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Visser, J.

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Chapter 1: Variations and trends in European industrial relations in the 21st century's first decade

Trends in industrial relations institutions show a mix of continuity and diversity. Rates of trade union density, decentralisation of collective bargaining, employers' organisations and collective bargaining have remained relatively stable. National industrial relations regimes remain diverse — mainly between the EU-15 and the 12 new Member States, but also within them in different country groupings. The effect of the crisis on industrial relations arrangements is not yet clear.

This chapter is based on a draft by Jelle Visser of the Amsterdam Institute for Advanced Labour Studies (AIAS, University of Amsterdam)

1.1. Introduction

This chapter presents an overview of industrial relations in the European Union (EU) during the 2000s. This was the first decade in which economic and monetary union (EMU) was in full operation. In 2004 the biggest enlargement in the history of the EU took place, adding 10 Member States, followed in 2007 by two more, bringing the total to 27 Member States. The decade started with the EU's ambitious Lisbon Agenda of 2000, it ended with the deepest economic crisis since the 1930s. In 2009 the economy of the EU contracted by 4 % and by early 2010 average unemployment in the EU reached 10 % of the labour force. In 2010, under pressure of rising public debts and government deficits incurred during the crisis, many countries are preparing austerity measures that include pay cuts or freezes and significant job loss in the public sector.

In short, the beginning and end of this first decade present different sets of conditions, expectations and challenges. In the early 2000s the three key issues were the design of national and sector wage policies adapting to a centralised European monetary policy; the promotion of labour market participation and social inclusion; and the political, social and economic integration of the new Member States, especially the post-Communist countries of central and eastern Europe (CEE countries). Earlier reports on industrial relations in Europe, especially in 2006 and 2008, have reported on these issues and on the contribution of trade unions and employers. Today, at the end of the decade, the agenda is overwhelmed by the challenge of the economic crisis: rising unemployment; increased competitive pressures in the private sector; financial problems in the public sector; and finding a new path towards sustainable growth, greater productivity, real wage improvements and more jobs. The next chapters report on the industrial relations' response to the crisis at different levels (EU, national, sector and company). This chapter reports, firstly, on the current state of industrial relations; secondly, on the main developments during the decade; and indicates, thirdly, what the impact of the crisis on industrial relations might be.

The chapter starts with a portrait of the main collective actors in industrial relations: trade unions (Section 1.2) and employers' associations (Section 1.3), respectively. For each, the main organisational features and representation of members (individual workers and firms) will be highlighted. A key institution in the relation between unions (workers) and employers (firms) is the collective labour agreement. Section 1.4 discusses main features and trends, such as coverage, centralisation and coordination, in collective bargaining. As

important for the management of change and the settling of conflicting interests are the structures and practices of employee representation in the enterprise or workplace. This is addressed in Section 1.5, followed in Section 1.6 by a description of the trends and variations in industrial conflict. The role of the government is the subject of Section 1.7. The chapter ends with a brief analysis of the likely effects of the crisis on industrial relations. As far as possible, the chapter presents recent data and developments, usually relating to 2008 or 2009. The year 2000 or, to avoid outliers, an average for 1997–99, is taken as the benchmark for comparison with recent years.

Box 1.1: Data sources

The main source used for this chapter is the ICTWSS — Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts — database, which contains data on some 100 variables from 1960 to 2009 in 34 countries. The database was developed by Jelle Visser and can be consulted at the website of the Amsterdam Institute for Advanced Labour Studies AIAS (<http://www.uva-aias.net/>). An updated version (ICTWSS, version 3.0) is now available (Visser, 2010). Integrated in the database is information from national surveys, the European Social Survey (<http://www.europeansocialsurvey.org>), administrative data obtained from the unions and from the European Industrial Relations Observatory (EIRO) of the European Foundation for the Improvement of Living and Working Conditions, in particular the EIRO country profiles (<http://www.eurofound.europa.eu/eiro/>). Also used for this chapter are the two reports on trade union membership in 1993–2003 and 2003–08 (.../eiro/2004/03/update/tn0403105u.htm; eiro/studies/tn0904019s/tn0904019s.htm), written for the Foundation by Mark Carley, as well as his recent report on ‘Development in social partnership — employer organisations’ (.../eiro/studies/tn0910049s/tn0910049s.htm). Another invaluable source on employer organisation in Europe is the 2004 study by Franz Traxler and Martin Behrens, also for the Foundation (.../eiro/2003/11/study/tn0311101s.htm). The data on employee representation are from the ICTWSS database and from the 2009 European Company Survey, released by the European Foundation in March 2010 (<http://www.eurofound.europa.eu/surveys/companysurvey/2009/index.htm>). The data on industrial conflict are from the ILO’s Laborsta database, combined with Carley’s report for the Foundation on ‘Developments in industrial action 2005–2009’ (.../eiro/studies/TN1004049S/TN1004049S.htm). The employment data in the ICTWSS database are from the OECD’s Labour Force Statistics (‘Wage and salary earners in employment’) and, for non-OECD members, from Eurostat and the Commission’s annual *Employment in Europe* reports.

