groups, and by adopting a multi-level approach (national, regional, local and company).

The agreement on telework

The agreement on telework was concluded on 23 May 2002 and signed on 16 July 2002 by ETUC (along with the EUROCADRES/CEC liaison committee), UNICE/UEAPME and CEEP. It was negotiated, like the previous agreements (on parental leave, part-time work and fixed-term contracts), following consultation of the social partners under Article 138(2) of the TEC – on this occasion the consultation concerned modernising and improving employment relations. However, the procedures decided on by the social partners for implementation of the telework agreement constitute a strong political signal. For the first time, the social partners decided to use the first part of Article 139(2), whereby agreements concluded at Community level are to be implemented in accordance with the 'procedures and practices specific to management and labour and the Member States'. The three previous agreements had been implemented by means of Directives.

The agreement includes a monitoring clause which ties in with the open method of coordination: it is to be implemented within three years of signature. Member organisations are to report on its implementation, and a European report will be prepared on the basis of the national reports within four years of the date of signature of the agreement.

As the Commission announced in its June 2002 Communication on the social dialogue, it will closely monitor implementation of the agreement. Structured reporting, as incorporated by the social partners into their agreement, is particularly necessary where an agreement negotiated by the social partners follows on from Commission consultation under Article 138 of the TEC.

The agreement defines telework and its scope and establishes a general European framework for teleworkers' conditions of employment. The framework covers eight areas: employment conditions, data protection, privacy, equipment, health and safety, organisation of work, training and collective rights. It aims to ensure that teleworkers are afforded a general level of protection equivalent to workers employed to work on the employer's premises.

The agreement fits in with the strategy defined at the Lisbon European Council, held in March 2000 (EU0004241F), the fundamental challenge identified being the positive management of change. It is also designed to pave the way for the shift to the 'knowledge economy' and the 'knowledge society', as decided upon in Lisbon.

Deliberations on restructuring

It was also following Commission consultation under Article 138(2) of the TEC that the social partners commenced their deliberations on restructuring. By launching in early January 2002 consultation on 'anticipating and managing change: a dynamic approach to the social aspects of corporate restructuring', the Commission aimed to stimulate dialogue between social partners in order to identify and develop best practice on anticipating and managing restructuring. The contents of the consultation paper are summarised in box 2 on the facing page.

The reactions of management and labour revealed major differences of opinion and approach.

Although UNICE shared the Commission's view that economic and social renewal is at the heart of the economic and employment strategy set in place in Lisbon, it saw no need for establishing new European principles for restructuring as there was already a sound legal framework at Community level. It considered that an exchange of good practice was more appropriate.

ETUC, in contrast, believed that Community action was urgently needed in view of the growing frequency of restructuring; it took the view that more dialogue between the social partners and legislative instruments at EU level were also required. It proposed to the employers that in-depth discussions should be launched within three months on the social partners' contribution to the debate on the anticipation of change.

At the Barcelona 'social summit', held on 14 March 2002 on the eve of the European Council (EU0203205F), the social partners decided to start discussions (for a limited period) to explore the potential for social dialogue on restructuring. The Barcelona European Council stated in its conclusions that:

Box 2 Consultation paper on anticipating and managing change under Article 138(2) of the TEC, January 2002

Commission approach

Managing change is a main component of the Lisbon strategy. Properly taking into account and addressing the social impact of restructuring contributes significantly to gaining acceptance for it and enhancing its positive potential. This implies combining in an effective and balanced way the interests of businesses, faced with changes in the conditions governing their activities, and those of employees, threatened with the loss of their jobs.

Key components of the consultation paper

A number of policies and tools are relevant in dealing with restructuring (legislation on information and consultation, the European social dialogue, corporate social responsibility, the Structural Funds and so on). In addition, the Commission wishes to look into the possibility of establishing European rules on best practice at Community level, based on the procedures developed in the Member States and the experience of EU companies in four areas:

- promotion of employability and adaptability, and restructuring at the 'lowest social cost';
- effectiveness of the regulatory approach, including the identification of obstacles to restructuring in a socially positive way;
- territorial responsibility (measuring local effects, cooperation with local players) and downstream responsibility (impact of proposed restructuring on subcontractors, for instance); and
- implementation procedures – worker involvement, fair compensation where job losses cannot be avoided (payments, notice periods) and European machinery for dispute prevention and resolution.

Purpose of the consultation

The social partners were called upon to give their opinions on the possible direction of Community action in relation to:

- the usefulness of establishing at Community level a number of principles for action which would support good practice in businesses in the event of restructuring; and
- the method of drawing up and developing these main principles and, in this context, whether they considered that agreements between social partners at cross-industry or sectoral level represented the appropriate way of proceeding.

'As far as the social front is concerned, this includes increasing the involvement of workers in changes affecting them. In this connection, the European Council invites the social partners to find ways of managing corporate restructuring better through dialogue and a preventive approach; it calls upon them to engage actively in an exchange of good practice in dealing with industrial restructuring.'

In a joint letter to the Commission dated 5 July 2002, the social partners asked the Commission to suspend the second stage of consultation pending the outcome of a seminar to be organised in October 2002 'to examine concrete cases in order to identify orientations that could serve as a reference to assist in managing change and its social consequences in situations of restructuring'. The seminar was held from 17 to 19 October in Knokke, Belgium. Six cases of restructuring involving large companies were presented jointly by representatives of management and labour. On

that basis, an initial exchange of views took place and the social partners announced that they intended to pursue their deliberations.

The partners decided to include anticipation of change among the subjects listed in their joint multiannual work programme (see below under 'The social partners' work programme: the culmination'), but were unable to reach agreement on the method to be used. At the social dialogue committee meeting held on 7 November 2002, the social partners decided to determine joint approaches by using the methodology of the Knokke seminar.

The Commission's main initiatives in relation to corporate restructuring are summarised in box 3 below.

Box 3 Restructuring in Commission documents and initiatives

High-Level Group on the Economic and Social Implications of Industrial Change (the 'Gyllenhammar Group')

In its 1998 final report (1998), the Commission-convened Gyllenhammar Group recommended that:

- companies should assume the main responsibility for anticipating change;
- companies with large numbers of employees should publish reports on managing change; and
- the Commission should support this process by setting up an Observatory on Change.

In the event of a crisis, the main responsibility for action should lie with the company; governments should refrain from interfering, although local authorities could act as coordinators or mediators to ensure the success of negotiations.

European Monitoring Centre on Change

Launched in 2001, the European Monitoring Centre on Change (EMCC) is a European information and documentation resource developed by the European Foundation for the Improvement of Living and Working Conditions (EU0111237N). Its information activities focus on the economic and social change resulting from technological developments, work organisation, production and business models and legislation. Key components of successful management of change are regarded as work practices and changing skills, anticipation of change, determination of risks and the opportunities they offer, and how to make best use of such risks and opportunities.

Access to the Centre, its information and activities is targeted at the following end users:

- companies, with a focus on small and medium-sized businesses;
- social partners, particularly at sectoral level;
- national authorities;
- territorial and regional authorities; and
- the European institutions.

EMCC's main tasks are to:

- identify, collect and process relevant information on the major drivers of change in the European economy;

- facilitate access to this information for the target users;
- identify and disseminate good practices in adaptation to change, notably at local level (also cross-border) and sectoral and company level; and
- facilitate exchanges of experience with adaptation to change.

Commission Communication on 'European social dialogue, a force for modernisation and change'

In this June 2002 Communication (for more details, see below under 'Commission support for modernisation of the social dialogue') the Commission points out that attainment of the strategic objectives defined in Lisbon – full employment and tighter social cohesion – depend to a considerable extent on the social partners' action at all levels. They are best placed to take up the key challenge of the strategy: positive management of change such that the flexibility essential to businesses can be reconciled with the security needed by employees, particularly at times of major restructuring.

The European social dialogue can therefore constitute a tool for the modernisation announced at the Lisbon European Council as far as all the subjects on the European agenda are concerned, particularly worker involvement and negotiated anticipation of change.

Commission Communication on 'Corporate social responsibility: a business contribution to sustainable development'

In this July 2002 Communication (COM(2002) 347 final) (EU0207205F), the Commission states that by embracing corporate social responsibility (CSR), companies play a part in social and territorial cohesion, quality and environmental protection. According to the concept of CSR, companies are responsible for their impact on all relevant stakeholders.

Running their businesses correctly and responsibly and contributing to economic development while improving the quality of life of employees and their families as well as the local community and society in the broad sense is a permanent commitment for companies. Through their output, labour relations and investments, businesses can have an impact on employment, job quality and industrial relations, including respect for fundamental rights, equal opportunities, non-discrimination, the quality of goods and services, and health and the environment.

The Commission believes that the social dialogue is a vital tool in tackling anticipation of change and restructuring.

Commission support for modernisation of the social dialogue

The purpose of the Communication entitled 'The European social dialogue, a force for modernisation and change' adopted by the Commission on 26 June 2002 was to take stock of the social dialogue four years after the 1998 Communication (COM (1998) 322 final (EU9812140N)) which transformed the framework for the social dialogue. It also aimed to incorporate recent developments: the report of the expert group on industrial relations and change in the European Union, delivered to the Commission in February 2002 (see table 2 on p. 12); and the social partners' contribution to the Laeken summit of 13 December 2001 (EU0201231N), which outlined how the partners intended to recast the European social dialogue. An additional goal was to review developments in social dialogue to see how they meet the EU's current challenges, make a positive contribution to Community policies and incorporate the factors of the forthcoming enlargement.

The main points of the Communication are outlined below.

Strengthening the role of the social partners in European governance

In its 2001 White Paper on European governance (COM (2001) 428 final), the Commission pointed out that improved governance in an enlarged Union depended on participation by all the 'players' in the decision-making and implementation processes. Among these players, the social partners hold a unique position within civil society, for they are best placed to address issues related to work and can negotiate binding agreements. The provisions of the TEC in this area are very advanced: Articles 138 and 139 of the TEC provide an area for 'horizontal subsidiarity' between agreements negotiated and legislation. The consultation procedures under Article 138 of the TEC have so far been used 13 times since 1993 and, as noted above, have led to the negotiation of four cross-industry agreements (on parental leave, part-time work, fixed-term work and telework).

The Commission believes that the social partners' role here should be promoted by: keeping the social dialogue to its specific tasks (that is, the ability to negotiate agreements); pursuing the work in hand so as to consolidate the social partners' legitimacy (work on representativeness); reinforcing the link between the national and European levels; and improving the dissemination of the European social dialogue's results, particularly in the Member States. As far as representativeness is concerned, in December 2002 the Commission launched a study to report on the situation of the cross-industry social partners in the candidate countries (see below under 'Sectoral social dialogue').

Rationalising tripartite consultation

Tripartite consultation plays a role in two EU processes: on economic questions within a macroeconomic dialogue set up following the Cologne European Council of June 1999 (EU9906180N); and on employment through meetings of the Employment Committee and the Employment and Social Policy Council.

In addition, since 1997 the European Council Presidencies have been inviting the social partners to meet with the troika (the previous, present and next Presidencies) on the eve of European Council meetings. The conclusions of the Nice European Council, held in December 2000 (EU0012288F), provided for an annual meeting with the social partners before each spring European Council. Such meetings have been organised in March 2001 in Stockholm (EU0104208F), in December 2001 in Laeken and in March 2002 in Barcelona.

A proposal for a Council Decision annexed to the June 2002 Communication aims to institutionalise these summits, as requested by the social partners at Laeken and as mentioned in the conclusions of the Laeken and Barcelona European Councils. These summits should enable the social partners to incorporate all the components of the Lisbon strategy into their contribution to the European Council.

Giving impetus to the social dialogue and negotiations

The Communication suggests that efforts to promote the cross-industry and sectoral social dialogues should be concentrated on dialogue and negotiation. The social partners are requested to extend the scope of their dialogue to all the key issues on the European agenda, including:

preparations for entry to the knowledge society; including mobility and career pathways in discussions on working conditions; active ageing; equal opportunities; and the quality of work. They are also requested to exploit a wide range of tools, from opinions to the exchange of best practice, from organisation of coordinated operations to the negotiation of agreements.

With more specific reference to negotiation, the Commission stresses that this is the most appropriate means for settling matters connected with the organisation of work and labour relations at both cross-industry and sectoral level.

The Commission also urges the European social partners to adopt multiannual work programmes covering areas for joint action and negotiation.

The Communication also fosters the expansion of the sectoral social dialogue (27 sectors are currently represented in sectoral social dialogue committees) by encouraging cooperation and reorganisation and promoting quality in the dialogue's contributions (see below under 'Sectoral social dialogue').

Improving implementation of the results of social dialogue

In the past, the texts adopted by the social partners, at both cross-industry and sectoral level, were usually joint opinions. In more recent years, the social partners have increasingly frequently discussed and adopted so-called 'new generation' texts (charters, codes of conduct and agreements) containing commitments to implementation in the longer term. Thus, the question of implementation and monitoring arises at both European (monitoring machinery) and national (transposition of Directives) level.

The Communication calls on the social partners to clarify the terms they use, reserving the term 'agreement' for texts implemented in accordance with the procedures laid down in Article 139(2) of the TEC, and to devote more time to monitoring of implementation, not merely to preparing texts. In the case of European agreements implemented in accordance with the procedures and practices specific to the social partners and to the Member States, the Commission calls on the European social partners to strengthen substantially the procedures for on-the-spot monitoring and to prepare regular reports on implementation of the agreements signed, as in the case of telework.

Preparing for enlargement

European social dialogue forms part of the *acquis communautaire* (the body of EU law and rules that candidate countries must adopt) and is an area which the candidate countries have undertaken to strengthen. The social partners in the enlargement countries will have to play their part at European level in accordance with Articles 138 and 139 of the TEC. Yet they still do not fulfil this role at national level. The bipartite cross-industry social dialogue is only just seeing the light of day in these countries, while at sectoral and company level it is still in its infancy.

The Commission calls on the EU social partners to step up their operations directed at enlargement and to give assistance henceforth to their member organisations in the candidate countries in preparing to assume an active role at European level.

The social dialogue contribution to the external dimension

The social dialogue, according to the Communication, forms part of the 'European social model' which takes shape in the development of the EU's policies and governance. It should also be exploited as a factor in relations between the EU and the rest of the world.

The Commission has highlighted several pathways for cooperation involving the social partners, in both bilateral and regional relations (eg Euro-Mediterranean partnership, partnership with Latin America, and relations with the USA, Japan and the African, Caribbean and Pacific countries) and at multilateral level (the World Trade Organisation [WTO] and International Labour Organisation [ILO]).

Table 2 Report of the High-Level Group on Industrial Relations and Change in the European Union

Objective:	Announced in the Social Policy Agenda (2000-5), the aim of the Group was to reflect on the future of industrial relations, with a special focus on quality (EU0007266F).
Remit:	The remit the Group received from the Commission requested it to put forward recommendations for modernising industrial relations and facilitating a positive contribution by the main industrial relations players (notably the social partners) to the process of change (EU0103200N).
Membership:	<p><i>Chair:</i> Maria João Rodrigues – special adviser to the Portuguese Prime Minister.</p> <p><i>Members:</i> Marco Biagi – professor at Bologna University; Jean Gandois – former president of the National Council of French Employers (Conseil national du patronat français, CNPF); Renate Hornung-Draus – director of European and International Affairs at the Confederation of German Employers' Associations (Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA); Mária Ladó – Hungarian researcher and sociologist; Patricia O'Donovan – former assistant general secretary of the Irish Congress of Trade Unions (ICTU), and director at the ILO; Inger Ohlsson – director-general of the Swedish National Institute for Working Life (Arbetslivsinstitutet); Dimitri Paraskevas – former adviser to the Greek Ministry of Industry; Jelle Visser – professor at Amsterdam University; and José Maria Zufiaur – Spanish trade unionist and member of the Economic and Social Committee.</p>
Recommendations:	<p>In its 2002 final report (EU0204206F), the group made the following key recommendations:</p> <ul style="list-style-type: none"> • Importance of good governance where the different levels of social dialogue and industrial relations (European, national, local, company) can work together closely in coordinated fashion, each within the framework where it is most efficient. • Setting a new industrial relations agenda based on innovative practices. • Better use of a wide range of tools, choosing the appropriate tool at the relevant level. • Development by the social partners of a new process adapted to the special features of industrial relations and based on the open method of coordination, exchange of experience, benchmarking, recommendations, joint opinions and negotiations. • Using the social dialogue and consultation at European level to promote successful enlargement.

The social partners' work programme: the culmination

In their joint contribution to the December 2001 Laeken European Council, the social partners expressed the desire to develop a more autonomous social dialogue via a multiannual work programme defined by a social dialogue summit, as follows:

'While pursuing work in progress on lifelong learning and the negotiations opened recently on teleworking, ETUC, UNICE/UEAPME and CEEP are reflecting on the best way of developing a more autonomous social dialogue.'

'Conscious that development of the European social dialogue presupposes strong involvement of national employer and trade union leaders, CEEP, UNICE/UEAPME and ETUC will discuss what concrete measures should be taken to better organise the work of the social dialogue in a work programme, defined by a social dialogue summit.'

'This work programme would be built on a spectrum of diversified instruments (various types of European framework agreement, opinions, recommendations, statements, exchanges of experience, awareness-raising campaigns, open debates, etc.) and would comprise a balanced range of themes of common interest for employers and workers. Its implementation would presuppose regular social dialogue meetings and/or summits.'

'Although decided and implemented in complete autonomy, the social partners will be concerned that their work programme should make a useful contribution to European strategy for growth and employment as well as preparing for enlargement of the European Union.'

The work programme

The social partners (ETUC, UNICE/UEAPME and CEEP) duly presented this multiannual work programme at a social dialogue summit chaired by Romano Prodi, the President of the Commission, on 28 November in Genval. It was the ninth summit of its kind. The previous one had been held at the Palais d'Egmont in November 1997. The Genval summit was held to be a milestone in the history of the social dialogue: it was the first time that the social partners from the candidate countries took part in a social dialogue summit; in addition, the social partners made what was considered to be a 'quantum leap' by opening up a new stage in the history of their dialogue, marked by autonomy.

President Prodi noted that the social dialogue had entered a new era and that the social partners had turned the page in their dialogue. By presenting their joint work programme, they had given their dialogue fresh momentum to rise to the current challenges of the European Union, making a positive contribution to the Lisbon strategy and integrating the dimension of the forthcoming enlargement of the EU.

Anna Diamantopoulou, the Commissioner responsible for employment and social affairs, declared for her part that she was delighted to see the empowerment of the social dialogue: 'Your work programme heralds a new period in a social dialogue which is coming into its own. It brings in genuine European-level industrial relations. The Commission welcomes this step forward.'

The programme is underpinned by the most recent achievements of the cross industry dialogue: the joint framework of actions for the lifelong development of competencies and qualifications transmitted to the March 2002 Barcelona European Council and the July 2002 voluntary agreement on telework (see above under 'First examples of the social partners' independence'). It also takes up the invitation the Commission extended to the social partners in its June 2002

Communication (see above under ‘Commission support for modernisation of the social dialogue’) to enhance and extend their dialogue to new areas, to diversify their tools through use of the open method of coordination and to strengthen implementation of agreements, guidelines and frameworks for action.

The programme – summarised in table 3 on the facing page – runs from 2003 to 2005 and comprises three parts: employment, enlargement and mobility. It covers a range of actions on different subjects: anticipating change; modernising the organisation of work and improving working conditions; active ageing; mobility; equal opportunities and the fight against discrimination; and youth employment. There is a specific ‘tool’ for each measure. Both ETUC and UNICE highlighted the connection between the measures and the tools. ETUC stressed the importance of choosing the tool at the same time as the measure since the nature of the measure depended on the nature of the tool. UNICE considered that social dialogue was changing its practices – no longer deciding to handle issues on a case-by-case basis but combining the decision to tackle issues jointly with the choice of the tool. Thanks to this new approach, the work could be organised better and efforts could be focused on clearly identified priorities.

The work programme comprises the following tools:

- *annual monitoring report* – on the implementation of the European employment strategy, the framework of actions for lifelong learning (including the candidate countries) and the agreement on telework;
- *negotiation of voluntary agreements* – on stress at work and harassment;
- *frameworks for action or guidelines* – on equal opportunities and restructuring;
- *updating existing declarations* – on racism and xenophobia and integrating disabled people in the labour market; and
- *studies and forward thinking* – on enlargement.

Finding fresh momentum

The social partners’ work programme opens up a new era for the social dialogue. For the first time, the social partners have decided to organise their social dialogue with a view to drawing up a programme in the spirit of Article 139 of the TEC, no longer merely responding to consultations launched by the Commission under Article 138.

The social partners’ adoption of the work programme does not suspend the Commission’s power to take initiatives under Article 138 of the TEC; however, it changes the conditions under which it does so. The Commission will need to fulfil its role in promoting the social dialogue differently.

Efficient interaction should be set in train between the social partners’ social agenda and that of the Commission. The social partners have clearly stated that their programme is neither exhaustive (for it could be adjusted in the light of fresh priorities) nor exclusive, for it is to be implemented in conjunction with the Social Policy Agenda which defines the Commission’s priorities in the social and employment fields for the period 2000–5 (EU0007266F).

Table 3 Work programme of the European social partners 2003-5

Chapter	Theme	Actions	Timetable	
Employment	Employment guidelines	Reports on social partners' actions in Member States to implement employment guidelines (taking into account the cycle of three years).	2003-5	
	Lifelong learning	Follow-up of 'framework of actions'.	2003, 2004 and 2005	
	Stress at work	Seminar with a view to negotiating a voluntary agreement.	2003	
	Gender equality	Seminar on equal opportunities and gender discrimination aiming at a framework of actions.	2003	
	Restructuring	Identify orientations that could serve as a reference to assist in managing change and its social consequences on the basis of concrete cases.	2003	
	Disability	Update of joint declaration of 1999 as a contribution to the European year on disability.	2003	
	Young people	Promoting young people's interest in science and technology to help address the skills gap through joint declaration and/or awareness-raising campaign.	2003-5	
	Racism	Updating joint declarations of 1995 (with participation of candidate countries).	2004	
	Ageing workforce	Seminar to discuss case studies and explore possible joint actions.	2004	
	Harassment	Seminar to explore possibility of negotiating a voluntary agreement.	2004-5	
	Telework	Monitoring of follow-up to framework agreement.	2003-5	
	Undeclared work	Seminar aiming at a joint opinion.	2005	
	Enlargement	Industrial relations	Joint seminars on industrial relations (case studies on ways of linking different levels of negotiations).	2003-5
		Social dialogue	Two enlarged social dialogue committee meetings per year.	2003-5
Restructuring		Study on restructuring in candidate countries.	2003-4	
Lifelong learning		Include candidate countries in follow-up to framework of actions.	Seminar in 2004, inclusion in reporting 2005	
Implementation of legal acquis		Joint seminar on European Works Councils.	2004	
EU social and employment policies after enlargement		Prospective reflection to identify issues that will arise in the EU after enlargement such as increase in diversity, migrations, transborder work etc.	Starting in 2004	
Mobility	Action plan on skills and mobility	Seminar to identify areas where joint actions by the social partners at EU level could help address obstacles to mobility (notably for managerial staff), including supplementary pensions.	2003-5	

Various situations might arise:

- where questions are not included in their work programme but in the Social Policy Agenda, the social partners will still react as before. This is the case with the second stage of consultation on *data protection*, forwarded to them in November 2002 (EU0211206F) (see below under 'Consultation of the European social partners');
- however, where subjects are included both in the social partners' work programme and in the Commission's Agenda, the Commission will have to take this into account in its consultations.

One example is *stress at work* – the social partners have decided to negotiate a voluntary agreement, while this matter is also included in the Commission's Community strategy on health and safety at work 2002-6 (EU0204203N);

- the same is true of *restructuring*, where, at the social partners' request, in 2002 the Commission suspended the second stage of consultation to give leeway to the social partners whose work programme includes preparation of joint guidelines (see above under 'The first examples of the social partners' independence'); and
- a similar situation will occur in relation to *supplementary pensions* (EU0207201N). According to their joint programme, the social partners plan to organise a seminar to identify fields where they could take common measures to help remove barriers to mobility, including supplementary pensions. The Commission had planned to launch the second stage of consultation on this issue in March 2003. Once again, it will have to deal with this new role-sharing.

In the past, the social partners reacted to the Commission's initiatives, but they have now become genuine partners in establishing European social standards.

Interesting times lie ahead for the social dialogue: the right balance will have to be struck between the Commission's power of initiative in the social field and the social partners' independence.

Sectoral social dialogue

The sectoral social dialogue has expanded considerably since 1998. The Commission's Communication (COM (1998) 322 final) of 20 May 1998 on 'Adapting and promoting the social dialogue at Community level' (EU9806110F) was accompanied by a Decision which established and organised the operation of the sectoral social dialogue committees (EU9902150F). Nearly 30 committees have been set up since then (EU0201236F). This unequivocal success illustrates the enormous potential of the European sectoral social dialogue. Thanks to these arrangements, the specific features of each sector can be taken into consideration and practical solutions can be sought. The sector is, moreover, the proper level for discussion on many issues linked to employment, working conditions, vocational training, enlargement and globalisation.

In its June 2002 Communication on 'the European social dialogue, a force for innovation and change' (see above under 'Commission support for modernisation of the social dialogue'), the Commission stated its intention of encouraging both the establishment of further sectoral committees and the orientation of the social partners' activities towards more negotiation.

The Commission will:

- pursue its policy of setting up new committees whenever the conditions are met – ie structured, representative players at European level having the ability to negotiate agreements and willingness to undertake structured social dialogue. The sectors concerned should be sufficiently large;
- encourage the necessary groupings and cooperation between sectors;
- orientate the activities of the sectoral social dialogue committees to dialogue and negotiation only, excluding information and consultation activities which can be carried out in multisectoral forums, with the exception of specific sectoral consultations;

- give priority support to committees whose work culminates in practical results representing their contribution to implementation and monitoring of the Lisbon strategy; and
- reinforce the role of the liaison forum as the preferred arena for information and general consultation of all social partners, both multisectoral and sectoral.

Building up the structures of the sectoral social dialogue

In the wake of the Communication, the Commission continued in 2002 with the reorganisation of the sectoral social dialogue, checking on the representativeness requirements for the social partner organisations when new sectors set up their committees. In addition, it endeavoured to diversify and enhance the output of the sectoral social dialogue, improving implementation and monitoring, and thus contributing to the strategy for economic and social modernisation decided upon in Lisbon.

A total of 27 committees have been set up so far (most recently in the mining sector on 3 June 2002). In accordance with the Commission Decision of 20 May 1998, sectoral social dialogue committees are set up in sectors where the social partners make a joint request to take part in European social dialogue and provided that such organisations representing management and labour satisfy certain criteria on representativeness. Committees have been established to date in the following sectors: agriculture, air transport, banking, cleaning, commerce, construction, culture, electricity, footwear, furniture, HORECA/tourism, inland waterways, insurance, mining, personal services (hairdressing), postal services, private security, railways, road transport, sea fishing, sea transport, sugar, tanning/leather, telecommunications, temporary work, textiles/clothing and wood.

The Commission has received further joint requests from the social partners in the gas and audiovisual industries and is currently reviewing them. Other sectors are organising activities on an informal basis and might ultimately apply to set up further committees (eg sport, chemicals and graphics).

Following on from its first study on representativeness in 1998, which covered trade and industry organisations in certain sectors, the Commission launched a second study in December 2002; it will look into representativeness in central public services not yet surveyed and private security. In addition, a monograph is to be drawn up on the situation of the social partners in the candidate countries in the textiles and distributive trades sectors. The study should be available early in 2004.

Table 4 lists some of the key developments in the European sectoral social dialogue in 2002.

Liaison forum

The Communication of July 2002 highlighted the role of the liaison forum in providing information and arranging for general consultations. An arena for information and exchange, the social partners' liaison forum meets several times a year at the invitation of the Commission. The cross-industry and sectoral social partners (usually at secretariat level) are informed about developments in social policy and the Commission's main initiatives in the social field. It is also an arena for information, discussion, exchange of experience in the various sectors and consultation on subjects of common interest to all the sectors.

Table 4 Main work and results of sectoral social dialogue in 2002

Agriculture	European agreement on vocational training (EU0301203N).
Banking	Joint declaration on lifelong learning (EU0212207F).
Cleaning	Preparation of an ergonomics handbook.
Commerce	Guidelines supporting age diversity (EU0205202N).
Construction	Guide to best practices for coordination in the field of health and safety.
Electricity	Joint statements at a conference on the social implications of the electricity sector restructuring in the candidate countries, and on telework (EU0211203N).
Mines	Joint positions in the context of the draft Directives on the management of waste and greenhouse gases emissions trading.
Private security	Preparation of a code of ethics.
Railways	Preparations for negotiations on establishing a European licence for drivers and working conditions of staff on international transport services.
Sugar	Preparation of a code of conduct on corporate social responsibility.
Telecommunications	First evaluation of implementation of the agreement on telework reached in February 2001 (EU0105214F).