1.2. Trade unions

The power and presence of trade unions is determined by various factors. The level of membership, in absolute terms and relative to employment, is an important but not the only determinant of trade union power. Other factors are the unity and cooperation inside and outside the union movement; the relationship with employers, governments, political parties and other social organisations; leadership, internal organisation and membership participation; sound finances; a coherent value system or ideology; and the standing of the unions and their leaders in public opinion (see Hyman, 2001; Visser, 1995). The composition of unions and union membership, their representation among different categories defined by skill, sector, gender, sector, age, nationality and status in the labour market is relevant for understanding the policy choices of unions, for instance regarding employment protection, pension reform, incomes policy or wage setting (Iversen, 1999; Ebbinghaus and Visser, 2000).

The present section discusses, firstly, the organisational make-up of the union movement in EU Member States; secondly, tendencies towards concentration or fragmentation, thirdly, issues of leadership, in particular related to the role and authority of the main confederations and largest (sector) unions and, fourthly, the membership basis and composition of the unions. For each issue, where appropriate, developments at EU and national level will be indicated.

1.2.1. Union confederations and divisions in national union movements

In view of the varied pattern of union organisation it is hard to discern any general EU model of trade unionism. Across Member States, the number of confederations or peak associations of trade unions varies from one to nine; the membership share of the largest confederation varies from 100 % in Austria to 23 % in France; and the number of affiliated unions in the main or largest union confederation varies from eight in Germany to more than a hundred in Poland. There is not a particular north–south or east–west gradient in these variations.

1.2.1.1. General and specialised confederations

Table 1.1 highlights the main divisions. A first distinction can be made between ‘general’ confederations, which organise throughout the economy in all sectors of the economy (including the public sector), and ‘specialised’ confederations with members in the public sector or some specialised sector (e.g. commerce; financial services, healthcare). Of the 98 confederations counted in January 2010, nine are limited to the public sector, eight to services, and 81 are general.

Table 1.1: Number of union confederations, domains and key divisions in 2010

	Total	General	Divisions				Public	Services
	#	#	<i>Political</i>	<i>Religious</i>	<i>Occu- pational</i>	<i>Regional</i>	#	#
AT	1	1						
IE	1	1						
LV	1	1						
UK	1	1						
EL	2	1					1	
EE	2	1						1
MT	2	2	X					
SK	3	2		x				1
BG	3	2	X				1	
BE	3	3	X	X		x		
DE	3	2		x			1	
LT	3	3	X	x				
PL	3	3	X					
NL	3	3	x	X	x			
FI	3	3			X			
SE	3	3			X			
DK	4	4		x	X			

CY	4	3	X		x		1
LU	4	2	X	X		1	1
PT	4	4	X				
CZ	5	4	X	x		x	1
RO	5	5	X				
ES	6	5	X	x		x	1
HU	6	6	X				
SI	7	5	X			x	1
IT	7	6	X				1
FR	9	5	X	x	x		4

Source: J. Visser, ICTWSS database 3.0, 2010; see Appendix A1.2 for list of confederations.
NB: X = major or primary demarcationline; x = minor or secondary.

1.2.1.2. Political, religious and regional divisions

Politics as a source of disunity is present in 15 of the 27 EU Member States (Table 1.1). It is absent in Scandinavia, Finland, Estonia, Latvia, Germany, Ireland and the UK. In Austria and Greece party-political differences are ‘internalised’ as factions within the main confederations, ÖGB and GSEE respectively. Religious differences are usually a minor or secondary demarcation, or they overlap with political differences, as is the case in Belgium, Luxembourg and the Netherlands. Small, minority organisations based on religious identity exist in Germany, Denmark, France, Spain, Hungary, Slovakia and Lithuania. Finally, confederations of unions limited to a particular language community or region exist in Spain (Basque area), the Czech Republic (Bohemia, Moravia and Silesia) and Slovenia (coastal area). Within the Belgian confederations, unions have sometimes a distinct regional (and linguistic) identity, especially those for white-collar staff and in the public sector.

1.2.1.3. Divisions by occupational class or status

Occupational demarcations between blue- and white-collar employees, with separate organisations for (academic) professions and managers, are the main dividing line in the Nordic countries. In a few other countries, higher-ranking white-collar employees have formed minority confederations, for example in Denmark, the Netherlands, France and Cyprus ⁽¹⁾. In many other countries, for instance Belgium or Austria and in a more varied way also in Ireland and the UK, occupational status is the source of divisions between unions within the same confederation. In some of these cases blue- and white-collar workers negotiate different collective agreements and/or have different social insurance provisions and employment protection rights. In the industrial unions of Germany, the Netherlands, Spain or Italy, and also in most CEE countries these distinctions are absent, and blue- and white-collar staff in the private sector tend to be covered by the same collective agreements and legal

⁽¹⁾ There are also separate unions, federations or forums for managers with executive functions in Austria, Belgium, Germany, Greece, Italy, Poland, Portugal, Slovenia, Spain, Sweden and the UK, but they are usually very small, not recognised and not involved in collective bargaining — if known, their membership is included under ‘independent or unaffiliated’ unions, but they are not included in the list of confederations in Table 1.1.

statutes. Recent union mergers and labour market reforms in Austria and Belgium go in the same direction of lowering or removing the distinctions between blue- and white-collar staff. In the Nordic countries, the decline in manual work is a long-term threat to the historically dominant confederations of blue-collar workers.

1.2.1.4. Unity or pluralism?

In the history of (western) European trade unions, the political, religious and occupational demarcations between trade union confederations emerged relatively early, before or around the First World War. They have proved very stable (Ebbinghaus and Visser 2000). Only in Germany and Austria, under allied occupation, was it possible to overcome pre-war differences and organise all or most unions under the common roof of the German and Austrian Confederation of Trade Unions, the DGB and ÖGB respectively. Similar attempts in Italy and France failed. The Netherlands is a rare case where, in the 1970s, a general and Catholic union federation merged to become the FNV, which is the country's dominant union confederation. In nearly all countries in which free unions were suppressed, or unionisation was allowed only in a 'united' organisation, the return to democracy expressed itself in union pluralism, with 'old' and 'new' centres competing with one another. This happened in Spain and Portugal in the late 1970s and in Poland, Hungary and the other CEE countries after the fall of communism. The process of experimentation and differentiation has not stopped yet, although some consolidation has taken place, for instance in Hungary where two confederations merged. Compared with 2000, the number of union confederations in the EU-27 has risen from 93 to 98; in the 10 post-Communist CEE countries the number rose from 29 to 38, with further splits and new union federations in Slovenia, the Czech Republic, Slovakia and Romania.

1.2.1.5. Organisational fragmentation and recognition rules

Union pluralism tends to go together with competition over members, influence, bargaining rights and seats in national, sector or company consultation councils. This competition may be intense when confederations are ideologically and politically opposed to one another, or muted when their membership is demarcated by occupation, region or religion and they have reached a cooperation agreement.

Changes in recognition rules may put pressure on trade unions and confederations to seek a merger with larger organisations. Not reaching the representativeness threshold may shut the confederation and its member unions out from participation in consultation and bargaining. For instance, in Poland a recognition threshold of 10 % applies to unions claiming representation in companies; increasing this threshold, as was debated in the Tripartite Commission in 2008, would probably hurt all unions, but especially those affiliated with the smallest confederation. In Italy, since the late 1990s bargaining rights in the public sector depend on reaching a threshold of 5 %, based on membership and electoral data. Even this low threshold has triggered a spate of union mergers in the public sector. In France, under new legislation applying from 2012, in order to take part in collective bargaining at the sector or cross-sector level, trade union organisations must obtain 8 % of the votes in workplace elections across the sector or nationally, while participation in company-level bargaining will require 10 % of the votes in the relevant enterprise elections. The Confederation of Professional and Managerial Staff (CFE-CGC) and the National Federation of Independent Unions (UNSA), neither of which currently reaches the threshold, have broached the possibility of a merger, but no conclusion has yet been reached. In Luxembourg, a change in

the representation criteria set by the law in 2004 triggered a regrouping of union confederations and their overall reduction from seven to four.