A panoply of tools

The social partners in the sectors used a whole range of tools in 2002, from a practical handbook to agreements comprising monitoring clauses, thus linking the European and national levels. For example, the construction industry has produced a guide to best practice for health and safety coordination. It is a 'hands-on' tool which ties in with the Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites, and should help to reduce the number of accidents at work together with their economic and social costs.

The social partners in commerce negotiated guidelines to support age diversity. These guidelines are inspired by demographic ageing; they are voluntary, but they reflect the employment policies on older workers in the Member States. Similarly, a joint declaration on lifelong learning in the banking sector identifies four key themes as determinants for a lifelong learning culture (see next point).

In agriculture, an agreement on vocational training was signed on 5 December 2002 in the presence of Commissioner Diamantopoulou (EU0301203N). The purpose of the text is to propose to national social partner organisations, public authorities and the Commission a number of initiatives relating to vocational training for agricultural workers. It includes a tightly-drawn clause on implementation. The agreement is linked to the Commission's action plan for skills and mobility (COM (2002) 72) (EU0203204F).

A contribution to the Lisbon strategy

In March 2000, at the Lisbon European Council, the EU set itself the new strategic goal of becoming by 2010 the most competitive and dynamic knowledge economy in the world by investing in human resources and putting in place an active welfare state.

The guidelines on age diversity in commerce signed on 11 March 2002 and forwarded to the Barcelona European Council are closely connected with implementation of this strategy. Wishing to update human resource management for experienced workers for the benefit of businesses and

employees alike, the social partners in commerce underlined the need to adapt policies and practices to the ageing workforce, precluding any form of discrimination and affording quality employment to such workers.

The banking and farming sectors took steps to prepare for the shift to the knowledge-based society and economy. A joint declaration on lifelong learning was signed in the banking sector on 29 November 2002. The social partners in banking outlined how they intended to enhance employees' competences and skills and banks' competitiveness by determining four key themes linked to the specific features of banking: defining professional, vocational and entry level skills; recognising and validating competences and skills; providing information and support on principles, rights and responsibilities; and employment and retraining through mobilising resources.

Closer monitoring

The sectoral social partners have been increasingly involved in the last few years in the discussion and adoption of so-called 'new generation' texts (such as codes and agreements) comprising long-term commitments for implementation.

Accordingly, the appropriate sectoral social dialogue committees were able in 2002 to monitor various code of conduct. These are: the code of conduct on fundamental rights in textiles and clothing (1997) (EU9709150N); the code on fundamental rights and principles at work in commerce (1999) (EU9911213F); and the extension of the code of conduct on child labour in the footwear sector to all fundamental rights (2000).

Similarly, the agreement on guidelines for teleworking in Europe in the telecommunications sector, signed on 7 February 2001 (EU0102296F), provided that the sectoral social dialogue committee would check regularly on implementation of the guidelines at company level. Some 18 months after signature of the agreement, a questionnaire was sent to all undertakings in the sector; replies were received from 17 major European undertakings, the sector's traditional operators. An initial assessment of the agreement is in preparation and will be finalised in 2003.

The European agreement on vocational training in agriculture, signed in December 2002, includes a monitoring clause. Its implementation in accordance with the procedures and practices proper to the social partners at national level and to the Member States, in accordance with Article 139 of the TEC, will be supervised by a follow-up commission under the auspices of the sectoral social dialogue committee. An assessment will be drawn up within three years of signature of the agreement. As the Commission mentioned in its Communication of June 2002 on the social dialogue, it can provide technical and logistical support to the signatory organisations. The monitoring clauses in the agreement respond to the call the Commission made on the social partners in its Communication to strengthen substantially the procedures for on-the-spot monitoring and to prepare regular reports on implementation of the agreements signed. The Commission will be following closely the progress made.

Conclusion

The above results bear witness to a trend towards more commitments by the social partners in the sectoral social dialogue committees. In the past, the texts adopted reflected in many cases the social partners' joint reaction to a European initiative, a consultation launched by the Commission

or extraneous factors (restructuring, liberalisation, and so on). Many sectors have now come of age and enter into joint agreements which include practical commitments for the signatory parties and set goals to be attained.

Legislative developments in 2002

In the field of labour law, 2002 was marked most notably by the formal adoption of the Directive on worker information and consultation and by the Commission's issuing of a proposal for a Directive on temporary agency work. These two texts (the latter is currently under discussion in the Council and Parliament) are seen as giving expression to the need to ensure a proper balance between the flexibility required by firms and the security required by employees. In addition, the social partners were consulted on two crucial topics: anticipating and managing restructuring and data protection.

Legislation proposed, debated and adopted

Worker information and consultation

On 11 March 2002, the Council and the European Parliament adopted Directive 2002/14/EC, which establishes minimum requirements for the right to information and consultation of employees in undertakings and establishments within the Community (EU0204207F) – for details see box 4 on the facing page. A common position on the Directive had been adopted by the Employment and Social Policy Council on 11 June 2001 (EU0106219F).

European Cooperative Society

On 3 June 2002, the Council reached agreement in principle on two legislative proposals concerning the European Cooperative Society (SCE): a Regulation laying down the rules on the establishment and operation of SCEs and a Directive on worker involvement (EU0206201N).

The texts concerned by the agreement closely follow the model of the Regulation (No. 2157/2001) and Directive (2001/86/EC) on the European Company (SE), adopted by the Council on 8 October 2001 (EU0110203N). The arrangements for involving employees in the SCE must be negotiated, in conjunction with the establishment process, between the managements of the participating entities and representatives of their employees in the different Member States. If the parties fail to arrive at an agreement before the SCE is registered, it will be governed, as regards employee information and consultation and, where appropriate, board-level participation, by a set of subsidiary rules based on those of the SE worker involvement Directive. However, provision has been made for a few adjustments to take account of certain ways of setting up an SCE which have no parallel in the Statute for a European Company, notably where an SCE is set up from scratch without the involvement of 'physical persons'.

The texts on which agreement was reached were sent back to Parliament for fresh opinions, which should be delivered by mid-2003.

Working time

On 24 June 2002, the Commission adopted a proposal for a Directive of the European Parliament and of the Council concerning certain aspects of the organisation of working time (codified version). The purpose of the text is to codify Directives 93/104/EC and 2000/34/EC (EU0005249F); it does not include any substantive amendments to existing law.

Box 4 Key provisions of the new employee information and consultation Directive

Directive (2002/14/EC) establishing a general framework for informing and consulting employees in the European Community applies, according to the choice made by Member States, to:

- undertakings employing at least 50 employees; or
- establishments employing at least 20 employees.

The right to information and consultation covers:

- information on the recent and probable development of the undertaking's or establishment's activities and economic situation;
- information and consultation on the situation, structure and probable development of employment within the undertaking and on any anticipatory measures envisaged, in particular where there is a threat to employment; and
- information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations.

Information is to be given at such time, in such fashion and with such content as are appropriate to enable employees' representatives to conduct an adequate study and, where necessary, prepare for consultation.

Consultation takes place:

- while ensuring that the timing, method and content are appropriate;
- at the relevant level of management and representation;
- on the basis of information supplied by the employer and of the opinion which the employees' representatives are entitled to formulate;
- in such a way as to enable employees' representatives to meet the employer and obtain a response and the reasons for that response to any opinion they might formulate; and
- with a view to reaching an agreement on decisions within the scope of the employer's powers.

The arrangements for informing and consulting employees are to be defined and implemented in accordance with national law and practices. The Member States may, moreover, entrust management and labour with the task of defining freely such arrangements through negotiated agreement.

The Member States are to provide for appropriate measures in the event of non-compliance with the Directive by the employer or the employees' representatives, to ensure that adequate administrative or judicial procedures are available to enable the obligations deriving from the Directive to be enforced. They are also required to provide for adequate sanctions to be applicable in the event of infringement of the Directive. These sanctions must be effective, proportionate and dissuasive.

The deadline for application is 23 March 2005. Member States in which there is no general, permanent and statutory system of informing and consulting employees at the workplace may apply the Directive progressively until 23 March 2008.

Directive 2002/15/EC of the European Parliament and of the Council on the organisation of the working time of persons performing mobile road transport activities was adopted on 11 March 2002 (EU0204208F). The Directive extends some of the protection of Directive 93/104/EC to mobile workers in the road transport sector. It regulates a range of areas, including maximum weekly

working time, rest breaks and limits on night work, and excludes self-employed drivers for four years.

Protection of employees in the event of insolvency of their employer

The Employment and Social Policy Council of 3 December 2001 (EU0112245F) reached political agreement on a common position on a proposal to amend Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer. On 18 February 2002, the Council unanimously adopted the common position. In its text, the Council took on all the amendments that the Commission had agreed to in its amended proposal.

On 14 May 2002, Parliament adopted at second reading six amendments which the Commission and the Council took on in full. Directive 2002/74/EC was finally adopted on 23 September 2002.

Temporary agency work

The Commission issued on 20 March 2002 a proposal for a Directive establishing the general principle of non-discrimination for temporary (agency) workers (COM (2002) 149 final) (EU0204205F). The Commission prepared this text following the failure of the social partners' negotiations on temporary agency work in May 2001 (EU0106215N). According to this principle of non-discrimination, a temporary agency worker could not be treated in a worse fashion, in terms of basic working conditions, than a comparable worker, defined as a worker in the user company in an identical or similar job.

The proposal provided for derogations in two cases: first, when temporary agency workers who have a permanent contract of employment with a temporary agency continue to be paid in the time between postings; and second, where the Member States decide to give the social partners the option of providing, by means of collective agreement, for working conditions which depart from this principle.

In response to the EP's opinion on first reading in November 2002 (EU0212201N), the Commission amended its initial proposal and incorporated a number of amendments tabled by Parliament. The Commission included new provisions in its amended proposal of 28 November 2002 (COM (2002) 701 final) (EU0212205F). Some of the new proposals make the text clearer, while others change the substance and scope of the proposal.

The most important of these amendments introduce new wording for the basic employment and working conditions applicable to temporary agency workers during their assignment with a user undertaking. In the amended proposal, the point of reference is no longer the comparable worker in the user undertaking. Instead, a simpler and more objective notion is used: the basic working and employment conditions of temporary workers for the duration of their posting are to be 'at least those that would apply if they had been recruited directly by the user undertaking to occupy the same job'.

Equal treatment for men and women

A European Parliament and Council Directive (2002/73/EC) amending the 1976 Directive (76/207/EEC) on equal treatment for men and women as regards access to employment, vocational

training and promotion, and working conditions was adopted on 23 September 2002. A joint Council/Parliament conciliation committee had reached agreement on the text in April (EU0205201N). The new Directive, first proposed by the Commission in June 2000 (EU0006255F), aims to modernise and update the 1976 Directive and, notably, includes the issue of sexual harassment in the text.

Health and safety

The year saw the adoption, following conciliation, of European Parliament and Council Directive 2002/44/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) on 25 June. European Parliament and Council Directive 2003/10/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) was adopted on 6 February 2003, following a conciliation agreement in late 2002 (EU0212202N). Finally, a draft Directive amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work received its first reading in Parliament in April, with the Commission issuing an amended proposal in May. The Council adopted a common position in September (EU0206201N) and Parliament gave its second-reading opinion in December.

Consultation of the European social partners

The social partners were consulted twice on labour law issues in 2002 – first, in January, on anticipating and managing change (for details, see above under ‘The first examples of the social partners’ independence’) and second, on the protection of workers’ personal data – for details see box 5 below.

Box 5 Consultation of the social partners on workers’ personal data

The Commission consulted the social partners for the first time in late August 2001 on the possible direction of Community action on the protection of workers’ personal data. The social partners were requested to answer the following questions:

- Do Directives 95/46/EC and 97/66/EC concerning the processing of personal data and the protection of privacy in the telecommunications sector adequately address the protection of workers’ personal data?
- Do the national rules implementing these Directives deal with the issue satisfactorily from the standpoint of both the worker and the employer?
- Is it advisable to take action in this area? In particular, does the absence of specific provisions in this field have an adverse impact on the work and/or the employer?
- If so, should such action be taken at Community level? and
- What form should the Community action take and what should the main features of such a measure be?

In their answers to the questions put by the Commission, there was broad consensus among the social partners on the importance of personal data processing in the employment context, taking into account the socio-economic and technological developments of recent years. However, as regards the substance of the questions, the views of management and labour differed considerably both on the need for action, the direction of such action, its content and the appropriate level at which the questions should be tackled.

Employers (UNICE, UEAPME and Germany's BDI) did not see any need for Community action. They believed that Directive 95/46/EC was adequate and sufficient to protect workers' personal data. They considered that Community action would be premature and should be preceded by a report on the transposition of Directive 95/46/EC and an up-to-date analysis of the situation in the Member States. UNICE and UEAPME favoured non-binding instruments such as the exchange of best practices and information and codes of conduct.

Trade unions (ETUC, CEC and EUROCADRES), in contrast, stated that the Community Directives and the national laws transposing the Directives were inadequate in the specific employment context. Given the barriers to freedom of movement for workers and the fundamental right to non-discrimination, they believed that Community action would be advisable and should take the form of a Directive leaving room for manoeuvre in the light of national circumstances.

Generally speaking, the social partners drew attention to the complexity of the whole issue of personal data which, in their opinion, required more detailed research; in response, the Commission organised two studies on the current situation regarding protection of workers' personal data in the Member States, notably on sensitive data and surveillance and monitoring of workers. A seminar was also organised on 24 June 2002 and the Commission supplied the social partners with additional information.

In the light of the studies carried out and the analyses of experts and other stakeholders, the Commission believes that it is advisable to establish rules on the protection of workers' personal data, which could take the form of a European framework in the employment context. Accordingly, at the end of October 2002 it forwarded to the social partners a second-stage consultation document (EU0211206F). The Commission requested the social partners to deliver an opinion on the substance and aim of the framework envisaged and to let it know whether they wish to open negotiations in this field. This document covered the following:

- Sensitive data, including data on health, drug-testing and genetic testing;
- Monitoring and surveillance (including checks on e-mail and the internet); and
- General rules on the processing of workers' personal data including the involvement of workers' representatives.

Implementation of Community labour law

During 2002, Commission departments prepared two reports on the transposition of Directives in the 15 Member States: one on implementation of Council Directive 97/81/EC concerning the framework agreement on part-time work; and the other on implementation of Directive 96/71/EEC on the posting of workers. The social partners were consulted on both reports.

Other developments

2002 saw a number of other EU-level developments outside the strict social dialogue and labour law areas.

The European employment strategy (EES) completed its fifth annual cycle in 2002. The strategy, since its launch in 1997 (EU9711168F), has involved the issuing of annual Employment Guidelines each autumn by the EU institutions to the Member States. These are implemented through the Member States' National Action Programmes (NAPs) on employment, which are forwarded to the Commission for assessment. The Commission and Council then draw up a joint

employment report on Member States' implementation of the Guidelines and, if deemed necessary, made recommendations to Member States on how they could improve this implementation.

In 2002, the EES cycle continued as before, with Member States drawing up their NAPs for employment, with varying degrees of social partner input, on the basis of the 2002 Employment Guidelines (EU0109236F). However, a number of changes are now to be made to the strategy, to reflect changing priorities after five years and a perceived need for greater coordination with other aspects of Community policy, as outlined at the March 2002 Barcelona European Council (EU0203205F).

In practical terms, the machinery of the EES is to be altered. In accordance with proposals set out in a Commission Communication issued in September 2002 (EU0210206F), the timing of the EES's annual cycle will change in order to coordinate it with other Community cycles, notably the Broad Economic Policy Guidelines. Up until now, the annual joint employment report has been issued in the autumn of each year as part of an 'employment package', together with the recommendations to Member States and Employment Guidelines. From now on, the joint employment report will continue to be issued in the autumn, but the recommendations and guidelines will be issued separately in the spring of each year, after the annual spring European Council meeting focusing on economic and social issues. In addition to these practical amendments, the Commission also plans the following changes in the EES' approach (EU0212204F):

- the EES should focus on delivering the Lisbon objectives of more and better jobs and greater social cohesion;
- the EES should be a medium-term strategy with a 2010 horizon and a mid-term review in 2006. There should be no changes in the Employment Guidelines in the intermediary years;
- the Employment Guidelines should cover a broad employment policy agenda, with a focus on key priorities, underpinned by appropriate targets. They should also be more 'results-oriented';
- an annual review of progress towards the agreed objectives should continue to take place, based on the Member States NAPs for employment;
- the different processes contributing to the implementation of the Lisbon agenda should be streamlined – essentially a synchronisation of the employment coordination process with the Broad Economic Policy Guidelines; and
- the EES should be underpinned by improved governance.

Other significant developments in EU social and employment policy in 2002 included the following:

In February, the Commission issued an action plan designed to increase labour market *mobility* within the EU (EU0203204F). In the plan, which builds on the December 2001 recommendations of a high-level task force on skills and labour mobility (EU0201234N), the Commission sets out actions in the areas of improving occupational mobility, improving geographical mobility and improving access to information on employment around the EU.

In December, the Commission issued a Communication (COM (2002) 694 final) on the *free movement* of workers in the EU (EU0301205F). The Communication examines some of the

most important issues for migrants and their families that inhibit their freedom of movement, based partly on a substantial body of case law in this area emanating from the European Court of Justice.

The Commission launched a new Community strategy on *health and safety at work 2002–6* in March, concentrating on matters such as bullying and violence at work and stress-related conditions (EU0204203N). The strategy also aims to establish and consolidate a culture of risk prevention and build on existing achievements.

Connected to the previous point, a new campaign aimed at fighting *work-related stress* - a problem estimated to affect over 40 million employees in the EU - was launched in July 2002 by the European Agency for Safety and Health at Work (EU0208202N).

During the year, the European Commission was considering launching consultations with the social partners on the possible establishment of a voluntary *conciliation, mediation and arbitration* service at European level (EU0206203F). However, no such consultations had taken place by the end of 2002.

In October, the Commission issued a new draft company law Directive on *takeover bids*, which would give information and consultation rights to employees and their representatives in the companies involved (EU0211208F). These rights are somewhat stronger in the new proposal than in a previous version of the draft Directive, which was rejected by the European Parliament in July 2001 (EU0107224N).

Also in October, the European Commission launched a new European ‘multi-stakeholder forum’ on *corporate social responsibility* (CSR), as part of its new strategy on this issue (see above under ‘Restructuring in Commission documents and initiatives’). Made up of 20 representatives from the social partners and interested parties, the forum will examine a range of issues and report to the Commission in 2004 (EU0211205F).

The Commission issued a Communication (COM (2002) 364 final) on promoting employee *financial participation* in July (EU0209202N). One of its main action points is the creation of an independent working party to examine the obstacles hindering the development of financial participation.

In September, the European Parliament adopted a resolution urging the social partners, the European Commission and the EU Member States to take a variety of actions in order to improve the *representation of women* among the EU social partner organisations (EU0210202N).

The Commission issued a report in September looking at specialised bodies in EU Member States which have been set up to promote *equality* and/or to combat discrimination (EU0210201N).

In December 2002, the Commission issued its first comprehensive analysis of national *pension systems* in the Member States (EU0301206F). It assesses the adequacy of national pension systems and their ability to face the challenge of an ageing population.

The Commission and the *ILO* held a high-level meeting in February to discuss cooperation on a range of social issues. They agreed to cooperate in areas such as the social aspects of globalisation, the alleviation of poverty, employment policy, health and safety, social protection and social dialogue (EU0204204N).

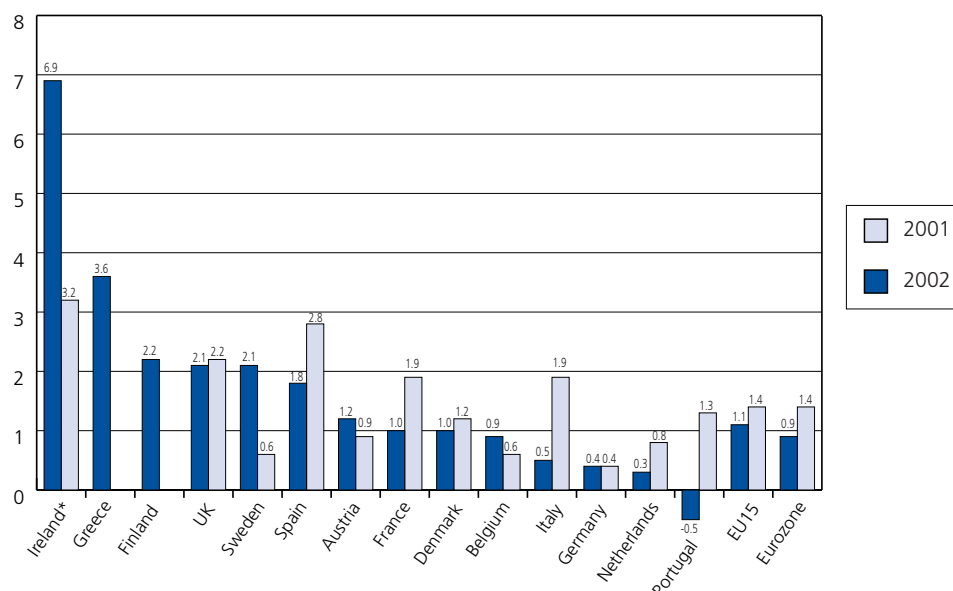
Comparative overview of industrial relations in 2002

In this chapter, we review the main developments in industrial relations in 2002 in the countries covered by the European Industrial Relations Observatory (EIRO) – the EU Member States, Norway and three of the candidate countries due to join the EU in 2004 (Hungary, Poland and Slovakia). We examine the key issues covered by collective bargaining – pay, working time, job security and equal opportunities and diversity issues – as well as legislative developments, the organisation and role of the social partners, industrial action, employee participation, new forms of work (especially telework) and vocational training. We start by setting out very briefly the economic and political context for industrial relations in Europe in 2002.

Economic developments

Economic growth slowed across the European Union during 2002, continuing the downturn witnessed during the second half of 2001 – see figure 1 below. Eurostat figures relating to the year up to the third quarter of 2002 show that GDP growth in the 12 countries of the ‘eurozone’ was 0.9%, compared with 1.4% in the year to the third quarter of 2001. GDP growth for all 15 EU Member States was slightly higher, at 1.1%, again compared with 1.4% in 2001. However, there were wide variations across the individual Member States. The country with the strongest economic growth remained Ireland, where third quarter 2002 GDP growth was 6.9%, far above the EU and euro-zone average. Other countries which experienced robust growth included Greece (3.6%), Finland (2.2%), Sweden and the UK (both 2.1%). Portugal experienced negative GDP growth, of –0.5%, while the Netherlands, Germany and Italy also saw rather poor growth (0.3%, 0.4% and 0.5%, respectively).

Figure 1 GDP growth in the EU, third quarter 2002 and 2001 (% change compared with the same period in the previous year)

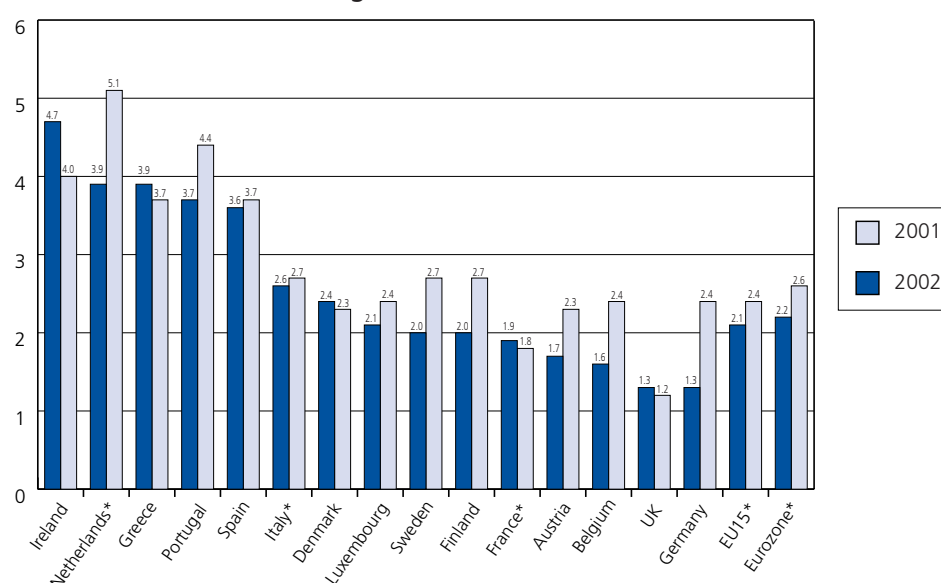


Source: Eurostat; * not seasonally adjusted.

Euro notes and coins came into circulation at the beginning of 2002. The participating countries (all EU Member States with the exception of Denmark, Sweden and the UK) withdrew their national currencies by the end of February 2002.

Comparing the two years as a whole, inflation fell across the EU between 2001 and 2002 – figure 2 gives the annual average rates of inflation for December 2000-December 2001 and December 2001-December 2002. The rate for the EU as a whole fell from 2.4% to 2.1% and for the euro-zone from 2.6% to 2.2%. In 2002, the highest annual average inflation was found in Ireland (4.7%), Greece (3.9%) and the Netherlands (3.9%), and the lowest in Germany (1.3%), the UK (1.3%) and Belgium (1.6%). However, inflation crept up slightly across the EU over 2002, standing in December at 2.3% in the eurozone and 2.2% in the EU as a whole. These figures compare with December 2001 figures of 1.9% in the EU 15 and 2.0% in the eurozone. At the end of 2002, Ireland remained the country in the EU with the highest inflation, at 4.6%, followed by Portugal and Spain (both 4.0%).

Figure 2 Inflation in the EU, average annual % increase, 2001 and 2002



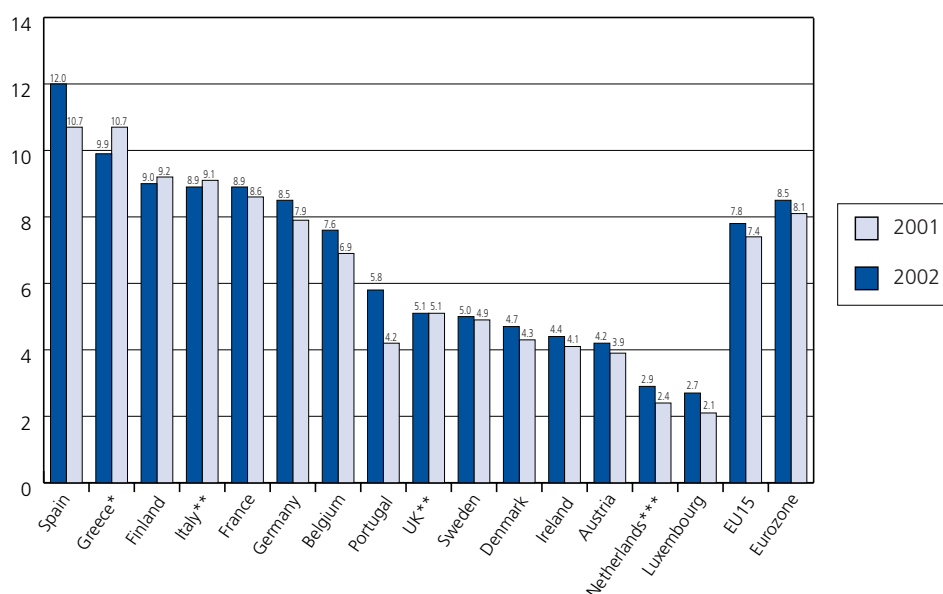
Source: Eurostat. * 2002 figure is provisional.

Europe's labour markets did not perform as well during 2002 as they did the previous year. The overall rate of unemployment for the EU was 7.8% as at December 2002, compared with 7.4% in December 2001, according to Eurostat – see figure 3. The unemployment rate in the eurozone was 8.5% in December 2002, compared with 8.1% in December 2001.

The unemployment rate in December 2002 varied considerably between EU countries, ranging from 12% in Spain and 9.9% in Greece to 2.9% in the Netherlands and 2.7% in Luxembourg. Spain would appear to be experiencing continuing problems in controlling unemployment, as the December 2002 rate of 12% was a significant increase on the already high 10.7% recorded for December 2001. Unemployment in the majority of EU Member States increased during the year to December 2002. The exceptions were Greece (down to 9.9% in September 2002 from 10.7% in December 2001), Italy (down to 8.9% in October 2002 from 9.1% in December 2001), Finland (down to 9.0% in December 2001 from 9.2% in December 2001) and the UK, where the October 2002 figure was stable at 5.1%.

Much of the increase in unemployment was doubtless due to the deterioration in the economic climate experienced during 2002. Member States will have to work hard at their labour market policies during 2003 to try to reverse this trend.

Figure 3 Unemployment in the EU, % of workforce in December 2002 and December 2001, seasonally adjusted



Source: Eurostat; * September 2002, ** October 2002, *** November 2002.

Political developments

General elections were held in nine countries during 2002. Incumbent governments retained power after the general elections in: Germany, where the 'red-green' coalition of the Social Democratic Party and Alliance 90/the Greens won a narrow victory; Ireland, where the coalition of the majority centrist Fianna Fail party and the small right-of-centre Progressive Democrats (PDs) was re-elected; and Sweden, where the minority Social Democratic Party (Socialdemokratiska Arbetarepartiet, SAP) government was returned to office.

New governments took office in: France, where the parties of the centre-right formed the new government after the parliamentary elections in June, taking over from the former Socialist-led coalition; Hungary, where a right-wing government was replaced by a coalition of the Hungarian Socialist Party (MSZP) and the liberal Alliance of Free Democrats (SZDSZ); Portugal, where the governing Socialist Party (PS) was ousted by a coalition of the centre-right Social Democrat Party (PPD/PSD) and the right-wing People's Party (CDS/PP); and Slovakia, where the election resulted in a change in the composition of the coalition government, which moved towards the centre-right with the departure of two more left-leaning parties and the addition of a new party.

Coalition talks were underway in early 2003 following general elections in: Austria, where the conservative Austrian People's Party (ÖVP) gained significantly at the September elections, but its former coalition partner, the populist Freedom Party (FPÖ) saw its vote fall sharply; and the Netherlands, where the the Christian Democratic Appeal (CDA) – the senior partner in the previous coalition – and social democratic Labour Party (PvdA) were the main winners in the January 2003 election to replace the short-lived coalition government which took office following a general election in May 2002.

France saw a presidential election in 2002, with Jacques Chirac, the candidate supported by the conservative Movement for the Republic (RPR), re-elected as President of the Republic.

Local and regional elections were held in 2002 in countries such as Hungary, Italy, Poland, Slovakia and the UK, resulting in varying outcomes for the parties in power or opposition at national level.

Table 5 provides an overview of political developments in 2002.

Table 5 Political situation in the EU Member States, Hungary, Norway, Poland and Slovakia

Country	Political situation
Austria	General elections were held on 24 November 2002, resulting in success for the conservative Austrian People's Party (Österreichische Volkspartei, ÖVP). The ÖVP increased its vote to 42.3%, whereas its former coalition partner, the populist Freedom Party (Freiheitliche Partei Österreichs, FPÖ) saw its share of the vote collapse. At the beginning of 2003, the ÖVP was in negotiations with three political parties with the aim of finding a coalition partner (a coalition with the FPÖ was resumed in February).
Belgium	No elections were held in 2002, and the 'rainbow' coalition which has been in power since June 1999 continued to govern throughout the year. This coalition is made up of six parties: the Flemish Liberals and Democrats (Vlaamse Liberalen en Democraten, VLD); the (French-speaking) Reform Party (Movement réformateur, MR); the (French-speaking) Socialist Party (Parti Socialiste, PS); the (Flemish-speaking) Progressive Social Alternative (Sociaal Progressief Alternatief, SP.A); the French-speaking environment party Ecolo; and the Flemish environmental party Agalev. The next general election will be held in June 2003.
Denmark	The government formed in November 2001 by the Liberal Party (Venstre) and the Conservative Party (Det Konservative Folkeparti), headed by the Liberal leader, Anders Fogh Rasmussen, continued in office during 2002. The government during the course of the year worked on a number of labour reforms, some of which proved to be controversial.
Finland	No elections were held in 2002 and the 'rainbow' coalition government consisting of left- and right-wing parties – the Social Democratic Party (Suomen Sosialidemokraattinen Puolue), the conservative National Coalition Party (Kansallinen Kokoomus), the Left-Wing Alliance (Vasemmistoliitto), the Greens (Vihreä Liitto) and the Swedish People's Party (Svenska Folkpartiet) - elected in 1999, remained in power. The next elections will be held in March 2003.
France	Presidential elections were held in April-May 2002, resulting in the re-election of Jacques Chirac, the candidate supported by the conservative Movement for the Republic (Rassemblement pour la République, RPR), as President. Parliamentary elections were held in June 2002, resulting in victory for the centre-right parties over the Socialist Party (Parti Socialiste, PS) and its partners in the previous coalition government. The new government led by Prime Minister Jean-Pierre Raffarin issued its employment and social priorities after taking office, focusing on the reanimation of the social dialogue, the revision of legislation governing the 35-hour week, pensions, social security, youth unemployment and the fight against discrimination (FR0208103F).
Germany	A general election was held in September 2002, resulting in a narrow victory for the 'red-green' coalition government, composed of the Social Democratic Party (Sozialdemokratische Partei Deutschlands, SPD) and Alliance 90/The Greens (Bündnis 90/Die Grünen), headed by Chancellor Gerhard Schröder. The coalition subsequently embarked upon a second four-year term, with reform of the labour market as one of its key priorities (DE0211205F). The opposition parties have a majority in the upper house of parliament, the Bundesrat.
Greece	The ruling Pan-Hellenic Socialist Movement (Panellinio Sosialistiko Kinima, PASOK), which came to power in 2000, remained in office during 2002, headed by Prime Minister Konstantinos Simitis. The next parliamentary elections are scheduled for the summer of 2004.
Hungary	A general election was held in April 2002, resulting in victory for the Hungarian Socialist Party (Magyar Szocialista Párt, MSZP) and the liberal Alliance of Free Democrats (Szabad Demokraták Szövetsége, SZDSZ) (HU0206101F) over the previous right-wing administration. The policy aims of the new MSZP-SZDSZ government include the development of a more extensive welfare state and a more consensual style of policy-making. Local government elections were held in October 2002, resulting in victory for the coalition which came to power in the April general election.
Ireland	A general election was held in May 2002, resulting in the re-election of the coalition between the majority centrist Fianna Fail party and the small right-of-centre Progressive Democrats (PDs).

Table 5 (continued)

Country	Political situation
Italy	The centre-right coalition of parties elected in May 2001, the House of Freedoms (Casa delle Libertà), continued to govern during 2002, led by Prime Minister Silvio Berlusconi. The coalition is composed of Forza Italia, the National Alliance (Alleanza Nazionale), the Northern League (Lega Nord) and the Centre Christian Democratic Union (Unione Democratica Cristiana di Centro, UDC) – which was formed out of a merger at the end of 2002 between the Christian Democratic Centre (Centro Cristiano Democratico, CCD) and the United Christian Democrats (Cristiani Democratici Uniti, CDU). Elections for new administrations in 10 provinces and 967 local councils were held in May 2002. The opposition centre-left coalition gained control of four municipalities, including Genoa and Verona.
Luxembourg	The coalition government, made up of the Social Christian Party (Chrëschtlech Sozial Vollekspartei, CSV) and the Democratic Party (Demokratesch Partei, DP), which came to power in August 1999, continued in office during 2002.
Netherlands	The general election of May 2002 resulted in a defeat for the parties in the ruling coalition of the social democratic Labour Party (Partij van de Arbeid, PvdA), the liberal Party for Freedom and Democracy (Vereniging voor Vrijheid en Democratie, VVD) and the social liberal Democraten 66 (D66). A new party, the populist List Pim Fortuyn (Lijst Pim Fortuyn, LPF), won 26 seats in parliament (out of 150), while the Christian Democratic Appeal (Christen Democratisch Appel, CDA) increased its number of seats from 29 to 43 (NL0206103N). These two parties subsequently formed a new coalition government with the VVD, led by Prime Minister Jan Peter Balkenende (CDA). The relationship between the government and the social partners soon became tense, and the coalition collapsed within three months due to internal conflicts in the LPF (NL0211101N). (A further general election was held in January 2003, resulting in the CDA winning most seats, followed closely by the PvdA, while the VVD also gained ground. D66 lost one seat and the LPF lost the majority of its seats. Talks on the formation of a new coalition government were underway at the end of January (NL0302101N).)
Norway	The centre-right minority coalition government which took office in October 2001, comprising the Conservative Party (Høyre), the Christian Democratic Party (Kristelig Folkeparti, KRF), and the Liberal Party (Venstre), remained in power during 2002, under Prime Minister Kjell Magne Bondevik. During 2002, in order to govern, the government sought alternating support in parliament from opposition parties to the right and the left.
Poland	The coalition government elected in 2001 – made up of the Democratic Left Alliance (Sojusz Lewicy Demokratycznej, SLD), Polish Peasants Party (Polskie Stronnictwo Ludowe, PSL) and Labour Union (Unia Pracy, UP) – continued in office during 2002. Municipal elections were held in October and November 2002, at which the ruling coalition lost some support, although it won overall.
Portugal	General elections were held in March 2002, resulting in a defeat for the governing Socialist Party (Partido Socialista, PS). It was replaced by a coalition of the centre-right Social Democrat Party (Partido Social Democrata, PPD/PSD) and the right-wing People's Party (Partido Popular, CDS/PP). The new government has since met with the social partners to discuss issues such as social protection, labour flexibility, taxation, the economic situation and pay restraint.
Slovakia	A general election was held in September 2002, resulting in the appointment of a new government in October 2002. The new government is a coalition of three parties which had been in the previous government – the Slovak Democratic and Christian Union (Slovenská Demokratická a Kresťanská Únia, SDKÚ), the Hungarian Coalition Party (Magyar Koalíció Pártja/Strana Madarskej Koalície, MKP/SMK) and the Christian-Democratic Movement (Kresťanská Demokratická Hnutie, KDH) – plus the New Civic Alliance (Aliancia Nového Občana, ANO). Two parties in the former government – the Democratic Left Party (Strana Demokratickej Lavice, SDL) and the Party of Civil Understanding (Strana Občianskeho Porozumenia, SOP), both located more to the left of the political continuum – are not members of the new coalition, pushing the government towards the right. The new administration characterises itself as centre-right (SK0212101N).
Spain	The centre-right People's Party (Partido Popular, PP) government, elected in March 2000, continued to govern with an absolute majority during 2002.
Sweden	The general election held in September 2002 resulted in the return to power of the minority Social Democratic Party (Socialdemokratiska Arbetarepartiet, SAP) administration, which will continue to operate with the help of the Left Party (Vänsterpartiet) and the Green Party (Miljöpartiet de Gröna).
UK	The Labour Party, which was returned to power in June 2001 for a second five-year term, continued in office throughout 2002. Local council elections were held in England in May 2002, resulting in modest gains for the Conservative Party and Liberal Democrat Party at the expense of the Labour Party. However, Labour continued to control the largest number of councils.

Source: EIRO.

Collective bargaining developments

General

The continuing centrality of collective bargaining to industrial relations in the EU and Norway was confirmed by an EIRO comparative study conducted in 2002 (TN0212102S). The study found that bargaining coverage in the 16 countries remains at a high level. Of the 12 for which comparable information was available: nine countries have a high level of coverage (over 70% of employees); two have a medium level of coverage (between 40% and 70%); and one a low level of coverage (less than 40%). High bargaining coverage is thus the norm, while there are also strong indications that only little significant change has occurred in coverage rates over the past decade or so in the EU and Norway. In two countries (Germany and the UK) bargaining coverage has declined over the past decade or so, while in one (Denmark) coverage has increased. The study concludes that in the run-up to EU enlargement, the Member States' systems of collective bargaining seem to be well established, and maintain to a large degree their great potential to regulate wages, hours and working conditions. However, in the four candidate countries included in the study (Hungary, Poland, Slovakia and Slovenia) bargaining coverage is – with the exception of Slovenia (where it stands at around 100%) – in decline, reaching only medium coverage rates at best.

Turning to collective bargaining developments during 2002, an overview of events in individual countries is provided in table 6 on p. 42 below. A number of new national-level agreements were concluded or negotiated during 2002:

- in Belgium, where collective bargaining is carried out on a two-year cycle, the social partners concluded a new national agreement for 2003 and 2004 in December 2002. The accord, which was formally approved in January 2003, provides a pay framework for 2003 and 2004 and covers a range of other issues such as early retirement, leave arrangements and training;
- in Finland, a new national incomes policy agreement was concluded in November 2002 (FI0212103F) after some weeks of difficult negotiations. The agreement sets out a pay framework for 2003 and 2004, accompanied by a range of 'qualitative' measures, plus tax cuts pledged by the government;
- in Greece, a new two-year National General Collective Agreement for the private sector was signed in April 2002, after two months of bargaining (GR0204109F). The agreement provides for minimum pay increases, along with a variety of new provisions on employment conditions and social issues. The topic of working time reduction was referred to a special committee; and
- in Ireland, following lengthy and difficult negotiations on a new national agreement, the government and social partners finally succeeded in reaching a new accord, which is now subject to approval, in January 2003 (IE0301209F). The agreement contains an 18-month pay deal and provisions on trade union recognition and increases in statutory redundancy pay entitlement.

In those countries where sectoral bargaining predominates, 2002 was a busy year in some cases. In Germany, the year saw the conclusion of new agreements in a range of important sectors, including metalworking (DE0205206F), chemicals (DE0205204F), construction (DE0206204F) and printing (DE0206202N). In contrast to the lively activity at sectoral level, however, talks at national level within the tripartite Alliance for Jobs failed to get off the ground during 2002 (DE0212205F).

In Norway, existing two-year national sectoral collective agreements were renegotiated in 2002. Bargaining was led, as usual, by the engineering industry, which was followed by agreements in the private, public and semi-public sectors (NO0204103F). The 2002 settlements generated higher wage growth than anticipated in some sectors, but bargaining was for the most part carried out without industrial conflict (NO0206105F).

In Denmark, there was little private sector bargaining activity, as most sectors were still covered by four-year agreements concluded in 2000. However, in the public sector, new agreements were concluded in the municipal/county (DK0205102F) and central government areas (DK0204103F). Similarly, in Sweden many sectors were still covered by three-year accords negotiated in 2001, though 2002 saw agreements in the government sector (SE0206103N) and information and communications technology sector (SE0212103F).

In France, it is expected that 2002 will have seen a reduction in negotiating activity (definitive statistics will not be published until July 2003). Bargaining in France remains dominated by negotiations over the introduction of the 35-hour week, even though the new conservative government has recently made some adjustments to the implementation of this statutory working time reduction (FR0210106F).

With regard to the scope and coverage of bargaining, Portugal saw a decline of 4.5% in the number of agreements negotiated in 2002, compared with 2001. A fall-off in bargaining activity was also witnessed in Hungary, where 18 multi-employer agreements were concluded in 2002 in the competitive private sector, compared with 31 in 1998. The number of company-level agreements concluded during 2002 also declined in comparison with recent years.

However, 2002 saw a number of instances of collective bargaining extending to new areas. For example, January saw the conclusion of Austria's first ever sectoral collective agreement for temporary work agencies, setting minimum wages for almost 27,000 agency workers, who are primarily employed in the metalworking sector. It was negotiated by the Metalworking and Textiles Union (Gewerkschaft Metall-Textil, GMT) and the general crafts and trades subunit of the Austrian Chamber of the Economy (Wirtschaftskammer Österreich, WKÖ). In Slovakia, following legislative reform, the first collective agreements were signed in 2002 for civil servants (SK0212102N) and public service employees (SK0209101N).

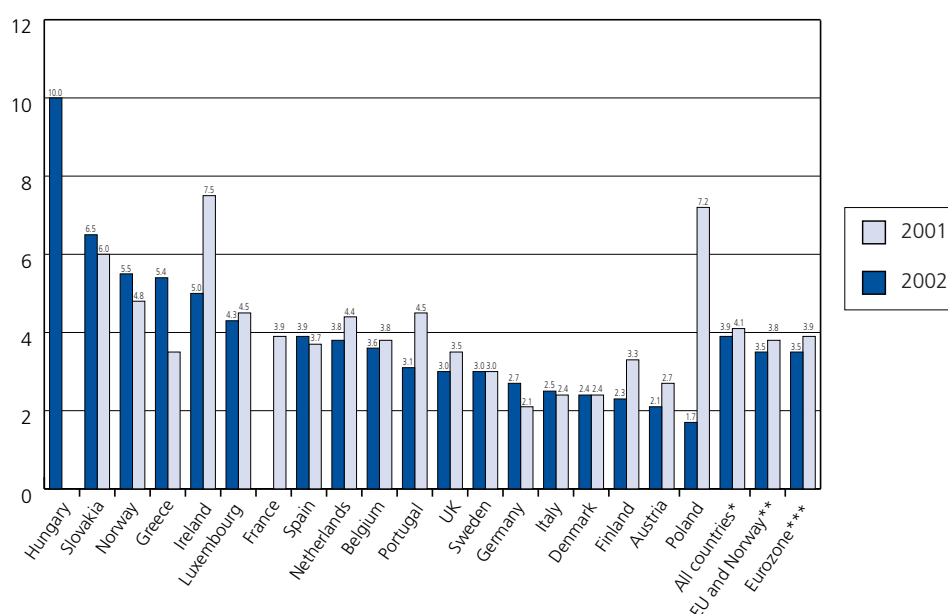
Pay

As indicated by figure 4 (overleaf), the average nominal collectively agreed pay increase across the EU plus Norway was 3.8% in 2001 and 3.5% in 2002 (as calculated by EIRO - TN0303102U). The rate of increase thus declined in 2002, reversing an upward trend seen since 1999. However, within these averages, the range of increases was wide – between 7.5% in Ireland and 2.1% in Germany in 2001, and between 5.5% in Norway and 2.1% in Austria in 2002.

The trend towards increased pay moderation was relatively widespread in 2002, with the average rate of nominal increase falling in countries such as Austria, Belgium, Finland, Ireland, Luxembourg, the Netherlands, Portugal and the UK. However, the rate of increase rose in Germany, Greece, Italy, Norway and Spain, and remained stable in Denmark and Sweden. Adjusting the nominal increases for inflation, average real collectively-agreed pay increases across

the EU plus Norway rose slightly from 0.8% in 2001 to 1.0% in 2002 - though in the EU the rate of increase actually fell to 0.7% in 2002 (Norway experienced a particularly large real pay rise). The rate of real pay increase rose in nine of the 15 countries for which data are available and fell in only five.

Figure 4 Average collectively agreed pay increases, 2001 and 2002 (%)



* Average of 18 countries; ** Average of 16 countries for 2001 and average of 15 countries for 2002;

*** Average of 12 countries for 2001 and average of 11 countries for 2002

Source: EIRO.

In those countries where pay moderation continued or strengthened, this was largely as a result of sluggish economic performance, as well as the efforts of the government or social partners in some cases. In Austria, for example, there was limited leeway for pay increases, due to a less than robust economic position, coupled with an oversupply of labour. The metalworking sector agreement, which traditionally sets the pace in Austria, contained minimum increases of 2.2%-2.3%, plus an option for employers to distribute a proportion of pay flexibly. Other agreements concluded after the metalworking accord provided for increases of between 2.1% and 2.3%.

Pay moderation was a continuing theme during bargaining in the Netherlands in 2002 (NL0204103F). In the end, the average collectively agreed increase was 3.8% (down from 4.4% in 2001), with a range from 2.9% in industry and transport to 4.5% in agriculture. In November 2002, the Dutch government and social partners reached a 'social agreement' for 2003, which included a pay increase limit of 2.5% – the first such centrally agreed wage ceiling for a decade (NL0212101N). Bargaining in Spain in 2002 was conducted within the framework of a pay moderation accord concluded in December 2001 (ES0201207F). The relatively moderate pay developments in 2002 in Belgium, Finland and Ireland were also governed by national intersectoral agreements signed in previous years. In the UK, where company bargaining predominates, collectively agreed basic pay rose by an average of 3.0% during 2002 (down from 3.5% in 2001), although average earnings increased by 4.2%. Most public sector workers received above-inflation increases, following the government's decision to implement in full pay awards recommended by independent pay review bodies.

In some other countries, however, pay moderation faltered somewhat during the year. This was the case in Germany, where the IG Metall trade union was keen to achieve significant pay increases in the metalworking sector, following some years of wage restraint. The union succeeded in negotiating a 4% increase for 2002 (DE0205206F), although part of this is tied to the introduction of a new pay framework. Overall, collectively agreed pay increases in 2002 were, at an average of 2.7%, somewhat higher in 2002 than in the previous two years (2.4% in 2000 and 2.1% in 2001). Nevertheless, when increases in consumer prices and in social security contributions are taken into account, there was 'negative wage drift'.

In France, where pay growth has been dampened since 1998 by the introduction of the 35-hour week, there was some evidence that it began to pick up again during 2002. This was due in part to the fact that many wage freeze and pay moderation accords introduced in recent years in tandem with a reduction in working hours are now coming to an end.

In the candidate countries, pay increases are generally much higher than the EU average at present, with the average for Hungary, Poland and Slovakia exceeding 6% in both 2001 and 2002. In Slovakia, pay growth was estimated to be around 8.8% in the year to the third quarter of 2002. Actual pay growth, taking inflation into account, was estimated to be 6.1%, the highest increase for four years. In Hungary, average collectively agreed pay increases were estimated to be 11% in 2002, slightly higher than the maximum set down in a national tripartite recommendation.

Finally, aside from pay increases, pay flexibility was on the bargaining agenda in some countries. Notably, in Denmark, the bargaining parties in the industry sector concluded an agreement on the introduction of a new pay system, known as 'Plus-pay' (Plusløn) – a performance-related system, with a close connection between an element of pay and the performance of the individual employee and the enterprise's results and earnings (DK0211102N). Furthermore, in July, the Danish Commerce and Service (Dansk Handel & Service, DHS) employers' organisation launched a document promoting a flexible 'buffet' system, whereby employees could construct their own package of pay and benefits (DK0208101N).

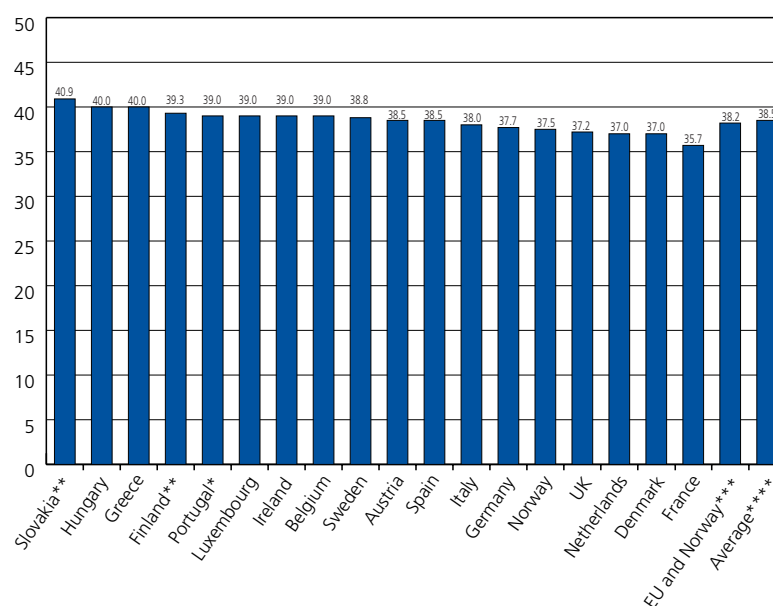
Working time

As indicated by figure 5 (overleaf), average collectively agreed weekly working time in the EU plus Norway was virtually static between 2001 and 2002 at 38.2 hours (as calculated by EIRO TN0303103U). As in previous years, significant general agreed working time reductions were virtually absent in most countries in 2002.

Despite the overall stability of agreed normal weekly hours, working time has remained a prominent issue for negotiators.

In terms of working time reductions, France is, of course, the country which has been most prominent over the past four years, following the adoption of legislation on a 35-hour week. 2002 was no exception, with the issue of working time dominating bargaining and average collectively agreed normal weekly hours falling to 35.7 from 36.1 in 2001. However, there were some signs that its influence is beginning to wane slightly, with more attention devoted to the issue of pay than in previous years. In Belgium, the 2001-2 national intersectoral agreement provided for a one-hour cut in the working week, from 39 to 38 hours. This came into effect on 1 January 2003.

Figure 5 Average collectively agreed normal weekly hours, 2002



* 2000 figure; ** 2001 figure; *** Average of 16 countries; **** Average of 18 countries.

Source: EIRO.

At individual sector and company level, 2002 saw a number of agreements on cutting weekly working hours. In Slovakia, collective agreements negotiated for the civil service and public services in 2002 reduced working time for these employees from 40 hours to 37.5 hours a week. In Greece, average agreed weekly working time is, at 40 hours, the highest in the EU (and actual working time for full-time workers is rising) and trade union demands for reduction of the working week to 35 hours without loss of pay have not so far been successful. However, there have been some working time reductions at sectoral level, notably in banking, where agreed weekly working time was reduced from 38 hours 20 minutes to 37 hours in 2002 (GR0206102N). In Luxembourg, some new agreements introduced slight reductions in the statutory working week of 40 hours.

Elsewhere, working time reductions have in some cases been realised through cuts in annual hours and/or the introduction of additional leave. For example, in Denmark two extra days of holiday were awarded to public sector employees in the context of the renewal of their collective agreements in 2002. In Italy, a new agreement in the chemicals sector provided for an annual eight-hour reduction in working time (IT0203103N).

Much discussion of working hours reductions is still linked to greater flexibility in working time, though there appear to have been few notable new agreements on this issue in 2002.

Finally, in the UK, there is an ongoing debate concerning what is known as the 'long hours culture'. The UK government has taken advantage of a clause contained in the EU working time Directive (93/104/EC) which allows individual employees to 'opt out' of the 48-hour maximum weekly working time provision. Trade unions have been calling for an end to this opt-out, with the Trades Union Congress (TUC) claiming that 16% of the UK workforce works over 48 hours a week (UK0202102F).

Job security

The issue of job security remained a key concern for trade unions in many countries during 2002, as waves of enterprise restructuring and downsizing continued to sweep across Europe.

In Spain, the general lack of job security continues to be one of the labour market's main problems, as perceived by the social partners. This is largely due to the continuing high numbers of workers employed on temporary and fixed-term contracts. The issue of job security was addressed by the national agreement laying down guidelines for bargaining in 2002, which devoted a chapter to maintaining and increasing employment, promoting vocational training and preventing the unjustified use of successive temporary contracts.

In Greece, a new sectoral agreement for journalists (GR0205101N) contains a number of clauses relating to job security. It commits employers to refraining from collective dismissals and prolongs an existing provision that states that changes in ownership of newspapers will not affect journalists' employment rights and that, in such cases, their employment relationship will not be considered to have been interrupted. At enterprise level in Greece, an innovative collective agreement was concluded at the Hilton hotel in Athens, relating to the temporary closure of the hotel. The accord provides for a continued employment relationship, with a degree of wage compensation, for many of the hotel's employees, and commits the company to not making use of a clause allowing it to dismiss 2% of its workforce a month until the hotel begins to operate once more (GR0201115F).

Box 6 Job security and corporate governance

The extent to which employees and their representatives can influence company restructuring decisions and maintain job security in such situations depends on the national legal and industrial relations context. In some countries, the main channel of influence is through works councils and co-determination systems, while in others trade unions and collective bargaining are the main channel. An EIRO comparative study conducted in 2002 (TN0209101S) examined this issue, linking it in with national systems of 'corporate governance' (ie the set of mechanisms that control and influence senior management).

The study found that in one group of countries (essentially Ireland and the UK), shareholdings being dispersed across a range of financial intermediaries and a well-developed 'market for corporate control' – the 'outsider' system of corporate governance – go hand-in-hand with a 'minimalist' legal framework concerning employee rights in restructuring. In most continental European countries, which exhibit more stability in ownership and less of a market for corporate control – the 'insider' systems (though these vary considerably) – employee rights tend to be stronger, either through systems of co-determination or through collective bargaining (or some combination of the two). However, many countries that have traditionally been characterised by insider systems are evolving. Countries such as the Netherlands, Finland, Spain and France have witnessed significant shifts in the direction of a more outsider-oriented system, while in others such as Germany and Sweden the changes have been notable. Nevertheless, none of the insider systems has yet converged closely on the UK-Irish model.

The study concludes that restructuring has been most pervasive, and has occurred most rapidly, in the outsider systems and in rapidly evolving insider systems. Without question, the impact on employees and their job security of restructuring has been felt most acutely in countries without a strong tradition of social concertation and where union strength is patchy.

Many companies in Italy were hit hard by the economic slowdown over the year. For example, Alitalia has experienced considerable difficulties, linked to the international civil aviation crisis

(IT0203101N). However, an accord was signed at the airline in March 2002 which makes it possible to avert some 2,500 planned redundancies through the use of measures such as retirement, a two-year pay freeze and the use of 'solidarity contracts', whereby the impact of reducing labour costs is distributed among a large number of employees by means of a reduction in working time (IT0205202F). Restructuring also took place in a range of 'new economy' companies in Italy (IT0203305F). However, the most prominent case of industrial restructuring in Italy is the reorganisation of the motor manufacturer Fiat Auto. After some months of discussions between Fiat management and trade unions, industrial action and the drawing up of restructuring plans and measures, an accord was reached between Fiat management and the Italian government in December 2002 (IT0212211F). This has, however, been rejected by trade unions.