1.2.1.6. Number of unions

The total number of unions affiliated to the largest confederation in each country decreased from 829 in 2000 to 758 in 2008, which represents an average of 29 per country (Table 1.2). A cautious estimate and considering that smaller confederations may also have a smaller number of affiliates, suggests that the total number of national unions in the EU might be in the order of 2 000. Not included in this count are the independent or unaffiliated unions; they probably add another 1 000 mostly very small unions in professions and occupations in the public or state-subsidised sector as well as associations representing managers. As mainstream public sector unions have increasingly come under pressure to accept change in the employment status of civil servants and moderation in wage settlements, some powerful and well-organised professional groups have tried to defend their privileges by splitting off from the main unions. Examples of this development go back to the 1980s in Italy and France and the 1990s in the Netherlands. In the 2000s, train drivers, air pilots, and physicians in Germany won separate bargaining rights, often after a strike (Schroeder and Greef, 2008).

There appears to be no relationship between the number of unions or union confederations and the size of the country (the correlation coefficient is close to zero). The country with the largest population in the EU, Germany, has one of the most concentrated union movements, whereas small countries like Slovenia, Hungary or Portugal have many confederations and many unions. A relatively strict application of the sector principle of demarcation between affiliated unions reduces the number of unions, whereas occupational demarcations raise the number, as the comparison between Germany and Britain shows, although mega unions straddling the boundaries of many sectors and occupations now exist in both countries. The relationship between the number of unions and bargaining units no longer exists, as some large unions negotiate many contracts in different parts of the economy.

1.2.1.7. Union mergers

The process of consolidation through mergers of separate unions has continued, but at a much reduced pace than at the beginning of the decade when there was a flurry of activity resulting in the creation of mega unions, for instance in Finland, Germany, the UK, Austria and Denmark. In the early 2000s, union mergers were often broadcast as a solution to problems of membership decline and union renewal, freeing resources bottled up in unions organising in declining industrial sectors for recruitment drives in services. But mergers are costly operations in themselves and the high expectations associated with some subsequently gave way to disillusionment (Waddington, 2006). In early 2008 three white-collar employee unions merged in Sweden, but in Finland a merger of six unions, decided in 2006, was reversed. Another group of Finnish unions is poised to create a mega union in 2010 or 2011. In January 2010, the construction union of the Dutch Christian National Union Confederation (CNV) integrated into the union for manufacturing industries. In the FNV the industry union had merged 10 years earlier, with unions in transport and services, but the construction union has retained its independence. Union mergers do not necessarily make union structures more similar.

Until recently union mergers have respected the boundaries of confederations and nations, but in July 2008 UNITE, the largest 'general union' in the UK, signed an agreement to merge

with the North American United Steelworkers union, adopting as its name Workers Uniting and claiming more than 3 million members in the UK, Ireland, the USA, Canada and the Caribbean. Unions operating cross-border are a well-known phenomenon in the USA and Canada, and between the United Kingdom and the Irish Republic, but in continental Europe it is rare. The nearest example is the European Cockpit Association (ECA), which represents 38 650 pilots and flight engineers in 38 national flight crew associations in Europe and operates at the EU level. All of ECA's member associations are also members of the International Federation of Air Line Pilots (Ifalpa). Since 2003 ECA has been mandated to act as IFALPA's European voice in bodies such as the European Aviation Safety Association and the European Organisation for Air traffic Navigation Eurocontrol.

1.2.2. Associational monopoly or membership shares

The 98 union confederations currently existing in the EU are quite different in who and what they represent; they differ in size, internal organisation and ideology and in the tasks they fulfil. To grasp these differences we look at the relative size or 'market share', i.e. how many of all unionists in a particular country does the confederation represent? Sometimes, where reliable membership figures are absent the market share can be gauged on the basis of the voting results in elections for works councils or other bodies in which unions compete for seats and influence. In France this has become the main way of adjudicating the relative importance of the different union currents, but such elections also play an important role in Belgium, Luxembourg and Spain. In Italy workplace elections became re-institutionalised through the 1992–93 pacts; and they are used to assign or withhold recognition rights to independent minority unions in the public sector. In Austria works council elections determine the weight of different political currents within the united confederation and its affiliated unions.