A further example of job security in the face of motor manufacturing restructuring was found in the UK, where the closure of Ford's Dagenham plant and Vauxhall's Luton plant, with the loss of 3,000 jobs, took place without compulsory redundancies (UK0205104F).

In Finland, a central goal of the trade unions in the bargaining over a new central incomes policy agreement for 2003-4 was to obtain greater financial compensation for employees who are made redundant (FI0209102F). They were not successful, but instead it was agreed that an 'employment programme' for workers threatened by redundancy should in future be prepared in cooperation between employers, employees and public authorities. The aim is to ensure that redundant employees will be able to find a job quickly, either with the same or another employer. In addition, the period of increased income-related unemployment benefit will be extended for employees with 20 years' employment.

Equal opportunities and diversity issues

Equal pay and equal opportunities for women and men remain issues which appear on the bargaining agenda to varying degrees throughout Europe, though overall they cannot be said to be at or near the top of this agenda in most countries. For example, a study on 'Equal pay between men and women in collective bargaining' conducted in 2002 by Greece's Research Centre for Gender Equality (KETHI) found that the content of collective agreements in Greece is rather poor in this area, and that collective bargaining does not work as a measure to promote equal pay – however, there are examples of collective agreements that have contributed to reducing the gender pay gap (GR0212103F). In Spain, although a number of non-discrimination and equal opportunities clauses exist in company and sectoral agreements (ES0209103F), the number of these clauses concluded in 2002 stagnated somewhat. The year also saw little in the way of equality bargaining in countries such as Austria and Germany, while the issue does not appear significantly in bargaining in the candidate countries

However, concern in many quarters that the gender pay gap remains unacceptably wide (averaging around 20% across the EU and Norway – TN0303102U), translated in some countries into efforts to address this problem in 2002. For example:

- in Belgium the 2001-2 intersectoral agreement commits the social partners to maintaining efforts to achieve greater equality between men and women. This includes reviewing job classifications with a view to making them gender-neutral;
- Finland's 2003-4 central incomes policy agreement again includes an 'equality increment' (of 0.3% in 2003) to be used for improving gender wage equality;

- the Netherlands' bipartite Labour Foundation (Stichting van de Arbeid) developed a checklist on equal pay, to be used by negotiating parties at sectoral and company level; and
- in the UK, the Equal Opportunities Commission began a consultation on a revised version of its code of practice on equal pay in December 2002.

In Denmark, however, an amendment to the Act on Equal Pay for Men and Women, aimed at creating more transparency in wage data by obliging employers to produce gender-based pay statistics, was postponed by the new liberal-conservative government in May 2002 (DK0206101N).

On broader gender equality issues, Italy provided several prime examples of innovative agreements in 2002. At local and regional level, the issues of equal opportunities and gender inequality were addressed in a new 'pact for employment and growth' signed in Milan by the municipal authorities, trade unions and employers' organisations (IT0205203F) and in a 'Pact for the development of the economy, work, quality and social cohesion in Lombardy' (IT0209206F). The measures agreed in Lombardy include initiatives to support female employment, such as specific training measures, counselling and the provision of incentives to support the creation of company childcare facilities and the implementation of more flexible working hours. At company level, an agreement signed at Ferrero in October (IT0212103N) introduced, as a two-year experiment, the possibility of job-sharing schemes - whereby two workers share the same position - especially designed to meet the needs of working mothers who have completed their maternity leave and whose children are still under the age of three, and of workers with serious health problems.

Gender mainstreaming is an issue which is gaining ground in some countries. For instance, in Austria, the Union of Salaried Employees (Gewerkschaft der Privatangestellten, GPA) approved in November 2002 a gender mainstreaming plan which will oblige the union to examine all its collective agreements for clauses discriminating against women in terms of pay and qualifications.

Other diversity issues, such as those relating to older workers, workers with disabilities and ethnic minority workers, do not appear to have featured significantly in bargaining in 2002, with the possible exception of older workers in some countries. One relevant initiative in this area was a collective agreement reached by the Belgian social partners on the National Labour Council (Conseil National du Travail/Nationaal Arbeidsraad), which lays down the rules for a right to outplacement assistance for older workers (over the age of 45) who lose their jobs (BE0208301N). The new three-year collective agreements for Denmark's central government and municipal/county sectors contain strengthened measures for older workers ('senior policy').

The Norwegian government and social partners signed an agreement on an 'inclusive working life' in 2001, which includes a scheme whereby companies conclude agreements with the social insurance authorities, committing themselves to monitoring closely employees on sick leave and to making adjustments to the workplace for older or disabled employees. By the end of 2002, such agreements covered around a quarter of Norwegian employees (NO0301104F). Policy for older workers has also received considerable attention from the Finnish social partners (FI0204101F). Finally, at European level, an interesting development in 2002 was a set of voluntary guidelines on promoting age diversity at the workplace agreed by the social partners in the commerce sector (EU0205202N). The guidelines focus on areas such as non-discrimination, equal access to training, and adaptability of working time arrangements in order to allow older workers to carry on participating actively in the labour force.

Table 6 Trends in collective bargaining in the EU Member States, Hungary, Norway, Poland and Slovakia in 2002

Country	Trends
Austria	Bargaining in 2002 was, as usual, conducted at sector level, based on the pace-setting metalworking industry. One new development in 2002 was the conclusion of a first-ever agreement for temporary agency workers.
Belgium	2002 was covered by the second-year provisions of the 2001-2 intersectoral agreement. This accord provided for a 'wage norm' of 6.4% for 2001 and 2002. However, it is estimated that private sector pay growth was 7.3% over this period. A new intersectoral agreement for 2003 and 2004 was concluded in December 2002, providing for a new wage norm of 5.4% over 2003-4.
Denmark	Collective bargaining took place in the public sector at state level and at municipal/county level (the private sector was largely covered by earlier multi-year agreements). The new three-year accord for state employees provides for an overall framework of a 7.55% increase in costs. A pilot scheme on a flexible, decentralised pay system (Ny Løn) has been made permanent. At municipal/county level, the new three-year accord provides for a 5.55% pay increase in addition to extra holidays, improvements to pension provision and extra funding for the flexible, decentralised pay system.
Finland	2002 was covered by the second year of the 2001-2 central incomes policy agreement. A new agreement was concluded in November 2002 after some weeks of difficult negotiations. The accord increases pay costs by 2.9% from 1 March 2003 and a further 2.2% from 1 March 2004, in addition to covering a range of 'qualitative' areas, such as working time, training, partial care leave and the status of worker representatives.
France	It is expected that figures for 2002 will demonstrate a reduction of overall bargaining activity at both sectoral and company level. Further, there is evidence that the issue of working time reduction, which has dominated bargaining since 1998 due to the legislation on the 35-hour week, is beginning to lose ground in favour of pay. This is partly due to the fact that many pay moderation and pay freeze agreements, concluded in conjunction with working time reduction, are now coming to an end.
Germany	Bargaining in 2002 was dominated by the conclusion of new agreements in large sectors such as chemicals, metalworking and construction. Many of the new agreements will run beyond the end of 2003. In pay terms, the pace was set by the metalworking accord, which provided for an increase of 4% in 2002. The average annual collectively-agreed increase in 2002 was, at 2.7%, higher than in the previous two years.
Greece	A new two-year national agreement was concluded in April 2002. The new accord provides for an increase in minimum pay rates of 5.4% in 2002, plus inflation guarantees, and a 3.9% increase in 2003. The accord subsequently formed the basis for negotiations at lower level. Overall, the year saw a greater decentralisation of bargaining.
Hungary	In quantitative terms, bargaining declined at both sectoral and company level during 2002. At sectoral level, 18 agreements were signed, of which 10 contained provisions relating to pay. However, the pay provisions were largely 'symbolic'. At company level, the number of agreements concluded declined significantly, although accords contained pay increases of 11% on average, slightly higher than levels recommended nationally.
Ireland	2002 was covered by the final year of the 2000-2 national agreement. Debate about whether or not to negotiate a new national incomes policy agreement dominated the bargaining agenda for most of the year. In the end, the social partners succeeded in concluding a new draft accord in January 2003 after negotiations had broken down completely at one stage. The other main bargaining issue in 2002 was public sector pay, based on the publication of a public sector pay 'benchmarking' report in August 2002.
Italy	At the end of 2002, a total of 51 industry-wide collective agreements were in force (out of 80 agreements covering 11.5 million employees examined by an Istat survey), covering around 7.5 million employees (a fall from the 2001 figure). During 2002, 34 industry-wide agreements were signed, covering around 3.6 million employees. These included a range of sectors in manufacturing and construction. For example, in the chemicals sector, a new accord was concluded in February, providing for an eight-hour reduction in annual working time and the establishment of a voluntary sectoral supplementary health insurance scheme.
Luxembourg	Notable bargaining events in 2002 included the conclusion of a new three-year pay agreement in the public sector, providing for an annual pay increase of 1.6% in 2002, 2003 and 2004. In the banking sector, a new two-year accord was signed by the Luxembourg Association of Banking and Insurance Staff (Association luxembourgeoise des employés de banque et d'assurance, ALEBA) only, after it was deemed to be representative by the administrative courts. However, other nationally representative unions protested against this.
Netherlands	Pay moderation was a key issue for employers and the government during 2002, a factor which made negotiations difficult on occasion. Unions stated that they were not prepared to moderate wage claims if the government went ahead with plans to abolish subsidised employment schemes and reform occupational disability insurance legislation. The average collectively agreed increase was 3.8%, with the lowest in industry and transport (2.9%) and the highest in agriculture (4.5%). In November, the government and social partners concluded a 'social agreement' for 2003, which included a pay increase limit of 2.5% – the first such centrally agreed wage ceiling for a decade.

Table 6 (continued)

Country	Trends
Norway	Bargaining was carried out on a sectoral basis during 2002. Negotiations began with the manufacturing industry settlement, which it is estimated will generate wage growth of around 5%. The settlements that followed, in both the private and public sectors, included some which provided for even higher increases. Overall wage growth in 2002 is estimated to be 5.5%, significantly above inflation of 1.3%.
Poland	Collective bargaining has relatively little overall impact on industrial relations in Poland as many issues are regulated either by legislation or by tripartite commissions at national and regional levels. According to the Ministry of Labour and Social Policy, 143 multi-employer agreements and 111 additional protocols were registered with the ministry as at 15 February 2002, covering a total of around 750,000 employees.
Portugal	In quantitative terms, the number of agreements negotiated in 2002 was around 4.5% lower than during 2001. Pay and pay-related items remain the most popular bargaining topics. Other issues covered by bargaining during the year included working time, annual leave, career development, job classification and training.
Slovakia	In quantitative terms, the number of agreements concluded remained stable during 2002. In total, 62 sector- or branch-level agreements were concluded during the year. New legislation, which came into force on 1 April 2002, liberalised collective bargaining in the private sector, allowing the social partners to bargain on any issues of common interest.
Spain	Pay negotiations during 2002 were conducted within the framework of a national accord on pay moderation concluded by the main social partners. Overall, however, it would appear that purchasing power was lost over the year – the average collectively-agreed pay increase was 3% in September 2002, compared with inflation of 3.5% at that time. The national accord also provided for bargaining to focus on employment and health and safety.
Sweden	2002 was a rather quiet year in terms of collective bargaining, as many sectors were covered by three-year accords negotiated in 2001. An exception was the government sector, where a total of three agreements were negotiated. Further, new agreements in the information and communications technology sector were concluded in December.
United Kingdom	Collective bargaining in the UK continues to be highly decentralised, with most bargaining carried out at company or workplace level and little multi-employer bargaining outside the public sector. In terms of pay, collectively-agreed basic pay rose by an average of 3.0% during 2002, while average earnings increased by 4.2%.

Source: EIRO.

Legislative developments

As indicated in table 7 on p. 43, 2002 was a busy year in terms of the adoption of new employment legislation.

New equality legislation featured in many Member States. In Belgium, a new law aimed at combating ‘moral’ (ie bullying) and sexual harassment in the workplace was passed in 2002 (BE0205301N). In Denmark, new legislation amended existing laws on maternity and parental leave (DK0202104F), and in Austria, a ban on night work for women was revoked during 2002 (AT0207204F). In Norway, the Gender Equality Act was amended, covering matters such as an obligation on companies to report on equal opportunities, equal pay for work of equal value and banning sexual harassment (NO0204101N). In Poland, amendments made to the Labour Code in 2002 (see below) seek to tackle persistent gender-based discrimination at work and the fact that it has been very difficult for victims of discrimination to seek legal redress (PL0211105F).

Several countries implemented, or prepared to implement, EU Directives 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (EU0006256F) and Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation. Relevant legislation was approved by the Belgian parliament in December (BE0212304F). In Norway, a public committee delivered its

recommendations for the implementation in Norway of Directive 2000/78/EC – the main change involved is the introduction of a ban on discrimination on grounds of age (NO0301102N). In the UK, consultation on new discrimination legislation in response to the Directives took place during the course of 2002 (UK0201117N).

Working time and work organisation featured in new legislation in many countries. In France, where the legislative agenda has been dominated for many years by the introduction of the 35-hour week, the new government took steps in the latter part of the year to soften the impact of the working time reductions, mainly by increasing the annual overtime quota (FR0209105F and FR0210106F). In Denmark, a new law on part-time work was passed in 2002 after much debate (DK0206102N). The new legislation seeks to make access to part-time work easier, by means including the controversial abolition of restrictions on the use of part-time work laid down in collective agreements. In Luxembourg, new legislation implementing a 40-hour statutory working week in the hotels and catering sector (after a 30-year legal vacuum) in three stages was adopted in 2002 (LU0301107F). In the Netherlands, the EU fixed-term contracts Directive (1999/70/EC) was implemented in November 2002, and in Sweden too, new legislation implemented the EU fixed-term work and part-time work (97/81/EC) Directives in 1 July 2002 (SE0208102N).

Labour market reform was another area which saw much legislative activity during 2002. In Germany, a special commission set up to look at ways of increasing employment – the Hartz commission – issued its reform proposals in August (DE0209205F). These proposals have formed the basis for new legislation, including provisions promoting temporary agency work (DE0212203N). A new law in the area of labour migration, covering employment permits for domestic staff from central and eastern European countries, came into effect at the beginning of 2002 (DE0201226N). However, further labour migration legislation was successfully challenged in the Federal Constitutional Court (Bundesverfassungsgericht) later in the year (DE0210204F).

In Denmark, new legislation on labour market reform was passed in October (DK0210102F), creating a simplified single system of measures aimed at getting unemployed people back into work and replacing the previous dual system of separate provision for those with and without unemployment insurance. Also in Denmark, a new law permitted cross-sector unemployment insurance funds – in addition to the existing trade union-run sectoral funds – making it possible for employees to choose freely between funds (DK0209102F). In Spain, much of the year was taken up with debate on the government's proposals to reform unemployment benefit. After some months of protests from trade unions, much of the legislation was revoked (ES0212201N).

Similarly, the Italian labour market parties were occupied with the issue of labour market reform for much of the year. The government's original proposals were the cause of much industrial unrest during the year (see below under 'Industrial action'). However, in July the government and most of the social partners – with the exception of the General Confederation of Italian Workers (Confederazione Generale Italiana del Lavoro, Cgil) union confederation – signed a 'Pact for Italy' on labour market measures (IT0208103N), which has since formed the basis for new legislation.

Extensive general labour law changes were made or debated in a number of countries. The Portuguese government is seeking to introduce a Labour Code, which would replace most current labour legislation by bringing existing provisions together in a single text. At the same time, current

collective and individual employment law provisions would be amended significantly in a variety of areas. The text had not been finalised by the end of the year, but it is believed that the Code will be the most significant legislative event in Portuguese industrial relations for 30 years (PT0211104F). In the UK, wide-ranging legislation in the form of the Employment Act 2002 reached the statute book in July 2002 (UK0210103F). This contains a range of provisions, relating to issues such as work/life balance, employment tribunal procedures, workplace dispute-resolution mechanisms and equal treatment for fixed-term employees.

Major legislative changes have been implemented in the candidate countries, in order to comply with the 'acquis communautaire' – the body of EU law that candidate countries must adopt. Thus in Poland, the Labour Code was overhauled in 2002, with major changes to the regulation of fixed-term work, working time, breaks and the introduction of provisions banning sex discrimination (PL0209107F). Similarly, in Slovakia, the Labour Code was reformed with effect from 1 April 2002 (SK0207102F). The new Code lays down the basic rights and obligations of employers and employees in the business sector, covering matters such as employment relationships, pay, working time and collective labour relations. The aim is to meet the requirements of the market economy and balance the interests of employers and employees, while harmonising Slovakian labour legislation with EU law. In addition, also from 1 April 2002, new employment legislation came into force for the civil service and the public service (SL0206102F).

In Hungary, the Labour Code was amended in 2001 as part of attempts to implement the *acquis communautaire*, including the EU working time Directive. However, trade unions objected to the new legislation, perceiving it to be too flexible and accusing the government of trying to cut wage costs on the pretext of implementing EU legislation. The socialist-led government which came to office in April 2002 partially restored the pre-2001 provisions with regard to flexibility in work organisation and working time, and set higher minimum standards in some areas than the working time Directive (HU0210101F). The 2002 Labour Code amendments also included extensions of trade union workplace rights and the duties of employers in terms of information and consultation.

Table 7 Main legislative developments in 2002

Subject	New legislation
'Atypical work'	In <i>Sweden</i> , new legislation implementing the EU Directives on part-time work and fixed-term contracts came into force on 1 July. In November, the fixed-term contracts Directive was implemented into <i>Dutch</i> law. In <i>Denmark</i> , new legislation on part-time work was adopted in June. <i>German</i> legislation on labour market reform adopted in November included measures to promote an expansion of temporary agency work.
Employment, labour market and job creation	In <i>Italy</i> , most of the year was taken up with discussions about the government's plans to reform labour market regulation. A new 'proxy law' was finally passed by parliament in February 2003 - following an agreement with most social partners reached in July 2002 - which delegates to the government the authority to introduce significant legislative amendments in this area. Similarly, labour market reform dominated debate in <i>Germany</i> . Recommendations on reform issued by the Hartz commission in August made it onto the statute book towards the end of the year. In October, the <i>Danish</i> parliament approved a government labour market reform plan, aimed at getting unemployed people back into work. On migration issues, a new <i>Italian</i> law on immigration was passed in August, introducing stricter controls and closer links between employment and residence permits, while <i>Portugal's</i> immigration law was amended and a new law came into force in <i>Germany</i> offering employment permits to domestic staff from central and eastern European countries. In <i>France</i> and <i>Portugal</i> , new legislation was passed which aimed to encourage the recruitment of young people.

Table 7 (continued)

Subject	New legislation
Equality	In <i>Denmark</i> , new legislation regulating parental leave and maternity leave was adopted in March. One of the main features of the <i>UK's</i> Employment Act 2002 is the introduction of a right (from 6 April 2003) for parents of children aged under six to request flexible working patterns for childcare purposes. In the spring, the <i>Norwegian</i> Gender Equality Act was amended, and private companies given until 2005 (state-owned companies until 2003) to improve women's representation on company boards to at least 40%, failing which a gender quota will be introduced. In <i>Belgium</i> , new legislation on 'moral' and sexual harassment was adopted in the spring, along with measures to extend paternity leave and introduce paid breaks for breastfeeding. In July, new legislation ending a previous ban on night work for women was adopted in <i>Austria</i> . New legislation in <i>Poland</i> made it easier to bring sex discrimination cases and amended protective regulations on women's employment.
Health and safety	New health and safety legislation was passed in February in <i>Portugal</i> . In <i>Finland</i> , new occupational health legislation came into force on 1 January, aiming to deal with changes in working life and increased stress.
Industrial relations	In <i>Slovakia</i> , three new acts on the Labour Code, the civil service and the public service took effect in April, regulating employment relations and collective bargaining. In the <i>UK</i> , the wide-ranging Employment Act 2002 reached the statute book in July. It contains a range of provisions, including reform of employment tribunal procedures, and workplace dispute-resolution mechanisms. In <i>Poland</i> , the Labour Code was amended in July.
Social security	In <i>Sweden</i> , a new law was passed in April, reforming the country's occupational injury insurance scheme, and in June unemployment benefits were increased. A major reform of unemployment benefit was introduced in <i>Spain</i> in May, but largely repealed by the end of the year, following union protests. In <i>Denmark</i> , a new law adopted in June permitted cross-sector unemployment insurance funds. In December, new legislation on retirement and invalidity pensions provided by the social security system was passed in <i>Portugal</i> .
Termination of contract	In <i>France</i> , a number of provisions of a recent law relating to redundancy protection were suspended in December for 18 months, pending amendments to restrict its scope. The key provisions relate to information and consultation rights and the right of employee representatives to bring in a mediator. In <i>Austria</i> , legislation establishing a new severance pay scheme was adopted in June.
Working time	In <i>France</i> , the new government took steps in 2002 to limit the scope of working time reduction legislation. Although the 35-hour week will not be repealed, its application will be made more flexible by increasing the annual overtime quota. In <i>Hungary</i> , the government had, in 2001 introduced new legislation implementing the EU working time Directive, among other measures, but this was controversial, with trade unions objecting to what they felt was too much flexibility. The new government, elected in 2002, partially restored the pre-2001 working time regulations. In <i>Luxembourg</i> , new legislation passed in December introduces a 40-hour statutory working week in the hotels and catering sector in three stages starting in January 2003.
Miscellaneous	In July, the amended 1998 EU Directive on transfers of undertakings was implemented into both <i>Dutch</i> and <i>Greek</i> law. A controversial new law on the minimum wage was adopted in <i>Poland</i> in October, increasing the minimum wage, amending the way in which it is set, and setting a lower rate for recent school-leavers.

Source: EIRO.

The organisation and role of the social partners

2002 saw a number of changes to the structure of social partner organisations throughout Europe. On the trade union side, many mergers were either discussed or implemented during the course of the year – see box 7 on the facing page. This is largely a response to the changing nature of membership and of work in general, and a way of cutting costs in the context of declining membership in many, although not all, countries.

Box 7 Trade union restructuring and reorganisation in 2002

Specific trade union restructuring and related events in 2002 included the following:

- Austria's largest union, the white-collar GPA, finalised an internal restructuring process in November 2002 (AT0212202F). Its governing body also approved a planned merger with four other unions affiliated to the Austrian Trade Union Federation (Österreichischer Gewerkschaftsbund, ÖGB), including the Metalworking and Textiles Union (Gewerkschaft Metall-Textil, GMT). This merger, which will take place in 2005, should allow for a more coordinated bargaining policy across a range of sectors;
- the Confederation of Christian Trade Unions (Confédération des Syndicats Chrétiens/Algemeen Christelijk Vakverbond, CSC/ACV), Belgium's largest union confederation, launched a reorganisation aimed at integrating its representational activities for white- and blue-collar members, and at increasing women's representation (BE0211301N);
- in Denmark, three unions affiliated to the Confederation of Danish Trade Unions (Landsorganisationen i Danmark, LO) decided to begin merger talks (DK0211105F) – the General Workers' Union (Specialarbejderforbundet i Danmark, SiD) and the Union of Female Workers (Kvindeligt Arbejderforbund, KAD) and the Union of Wood, Industrial and Building Workers (Træ-Industri-Byg, TIB). The merger, which would create Denmark's largest union, is planned to take place in 2004;
- in Finland, two blue-collar unions affiliated to the Central Organisation of Finnish Trade Unions (Suomen Ammattiliittojen Keskusjärjestö, SAK) – the Chemical Workers' Union (Kemiantiliitto) and the Textile and Garment Workers' Union (Tekstiili- ja vaateustyöväen liitto, Teva) – announced their intention to merge by June 2004 (FI0204102N);
- in Germany, the metalworkers' trade union IG Metall initiated a review of its future direction, which received considerable public attention (DE0206205F);
- at its conference in November, the Greek General Confederation of Labour (GSEE) took a number of important decisions on restructuring. There will be closer cooperation and, it is planned, eventual merger with the other main union confederation, the Confederation of Public Servants (ADEDY), along with greater coordination between GSEE member organisations at various levels (GR0212102F);
- the National Association of Hungarian Trade Unions (Magyar Szakszervezetek Országos Szövetsége, MSZOSZ) set up a new structure based on six clusters of sectoral federations (HU0212101N). It is hoped that this new structure will enable the federations to respond to the challenges of the market economy and facilitate the development of sectoral dialogue;
- a large number of changes took place in Norway during 2002. Two teachers' unions merged on 1 January to form the Norwegian Education Union (Utdanningsforbundet) (NO0110105N). It was decided in October to merge the Norwegian Union of Municipal Employees (Norsk Kommuneforbund, NKF) – affiliated to the Norwegian Confederation of Trade Unions (Landsorganisasjonen i Norge, LO) – and the independent Norwegian Association of Health and Social Care Personnel (Norsk Helse- og Sosialforbund, NHS), creating Norway's largest union (NO0211106F). A new confederation was established in January – the Confederation of Higher Education Unions (Utdanningsgruppernes Hovedorganisasjon, UHO), which mainly represents public sector staff with high levels of education and qualifications (NO0201184F). Finally, a number of LO transport and service sector unions started deliberating a possible merger (NO0210102F);
- in Poland, a new national trade union centre, the Trade Unions Forum (Forum Związków Zawodowych, FZZ), was established (PL0212109F). It is now seeking a seat on the national Tripartite Commission (Komisja Trójstronna);

- in Sweden, talks were held throughout the year on the possibility of a number of union mergers, including in local government, metalworking (SE0212101N) and transport (SE0203101N); and
- in the UK, a merger between the Amalgamated Engineering and Electrical Union and the Manufacturing Science Finance union took effect from 1 January, creating a new union, Amicus (UK0104123N).

The representativeness of unions was a major issue in some countries during 2002. In France, the representative status of trade unions was the subject of much discussion during the year, with the government due to launch talks on the rules governing collective bargaining in early 2003. Elections to joint industrial tribunals (conseils de prud'hommes), a major test of trade union representativeness in the private sector, were held in December 2002 (FR0301107F). The positions of the unions remained stable, with the General Confederation of Labour (Confédération générale du travail, CGT) gaining the largest share of the vote. In Luxembourg, the government presented a new bill dealing with collective labour relations in November (LU0211102F). Among other issues, the bill redefines the concept of the 'national representativeness' of trade unions – a status that governs matters such as which unions are allowed to sign collective agreements – which has caused much debate and dispute in recent years. The proposals were largely welcomed by the main union confederations, but opposed by the Luxembourg Association of Banking and Insurance Staff (ALEBA), which has been at the centre of the recent representativeness debate. Representativeness was also under discussion in the Netherlands (NL0206105F).

As mentioned above, the background to much union restructuring is that trade union membership continues to fall in a number of countries. For example, membership of unions affiliated to the German Federation of Trade Unions (Deutscher Gewerkschaftsbund, DGB) dropped by 199,000 (2.5%) in 2002 to stand at 7.7 million (DE0302201N). However, while membership has continued to fall for over 10 years, the pace of decline slowed in 2002, with some unions seeking to improve their recruitment strategies. In 2001, union membership in the Netherlands fell by 0.4%, though with contrasting fortunes for the main confederations. In Sweden, the professional workers' unions affiliated to the Swedish Confederation of Professional Associations (Sveriges Akademikers Centralorganisation, SACO) recorded a record membership increase of 4.4% in 2001, while the white-collar unions affiliated to the Swedish Confederation of Salaried Professionals (Tjänstemännens Centralorganisation, TCO) experienced a rise of 1.3%. However, the largest confederation, the blue-collar Swedish Confederation of Trade Unions (Landsorganisationen, LO), lost 2.6% of its members.

Union membership decline has been particularly notable in some candidate countries. An example is Hungary, where figures published in May 2002 indicated that the number of people contributing some of their income to any of the trade unions fell by 6% from 2000 to 2001 (HU0206102N). Over the past 20 years, trade union density in Poland has dropped from 80% of the workforce to 14% in 2002 (PL0208105F).

On the employer side, a number of significant organisational events took place during 2002 – see box 8 on the facing page.

France is unusual in that employers' organisations face a major test of their representativeness every five years in the form of the election of employers' representatives on joint industrial

tribunals. In the December 2002 elections (FR0301107F), the major organisations – the Movement of French Enterprises (Mouvement des entreprises de France, MEDEF), the General Confederation of Small and Medium-sized Enterprises (Confédération générale des petites et moyennes entreprises, CGPME), the Craftwork Employers' Association (Union professionnelle artisanale, UPA), the National Federation of Farmers' Unions (Fédération nationale des syndicats d'exploitants agricoles, FNSEA) and the National Union of the Liberal Professions, (Union Nationale des Professions Libérales, UNAPL) – presented their usual united slate of candidates, despite mounting tensions, especially between MEDEF and UPA, during the year (FR0206101N). The slate won over 80% of the vote. However, organisations representing the 'social economy' (mutual insurance societies, cooperatives, and not-for-profit organisations) caused a major surprise by running their own slate and winning over 11% of the vote.

Box 8 Employers' organisation restructuring and reorganisation in 2002

Restructuring and related events affecting employers' organisations in 2002 included the following:

- in Austria, the Chamber of the Economy (Wirtschaftskammer Österreich, WKÖ) continued a series of reforms. Membership dues have been reduced and the organisation plans to reduce staff in order to cut costs;
- on 1 July, three major Danish service sector employers' organisations merged, creating Commerce, Transport and Service (Handel, Transport og Serviceerhvervene, HTS). With more than 10,000 affiliated enterprises and 90 sectoral member organisations, HTS is Denmark's second-largest combined trade and employers' organisation (DK0207102N);
- in Germany, employers' organisations are suffering from declining membership, particularly in the eastern part of the country. A study published in 2002 found that some associations have begun to offer companies a new kind of membership, under which they are not covered by sectoral agreements, but still receive a full range of other membership services (DE0212202F);
- in May, the Confederation of Norwegian Business and Industry (Næringslivets Hovedorganisasjon, NHO) and the Confederation of Norwegian Commercial and Service Enterprises (Handels- og Servicenæringens Hovedorganisasjon, HSH) announced their decision not to go ahead with a planned merger, citing significant differences in areas such as their organisational structures (NO0206102N); and
- in November, the boards of the Swedish Association of Local Authorities (Svenska Kommunförbundet) and the Federation of Swedish County Councils (Landstingsförbundet) decided unanimously to propose a merger to create a new employers' association for almost all of the local government sector (SE0212101N). The new body could be in place at the end of 2004.

Industrial action

While no overall strike statistics are yet available, it appears that 2002 was, like 2001, a varied year in terms of industrial action, with some countries experiencing little activity (such as Denmark, Finland, Luxembourg and Sweden) but others witnessing significant unrest, often in the form of 'political' action by trade unions against government policies, notably concerning the labour market, labour law and public restructuring. This was the case in Spain and Italy, where unions staged national-level protests against government labour market reform proposals. In both countries, the governments have since modified their original plans, to some extent in collaboration with the social partners.

In Spain, trade unions staged a one-day general strike on 20 June 2002 (ES0207201N), mostly in protest against the government's proposals to reform unemployment benefit. However, commentators also note that this marked the culmination of trade union frustration with the government, which the unions accused of having issued legislation without full social partner consultation on many occasions in the recent past. Following the strike and other protests, most of the original proposals were withdrawn.

In Italy, trade unions organised a united general strike on 16 April 2002 in protest against the government's labour market reform plans and in particular against proposals to modify Article 18 of the Workers' Statute, which guarantees reinstatement for employees found to have been unfairly dismissed. Accordingly, April alone accounted for 50% of all days lost to industrial action during the year. Two of the main union confederations – the Italian Confederation of Workers' Unions (Confederazione Italiana Sindacati Lavoratori, Cisl) and the Union of Italian Workers (Unione Italiana del Lavoro, Uil) – subsequently signed a tripartite agreement on labour market reform and other matters (see above under 'Legislative developments'), which included a compromise on Article 18. However, the third main confederation, Cgil, did not sign and continued its protests against government policy, including a one-day general strike on 18 October (IT0212104N). Italian protest strike action was not restricted to the national intersectoral level. For example, on 15 November 2002, metalworkers' unions organised a one-day general strike across the sector (IT0212106N). The action focused on supporting negotiations over the restructuring plan and job losses at Fiat (see above under 'Job security') and at putting pressure on the government to draw up a national industrial policy.

In Portugal, the the General Confederation of Portuguese Workers (Confederação Geral de Trabalhadores Portugueses, CGTP) staged a one-day general strike on 10 December (PT0212104F) in protest against the government's proposals to introduce a Labour Code incorporating major labour law changes (see above under 'Legislative developments'). In Austria, too, where there are often no strikes at all over the course of a whole year, 2002 saw the staging of a range of protests against government restructuring plans – as in railways (AT0211201N) schools (AT0206203F) and post-bus services (AT0206202N). In Belgium, industrial action included protests at the national rail company against restructuring plans (BE0205303F) and against the deregulation of the dockwork sector (BE0207302F).

The public sector was the scene of much strike activity in 2002. The UK experienced a significant level of industrial action during the first 10 months of the year – although the number of strikes was low, the number of workers involved was dramatically higher than in recent years, due to national disputes in the public sector or public services. Major disputes included strikes in the rail sector in January (UK0201169F), in local government in July (UK0208102N) and in the fire service, from November 2002 in support of a 40% pay claim (UK0211107F). While Greece experienced a relatively peaceful year in 2002, compared with the often high levels of industrial action experienced in the past, public servants staged a strike on 5 December in protest against low pay increases (GR0212101N). Ireland also saw relatively little strike action over the year, but high-profile disputes hit the health and education sectors and there was a major dispute involving pilots at the semi-state airline Aer Lingus (IE0205201N), linked to restructuring. France saw considerable public sector industrial action, involving groups such as civil servants (FR0211106F), customs officers (FR0205102N) and local public transport workers (FR0205103N). The public sector also witnessed strikes in Italy (IT0203102N) and Portugal (PT0209102N).

In the Netherlands, the level of industrial action is usually low, partly due to the fact that courts often step in to ban strikes (NL0209103F). However, some action did take place in 2002, including a wildcat strike at the airline KLM, staged by ground engineers over pay (NL0210101N). Further, the first-ever strike in the Dutch information and communications technology sector took place at Getronics in the summer over pay (NL0207102N).

In some countries, industrial action was linked to major collective bargaining rounds. This was the case in Germany, where important sectoral agreements were renewed throughout the course of the year. The most significant action was taken in metalworking, where unions staged 10 days of strike action before a settlement was finally concluded (DE0205206F). Other significant action took place in banking (DE0301202N) and in construction, where the union staged a first national strike for 50 years (DE0206204F). In Norway, nurses held a five-week strike in support of their demands to negotiate a new collective agreement (NO0201114N), which was ended by compulsory arbitration. Other strikes took place in connection with the 2002 bargaining round (NO0204103F), but the overall incidence of industrial action in 2002 in Norway was thought to be lower than during the previous main bargaining round, in 2000.

In France, a number of high-profile company-level strikes took place as a response to proposed restructuring exercises, closures and job losses, as at Lustucru (FR0207103N), Daewoo (FR0205101N) and Biscuiterie Nantaise (FR0203101N). There were also a number of disputes centring on pay and employment security, affecting several major retailers, fast-food restaurants and other service sector companies (FR0206106F, FR0202104F, FR0203104N and FR0203102N).

In terms of the regulation of disputes, a major development in 2002 was an agreement between the Belgian social partners on the resolution of industrial disputes and other matters, in which the partners undertake to prioritise social dialogue (rather than bringing court cases) in the event of any strike action (BE0204301N). In March, the Norwegian government issued proposals for amendments to the legislation relating to labour disputes. However, it proposed only minor modifications and did not recommend any changes to the present legal framework in areas such as bargaining, mediation and ballots over mediation proposals, which have been the subject of substantial debate in recent years (NO0205102F). During 2002, the European Commission was expected to launch consultations with the social partners on the possible establishment of a voluntary conciliation, mediation and arbitration service at European level (EU0206203F). However, no such consultations had taken place by the end of 2002.

Employee participation

An important event in the development of the EU framework of employee involvement law occurred in March 2002, with the adoption of Directive 2002/14/EC on national information and consultation rules (EU0204207F). The new Directive essentially obliges Member States to ensure that there are arrangements in place for informing and consulting employees on a range of issues. In practice, this Directive will have the largest impact in Ireland and the UK, the two current Member States which do not have general, permanent and statutory system of employee representation at the workplace. Accordingly, the UK government began the process of consulting on the transposition of the Directive into national law in July 2002 (UK0208101N). Employers' groups and the TUC issued their initial responses later in the year (UK0210101N). Similarly, in Ireland, the Directive has received mixed reviews from the social partners. The Irish Congress of

Trade Unions (ICTU) is strongly in favour of the measure, while employers' organisations have opposed it on the grounds that it is a potential burden on business.

Elsewhere in the EU, the Directive appears to have caused relatively little stir, as the adjustments which must be made to national information and consultation provisions are generally thought to be quite minor. In Norway, which must transpose the Directive owing to the operation of the European Economic Area (EEA) agreement, the social partners have stated that they would like to implement it by means of collective agreements. The matter has been referred to a public committee which should make proposals on implementation by the end of 2003. The Directive is likely to have rather more impact in the candidate countries, which are still developing their systems of workplace involvement and representation. In Poland, for example, non-union forms of representation are still rare (PL0208106F). In Slovakia, some of the principles of the new information and consultation Directive have already been incorporated into the new Labour Code, which came into force in April 2002 and gives works councils rights to be informed and consulted on a range of issues. In Hungary, the provisions of the Labour Code on trade union rights at the workplace and employers' information and consultation duties were amended in 2002.

Germany's legislation on works councils, the Works Constitution Act, was reformed in 2001 and March-May 2002 saw the first elections of works council members under the new rules (DE0212204F). The aim of the legislative reform was to extend and improve employee representation at the workplace, and it looks as though it has succeeded. The provisional results show that the decline in the number of works councils has been turned around, and indicate greater stability and increasing numbers of works councillors. In comparison with the 1998 elections, the number of works councillors increased by 11%, the number of works councillors released from work full time nearly doubled, and the number of female works councillors increased by 5%.

Dutch legislation governing the operation of works councils is set to be evaluated in the near future. Recent research has highlighted concern about a perceived lack of interest in works councils among employees and about the ability of individual works council members to perform their duties (NL0203102F).

Turning from the national to the European level of worker involvement, the European Commission plans to consult the EU-level social partners in autumn 2003 about revising the 1994 Directive (94/45/EC) on European Works Councils (EWCs). 2002 saw considerable discussion, particularly in trade union circles, on possible strengthening amendments to the Directive. A major trade union conference was held in November in Aarhus, Denmark, to discuss this issue (EU0212208F). The year also saw – somewhat behind schedule – completion of the transposition of the Directive in Italy. The social partners had reached an agreement on transposition in November 1996, but a number of matters needed to be dealt with by legislation, and the relevant decree finally came into force in April 2002.

A more recent development in European-level worker participation is the Regulation (No. 2157/2001) on the European Company Statute (creating a new, optional form of company incorporated at EU level) and the accompanying Directive (2001/86/EC) on employee involvement in European Companies, adopted in October 2001 and due to be implemented in the Member

States by October 2004. There appear to have been few moves towards national transposition so far, and these have not gone beyond the consultative or preparatory stage (as in Finland, Italy and the Netherlands). For example, in Sweden, a government commission has been set up in order to prepare for implementation, and is due to report its findings by May 2003.

Finally, beyond the European level, in July 2002, management and employee representatives at DaimlerChrysler, the German/US motor manufacturer, agreed to establish a World Employee Committee, a formal representative body for employees and trade unions across the company's global operations (DE0209204N). The new body – one of only a handful of such world works councils – aims to improve the exchange of information between employee representatives in different countries, and between employee representatives and management.

Telework

Telework is a form of working which has grown in significance around the EU over the past decade (though not yet to any great extent in the candidate countries), largely due to the development of new technology which enables employees to work remotely from their employers' premises. The European Commission estimates that there are currently 4.5 million employed teleworkers (and 10 million teleworkers in total) in the EU.

In July 2002, the EU-level central social partners concluded an agreement on telework (EU0207204F). The signatories were: the European Trade Union Confederation (ETUC); the Council of European Professional and Managerial Staff (EUROCADRES)/European Confederation of Executives and Managerial Staff (CEC) liaison committee; the Union of Industrial and Employers' Confederations of Europe (UNICE)/the European Association of Craft, Small and Medium-Sized Enterprises (UEAPME); and the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP). Previous EU-level framework agreements have been implemented by Directives, but the telework accord will be implemented by the national social partners in the Member States (by July 2005) – the first time that this has happened. Given the recent nature of the agreement, national-level implementation was not yet far advanced at the end of 2002. However, the first steps have been taken in some countries, as shown in box 9 overleaf.

Aside from developments directly connected to the implementation of the European agreement, in 2002 there was debate and discussion, often at sectoral level, on how to regulate this area, looking at issues such as the employment terms and conditions for teleworkers, health and safety, equal treatment with office-based workers, representation rights, promotion and advancement issues, training and access to and contact with the workplace. In some cases, this has resulted in legislative proposals or collective agreements. In Austria, for example, agreements specifically dealing with teleworkers have been signed in an number of sectors, including electricity power supply, telecommunications, information technology services sector, mineral oil production and, most recently (from January 2003) information consulting. Similarly, in Germany, new provisions governing teleworkers were included in the agreement for the rail sector during 2002. On the legislative front, the proposed Portuguese Labour Code (see above under 'Legislative developments') includes provisions regulating telework. In Norway, a joint union/employer committee is examining the issue of work performed outside the traditional workplace. The committee is due to present its findings in July 2003.

Box 9 National-level implementation of the telework agreement

- in Spain, a new national intersectoral framework agreement providing guidelines for bargaining in 2003 contains a section committing the social partners to implementing the EU telework agreement.
- in Finland, there has been some discussion among the social partners on how to implement the agreement. It has been decided that the best way forward is a general bipartite accord at central level. A proposal for negotiation will therefore be issued once background discussions have been completed;
- shortly after the European agreement was signed, the chair of the DGB union confederation and the president of the Confederation of German Employers' Associations (Bundesvereinigung der deutschen Arbeitgeberverbände, BDA) issued a joint declaration which welcomed the accord and invited the sectoral collective bargaining partners and company-level parties to agree new regulations on telework;
- in Sweden, discussion has been taking place among the social partners on the implementation of the accord. Trade unions want to achieve this by means of collective agreements. However, private sector employers are not as enthusiastic about this approach; and
- in the UK, the social partners have agreed to enter into discussions on a voluntary code of practice on teleworking in response to the EU-level agreement.

Italy provides several examples of agreements on the use of telework for specific purposes. The new 'Pact for the development of the economy, work, quality and social cohesion in Lombardy' (see above under 'Equal opportunities and diversity issues') includes measures encouraging teleworking arrangements in the framework of supporting female employment and eliminating structural factors which impede the reconciliation of work and family responsibilities. A May 2002 agreement on the 2002-4 industrial plan of the Telecom Italia group includes provisions on using telework as a means of reducing the burdens on workers who are redeployed as part of a reorganisation process (IT0206203F). Moreover, the agreement provides that consultations may be held in individual companies and business units aimed at introducing, strengthening and developing the use of telework.

Vocational training

Vocational training and lifelong learning are issues which have gained in importance over the past few years as governments, social partners and policy-makers strive to ensure that workers learn and update skills which are relevant to today's fast-moving labour market. At EU level, the central social partners agreed a 'joint framework of actions for the lifelong development of competencies and qualifications' in March 2002 (EU0204210F), setting out four priority areas for action: identification and anticipation of competencies and qualifications needs; recognition and validation of competencies and qualifications; information, support and guidance; and resources. While the framework is not a binding text, the signatory parties hope to make an effective and specific contribution to the realisation of lifelong learning within the framework of the objectives established by the EU. The signatories' member organisations will promote the text 'at all appropriate levels' in the Member States.

So far, there appears to have been little in the way of specific responses to the new EU-level framework in the Member States. One exception is the UK, where an initial meeting between CBI

and TUC officials in 2002 discussed the preparation of a UK report in response to the framework. However, training is already an important issue for the national social partners in many countries. For example, it has been dealt with in intersectoral bargaining in a number of cases in recent years:

- in Belgium, the intersectoral agreement for 2001-2 included training as one of its objectives. It committed the parties to increasing the average proportion of the paybill which is devoted to training to 1.6% by the end of 2002, with a longer-term ambition to increase this to 1.9% of paybill by 2004;
- Finland's 2003-4 central agreement provides resources for funding a programme to raise the level of 'know-how' among adult employees. Furthermore, the basic amount of adult training benefit will be increased, personnel training will be made more effective and learning at work will be developed on a tripartite basis;
- in France, intersectoral negotiations on vocational training reform broke down in October 2001 (FR0111123F). However, new talks were convened in January 2003 (FR0302104N); and
- the Spanish national continuing training system is based on the extensive involvement of the social partners and collective bargaining in managing all levels of training, enshrined in the partners' third National Agreement on Continuing Training (ANFC), signed in December 2000 (ES0101130F). The government has recently proposed an overhaul of the system, transferring management of training to the regions and giving individual employers a greater role (ES0302103N). However, trade unions are opposed to this on the grounds that it would separate the issue of training from that of collective bargaining;

Training has also featured in bargaining at lower levels. For example, in Italy, the chemicals sector agreement signed in 2002 contained an innovative provision allowing individual workers and their employers to sign a training pact, under which the company allows the worker to participate in continuing vocational training and the worker agrees to modify their working hours, rest or other contractual obligations in order to take part (IT0203103N). In Austria, some sectors have introduced a collectively agreed entitlement to one week's training leave (eg the mineral oil sector and all telecommunications enterprises other than Telekom Austria) (AT0206201F). In September 2002, the establishment of a training institute for the Luxembourg building industry was announced, as provided for by a collective agreement signed in 2000. The institute, which will offer skills training at four levels, will be funded by a mandatory annual levy of 0.65% of total paybill on the enterprises in the sector (LU0210102F). In the Netherlands, training measures are included in the majority of collective agreements, according to a report published in 2002 by the Labour Foundation.

The social partners also focused on training outside the bargaining arena in a number of countries in 2002. In Ireland, the social partners have been looking closely at the issue in recent times, and in May 2002 the Irish Business and Employers Confederation (IBEC) launched a new policy document on training, which points to the need to 'up-skill' those in employment in order to ensure the continuing competitiveness of the Irish economy. The provision of training is currently one of the central concerns of trade unions in Germany, which are particularly anxious about the decline of training places on offer from employers (DE0209203F).

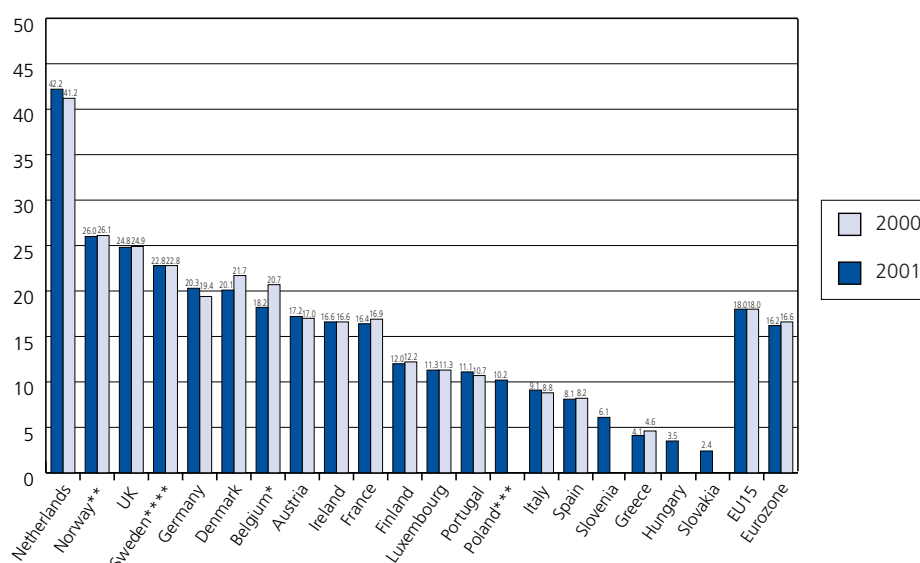
2002 also saw a number of training initiatives by governments. Legislation on a new individual learning and skills development plan was passed by the Swedish parliament in June 2002

(SE0204102F). The reform, which will come into operation on 1 July 2003, offers incentives to employees to undertake skills development and encourages employers to contribute to the financing of employee training. In Austria, a range of training measures were introduced, aimed at improving employment opportunities for young people under the age of 25 (AT0210201N). In August, the UK government began to develop a new network of employer-led sector skills councils, with the aim of improving skills, productivity and competitiveness (UK0211105F). The new government in Germany has stated that a reform of the vocational education act is one of the priorities for its forthcoming four-year term, while the new Portuguese government has promised to reform current training provision. In Hungary, the new government plans a comprehensive amendment of the 1993 vocation training legislation, and social dialogue has begun on the issue.

New forms of work

Part-time work and work on fixed-term contracts are now well established features of the labour market in most European countries – see figures 6 and 7 below. In 2002, high-profile debate and activity on ‘non-standard’ forms of work tended to focus more on issues such as temporary work through agencies and flexible forms of working (for information on developments in telework, see box 9 on p. 52)

Figure 6 Part-time work in the EU Member States

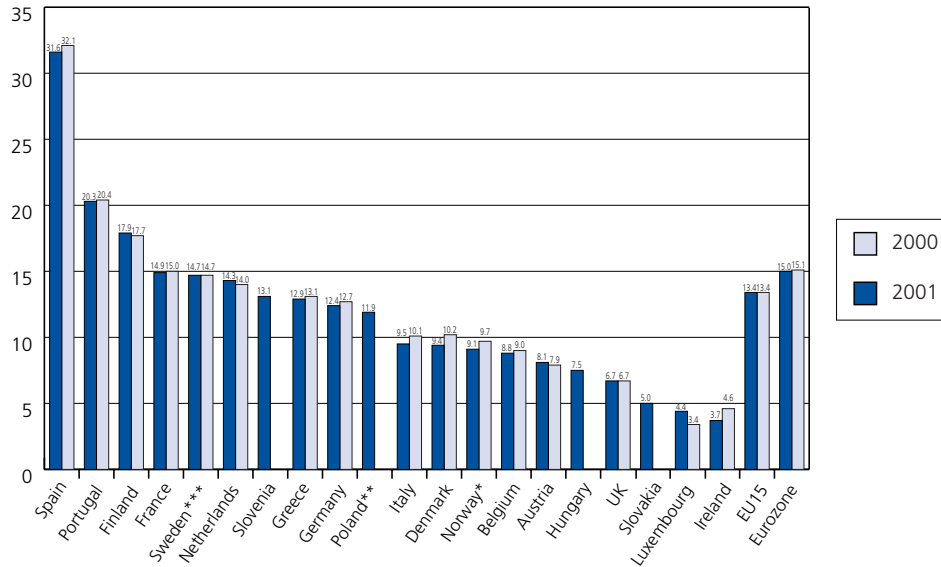


* Employees only (2000), ** Population between 15 and 74 (2001), *** Population over 15 (2001), **** 2000 data (2001).

There was, however, some legislative activity on fixed-term contracts and part-time work (see above under ‘Legislative developments’) in 2002. In Sweden, legislation came into force implementing the EU Directives on part-time work and fixed-term contracts. The Netherlands implemented the fixed-term contracts Directive in November 2002 without being obliged to modify existing legislation to any great extent. New Danish legislation was adopted, easing access to part-time work. Fixed-term work was a focus in Portugal’s debate on a proposed new Labour Code. The government initially proposed a significant deregulation of this form of work but, after negotiations with the social partners, these provisions have been modified somewhat. Poland’s amended Labour Code also deregulates the use of fixed-term contracts (PL0209107F). Finally, Ireland has yet to implement the EU Directive on fixed-term work and in 2002 the Irish government received a ‘reasoned opinion’

from the European Commission warning it that it was in breach of its obligations. The government intends to pass legislation in the near future.

Figure 7 Fixed-term work in EU Member States



*Population between 15 and 74. ***Population over 15 ***2000 data. (All notes relate to 2001)

It was probably temporary agency work which received most attention in 2002, not least because in March the European Commission issued a proposal for a Directive establishing a general principle of non-discrimination against temporary agency workers (EU0204205F). This sparked off debate in some countries. Notably, in the UK, where the temporary agency work sector is very deregulated, employers expressed concern about the proposed Directive (UK0212101N), though trade unions broadly support the initiative. A similar discussion occurred in the Netherlands.

The regulation of temporary agency work through collective bargaining expanded or continued in some countries in 2002. In Austria, the first-ever collective agreement covering this sector was concluded in January and was updated by a follow-up agreement in the autumn (AT0202202N). The accord is important as it provides for payment for workers for periods during which they are not hired out by an agency. In Italy, the social partners concluded a new national collective agreement for the temporary agency sector in July 2002 (IT0208101N). The accord deals with issues such as the creation and tasks of joint bodies and trade union representation. In the Netherlands, a new collective agreement for the sector came into force in September 2002. It runs for a total of nine months and provides for a pay increase of 2.75%.

The issue of temporary agency work took centre stage in Germany during 2002 as this formed the centrepiece of the Hartz commission proposals on labour market reform (see above under 'Legislative developments'). The Hartz commission advocated the setting up of special personnel service agencies (PSAs), attached to local labour offices, which will employ unemployed people and hire them out on a short-term basis. New legislation adopted in November (DE0212203N) covers employees of these new agencies, in addition to employees of existing private sector employment agencies. The new law relaxes some of the provisions of existing, rather restrictive, legislation governing the operation of temporary agencies. It also provides that temporary agency

workers have to be paid the same wages as permanent employees, and any deviations from equal pay are possible only through the provisions of collective agreements. At the end of the year, the social partners were engaged in negotiating a collective agreement regulating terms and conditions for temporary agency workers.

Box 10 Non-permanent work and industrial relations

An EIRO comparative study conducted in 2002 (TN02021015) examined 'non-permanent work', notably fixed-term contracts, temporary agency work and casual or seasonal work. It found that:

- although the situation varies from country to country, non-permanent workers are in some cases likely to face discrimination in a number of areas, often owing to length-of-service requirements for entitlement to some legal or collectively agreed entitlements, or benefits offered by employers. This can apply in areas such as dismissal protection and compensation, pay (especially bonuses and other additional payments), pensions (sometimes basic state pensions, and more frequently additional provision) and unemployment benefits;
- non-permanent employees (and especially those on shorter contracts) tend to receive less training than those on open-ended contracts, though temporary agency workers are sometimes better provided for in this area;
- there is some evidence of links between non-permanent employment and increased health and safety risks or poor working conditions;
- in some countries, there are service-related conditions for acting as employee or trade union representatives or standing and/or voting in elections, which may affect the representation of non-permanent workers;
- the extent to which non-permanent employment is dealt with in collective bargaining varies considerably between countries, and between forms of such employment. In many countries, collective bargaining relating to temporary agency work seems to be spreading, but non-permanent work in general, or other specific types of non-permanent work, seem to be rather less regulated by collective bargaining in most countries. There are relevant national intersectoral agreements in a few countries, and sectoral and company agreements in some others, generally adapting pay and conditions to non-permanent workers, or regulating the use of non-permanent work.

In Belgium, a set of bills on the reorganisation of the labour market proposed in November by the minister for employment and training in the Wallonia regional government include provisions regulating private placement services. In September, the Polish government presented proposals to regulate the legal status of temporary work, which is a relatively new phenomenon in Poland (PL0210104N). Finally, the UK government published for consultation a revised draft of the Conduct of Employment Agencies and Employment Business Regulations, which will update the law on the operation of employment agencies.

On new forms of work more widely, an Italian 'proxy law', drawn up during 2002 and passed by parliament in February 2003, delegates to the government the authority to reform the labour market, including the creation of a number of new types of contract, including 'work on call', whereby workers receive an 'availability allowance' in exchange for a commitment to work on an intermittent basis. Furthermore, parliament passed a decree which introduced maternity allowances for women engaged in 'freelance work coordinated by an employer' (IT0207303F) – one of the most widely used forms of atypical employment in Italy, affecting around 1 million workers.

In Austria, the government proposed extending unemployment insurance coverage to workers who are not dependent employees. However, this was postponed following calls from employers to extend this cover to people who have set themselves up as self-employed.

In Hungary, legislative amendments made in 2002 contained provisions relating to non-standard forms of work, including work on call, the posting of workers, the temporary reallocation of duties and the temporary transfer of an employee to another employer. In the UK, the government began consultations in July on extending existing statutory employment rights to categories of atypical workers who are not legally classified as 'employees'. These could include workers such as casual workers, agency workers, home workers, freelancers and those on 'zero hours' contracts. Trade unions are keen to extend statutory employment protection to all these types of employee. However, employers are wary, arguing that this would undermine flexible working.

Box 11 Economically dependent work

A 2002 EIRO study (TN0205101S) looked at the phenomenon of 'economically dependent workers' – workers who are formally self-employed but depend on a single employer for their income. The study found that such employment relationships exist in greatly varying forms in many countries, though are generally quite limited in terms of the number of workers involved.

Economically dependent work is a 'grey area' which creates problems for employment law. It is not recognised as a specific employment relationship by any national legal systems, though there have been some relevant legislative initiatives – such as the introduction of a 'presumption of subordination' for certain categories of workers (as in Austria, France, Greece and Portugal) or the extension of some specific aspects of protection (typically social security coverage, sometimes including health and safety provisions) to certain forms of self-employment (as in Austria, Germany and Italy) formerly devoid of them. Trade unions are increasingly calling for economically dependent work to be regulated properly and for social security coverage and employment law protection to be provided. Unions have made some efforts to recruit and represent the workers involved, but their situation is very rarely dealt with in collective bargaining.