Table 1.2: Major union confederations, market shares and effective number of unions

	Largest confederation		Second confederation			Effective number of unions	
	No. affiliation	Market share	No. affiliation	Market share	2000	2008	
AT	ÖGB	9 100.0 %			8	7	
IE	ITUC	43 95.3 %			5.5	5.1	
LV	LBAS	23 91.0 %			..	9	
SK	KOZ SR	35 88.0 %			20	17	
UK	TUC	60 83.0 %			15	10	
DE	DGB	8 77.8 %	DBB	40 15.6 %	10	6	
EE	EAKL	17 75.1 %	TALO	12 24.9 %	23	20	
LT	LPSK	26 74.9 %	LDF	10 19.1 %	21	17	
BG	CITUB	35 69.8 %	CL Pokreba	24 19.5 %	26	29	
PT	CGTP	60 64.2 %	UGT	53 25.1 %	19	17	
NL	FNV	14 63.2 %	CNV	9 17.7 %	10	9	

EL	GSEE	70	60.3 %	ADEDY	46	39.7 %	32	29
DK	LO	17	59.6 %	FTF	> 50	17.4 %	14	14
CZ	ČMKOS	33	55.5 %	ASO	..	22.4 %	..	8
BE	CSC/ACV	11	52.3 %	FGTB/ABVV	7	40.3 %	22	19
RO	Cartel Alfa	..	52.0 %	C. Frăția	..	25.7 %	..	..
SI	ZSSS	21	51.3 %	KSJSS	..	19.7 %	30	50
MT	GMU	32	49.0 %	CMTU	..	37.7 %	..	26
PL	NSZZ Solid.	102	48.0 %	OPZZ	36	43.0 %	46	47
FI	SAK	22	46.8 %	STTK	20	28.6 %	26	22
ES	CC.OO	12	44.2 %	UGT	10	31.4 %	26	25
SE	LO	15	43.3 %	TCO	16	35.3 %	14	16
LU	CGT-L	16	43.1 %	LCGB	16	26.1 %	22	24
IT	CGIL	16	41.4 %	CISL	22	32.5 %	33	31
CY	PEO	..	39.6 %	SEK	..	34.8 %	..	..
HU	SZEF	36	28.6 %	MSzOSz	..	26.1 %	42	48
FR	CGT	18	23.0 %	CFDT	15	22.7 %	71	67

Source: J. Visser, ICTWSS database 3.0, 2010.

The variation is considerable and goes from a market share of 100 % for the largest confederation in Austria to 23 % in France (Table 1.2). The EU average is 60 % for the largest and 22 % for the second-largest confederation. The position of the Austrian Confederation of Trade Unions (ÖGB) is unique and in no other country has one confederation an absolute monopoly. The main confederations in Ireland, the UK, Germany, Latvia and Slovakia approach this situation but must in each case tolerate rival, independent unions.

Between 2000 and 2008 relative membership shares have been fairly stable, with a continued decline of the market share of confederations, like the LO in Sweden and SAK in Finland, which organise mainly blue-collar workers and have their strongest membership basis in industry. Once dominant, they now represent less than half of all union members. This undoubtedly has a limiting effect on their coordinating abilities in wage bargaining and on their political influence. Most confederations define their domain more broadly and they follow the skill or status upgrading of their members. Competition may come from independent unions in the public sector and in some occupations that enjoy special protection, consultation or bargaining rights, or some unique market powers. Transport sectors are generally those with most, and the most powerful, independent unions.

1.2.2.1. Union concentration

In Germany only a handful of unions determine the direction and terms of union politics and collective bargaining. IG Metall, the large union in engineering, Ver.di, which organises employees and workers in public and private services, and IG Chemie, the union in chemical and extraction industries, represent almost two thirds of all union members between them.

Taking into account the actual number of unions and their relative membership size as a proxy of their weight in bargaining and policymaking, we can calculate the effective number of unions (see Box 1.2).

Box 1.2: Herfindahl index of union concentration

The effective number of unions is the inverse of the Herfindahl (H) index, which measures the degree of concentration. The Herfindahl (H) index is defined as $\sum_i^n (p_i^2)$, where p_i is the proportion of total membership organised by the i th union and n is the total number of unions. The maximum of this index is 1, obtained if all union members belong to just one union; the minimum approaches 0, if each union member organises in a separate union. Thus, in the case of Ireland one large union (SIPTU) represents 36 % of all union members, the following four another 40 % and the next 30 unions the rest. This results in a H-index of 0.190 and an effective number of unions of $1/0.190 = 5.3$.