Outlook

2003 looks set to be a challenging year in terms of industrial relations, collective bargaining and pay. In the context of economic uncertainty, there are many advocates of pay moderation, as in 2002. However, this looks likely to be achieved with varying degrees of success around Europe.

In political terms, the EU Presidency will be held by the Greek government during the first half of 2003 and by the Italian government during the second half of the year. In individual Member States, 2003 will see the formation of new governments in Austria and the Netherlands, following recent elections. The industrial relations implications will depend on the composition of the new coalition governments. General elections will be held in Belgium in June and Finland in the spring of 2003.

In terms of collective bargaining, new national agreements will govern developments in 2003 in a number of countries. A new two-year accord, covering 2003 and 2004, has been concluded by the social partners in Belgium. This will now be followed by negotiations at sectoral level. In Spain, a new national one-year framework accord for lower-level bargaining was concluded in January 2003 and in Finland, a 2003-4 national accord was concluded in November 2002. A draft national

agreement reached in Ireland in early 2003 awaits ratification by the social partners. However, aside from this, the issue of public sector pay is set to dominate Irish industrial relations in the coming months, with the implementation of a pay 'benchmarking' report issued in 2002.

In Germany, 2003 is likely to see much debate about the future of the tripartite national Alliance for Jobs, which was moribund in 2002, but which the government hopes to resuscitate in 2003 (though prospects seem poor - DE0302104N). This issue may be prominent in 2003 as there will be little sectoral bargaining this year: most large sectors concluded agreements in 2002 which extend into 2003 and beyond.

Sectoral bargaining will dominate in Italy during 2003 as the social partners in many large industries, including metalworking, aim to renew their collective agreements. The two-tier (sector and company/local) bargaining system put into place by a July 1993 tripartite agreement has been under strain for some time and 2003 will be a test of this system. In Sweden, the latter part of the year will be taken up with preparations for the 2004 bargaining round, when many large three-year sectoral agreements will be renewed. Debates are expected to focus on pay. Sectoral bargaining will take place in Denmark in 2003 in the finance sector and the meat industry, where collective agreements dating from 2001 will expire (most sectors are still covered by four-year agreements concluded in 2000).

The labour market will pose one of the biggest challenges of 2003 in many countries. In Germany, this issue is set to dominate the agenda as the government tries to bring down unemployment. Poland is another country which is concentrating on bringing down unemployment by means of labour market measures. Ambitious measures launched in June 2002 will continue to operate throughout 2003.

Pensions reform is causing headaches for many national governments. The French government is to examine the issue during the year, placing it high on the national industrial relations agenda. Social security more broadly is a topic which also may feature in debates during 2003. Furthermore, sickness absence has been a particular problem in some countries for many years. For example, in Norway, the question of reducing sickness absence is likely to surface during the autumn of 2003 when an earlier agreement on the issue is given a mid-term review. Similarly, the Swedish social partners will continue discussions on reducing the country's high levels of sickness absence.

In terms of new legislation, a comprehensive draft bill on labour relations is expected to be prepared in Greece in 2003. In addition, the Greek government is likely to prepare a legislative framework for fixed-term work. In Luxembourg, a new law on collective industrial relations and the regulation of industrial disputes, issued in November 2002, will make its way through the parliamentary process during the course of 2003. In Portugal, it is expected that the new Labour Code will be finalised during 2003. Similarly, changes to the Slovakian Labour Code are expected during the year. The transposition of recent EU Directives will be an important issue in some countries – for example, the way in which the government implements the EU employee consultation Directive will be a major focus of attention in the UK.

The relationships between the social partners may be tested in some countries. In Italy, cooperation between the main trade union confederations was under considerable pressure in

2002. Continuing divisions between them may hamper discussions on solutions to major issues such as the renewal in 2003 of the key sectoral collective agreement in metalworking. Finally, in the UK, elections will take place during 2003 for new general secretaries of two of the country's most influential trade unions – the Transport and General Workers' Union (TGWU) and the GMB general union. The outcome of these elections will have significant implications for government-union relations.

For many years, the migration of people from country to country has been a major issue on the policy agenda of the European Union and its Member States, and its importance has increased in recent times. Notably, in 1999, the Treaty of Amsterdam gave the EU competence for immigration from outside the Union and the Tampere European Council in October of that year agreed on the basic elements of a common immigration policy (covering all Member States apart from Denmark, Ireland and the UK, though the latter two may opt in on a case-by-case basis), these being that:

- it should be based on a comprehensive approach to the management of migratory flows, so as to find a balance between humanitarian and economic admission;
- it should include fair treatment for third-country nationals, aiming as far as possible to give them comparable rights and obligations to those of nationals of the Member State in which they live;
- a key element in management strategies must be the development of partnerships with countries of origin, including policies of co-development; and
- there must be a common policy for asylum which fully respects the terms of the Geneva Convention and the Member States' obligations under international treaties.

The European Commission has since proposed a series of Directives dealing with matters such as the conditions of entry and residence of third-country nationals for paid employment and self-employed activities, the right to family reunification and the status of third-country nationals who are long-term residents. A key element of the emerging strategy is the view that the EU needs migrants in certain sectors and regions as one element of the policies being developed to deal with its economic and demographic needs.

At the same time, the EU has been increasingly keen to promote the free movement of workers within the Union, both as an 'essential element of European Union citizenship' and to promote the creation of a genuine European labour market (EU0103202F). Efforts are increasingly being made to break down the barriers which still prevent full free movement in areas such as access to employment and social security (EU0301205F).

The phenomenon of migration predates the EU, and migratory flows have long occurred between the countries of Europe. In the 19th century, industrialising nations drew workers from neighbouring countries with, for example, Irish people moving to Britain, Italians to France, and central Europeans to the German empire. However, it is undoubtedly the case that the period since 1945 has been one of continuous international migration in Europe, with migratory flows ebbing and flowing but always occurring. Migration into Europe from other parts of the world also increased substantially in the post-war years, especially from the former colonies of some countries. The numbers of migrants have recently been high in historical terms, and the 1990s were the most 'migratory' decade for the continent since the Second World War. The recent period has been characterised by new migrations, particularly involving central and eastern Europe and the former Soviet Union.

Migration is of course closely connected to the labour market, with many people migrating for purposes of work. It can play a role in meeting employers' needs for labour, in the light of demographic change or skills shortages, while at the same time raising questions such as the

relationship between migrant workers and nationals who are unemployed, or the fair treatment of migrant workers in employment, both on grounds of equity and related to concerns about 'social dumping' in the form of a pool of migrant workers employed on a low level pay and conditions, or willing to accept employment on such terms. In this context, it can be expected that migration will have major effects on industrial relations systems and become an issue for the social partners and in dialogue and bargaining between them, as well as a theme in government employment policy and legislation. The aim of this chapter is to analyse these effects on industrial relations in the EU Member States, Norway and four candidate countries (Hungary, Poland, Slovakia and Slovenia), by:

- providing basic statistical information on migration and migrants, relating to overall numbers, labour market participation, and employment/unemployment;
- summarising the available data on migrant workers' employment/working conditions, pay and unionisation;
- exploring government policy and legislation on migration-related issues;
- outlining the views and activities of the social partners; and
- examining the extent to which migration-related issues are dealt with in collective bargaining.

Problems of definition

Before proceeding to our analysis, it should be noted that there are major problems relating to definitions in this area. Terms such as 'migrants', 'immigrants' and 'foreign workers' tend to be used relatively freely and unspecifically, and statistical data are based on varying definitions. The main focus of this chapter is on people resident in a country of which they are not a national, though this presents difficulties, as people may, for example, be born and reside in a country without having the nationality of that country. A better approach would probably be to focus on people taking up residence outside the country of their birth, but data rarely specifically cover this group. For the purposes of this chapter we use the information which is available for each area, while specifying the definition used.

Furthermore, it should be noted that the areas of policy and action examined below may not affect all groups within the migrant population and may equally affect nationals – eg legislation or other action on the prevention of discrimination against racial or ethnic minorities is not directly relevant to all migrants, while it may be directly relevant to many nationals.

Finally, it is important to define clearly the terms 'asylum-seeker', 'refugee' and 'illegal immigrants'. We use the term 'asylum-seeker' to refer to people who enter another country and apply to be granted asylum by that state, based on internationally or nationally recognised refugee rights. We use the term 'refugee' to refer to people who have been granted such asylum and are thus recognised as having refugee status. We use the term 'illegal immigrant' to refer to people who enter or remain in a country in contravention of that country's rules on entry and residence for non-nationals.

Basic data on migration, the labour market and employment

When studying migration, one encounters severe data problems (on top of the difficulties of definition mentioned above). Considerable gaps exist in data availability in both western and

central/eastern European countries, but especially in the latter. The principal reasons are administrative and legal. Moreover, data on illegal migrants are almost by definition unreliable. For general data, we rely here mainly on studies by the European Commission and Eurostat (notably *The social situation in the European Union 2002* and *Patterns and trends in international migration in western Europe 2000*).

Foreign residents

Presently, there are 19 million non-nationals (ie people resident in a country of which they are not a national) living in the 15 EU Member States, accounting for 5.1% of the Union's total population. Some 30% of these (around six million people) are nationals of other Member States, representing 1.6% of the total EU population. The largest numbers of nationals of other Member States are to be found in Germany, with over 1.8 million, and France, with over 1.3 million. These countries are followed by the UK, with over 800,000 other EU nationals, and Belgium, with over half a million. EU citizens (ie every person holding the nationality of a Member State) have the right to move and reside freely within the EU. They have access to employment in any Member State, with an accompanying right of residence for themselves and their family members, and they must not be discriminated against on grounds of nationality. Free movement can mean moving fully to another Member State, or commuting daily or weekly across a national border. Such free movement rights also apply within the European Economic Area (EEA) – the EU Member States plus Iceland, Liechtenstein and Norway (ie the European Free Trade Association [EFTA] countries, except Switzerland).

The remaining 13 million non-nationals, 3.4% of the total EU population, are non-EU nationals. The share of the total population made up of EU citizens living in other Member States has changed very little over the last two decades, remaining close to 1.5%, while the share of non-EU nationals is increasing (from 2.3% in 1985 to 3.4% in 1999). Unlike EU citizens, 'third-country' nationals do not enjoy the right to free movement in the European Union.

A considerable number of people enter or stay within the EU illegally and carry out undeclared work, often in sectors and regions where the 'underground' economy is more developed. According to the European Commission: 'both illegal and legal immigrants are more vulnerable than national workers; they are often ready to make concessions concerning their wage and other work-related rights.'

Over 65% of the total foreign population in the EU and EFTA states lives in Germany, France and the UK. In 1996, about 37% of all foreign nationals lived in Germany, the largest single 'receiving country' in western Europe. France had a share of 18.4% and the UK of 10.2%. Other countries with notable shares of the total foreign population in the EU/EFTA were Switzerland with 6.8% and Italy with 5.1%. Spain, Sweden, Austria, Belgium and the Netherlands had shares ranging between 2.6% and 4.6%. In the remaining countries, the foreign population represented around 1% or less of the total foreign population in the EU/EFTA.

The share of foreign nationals in the total population varies considerably from country to country, although proportions have been rising generally. The total share of foreign residents relative to the total population in the EU/EFTA states increased from 3.9% in 1988 to 5.1% in 1996. The most recent data available are presented in table 8 (overleaf).

Table 8 Population by main citizenship groups (% of total) in the EU, 2000 (or latest data)

Country	Nationals	Nationals of other EU Member States	Non-EU nationals
Austria	90.7	1.2	7.9
Belgium	91.7	5.5	2.8
Denmark	95.2	1.0	3.8
Finland	98.3	0.3	1.4
France	94.4	2.0	3.5
Germany	91.1	2.3	6.7
Greece	98.5	0.4	1.1
Ireland	96.7	2.4	0.9
Italy	97.8	0.3	1.9
Luxembourg	65.1	31.0	3.8
Netherlands	95.9	1.2	2.9
Portugal	98.1	0.5	1.4
Spain	98.0	0.8	1.2
Sweden	94.5	2.0	3.5
UK	96.1	1.5	2.5

Source: Eurostat. Denmark and UK - 1999 data; Austria, France and Luxembourg - 1998 data; Greece - 1997 data.

Foreign workers

The most recent research available from Eurostat suggests that in western Europe there were about 7.46 million recorded foreign (ie non-national) workers in 1996 (using the latest data for each country). This represented an increase of about 27% on the 1988 figure (6.2 million), but only 1% on that for 1994. The majority of foreign workers in western Europe in 1996 – like the majority of the foreign population – was concentrated in Germany and France, with a total of over 4.68 million workers between them. The UK had around 878,000 foreign workers.

The largest groups of foreign workers in Germany are nationals of Turkey, the former Yugoslavia and Italy; in France, nationals of Portugal, Algeria and Morocco; and in the UK, Irish nationals. Turks are the largest single foreign worker group in Germany and the Netherlands, and the second-largest group in Austria; former Yugoslavs are the largest group in Austria, the second-largest in Sweden and Switzerland; whilst Italians are the most prominent group in both Switzerland and Belgium. Moroccans are the second-largest group in both Belgium and the Netherlands.

The proportions of workers from other EU Member States among all foreign workers varies considerably, from well over 90% in Luxembourg to around a fifth in Portugal. In Luxembourg, Belgium and Ireland, 70% or more of foreign workers come from other Member States. In Germany, Denmark, Italy and Portugal, 20%-30% of the foreign workforce are EU nationals. In between the extremes are France, Greece, the Netherlands and the UK, at 40%-50%.

The available statistics on the numbers of foreign workers in central and eastern European countries are limited. The numbers recorded are low, certainly in comparison with those for western Europe, and in recent years have fluctuated.

Participation in the labour market

Foreign workers enter the full spectrum of occupations, but seem to be concentrated largely at the top and bottom of the labour market. At one end of the scale, in the UK, for example, many migrant workers are in professional or skilled occupations – eg 31% of doctors, 13% of nurses and 12.5% of academic and research staff in universities and colleges are migrant workers. In comparison with the UK-born population, migrants are more likely to have a university degree (19% compared with 15%), or to have no qualifications (19% compared with 16%). An example from the candidate countries is Slovakia, where the relatively small number of non-national workers in the Bratislava region are concentrated largely in jobs such as banking experts, professional football players and doctors.

Although some of the flow of immigrants is thus into highly-skilled jobs, a far larger group of migrants work at relatively low skill levels, especially in labour-intensive sectors such as catering and cleaning. An example is Spain, where 28% of migrants are employed in unskilled jobs, compared with a national average of 14%. In Portugal and Italy, many migrants can be found in building and construction and in blue-collar jobs in manufacturing industry. In Hungary, the share of manual workers is much higher among foreign work permit-holders than among nationals (72% against 45%). The difference is even stronger for unskilled manual workers. Overall, migrants are more likely than average to be found in blue-collar jobs and less likely than average to be found in white-collar jobs or in public employment, with certain areas of governmental/state employment to a large extent closed to migrants in countries such as France. However, a distinction should be made between different countries of origin: migrants from western countries invariably tend to be found in higher-skilled jobs to a greater extent than the national average.

The polarisation of the labour market position of migrant workers – whereby they are found mainly in the highest and lowest skilled occupations – seems strongest in the candidate countries covered here (Hungary, Poland, Slovakia and Slovenia).

Recent figures from the European Commission (*Employment in Europe 2002*) confirm that across the EU non-EU nationals are disadvantaged compared with EU nationals in terms of employment and unemployment. In the EU in 2001, their labour market participation rate (62%) was significantly lower than that of EU nationals (69%), as was their employment rate (52%, compared with 64%). However, this is not the case in all countries, at least as far as the employment rate is concerned: in Greece, Italy and Spain the employment rate of non-EU nationals is above that of EU nationals. This can probably be explained, according to the Commission, by the fact that EU nationals are not prepared to work in low-skilled sectors such as agriculture, construction and domestic work, where the share of non-EU nationals is very high.

As the Commission notes, the differences between EU nationals and non-EU nationals are even more striking when the employment rate is disaggregated by skill level – see table 9 overleaf. The employment rate for high-skilled EU nationals (those having completed tertiary education) was about 83% across the EU in 2001, compared with 66% for non-EU nationals. The widest gaps are found in the Nordic countries and Belgium. The employment rate for the low skilled (less than upper secondary education) is lower than for the high skilled, and the difference between EU and non-EU nationals is small, at only 4 percentage points higher for the former – indeed the employment rate for low-skilled non-EU nationals exceeds that for low-skilled EU nationals in

Austria, Germany, Greece, Italy, Luxembourg and Spain. This seems to reflect the concentration of non-EU nationals in low-skilled sectors and occupations.

Table 9 Employment rates for high- and low-skilled people, by nationality in the EU, 2001

Country	Employment rate for high-skilled (completed tertiary education)		Employment rate for low-skilled (less than upper secondary education)	
	EU nationals	Non-EU nationals	EU nationals	Non-EU nationals
Austria	86.6	79.9	45.2	58.5
Belgium	84.4	49.4	41.6	26.8
Denmark	87.9	54.5	59.6	44.7
Finland	75.7	58.9	49.6	37.6
France	80.1	57.2	47.2	38.8
Germany	84.0	64.5	44.8	45.6
Greece	79.3	68.5	47.6	63.7
Ireland	86.3	67.6	49.0	33.4
Italy	81.6	63.9	44.3	57.3
Luxembourg	84.5	71.0	50.7	55.5
Netherlands	87.2	68.2	62.3	40.0
Portugal	89.8	95.0	67.8	66.7
Spain	76.1	74.5	51.1	62.2
Sweden	83.7	55.0	56.6	35.6
UK	88.2	74.8	52.8	33.5
<i>EU</i>	<i>83.3</i>	<i>65.8</i>	<i>49.2</i>	<i>44.9</i>

Source: Eurostat Labour Force Survey.

In sectoral terms, the pattern of use of foreign labour predominantly reflects the economies of the receiving countries. Agriculture is important only in countries which still have a significant agricultural sector, mainly the Mediterranean and candidate countries and to a lesser extent the Netherlands and France. In Germany, about one in five foreign workers work in metal manufacturing and about a third in manufacturing in total. Manufacturing accounts for around a quarter of foreign workers in Belgium, Ireland, France and the Netherlands. Construction is particularly important in Slovenia, France and Luxembourg, but hardly at all in Denmark and the Netherlands.

The most important sectors for the employment of migrants include distribution, hotels and catering. In Greece, nearly 30% of foreign workers are found in these areas, while the figure is around 20% in Belgium, Germany, Spain, Luxembourg, the Netherlands and the UK. These sectors have many low paid jobs with unfavourable working conditions. Another important sector is 'other services', which employs more than 40% of foreign workers in Denmark and over 30% in the UK and Ireland. It is also very important in Greece, Spain and the Netherlands. As with distribution, hotels and catering, many of the jobs are characterised by flexible contracts and unfavourable working conditions (see below under 'Employment conditions').

Foreign workers and unemployment

Foreign workers are more vulnerable to unemployment than nationals. However, a distinction should be made between workers from other EU Member States and those from outside the Union –

the situation for the former group is much better than for the latter. In most countries, unemployment rates among foreign women are higher than those among foreign men.

Overall in the EU, the unemployment rate for non-EU nationals is about twice as high as that for EU nationals (at around 16% in 2001). This is true in all Member States, with the biggest gaps to the detriment of non-EU nationals in Belgium, France, Finland and Sweden. Non-EU nationals are very vulnerable to cyclical downturns, because a large proportion are employed on fixed-term contracts – 20% compared with 13% of EU nationals (see below under ‘Employment conditions’).

As stated above, statistics for the candidate countries are scarce, but the evidence available suggests that unemployment disproportionately affects non-nationals even more than in the EU. In Slovakia in 2001, migrants constituted 0.17% of total employment but 0.87% of total unemployment – ie a rate five times higher. In Slovenia in the same year, the share of migrants in the total workforce stood at 4.1%, while their share in unemployment was more than eight times as high (at 35%).

Box 12 Data on asylum-seekers

In recent years, asylum-seeking from prospective refugees has become a major issue in all EU countries. Asylum applications to EU countries more than doubled in the three years following the fall of the Berlin wall in 1989. Numbers then dropped to almost the 1989 level. In 1997, the number of applications began to rise again.

Germany has dominated the list of destination countries for people seeking asylum in the EU and EFTA. Since 1985, some 47% of all applications, over 2.2 million, have been made in this country. This total is over five times the number reported to have been received in the next most important destination country, France, with 9%, or about 445,000 applications. After Germany and France, the most important destinations in the last decade have been Sweden, the UK and the Netherlands, each with 7% (330,000 each), and Switzerland with 6% (300,000). These six countries alone have received 83% of all asylum applications in the EU/EFTA region since 1985.

Employment conditions

Employment status

Migrants are more likely than average to have ‘flexible’ and fixed-term contracts. To take the example of fixed-term contracts, across the EU these were held by over 20% of non-EU nationals in 2001, compared with 13% of EU nationals – see table 10 overleaf. In Belgium, Denmark, the Netherlands, Portugal and Sweden, non-EU nationals are more than twice as likely to have a fixed-term job as EU nationals. In the French private sector, the proportion of non-EU migrants with temporary agency work contracts is almost three times the proportion of French nationals, while for fixed-term contracts the proportion it is almost double. In 2000 in Sweden, in the 25-59 age group, the share of people with fixed-term employment was twice as high for migrant workers as for Swedish national workers. In the Netherlands in 2001 well over 12% of ‘non-western’ migrant workers had a flexible/temporary contract, compared with 6% for Dutch nationals.

Table 10 Percentage of people of working age on fixed-term contracts, by nationality in the EU, 2001

	EU nationals	Non-EU nationals
Austria	8.1	8.8
Belgium	8.6	18.5
Denmark	9.3	18.6
Finland	17.8	32.5
France	14.7	20.8
Germany	12.2	17.0
Greece	12.3	21.8
Ireland	3.6	4.5
Italy	9.5	11.2
Luxembourg	4.2	7.5
Netherlands	13.8	32.4
Portugal	19.7	55.6
Spain	31.2	58.2
Sweden	13.9	35.3
UK	6.3	17.9
EU	13.0	20.2

Source: Eurostat Labour Force Survey.

To some extent Italy seems to be an exception to this rule in terms of new recruitment: in 2002, fixed-term contracts represented 25.4% of total hirings among migrant workers, compared with 32.8% for all workers. Therefore, new open-ended employment contracts are more common among migrant workers than among all workers. An explanation might be that these figures only pertain to the private sector. This is the explanation for a comparable finding in France, where the share of migrants with open-ended contracts in the private sector is actually higher than that of French nationals, but the proportion of migrants working in the state sector is much smaller than that of French-born and naturalised employees.

Part of the explanation of the high incidence of fixed-term and flexible contracts among non-nationals is that in some countries this is the only type of contract available for migrants from outside the EEA. Examples are Austria, France and, among the candidate countries, Poland. In the UK, the work permit scheme under which most migrant workers enter the national workforce, by definition, initially provides a form of temporary contract, although as with many other fixed-term contracts, it is often extended into an open-ended employment contract later.

In many countries, a relatively large proportion of migrants are self-employed. An example is the UK, where the self-employment rate is 13.8% for foreign-born people, compared with 10.7% for UK-born people. Migrants from the Middle East, eastern Europe and the Indian subcontinent have the highest levels of self-employment (20%-25%), suggesting that cultural factors – and discrimination in the labour market – may encourage these groups to seek more entrepreneurial ways of earning a living.

Pay

The relatively unfavourable situation of many migrants on the labour market – ie many (though, as noted above, by no means all) are concentrated in low-skilled jobs and sectors and/or are

employed on an ‘atypical’ basis - is understandably reflected in their wage level (and illegal immigrant workers, of course, are likely to be in an even worse position). A recent EIRO comparative study on low pay found that migrants tend to be among the low-paid groups in a number of countries (TN0208101S). Detailed information on this point is rarely available, but widespread low pay is reported from countries such as Spain, while migrant workers may be vulnerable to problems such as unauthorised deductions from pay (eg as reported for the UK). Belgium is one of the few countries where more comprehensive information is available, and while the information dates from 1995, it gives a clear indication of the wage inequalities faced by foreign nationals (especially from outside the EU) and women – see table 11 below.

Table 11 Pay differences by gender and nationality, Belgium

Country of nationality	Men	Women
Belgium	100% (reference index)	-15% to -40%
Neighbouring countries	+15% to -8%	-24%
Italy	+2% to -17%	nd
Spain, Greece and Portugal	+2% to -17%	-35%
Morocco	+5% to -22%	-41% to -63%
Turkey	-5% to -26%	-44% to -60%

Source: *La prévention du racisme sur les lieux de travail en Belgique, (Combating racism at work in Belgium)*, A Martens, European Foundation for the Improvement of Living and Working Conditions, 1995.

Some data are also available from Norway, where recent research has found that ‘non-western’ immigrants earn considerably less than Norwegian-born employees, even after a long time in the labour market (NO0301103F). The income of non-western immigrants is more vulnerable to cyclical developments such as increasing unemployment than that of native-born Norwegians, and income differentials thus increase during periods of economic downturn and decrease in times of prosperity. Overall, the earnings gap between non-western immigrants and native-born Norwegians is 20%-30% for men and somewhat lower for women. All groups of immigrants improve their relative positions vis-à-vis the native population over time, but the process of catching up and narrowing the income gap varies considerably between groups of immigrants.

Working conditions

Overall, it appears that migrant workers are often worse off than nationals where working conditions are concerned. In many countries, there is a hierarchy, ranging from nationals via western/EU/EEA-born migrants to those from the rest of the world. At the bottom are illegal immigrants. The problems or practices faced to a greater extent by foreign workers than nationals may include: working on weekends, holidays, at night or in alternating shifts (as in Germany); less job security (Spain); inadequate training (the UK); excessively long working hours (the UK); and poor health and safety conditions or accident rates (Austria, Spain and the UK). A distinction can be drawn between types of health and safety problem, with migrants more likely to be exposed to ‘classical’ hazards, such as noise and lifting weights, than ‘new’ risks such as work stress and repetitive strain injury (as evidence from, for example, the Netherlands suggests).

Many of these poor conditions can be explained by the job and sectors in which many migrants are employed. An example is Hungary, where the working conditions of migrants are not

significantly different from those of nationals in non-manual activities, but are worse in manual activities and much worse in the illegal sector. Indeed, in countries with a large 'shadow economy', the illegal immigrants which make up much of the workforce generally face highly unfavourable and unregulated working conditions. The 'accident-prone' construction sector is frequently mentioned as an example – for example, in Portugal almost all fatal accidents in this sector involve migrant workers.

One particular case of discriminatory treatment of non-EEA migrant workers deserves mention, though it refers to employee representation rather than working/employment conditions more widely. In Austria, there has been a long-running controversy over the fact that non-EEA nationals are not allowed by law to stand in elections to works councils (AT0208202F).

Box 13 Trade union membership among migrants

Although there is a lack of statistical information for most of the countries examined, trade union density among migrant workers seems to be lower than the average. Examples of below-average overall density for migrants (often based on estimates) are Belgium, Denmark, Hungary, Ireland, the Netherlands, Norway and the UK. However, even if migrant workers have a relatively low density in national terms, this may still be high when compared with unionisation rates in many other countries, as in Belgium for example.

Furthermore, there are often considerable sectoral variations within countries where the overall density for migrants is below average. For example, in Norway, the overall union density for 'non-western' migrants is 36% compared with an average of 56%. However, density for the two groups is equal in private manufacturing (at 54%), but much lower for non-western migrants in private services (21%, compared with 36% for all workers) and the public sector (45%, compared with 77%). In the UK, the unionisation of foreign workers is thought to be lower than the (low) average in hotels/restaurants and wholesale/retail, but nearer the (high) average in public education and health services. Similarly, in Denmark, unionisation of migrant workers appears to be lower than average in sectors such as hotels/catering and cleaning, but nearer average levels elsewhere. Overall, indeed, it seems that an important factor explaining their below-average union density in many countries is that many migrants work in such service sectors, where unionisation is traditionally low.

However, the picture of notably low relative unionisation among migrant workers is not universal. In Sweden, for example, union density among foreign workers is only marginally lower than the 80% figure for Swedish nationals. Even more notably, in the Emilia Romagna region of Italy, research indicates that union density among migrants is significantly higher (45%) than the average (36%).

Legislation and government policy

In this section, we explore government policy towards migration, including the relevant legislation. Government policies cover a wide range of migration-related topics and here we look at:

- the permit system (work permits, residence permits, etc);
- integration;
- equal treatment and anti-discrimination;
- 'regularisation'; and
- integration of policies.

Legislation on permits

All western European countries examined here have some system of work and residence permits for people from outside the EEA/EU, usually with several types of permits, while candidate countries have a permit system for all foreigners. An example is Belgium, with three different permits. An 'A' work permit is valid for all paid jobs and is of indefinite duration, although it is restricted to a limited number of people (for example, those who have been living in Belgium for five years, and those who have been working for four years on a 'B' work permit). A 'B' work permit is restricted to employment with a single employer and is valid for a maximum of one year (renewable), and it is for the employer to make the application. A 'C' work permit, of recent origin, may be used for employment with all employers, and is valid for a maximum of one year (also renewable).

Another example is Ireland, where in the great majority of cases permits are issued to employers, not directly to migrant workers themselves. A system like this makes it hard or impossible for workers to move freely to another job without getting another permit. The alternative to these permits are the much rarer 'work visas', which allow free movement on the Irish labour market for various specialist workers.

Since the 1980s and 1990s, countries have generally adopted a more restrictive immigration policy than previously, often not allowing non-EEA residents to enter the labour market, with some exceptions.

Austria seems to have the most restrictive legislation among the countries examined when it comes to entry to the labour market for non-EEA nationals. First, general criteria of the 'labour market situation and development' and 'public and economic interests' have to be fulfilled, which means that foreign nationals may be employed only if no Austrian citizens are available to fill a job. The second obstacle refers to a maximum quota of non-EEA foreign workers to be employed in Austria (AT0109128N), fixed by law at a rate of 8% of the total workforce according to the Aliens Employment Act (§12a Ausländerbeschäftigungsgesetz, AuslBG). This rate may be increased by a maximum of 1% for special employee groups, such as foreigners entitled to unemployment benefits, certain refugees, and high-skilled 'key workers' with special qualifications. Moreover, if they become unemployed for more than a certain length of time, 'third-country' workers risk losing their residence permit and – as a consequence – being expelled from the country.

In having created barriers to the labour market entry of non-EEA citizens, Austria is not alone. France is another example of a country which has long pursued a restrictive policy. Since 1974 the authorities have been able to refuse an application to work by a foreigner because of the 'current and future employment situation in the occupational field requested by the foreign worker and the geographical area in which he/she intends to work' (Article R 341-4 of the Labour Code). As in France, employers in most countries trying to import workers from outside the EEA usually have to show that they have done their utmost to fill the vacancies with nationals or EEA citizens. In the UK, for example, an employer applies for a work permit for a particular employee for a specific job, and has to show that no resident workers are available with the requisite skills and experience (though in recent years the criteria for accepting applications have been relaxed a little, with the identification of 'acute shortage supply' areas). In Ireland under new, tighter, work permit arrangements introduced in January 2002 (IE0202203N), employers are required to provide a letter

from the state Training and Employment Authority (Foras Áiseanna Saothair, FAS), confirming that all reasonable efforts have been made by the employer in cooperation with FAS to fill the vacancy in either the domestic or the wider EEA labour market.

Because of shortages in parts of the labour market, however, there is a growing tendency to make exceptions. Sometimes permits are no longer needed for certain categories of non-EEA foreign workers. Examples include: so-called 'key workers' in Austria (earning more than EUR 2,000 per month before taxes); specialist medical staff, information technology and construction professionals (defined as architects, planners and engineers) in Ireland; and – among others - highly-qualified foreigners whose proposed monthly pay exceeds EUR 4,000 in France. Similar measures have been taken by Germany (DE0003252F), the UK, Norway (NO0012113N) and the Netherlands (NL0212102F).

Several countries set annual quota for immigrants. Examples are Norway (5,000 for 'specialists'), Austria (2,400 for key workers) and Spain (ES0112244F). In the latter country, the government, after consulting the Higher Council for Migratory Policy (Consejo Superior de Política Migratoria), and (in theory) the most representative social partners, establishes a 'manpower contingent' stating the number and characteristics of employment offers for non-resident foreign workers and indicating the sectors and occupation concerned. In Slovenia, the quota stands at 5% of the active working population.

In most countries, the present system can still be characterised as 'non-immigration' from outside the EEA, with exceptions being made for specific types of job. There is however a tendency in some cases to reform the system in the direction of 'controlled immigration' as used by countries such as the USA and Australia.

For example, in September 2000, the German coalition government of the Social Democratic Party (Sozialdemokratische Partei Deutschlands, SPD) and Alliance 90/The Greens (Bündnis 90/Die Grünen) decided to set up a special 'immigration commission' (Zuwanderungskommission) to suggest new immigration policies (DE0105223F). In July 2001, the commission issued its final report which – among other proposals – suggested the provision of new options for controlled immigration from outside the EU as well as supporting the integration of immigrants into working life and German society in general. While some details of the report were disputed, employers, trade unions and the government largely supported the commission's findings and suggested changing immigration law accordingly. In November 2001 a comprehensive proposal for an Immigration Act was drafted. It was modified by migration experts from both ruling parties and then submitted to the federal parliament for adoption. The two chambers of parliament approved the legislation in March 2002 but constitutional problems arose which have left the fate of the legislation uncertain at the time of writing (DE0210204F). The Immigration Act specifies several groups of migrants who can obtain a temporary or permanent residence permit for the purpose of employment (such as highly-qualified people), adding further groups on humanitarian grounds.

Integration and labour market policies

A second body of legislation pertains to the integration of migrants into the labour market. For example, in Austria, the abovementioned restrictions on immigration have been accompanied by an intensification of integration programmes. Under an 'integration contract' (Integrationsvertrag)

scheme introduced in 2002, all foreign employees who have lived in Austria for less than five years must attend a German-language course. If they fail, they are at danger of expulsion. Unemployed foreign nationals are offered education and job training programmes.

Another example of this approach is provided by Denmark, where in March 2002 the government issued new measures based on a policy that immigrants and refugees should be integrated into the labour market as fast as possible (DK0203103F). The means adopted are:

- giving newly-arrived non-EEA foreign nationals the possibility of work experience in an enterprise for a period of up to 12 months, on a special introductory wage;
- providing language training at the workplace, so as to avoid immigrants having to learn Danish for three years before they can enter the labour market; and
- rewarding 'good performance'. Immigrants may obtain a permanent residence permit after five years instead of the normal period of seven years, if they make a successful effort to be integrated into Danish society and are self-supporting. 'Bad performance', on the other hand, results in cuts in benefits.

In Spain, immigrants may be employed for their first two years in the country on a 'job training contract'. This involves lower social security costs, no unemployment benefit, in general a lower wage cost (it may be even lower than the national minimum wage), and the devotion of 10% of working time to training.

In many countries, integration programmes are shaped at the local level. An example is Finland, where municipal authorities draw up such programmes in cooperation with employment offices, immigrants' organisations and other non-governmental organisations (NGOs). In 2001, more than 11,000 integration plans for individual migrants were drawn up on the basis of these programmes.

In several countries there are few or no integration measures specifically directed at migrants, because the idea is that policies should be aimed at all long-term unemployed people or otherwise disadvantaged groups. In Belgium, this is the case in the regions of Wallonia and Brussels, while in Flanders some policies are specifically aimed at populations of migrants. However, other countries do pursue policies specifically directed at foreign nationals. In Germany, for instance, the proposed new immigration legislation referred to above introduces a legal commitment on integration, with measures for both new arrivals and those who have been in the country longer. This aims to address a situation in which integration measures (primarily basic language courses and, to a lesser degree, courses in social orientation) have been largely voluntary and aimed only at some groups of migrants – notably ethnic Germans from eastern Europe and people who have approved asylum status or are refugees under the terms of the Geneva Convention.

Legislation with the aim of increasing migrants' opportunities on the labour market is mainly directed at the 'supply side' – ie the migrants themselves. Measures directed at the 'demand side', to stimulate firms to hire migrants, are much more unusual. However, an example of this approach is provided by the Netherlands – see box 14 overleaf.

Box 14 Measures to encourage the employment of migrant workers in the Netherlands

To improve the labour market position of migrant workers living in the Netherlands and to stimulate their participation in the labour market, in 1998 the government implemented the (temporary) Promotion of Labour Participation of Ethnic Minorities Act (Wet Stimulerende Arbeidsdeelname Minderheden, SAMEN) (NL9805176F). This was the result of close consultation with the social partners. The Act was recently extended until 1 January 2004.

The main goal of the Act is to stimulate individual employers to ensure a proportional participation of migrant workers within their company. Proportional participation is reached if the number of migrants in the employer's workforce corresponds to their share in the regional population. To enable monitoring of employers' efforts, the Act obliges employers to publish an annual report which includes the number of migrant workers on their staff and the specific steps taken to improve their participation. Before submitting the report, the works council must be consulted. Enforcement of the Act is possible through (civil) legal action by parties such as the social partners, social organisations and the works council. Official reports found that in 1998 some 65% of the employers concerned complied with the Act, a figure which increased to 69% in 1999 and 74% in 2000.

In June 2000, the Dutch government reached a framework 'covenant' (Raamconvenant Grote Ondernemingen) with a number of major companies in order to promote a multicultural policy in individual companies and stimulate the employment of ethnic minorities. By March 2002, a total of 110 companies had signed the agreement. It includes arrangements on trainee programmes, recruitment of ethnic minorities and 'intercultural management'. In 2000, a similar, though sector-wide agreement was reached with representatives of small and medium-sized enterprises (SMEs). By the end of 2002, some 30,000 employers had offered employment to migrants under the scheme and more than 60,000 migrants had been employed, of whom 63% were still in this employment (NL0208102F).

One of the problem areas for migrants trying to enter the upper end of the labour market is the recognition of their diplomas, skills and qualifications (this issue is addressed in the EEA through a number of mutual recognition initiatives). Immigrants often experience a disparity between their qualifications and their work, and measures are being taken in some countries to address this problem. For example, the Norwegian Ministry of Education and Research is in the process of improving the system for validating education and work experience acquired abroad (NO0207101F). Moreover, vocational testing is being established for immigrants who have learned a trade abroad in upper secondary school or through work experience, but do not have a certificate. In Sweden, a new government position of Integration Minister was created in 2002, one of whose first tasks is to tackle the the increasing number of skilled migrant workers who are in unskilled jobs, but want employment corresponding to their qualifications.

Finally, mention should be made of initiatives taken to organise training programmes in the countries of origin of migrants. Notably, new legislation to regulate immigration which came into force in Italy in August 2002 (IT0209103F) envisages the possibility of providing training programmes – which may be organised in cooperation with trade unions and employers' associations – in countries of origin to provide specific skills, with a view to:

- matching demands from Italian firms for workers in particular sectors and jobs;
- promoting recruitment in Italian multinationals operating in the country of origin; and
- fostering economic development and independent entrepreneurial initiatives in the country of origin.

Anti-discrimination measures

A third category of legislation and government policy of relevance to many migrant workers relates to equal treatment and combating discrimination and racism. All countries examined here have some kind of legislation in this field. As noted above, EEA citizens moving between countries are protected by EU law from discrimination on grounds of nationality.

In some countries, there is specific legislation to deal with discrimination against foreigners or ethnic minorities, while in others the issue is covered by general equal treatment/anti-discrimination legislation or constitutional provisions. However, there seems to have been a tendency recently for countries to introduce or strengthen specific legislation against racial and ethnic discrimination. This is in some cases linked to the fact that the EU has been devoting considerable attention to this matter. Notably, Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (EU0006256F) was adopted in 2000 and must be implemented by July 2003, while the 2001-6 Community action programme to combat discrimination supports activities combating discrimination on grounds including racial or ethnic origin.

Ireland is a good example of relatively recent legislation on this issue, with two major new laws covering direct and indirect discrimination on the grounds of race and ethnic origin – the Employment Equality Act 1998 and the Equal Status Act 2000. The Employment Equality Act (IE9909144F) outlaws discrimination on nine grounds, including race. The Equal Status Act 2000 incorporates the same grounds for prohibiting discrimination as the Employment Equality Act, but its anti-discrimination prohibitions extend beyond employment discrimination into the public arena, in relation to issues such as access to education and housing and the provision of goods and services.

Countries which have recently revised and strengthened their anti-discrimination legislation in this area include Sweden (SE9903148F), Belgium (BE0212304F) and France (FR0112152F). In Norway, the government is planning to introduce an Act relating to ethnic discrimination (NO0207101F), and a bill to this end will be submitted in 2004. The new law should include: a general ban on ethnic discrimination; a duty on public authorities and employers to promote ethnic equality and prevent discrimination, and the principle of shared burden of proof in cases of discrimination.

Beyond legislative measures, a number of governments have recently launched action plans and campaigns on combating racial discrimination. For instance, in October 2001 the Irish government issued a three-year national anti-racism awareness programme, aimed at educating people and changing attitudes to diversity and racism (IE0112228F). This approach seems common in the Nordic countries: in 2001, the Finnish government launched a three-year action plan to combat ethnic discrimination and racism, entitled Towards ethnic equality and diversity; in 2000, the Swedish government launched a national action plan against racism and ethnic discrimination; while the Norwegian government presented a similar five-year plan in summer 2002. The Norwegian case is particularly interesting. Adherence to the principle of non-discrimination is to be made a precondition for all subcontractors and suppliers of goods and services to state institutions, thus making non-discrimination a criterion in competition over public contracts. The state sector receives special attention in the strategy, and one of its main objectives is to prevent discrimination in relation to recruitment and promotion in this sector. State sector enterprises must

thus, among other measures: interview at least one applicant of immigrant origin for all vacancies, insofar as the person's qualifications satisfies the requirements of the job; and draw up statistics and data on the number of people with a minority/immigrant background employed in the various state sector enterprises and ministries.

Regularisation and naturalisation

Given the growing number of illegal immigrants, in many countries there is a recurring debate on the issue of 'regularising' their position. In Italy, for example a process of regularisation of migrant workers in an irregular position was started following new legislation in September 2002 (IT0209103F). The procedure involved both domestic workers – including care workers – and dependent employees. Overall, more than 700,000 requests for regularisation were presented – 340,000 concerned domestic workers and 360,000 dependent employees. In March 2002, the Luxembourg parliament called on the executive to regularise 'undocumented' people, after which the government decided to make a gesture in their favour by giving them a two-month deadline in which to regularise their situation (LU0112140F). This procedure has enabled 1,153 non-EU foreigners to obtain valid temporary work permits. Regularisation is also a current issue, not least for the social partners, in countries such as Belgium (BE9904171N), the Netherlands, Portugal (PT0103138N) and Spain (ES0102134F).

In several countries, there have been recent changes in nationality legislation, sometimes making it easier for migrants to acquire nationality in the host country. Examples include Finland and Germany.

Box 15 Government policy on asylum-seekers and refugees

The subject of people seeking asylum in western Europe deserves a study of its own. Here we restrict ourselves to a few general remarks on issues related to the labour market and the attitude and policy of social partners.

In the past few years, there has been a general tendency in the EU to reduce the influx of asylum-seekers (and illegal immigrants). The general rule is that asylum-seekers are not allowed to enter the labour market. For example, in France, their right to child and housing benefit was abolished in 1986, as was their right to work in 1991. As asylum-seekers in France receive no income, sometimes for protracted periods, even when they have dependent children with them, and as fewer than 20% of them are offered accommodation in specialised facilities, these forms of exclusion from economic and social rights inevitably push them to offer their services in undeclared work, for which there is a high demand in sectors such as construction, catering, the clothing industry, agriculture, and personal services.

Usually, only asylum-seekers who are granted refugee status are free to enter the labour market. There are some exceptions to this rule. An example is Luxembourg: a May 1999 Grand-Ducal Regulation allows the Minister of Labour and Employment to issue a temporary employment authorisation valid for a maximum of six months for people coming from an area recognised as a war zone, such as Kosovo. In the UK, until their applications have been decided, asylum-seekers are not usually allowed to work, but if a decision has not been made after six months, they can apply for permission to work.

Integration of policies

In several countries, governments are seeking to integrate the different policy fields related to migrant workers. An example is the UK: a White Paper published in February 2002 and the Nationality, Immigration and Asylum Act 2002 cover a wide range of issues. Alongside new

measures to tackle illegal working, the government has developed a much more active policy of 'managed migration'. Measures have been introduced to streamline and extend the legal migration routes previously available, and to open up new routes where appropriate, focusing on the need for short-term casual labour, as well as highly-skilled migrants and 'hi-tech' business entrepreneurs.

The social partners and migration

In this section, we examine: the involvement of the social partners in government policy on migration; the views and activities of the social partners on labour migration and migrant workers; and the extent to which the issue has been dealt with in collective bargaining.

Social partners' involvement in migration policy

With only few exceptions, the social partners in the countries examined are consulted by governments on issues relating to migrant workers. The level of consultation varies, however, from consultation on specific issues such as quotas to involvement in the drafting of all relevant policies. A brief summary of the relations between governments and social partners specifically relating to migration and associated issues is presented in table 12 overleaf. This excludes cases where the social partners are consulted on all legislative proposals and/or policies with employment and social implications (which are likely to include migration) through standing bipartite and tripartite bodies – such as the Belgian National Labour Council (Conseil National du Travail/Nationale Arbeidsraad) or Greek Economic and Social Committee.

Positions and activities of the social partners

In two of the countries examined, it appears that migration is not a significant issue for the social partners and that they have seen no need to develop a policy on the matter. At one extreme is Slovakia, where the number of migrants is negligible, and at the other is Luxembourg, where there are so many (mainly EU) immigrants and migrant workers that no specific policy has been developed. In Slovakia, immigrants make up only 0.17% of the labour force (a figure comparable with Poland and, to a lesser degree, Hungary). In Luxembourg, by contrast, half of the labour force is made up of foreign residents and cross-border workers from the neighbouring countries of Germany, France and Belgium. In the Luxembourg economy, the demand for labour exceeds supply. Employers' organisations have developed no special policy towards migrants – with employers' view on the matter limited to expecting foreign employees to match the relevant job profile and speak French or German – and trade unions have only done so to a limited extent.

Between these extremes lie all the other countries considered. In these countries, two issues appear to determine to a large extent the principles and positions of employers' organisations and trade unions – labour shortages and equal rights for migrants. These two issues may be closely linked, especially in the underground economy (as reported, for example, from Greece). The particular views of the social partners related to these two themes, and their inter-relationship, vary from country to country, but before proceeding to examine them, it should be mentioned that one country seems to stand out in terms of social partner positions on the equal rights issue.

Table 12 Specific involvement of social partners in legislation and government policy related to migrant workers

Austria	Government tends to consult the social partners on migration policy, including fixing quotas and other restrictive measures. However, there has recently been a tendency partially to ignore the views of the social partners (especially trade unions) - eg on quotas for seasonal workers.
Denmark	A notable example is a May 2002 agreement between the social partners, municipalities and government on stronger measures to integrate immigrants and refugees into the labour market (DK0206104F). The accord establishes a three-stage integration procedure, involving work experience and training as a preparation for normal employment.
Finland	Tripartite consultation on migration policy.
France	No real involvement on migration policy, though some involvement in areas such as combating racial discrimination (FR9906188F).
Germany	Social partners were involved in the 'immigration commission' which drew up a report which formed the basis for the recent Immigration Act (see main text).
Greece	Social partner involvement in committees monitoring labour market programmes, which affect migrants.
Hungary	Very low level of involvement.
Ireland	Little formal involvement on migration policy, some involvement in government anti-racism initiatives.
Italy	Social partners consulted in the drafting of migration policies and may be invited to meetings of the Coordination and Monitoring Committee on immigration. The social partners are represented on national bodies dealing with immigrants and their integration and on local committees dealing with immigration.
Luxembourg	Involvement (mainly by employers) in bilateral 'labour force agreements' with other countries, and (by all social partners) in regularisation policies for illegal immigrants.
Netherlands	Close involvement in almost all government policies related to the labour market, including migration policy.
Norway	Consultation and involvement in almost all legislation and government policies related to migration, and representation in a new ethnic diversity forum.
Poland	Consultation on migration policy with social partners and other NGOs.
Portugal	Cooperation on dealing with illegal immigration, especially in the hotels, building and metalworking industries.
Slovenia	Consultation on immigration quotas.
Spain	Consultation (in theory at least) on setting migrant worker quotas. Government subsidises integration activities of social partners.
Sweden	Consultation on migration policy.
UK	Consultation before changes to migration policy, including issues such as work permits. Social partners are represented on a new working group on illegal immigration.

Source: EIRO

In Austria, the social partners appear to agree on the principle that Austrian citizens should be favoured in the national labour market. 'Positive discrimination' in favour of Austrian nationals is given some legal and collectively agreed support – as well as the ban on non-EEA nationals standing in works council elections (see above under 'Working conditions'). Another example is that a legal hierarchy of categories of employee (starting with Austrian nationals, followed by other EEA nationals, then non-EEA nationals etc) has been used in some collective agreements as an order of priority for dismissal and recruitment. Although the demand for labour exceeds domestic supply, employers' organisations do not tend to oppose recent government regulations restricting immigration, not least because the authorities are flexible in applying the rules, usually meeting companies' requirements by adjusting quotas at regional or national level. The Austrian Trade Union Federation (Österreichischer Gewerkschaftsbund, ÖGB) generally appears to support the restrictive government policy on immigration.

Employers' organisations

Present and future labour shortages seem to be the main reason for employers' organisations in western Europe to develop stances and policies on migration and immigrant workers (in the candidate countries examined, there is very little in the way of employers' organisations' policies or activities in this area). Employers' organisations in countries such as Germany, Belgium, the Netherlands and the Scandinavian countries point to long-term demographic developments, with a declining number of young people and an increasing number of older people. As well as reducing the size of the workforce, this may weaken the basis of the social security and pensions system. Not only at present, but also in the near future, the entry into the labour market of migrant workers is widely perceived as necessary by employers in the great majority of countries. In particular, employers in Sweden and Finland are emphatic on this point, with Finnish employers' organisations stating that present standards of living cannot be sustained without migrant workers. France is something of an exception, as – given current high unemployment – employers' organisations do not tend to believe that labour immigration is necessary, and give priority to addressing labour shortages from among the existing unemployed (including immigrants). However, French employers in sectors such as private healthcare and information technology (IT) consultancy face particular recruitment problems which lead them to take a different view.

With few exceptions, the idea of a free market in trade and people, especially within Europe, is widely embraced by employers' organisations, which thus press governments to reduce and simplify regulations, as is the case in countries such as Norway, the Netherlands and Germany. However, in most countries considered, confronted as they are with specific labour shortages, their interest in such a free market in people is conditioned by their own demands for labour. In Norway, for example, employers' organisations embrace the government's policy to allow greater immigration by non-EEA unskilled workers. Sectors such as agriculture, fisheries, construction and healthcare are dependent on non-Nordic labour.

The majority of employers' organisations in western Europe are thus of the same opinion on the necessity of immigration to meet labour shortages. In many countries, employers criticise governments for being too slow, bureaucratic and ponderous on these subjects, and have made proposals to the government to tackle these problems. Examples of individual country initiatives are detailed here.

Spanish employers' organisations have developed plans for the creation of national immigration services by setting up 'integrated units'. These units, based on tripartite collaboration, would deal with immigration procedures, vocational training, accommodation, transport and childcare. Employers stress the importance of concerted action with countries such as Morocco or Ecuador on identifying potential candidates for immigration into Spain (on the basis of factors such as their social situation, age or qualifications) and establishing training and recruitment programmes in their country of origin. This would facilitate these workers' integration in the Spanish labour market and provide them with a legal status. Employers also argue for autonomy for companies in their recruitment policies. They believe the company to be fundamental to the integration of immigrants.

In the UK, the Confederation of British Industries (CBI) emphasised in a March 2002 policy document the important contribution that migrants have made to the UK economy. It argues that measures to improve and augment existing entry routes for migrants must be concentrated in areas of real skill shortage – such as highly-skilled professionals in advanced IT, engineering, the health

service and teaching, as well as lower-skilled jobs in hotels and catering, construction, transport and retail distribution. The CBI supports most aspects of current government policy, with the exception of proposed charges to be levied on work permit applications.

Controlled immigration is the key issue for employers in Germany. The two largest employers' and business organisations – the Confederation of German Industries (Bundesverband der Deutschen Industrie, BDI) and the Confederation of German Employers' Associations (Bundesverband der Deutschen Arbeitgeberverbände, BDA) – argue for a systematic immigration and integration policy. Controlled immigration should follow the demands of the labour market and be supported by integration measures, primarily language courses. In their view, there is a large demand on the labour market for qualified and highly-qualified employees. In addition, demographic developments and the resultant weakening of the social security system demand more labour than is current available. On the other hand, employers also want to restrict misuse of asylum law and accelerate asylum procedures. On the EU's enlargement to the east, the employers recommend a rapid introduction of free movement of labour. According to BDA, free movement of labour will result in more growth, and the integration of workers will become both feasible and desirable. Employers' organisations argue for a 'cosmopolitan society' without discrimination; on a more practical level, they support arrangements at company level to tackle discrimination against migrants.

A brief summary of the actions of employers and employers' organisations on migration issues is provided in table 13 on pp. 83-84 below. In some countries – as in the German case mentioned above – employers' activity is first and foremost aimed at central government. In other countries, action is also taken (often cooperation with trade unions and other parties) at lower levels, such as sectors, local areas or companies.

For example, Dutch employers' organisations see immigration as a fact of economic life. For the two largest organisations – the Confederation of Netherlands Industry and Employers (Vereniging Nederlandse Ondernemers-Nederlands Christelijk Werkgeversverbond, VNO-NCW) and the Dutch Federation of Small and Medium-sized Enterprises (Midden- en KleinBedrijf-Nederland, MKB-Nederland) – the Netherlands is and will remain a country of immigration. Employers are very specific about which kind of employees (especially IT workers and other specialists) are needed from other countries. With regard to migrants already living in the Netherlands, explicit employers' policies started around 1990. In that year, in the bipartite Labour Foundation (Stichting van de Arbeid), employers' organisations agreed with trade unions on principles and practices in this area. The principles were to recruit and retain more migrant workers, reintegrate (together with the authorities) unemployed migrants in the labour market, and develop a multicultural personnel policy.

On a practical level, the Dutch social partners agreed to attempt to reduce unemployment among people from ethnic minorities to the national average by creating 60,000 jobs before 1996. When they had to concede that these efforts were proving unsuccessful, a decentralised approach was developed. VNO-NCW and MKB-Nederland reached two 'covenants' on recruitment from ethnic minorities, for very large companies and – at sector level – SMEs respectively (see Box 14 above, 'Measures to encourage the employment of migrant workers in the Netherlands'). In cooperation with local authorities and in an expanding economy, these measures have succeeded in more

closely matching labour demand with supply, with the result that unemployment among migrants was reduced from four times as high as that for Dutch nationals in 1996 to twice as high in 2002.

Italy offers another example of decentralised policies, in this case at the ‘territorial’ level. Various aspects of the working and living conditions of migrant workers (eg training, housing, social inclusion and employment services) have been addressed in a number of territorial agreements, concluded between the social partners and the local authorities at the regional, provincial or more local levels (IT0209206F). Furthermore, individual employers and their organisations have taken various initiatives aimed at assisting the integration of migrant workers in the workforce, and also in society more widely, taking the view that social inclusion may help to improve the reliability of workers and the stability of the employment relationship. Thus, some employers offer training to upgrade skills and Italian-language courses, or help ensure the availability of proper housing (which represents a major obstacle to the integration of migrant workers).

Another area where individual employers may act to support migrant workers is by addressing discrimination and operating ‘diversity management’ practices. Ireland offers several interesting examples of such action. At IBM’s sales and service centre in Dublin, 70% of the 1,350-strong workforce are non-Irish nationals. With this in mind, the company emphasises the importance of diversity. The centre runs diversity education programmes, in which trainers conduct short courses where diversity issues are explored. According to management, apart from the moral imperative to treat all workers equally, there is a real economic and market imperative for such measures. The Eircom telecommunications company cites the same argument for its diversity strategy and ‘dignity at work’ programme – ie it wants to capitalise on a diverse workforce. The perceived benefits for Eircom lie in: the retention of experienced employees; an edge in recruitment; a reduction in labour costs; improvements in productivity, job satisfaction and commitment; and enhanced customer service and retention.

Trade unions

Cooperation between the social partners on issues relating to migration issues is widespread in the EU countries and Norway, as indicated above. Trade unions and employers’ organisations share many views and in some cases even jointly oppose government policy. At the same time, on the issue of the desirability or level of further labour immigration, in many countries unions adopt policies and viewpoints that are critical of the ‘liberal’ viewpoints of employers’ organisations, seeing the idea of a free market for people as misleading. For example, in Norway and Belgium, unions are opposed to open borders for the purpose of ‘importing’ further foreign workers. Unions in countries such as Denmark, the Netherlands, Belgium and Ireland stress the problem of unemployment among migrants already in the country. Specific worries about the effects on national labour markets of the EU’s forthcoming eastward enlargement are reported from countries such as Austria, Finland and Germany (especially in the construction sector). In the candidate countries, unions in Hungary are concerned about the import of cheap labour from neighbouring eastern European countries. Less concern about a possible ‘threat’ to their members from new migration seems to be the case in countries such as Italy and the Netherlands.

To take the example of Belgium, the two largest union confederations – the Confederation of Christian Trade Unions (Confédération des Syndicats Chrétiens/Algemeen Christelijk Vakverbond, CSC/ACV) and the Belgian General Federation of Labour (Fédération Générale du Travail de

Belgique/Algemeen Belgisch Vakverbond, FGTB/ABVV) – would like to control migratory flows as much as possible and see economic migration as a last resort solution to labour market shortages. CSC/ACV believes that solutions to labour shortages should first be sought in the domestic labour market and that integration efforts should be stepped up, as earlier immigrants have not yet been fully absorbed into the labour market. New immigration should be on primarily humanitarian rather than economic grounds. In the UK, trade unions are generally in favour of migration to meet labour shortages, but try to ensure that the government and employers do not try to solve shortcomings in pay, working conditions and training with short-term measures that rely on ‘poaching’ workers from overseas.

In terms of the actions of unions on topics relating to migrant workers, there seems to be some activity in most countries with the exception of the candidate countries, where migration does not appear to be a significant issue. In western Europe, migration seems to be an important topic, generating considerable trade union activity, in countries such as Belgium, Germany, Italy, the Netherlands, Portugal, Spain, Sweden and the UK, but arguably to a lesser extent in countries such as Austria, Denmark, France and Luxembourg. Major types of trade union action include the following.

- One common area of union activity of relevance to migrant workers is involvement in, or the instigation of, campaigns and initiatives to *combat racism and promote equal treatment* for migrants. Such actions are reported from the majority of western European countries. For example, all the main French trade union organisations run more or less proactive anti-racism campaigns, while the German unions participate in government-led programmes against racism and intolerance and coordinate a network of NGOs against racism and for equal rights. In some cases, such as Belgium and Germany, unions have taken action to combat the influence of the far-right. Specific campaigns to promote equal rights for migrant workers – often in non-employment areas (such as housing and political rights) as well as in employment – feature in many countries, such as Belgium, Greece, Italy, Portugal and Spain. Unions have also conducted campaigns on the position of particular groups of migrants – such as people from the Philippines working in private sector nursing homes and private households in the UK.
- *Practical trade union assistance and support* for migrant workers and their labour market and social integration are reported from countries such as Belgium, Finland, Germany, Greece, Italy, the Netherlands, Norway, Portugal, Spain, Sweden and the UK. This may take the form of advice, information, special services and involvement in integration programmes. For example, Italian unions have set up special services to meet migrants’ needs, within their existing benefit advice centres, which provide assistance in many areas, such as obtaining residence permits. Unions in countries such as Greece, Italy, the Netherlands, Norway and Portugal provide support for, and/or cooperate with, organisations representing migrants.
- Connected to the previous point, *special departments and services* to deal with migrants and migration issues have been set up by trade unions and/or their confederations in countries including Belgium, Germany, Italy, Luxembourg, the Netherlands, Spain and Sweden. Educating trade union officials and members on the issues affecting migrant workers receives attention in a number of countries, such as Sweden and the UK. The Swedish Trade Union Confederation (Landsorganisationen, LO) launched a five-year programme in 2002, providing trade union education on discrimination and other migration-related matters, including the use of 60 specially trained instructors (SE0107107N).

- Union *recruitment initiatives* directed specifically at migrant workers are reported only from a minority of countries, such as Finland, Italy, the Netherlands, Norway, Spain, Sweden and the UK. However, in Sweden these are limited, given high union membership levels among migrant workers, while in Norway they are generally limited to sectors with large numbers of migrants and low overall union density. In some cases, efforts are being made to improve the involvement of migrant members in trade union work – eg Finland and Norway – and their representation in union structures and among union officials – eg Belgium, Italy and the Netherlands.
- A few trade unions have taken measures to improve *cooperation* with trade unions in migrants' countries of origin – eg some unions in Portugal and the UK – or provide information to workers in these countries – eg the Central Organisation of Finnish Trade Unions (Suomen Ammattiliittojen Keskusjärjestö, SAK) has opened an information office in Estonia to inform potential migrants to Finland of employment conditions and rights there.
- Finally, much of the above refers to unions' views and actions with regard to legal migrant workers. In countries with large numbers of *illegal immigrants*, these seem to be a major issue for trade unions. Thus unions in countries such as Greece, Portugal and Spain devote considerable attention to supporting illegal foreign workers (and recruiting them in some cases) and seeking to regularise their situation and defend their rights. Regularisation is also, if to a lesser extent, an issue for unions in countries such as Belgium and Luxembourg.

A brief summary of the activities of trade unions (and employers/employers' organisations) on migration issues is provided in table 13 below. The table excludes employers' recruitment of migrants and (in most cases) involvement in bipartite or tripartite dialogue and collective bargaining.

Table 13 Activities of employers' organisations and trade unions on migration issues

Country	Employers' organisations	Trade unions
Austria	No specific initiatives.	Some involvement in anti-racist initiatives; support by some unions for migrants' rights (eg to stand for election to works councils).
Belgium	Declaration on anti-discrimination and equal opportunities in recruitment of immigrants; Flemish tripartite agreement on recruitment of immigrants, providing for annual action plans for better labour market orientation.	Activities (training etc) against discrimination and racism; creation of immigration committees and services; recruitment as representatives; cooperation agreements with equal opportunities bodies.
Denmark	Larger companies operating 'diversity-oriented' recruitment policy; involvement in bipartite and tripartite initiatives on integration of migrants.	No specific activities apart from involvement in bipartite and tripartite integration initiatives.
Finland	Organisation of surveys and seminars on migration issues; participation in programmes to improve labour market participation and position of migrants; participation in tripartite working group on managing diversity.	Information material and courses for migrants in several sectors; activities seeking to engage migrants in unions; information office in country of origin (Estonia).
France	No specific initiatives except involvement in tripartite anti-discrimination initiatives.	Anti-racism campaigns; research activities; solidarity actions in some cases.
Germany	No specific initiatives except involvement in preparation of migration policy and support for company-level anti-discrimination measures.	Campaigns against illegal employment conditions for migrants in construction; organisation of/involvement in campaigns against racism, discrimination and far-right; creation of migration departments; support for migrants.

Table 13 (continued)

Country	Employers' organisations	Trade unions
Greece	No specific initiatives.	Campaigns for legalisation of illegal migrants; support for migrants and migrant organisations.
Hungary	No specific initiatives.	No specific initiatives.
Ireland	Involvement in round tables on immigration and campaigns against racism; diversity policies in several larger companies.	Campaigns against racism and abuse of migrants.
Italy	Activities by individual employers and associations to foster social inclusion; initiatives in the field of training and education, housing and facilitating visits by migrants to home countries.	Campaigns and activities on equal treatment and against racism and exploitation; specific recruitment campaigns; special departments, courses, assistance and services; measures to improve migrants' representation in union structures; support of migrants' organisations.
Luxembourg	No specific initiatives.	Campaigns on regularisation of illegal immigrants, creation of special immigrant departments.
Netherlands	Activities in many fields, all in cooperation with unions and/or the government.	Recruitment activities; creation of special migrants departments; research; measures to improve representation in internal structures; cooperation with migrant organisations.
Norway	No specific initiatives.	Recruitment and union involvement efforts in some sectors; support for anti-racist campaigns; project to remove barriers to employment for existing migrants; joint work with NGOs.
Poland	No specific initiatives.	No specific initiatives.
Portugal	Activities in some sectors (notably metalworking) to coordinate labour migration and combat illegal immigration.	Campaigns to promote integration, combat racism and illegal work; training, seminars, conferences and publications, cooperation with migrants' organisations and unions in countries of origin
Slovakia	No specific initiatives.	No specific initiatives.
Slovenia	No specific initiatives.	No specific initiatives.
Spain	Proposals to set up an integrated system for immigration, covering all issues.	Recruitment efforts (including illegal immigrants); creation of information, advice and support services; campaigns on integration and non-discrimination.
Sweden	Several projects on diversity management and migrant workers; policy on integration of migrants; cooperation with local authorities on placement of migrants.	Special education and integration projects; some recruitment efforts; special union officials for migrant issues.
UK	Growing interest in diversity management (though not specifically relating to migrants); policy statement on migrants.	Wide range of activities to further integration and combat racism; some recruitment activities; guidance to workplace representatives on migrants' issues; special campaigns on distinct categories of migrants; cooperation with unions in countries of origin.

Source: EIRO

Collective bargaining on migration-related issues

Across the 20 countries examined here, the issue of migrant workers has not achieved a significant place on the social partners' agenda when it comes to collective bargaining - see table 14 on p. 86 for a summary of the current position. In many countries, issues relating to migrant workers are not seen as an issue for collective bargaining, but for bipartite and tripartite dialogue - an area where

there has been considerable activity in some countries (see above under 'Social partners' involvement in migration policy'). There is no evidence of any bargaining activity of specific relevance to the matter in France, Luxembourg, Portugal, Sweden and the four candidate countries considered. A common view in such cases is that collective agreements apply to all workers, whether migrants or nationals.

In the other countries, there is some – though rarely very much – bargaining activity on migrant worker-related themes. In Austria, this is purely negative, in that a number of sectoral agreements allow discrimination against migrant workers in recruitment and dismissal. Elsewhere, the approach varies, with agreements at various levels dealing in various ways with a number of key themes, mainly non-discrimination/equal treatment on grounds of race and ethnic origin (which is relevant to many migrant workers, as well of course to many nationals) and integration.

At intersectoral level, the Belgian social partners have reached agreements both on equality and non-discrimination on racial grounds, and on special training and employment measures for 'at-risk' groups, including migrants. Equal treatment for migrants is established as a theme in company-level employee-management cooperation by a national agreement in Denmark, while the largest social partner organisations have also reached an agreement on the integration of migrants. Non-discrimination and equal treatment is also dealt with by intersectoral agreements in Greece and Ireland. The narrower issue of monitoring the working conditions of migrant workers has been addressed by a Finnish central agreement. In most cases, there is no evidence that such intersectoral provisions are reflected in any significant bargaining on migration issues at lower levels.

The countries where migrant workers probably receive most attention in collective bargaining are probably those where the issue is dealt with in sectoral agreements – Italy, the Netherlands, Norway and Spain. Around one in 12 Italian sectoral agreements deal with relevant matters, as do around a fifth of major Dutch agreements (the majority of which are at sector level) and a significant number of Norwegian agreements. The practice appears less common in Spain. In Italy, the relevant agreements – often signed by employers' organisations for SMEs, crafts and cooperatives – cover a range of matters including: support for employment and social inclusion (housing, transport etc); language courses and, less frequently, vocational training; the creation of special monitoring committees on migrant workers' labour market situation; equal opportunity measures; and special longer holidays for migrant workers (ie to visit their countries of origin) and time off for religious purposes. Unions are pushing for similar provisions in other agreements (eg in the influential metalworking sector). In the Netherlands, the focus is more specifically on the employment of migrant workers, with a majority of relevant agreements containing target figures for new jobs for this group. One agreement in retail provides for language training for migrants and course in multicultural personnel management for managers.

The relevant Norwegian sectoral agreements also deal with the employment of migrant workers. They state, fairly uniformly, that efforts must be made to encourage immigrants to take up work in the sector concerned and that the parties at the company level should discuss issues relating to migrants that are of relevance to the individual enterprise, such as adaptations of the workplace and attitudes towards immigrants. Individual employers should discuss with the unions concerned measures that may ease the introduction and participation of immigrants within the enterprise. The

agreements emphasise the importance of providing training for migrants that is adapted to the needs of the enterprise while at the same time providing 'knowledge of the culture and traditions of Norwegian business and industry'. In Spain, collective agreements in sectors with large migrant workforces – eg hotels/catering, construction and agriculture – include provisions on issues such as equal pay and (as with some Italian agreements) flexible working time for religious purposes, such as Ramadan for Muslims. Finally a notable sectoral agreement on preventing racial discrimination has been signed in the Belgian temporary agency work sector.

Table 14 Collective agreements on migration-related issues

Austria	A number of sectoral agreements lay down an order of priority for dismissal or recruitment which discriminates against foreign workers. For example, the current hotels sector agreement states: 'When it comes to the engagement of new employees, skilled workers and Austrian citizens have to be favoured.'
Belgium	Intersectoral agreements contain special training and employment measures for migrants, while specific national agreements cover equality and anti-discrimination issues. Notable sectoral agreement on preventing racial discrimination in temporary agency work sector signed in 1996 (BE9704105F).
Denmark	Cooperation Agreement between the Confederation of Danish Trade Unions (Landsorganisationen i Danmark, LO) and the Danish Employers' Confederation (Dansk Arbejdsgiverforening, DA) provides for equal treatment for migrants at work. DA and LO reached agreement in 2002 on the labour market integration of immigrants and refugees (DK0201166F).
Finland	National intersectoral agreement for 2003-4 (FI0212103F) contains a provision asking the government to improve monitoring of the working conditions of migrant workers. Not an issue in lower-level bargaining.
France	Not an issue in collective bargaining.
Germany	Not an issue in collective bargaining at sector and company level. Works agreements on equal treatment and non-discrimination on grounds of race in a number of companies (covering about 1 million workers).
Greece	The intersectoral National General Collective Agreement includes provisions on equal treatment and non-discrimination on grounds of race, and one respect for racial, national, religious and cultural diversity. Otherwise, not an issue in collective bargaining.
Hungary	Not an issue in collective bargaining.
Ireland	National tripartite agreement for 2000-2, the Programme for Prosperity and Fairness (IE0003149F), contains provisions on matters such as equality and non-discrimination on racial and ethnic grounds and the inclusion of migrants and refugees. Not a significant issue in company-level bargaining.
Italy	8% of sectoral agreements (mainly covering smaller firms) and under 1% of company agreements (in Emilia-Romagna region) include provisions on migrant workers - topics include language and training courses, special holidays and time off, equal opportunities, social inclusion measures (eg housing) and monitoring committees. Various territorial agreements in particular regions, provinces, cities etc include support and assistance for migrants
Luxembourg	Not an issue in collective bargaining.
Netherlands	Around a fifth of major sectoral and company-level collective agreements contain provisions on migrant workers, especially regarding employment (sometimes including targets for job creation for migrants).
Norway	Some sectoral agreements contain clauses encouraging employers to recruit migrant workers and take measures to facilitate this. Otherwise, not a major issue in collective bargaining.
Poland	Not an issue in collective bargaining.
Portugal	Not an issue in collective bargaining.
Slovakia	Not an issue in collective bargaining.
Slovenia	Not an issue in collective bargaining.
Spain	Some provisions in collective agreements in sectors where many migrants are employed, such as hotels/catering, construction and agriculture, covering issues such as equal pay and flexible hours for religious purposes.
Sweden	Not an issue in collective bargaining.
UK	Not a significant issue in collective bargaining. Probably some company-level consultation on recruitment where union presence is strong, while success of union efforts to promote 'access to work' agreements where migrant workers are recruited (covering matters such as induction and equal treatment) is unknown.

Source: EIRO

Company-level bargaining on migration issues seems to be rare, with some exceptions in Germany, Italy, the Netherlands (see previous point) and possibly the UK. A few company agreements in Italy (eg at Electrolux Zanussi) provide for special working time and leave arrangements for migrant workers. In Germany, works agreements on preventing racial discrimination and ensuring equal treatment have been signed by works councils and management in a number of companies, such as Deutsche Bahn, Thyssen Stahl, Satorius, Opel, Volkswagen, Jenoptik and Aventis. Around one million employees are covered by such agreements which, in line with trade union recommendations, include complaints procedures and give works councils or other representatives the right to intervene where unequal treatment or discriminatory practices occur.

In Italy, some issues of relevance to migrants are covered by territorial agreements concluded by the social partners, local authorities and other parties in a number of regions, cities, etc (see above under 'Employers' organisations').

Conclusion

This chapter has examined the extremely broad and multifaceted subject of migration from the perspective of industrial relations, concentrating mainly on migrants from outside the EEA.

In most countries, migrants are concentrated at the top and bottom ends of the labour market. Because governments are increasingly developing a policy of controlled immigration to resolve labour shortages, and because these shortages are mainly to be found at the extreme ends of the labour market, this polarisation might become even more pronounced in future.

Although overall the views of employers' organisations and unions on migration are not fundamentally opposed, there are some marked differences. Moreover, there are definitely national nuances within the ranks of both sides. In France and Austria, for example, employers seem less keen on allowing more labour migration than in many other countries. However, employers and their organisations generally stress the importance and advantages of the free movement of labour, though there are obvious national nuances in their views. Although trade unions and their federations/confederations acknowledge that to fill certain jobs (new) migrants are 'unavoidable', the general attitude towards migration is hesitant. Many unions mistrust the employers' discourse on the free movement of labour. Instead, they stress the need to improve the situation of migrants already in the country, improving their situation whether employed or unemployed.

Given demographic factors in the current EU Member States, the enlargement of the EU to the east and – last but not least – the gap between the wealth of the EU and the (relative) poverty of large parts of the rest of the world, migration will remain a fact of life. A recent study by the Organisation for Economic Cooperation and Development confirms this. Notwithstanding the very strict measures that many countries have taken to curb immigration, migration to the 30 richest countries in the world has increased in recent years. The United Nations also expects a rise in migratory pressure, especially to Europe. Therefore, immigration will remain an important subject for both the government and the social partners.

Notwithstanding many 'success stories', on average migrants, and especially non-EEA migrants, are in a disadvantaged position when compared with nationals in terms of employment and unemployment rates, type of jobs and contracts, and pay and employment/working conditions. In

trying to improve the situation of migrants in these areas, the extent to which governments cooperate with the social partners varies, as does the extent to which governments try to integrate the different policy fields related to migrants. The national evidence seems to indicate that an integrated approach and cooperation with social partners, while perhaps not guaranteeing success, still offers the best chances. The same might be true for a decentralised approach, be it at regional or at company/sector level.

Given the mounting importance of migration, it is unsurprising that activity on this issue seems to be growing in importance for employers' organisations and trade unions in most (if not all) western European countries, though not in the generally low-immigration candidate countries. However, the priority given to the matter varies substantially between countries, doubtless reflecting their particular experience of immigration. In terms of unilateral activities, there are some examples of action by employers' organisations, notably on the integration of migrants and tackling discrimination, and of an increased wish to ensure workforce diversity by some individual employers. Trade unions in most countries are increasingly active in working to combat racism and promote equal treatment, and provide assistance and support for migrant workers and their labour market and social integration. Specific recruitment efforts targeted at migrants seem less common, even though union density among this group is generally lower than average.

Bipartite and tripartite dialogue and consultation on migration issues appears to be in place in many countries and to play an important role in some cases. However, the topic has not achieved a significant place on the collective bargaining agenda in most countries, with some exceptions, principally in particular sectors and, in more general terms, at intersectoral level in a few countries. This may be surprising, given the rising importance of migration issues, and it is possible that the situation will change in the years to come.

Annex

The European Industrial Relations Observatory — EIRO

The European Industrial Relations Observatory (EIRO) is a monitoring instrument offering news and analysis on European industrial relations, primarily through its web-based database *EIROOnline* – <http://www.eiro.eurofound.eu.int/>. A project of the European Foundation for the Improvement of Living and Working Conditions, EIRO began its operations in 1997. Its aim is to collect, analyse and disseminate high-quality and up-to-date information on key developments in industrial relations in Europe. It aims primarily to serve the needs of national and European-level organisations of the social partners, governmental organisations and EU institutions.

EIRO is based on a network of leading research institutes in the 15 EU Member States and Norway, as well as Hungary, Poland, Slovakia and Slovenia (see below for a list of centres). There is also a centre covering developments at the EU level. It will expand its coverage to further candidate countries during 2003. As part of the tripartite nature of the Foundation, an Advisory Committee supervises EIRO, together with the other projects in the industrial relations area. This Committee, composed of representatives of employers, trade unions, Member State governments and the European Commission, ensures the objectivity and quality of the information provided. EIRO also cooperates with other international institutions, such as the International Labour Organisation. In order to complement the coverage of industrial relations developments in Europe, EIRO collaborates with experts in Japan and USA in the production of an annual comparative overview of industrial relations in the EU, Japan and USA.

The *EIROOnline* database contains more than 5,000 records, dating from 1997 to the present. These comprise:

- News and feature articles
- Comparative studies
- Annual reviews
- Annual updates on key issues as pay and working time
- Thematic and sectoral analyses
- The bi-monthly *EIROObserver* bulletin

An annual comparison of the EU, Japan and USA has been available since 2001.

EIROOnline articles are sorted by country, sector and also in chronological order. Comparative and other studies are easily accessible from the website. Full text search can be carried out on all EIRO records, and results can be narrowed down by country, sector and date using the advanced search facility.

If *EIROOnline* users are not able to find the required information, they can contact the EIRO enquiry service for assistance. By registering, which is free of charge, users can avail of additional services, such as notification of publication of the *EIROObserver* bi-monthly bulletin. For further information, please contact the EIRO information officer, Camilla Galli da Bino at eiroidfo@eurofound.eu.int.

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EIRO national centres

European Union level

Industrial Relations Services, 60 Boulevard de la Woluwe, 1200 Brussels and 18-20 Highbury Place, London N5 1QP

Contact: Andrea Broughton, tel: +44 20 7354 6714, fax: +44 20 7359 4000,
e-mail: andrea.broughton@irseclipse.co.uk

Austria

Institute of Government, Department of Industrial Sociology, University of Vienna,
Bruenner Strasse 72, A-1210 Wien

Contact: Georg Adam, tel: +43 1 4277 38316, fax: +43 1 4277 38318,
e-mail: Georg.Adam@univie.ac.at

Belgium

Institut des Sciences du Travail, Place des Doyens 1, B-1348 Louvain-La-Neuve

Contact: Catherine Delbar, tel: +32 10 473923, fax: +32 10 473914,
e-mail: delbar@trav.ucl.ac.be

Denmark

FAOS, Dept of Sociology, University of Copenhagen, Linnésgade 22, DK-1361 Copenhagen K

Contact: Carsten Jørgensen, tel: +45 35 323299, fax: +45 35 323940, e-mail: cj@faos.dk

Finland

Labour Institute for Economic Research, Pitkäsillanranta 3 A, FIN-00530 Helsinki

Contact: Reija Lilja, tel: +358 9 2535 7333, fax: +3589 2535 7332,
e-mail: reija.lilja@labour.fi

(During 2002 - Ministry of Labour, contact: Juha Hietanen)

France

Institut de Recherches Economiques et Sociales (IRES), 16 Boulevard du Mont-d'Est, F-93192
Noisy le Grand Cedex

Contact: Maurice Braud, tel: +33 1 4815 1895, fax: +33 1 4815 1918,
e-mail: Maurice.BRAUD@ires-fr.org

Germany

Institut der deutschen Wirtschaft Köln (IW), Gustav-Heinemann-Ufer 84-88, D-50968 Köln

Contact: Lothar Funk, tel: +49 211 4981 748, fax: +49 211 4981 548, e-mail: Funk@iwkoeln.de

Wirtschafts- und Sozialwissenschaftliches Institut in der Hans-Böckler-Stiftung (WSI in der
HBS), Hans-Böckler-Strasse 39, D-40476 Düsseldorf

Contact: Thorsten Schulten, tel: +49 211 7778 239, fax: +49 211 77 78 250,
e-mail: Thorsten-Schulten@boeckler.de

Greece

Labour Institute of the General Confederation of Greek Labour (INE-GSEE/ADEDY), Emm.
Benaki 71A, GR-10681 Athens

Contact: Eva Soumeli, tel: +30 210 3327 765, fax: +30 210 3327 736,
e-mail: ineobser@inegsee.gr

Hungary

Institute of Political Science of Hungarian Academy of Science, Orszaghaz Utca 30, Budapest

Contact: Andras Pulai, tel: +361 375 9011/224-6700, fax: +361 224 6721, e-mail: eiro@mtapti.hu

Ireland

Centre for Employment Relations and Organisational Performance (CEROP), Graduate School of
Business, University College Dublin, Carysfort Avenue, Blackrock, Co. Dublin

Contact: John Geary, tel: +353 1 716 8974, fax: +353 1 716 8007, e-mail: john.geary@ucd.ie

Industrial Relations News (IRN), 121-123 Ranelagh, Dublin 6.

Contact: Brian Sheehan, tel: +353 1 497 2711, fax: +353 1 497 2779, e-mail: bsheehan@irn.ie

Italy

Centro di Studi Economici Sociali e Sindacali (Cesos), Via Po 102, I-00198 Roma

Contact: Marta Santi, tel: +39 06 84242070, Fax: +39 06 85355360, e-mail: cesos@mclink.it

Fondazione Regionale Pietro Seveso, Viale Vittorio Veneto, I-24 I-20124 Milano

Contact: Roberto Pedersini, tel: +39 02 290 13 198, fax: +39 02 290 13 262,
e-mail: eiro@fondazioneveso.it

Istituto di Ricerche Economiche e Sociali (IRES) Lombardia, Via Pompeo Litta 7, I-20122 Milano

Contact: Livio Muratore, tel: +39 02 541 18 860/541 20 564, fax: +39 02 5412 0780,
e-mail: ireseiro@galactica.it

Luxembourg

Marc Feyereisen, Cour administrative, 1, rue du Fort Thuengen, L-1499 Luxembourg

Contact: Marc Feyereisen, tel: +352 42105 7860, fax: +352 42105 7888,
e-mail: Marc.Feyereisen@ja.etat.lu

Netherlands

Hugo Sinzheimer Institute (HSI), Rokin 84, NL-1012 KX Amsterdam

Contact: Robert van het Kaar, tel: +31 20 525 3962, fax: +31 20 525 3648,
e-mail: kaar@jur.uva.nl

Norway

Fafo Institute for Applied Social Science PO Box 2947 Toyen, N-0608 Oslo

Contact: Kristine Nergaard, tel: +47 22088667, fax: +47 22088700,

e-mail: kristine.nergaard@fafo.no

Poland

Foundation Institute of Public Affairs, ul Flory 9, PL-00-586 Warsaw

Contact: Paulina Zadura, tel: +48 22 845 68 55, fax: +48 22 845 68 62,

e-mail: paulina.zadura@isp.org.pl

Portugal

Universidade Autonoma de Lisboa (UAL), Palácio dos Condes de Redondo, Rua De Santa Marta 47, P-1150-297 Lisboa

Contact: Maria Luisa Cristovam, tel: +351 21 844 14 08, fax: +351 21 317 76 73,

e-mail: mlc@universidade-autonoma.pt

Slovakia

Research Institute of Labour, Social Affairs and Family, Spitalska 6, SK-812 41 Bratislava

Contact: Ludovit Cziria, tel: +421 2 5975 2522, fax: +421 2 5296 6633,

e-mail: cziria@vupsvr.gov.sk

Slovenia

Institute of Macroeconomic Analysis and Development (IMAD), Government of the Republic of Slovenia, Gregorjeva 27, SLO-1000 Ljubljana

Contact: Stefan Skledar, tel: +386 1 4781012, fax: +386 1 4781070, e-mail: stefan.skledar@gov.si

Spain

Fundació Centre d'Iniciatives i Recerques Europees al la Mediterrània (CIREM), Travessera de les Corts 39-43 lat, 2^a pl, E-08028 Barcelona

Contact: Daniel Albarracín, tel: +34 91 4021616, fax: +34 91 4021723,

e-mail: daniel.albarracin@cirem.org

Grup d'Estudis Sociològics Sobre la Vida Quotidiana i el Treball (QUIT), Departament de Sociologia, Edifici B, Campus Universitat Autònoma de Barcelona, Bellaterra E-08193, Barcelona

Contact: Martí López, tel: +34 93 581 2405, fax: +34 93 581 2827, e-mail: gr.eiro@uab.es

Sweden

Arbetslivsinstitutet (National Institute for Working Life), S-112 79 Stockholm

Contact: Annika Berg, tel: +46 8 619 6799, fax: +46 8 619 6795,

e-mail: annika.berg@arbetslivsinstitutet.se

United Kingdom

Industrial Relations Research Unit (Warwick Business School) University of Warwick, Coventry CV4 7AL

Contact: Mark Hall, tel: +44 24 7652 4273, fax: +44 24 7652 4184,

e-mail: mark.hall@warwick.ac.uk

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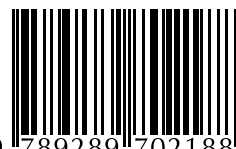
Covering the main industrial relations developments during 2002 throughout the European Union, Norway and three of the candidate countries, Hungary, Poland and Slovakia, this new report focuses on key issues covered by collective bargaining such as pay, working time, job security and equal opportunities. It also examines areas such as legislative developments, industrial action and vocational training and provides a comprehensive review of the European-level social dialogue between trade union and employer organisations. A final thematic chapter tackling the issue of migration in the context of industrial relations developments provides a very real context for this important joint initiative between the European Foundation for the Improvement of Living and Working Conditions and the European Commission.



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