The effective number of unions — or equal sized unions — varies greatly across countries, from 5 in Ireland to 67 in France (Table 1.2, right-hand column). France's high number is the result of both a relative large number of unions ('federations') within each confederation and the large number of confederations. The opposite applies to Ireland: one main confederation and a few very large unions. Historically, the German and Austrian union movements are the most concentrated, after the merger wave of recent times the Irish, British and Dutch unions are also in this category. So too are the Czech and Latvian union movements. In general, union movements in southern and in central and eastern Europe are more fragmented, whereas the Nordic union movements, and Belgium, occupy a position in the middle. One implication is that the few large unions in Ireland, or in Germany and the Netherlands, must be taken very seriously in the event of national discussions of wages and/or reform policies, and that they are able to coordinate even if the confederation is not. In any case, their vote will be decisive in any agreement or pact entered into by the confederation. In the opposite case of many small unions, policy direction and coordination can only be realised through the confederation. In short, union concentration may be a substitute for the confederation's authority.

Although a more concentrated union movement can be more cost-efficient in its services to members and recruitment, there seems to be no relationship between the effective number of unions in a country and the level of unionisation. In fact, the causal arrow may point in the other direction as many mergers tend to be motivated by employment and membership decline (Waddington, 2006).

1.2.3. Union authority and centralisation

Authority can be defined as the chance that decisions by the leaders of an organisation will be followed by their members. Applied to trade unions, this can be studied at two levels: 1. Will the affiliated unions follow the confederal leadership in its decisions? 2. Will the members, individually or organised in branches and workplace or enterprise units, follow the directions of their union leaders? To address these questions, an index of union authority has been constructed (see Box 1.3).

Box 1.3: Index of union authority

The ICTWSS database constructs an index of union (i.e. confederal and affiliate) authority based on the following set of propositions.

Confederal authority is higher if:

- (a) the confederation represents the affiliates politically and is routinely involved in consultation with government through bipartite or tripartite contacts;

- (b) the confederation has (political) control or influence over the appointment of the leaders of its affiliates;
- (c) the confederation negotiates national agreements with employers;
- (d) the confederation runs a 'joint resistance or strike fund' from which affiliates are reimbursed in case of 'approved' strikes; and
- (e) strikes of affiliated unions need prior approval from confederation and/or the confederation can end strikes through central procedures of conflict settlement and arbitration.

Affiliate authority increases if:

- (f) affiliate unions negotiate enforceable contracts at sector level;
- (g) affiliate unions have control or influence over the appointment of workplace representatives;
- (h) affiliate unions do not depend on local or workplace branches for their finances;
- (i) affiliate unions run a central strike fund; and
- (j) affiliate unions can veto local strike or end strikes through sector settlement or arbitration procedures.

Each of the variables (a) to (j) is measured on a three-point scale, with (2) as the highest score, (1) as the intermediate score and (0) as the condition being absent. Dividing by 10 (5×2), produces a range from 1 to 0 for each of two subscales (confederal authority and union authority).

The measure for *union centralisation* reflects not only the degree of authority or vertical integration but also the degree of unity and concentration. The centralisation index is an additive measure obtained by dividing the level of authority at each level (confederation, union) by the effective number of confederations (unions) at that level. At each level weights are applied to reflect the intensity of divisions between confederations (unions), with a 2 for political and ideological conflict, 1.5 for occupational and religious demarcations, and 1 for no or only minor divisions. The centralisation scale is adjusted by taking the root square, which serves to increase the differences at the lower end of the scale. For further details see ICTWSS database, 3.0; see also Iversen 1999.

As shown in Table 1.3, the average degree of union authority, both of confederations over their affiliates and of national unions over their branches and members, is twice as high in the EU-15 as in the 12 new Member States. Between 2000 and 2010 the two groups of Member States began to converge, however. In the 12 new Member States union authority increased in some countries, starting from a very low level, whereas in the EU-15 developments went in the opposite direction. The coefficients of variation reveal that the authority of unions and confederations varies a great deal in the Member States of the EU and that the diversity in the EU-15 is as large, and as constant, as that in the 12 new Member States.

Table 1.3: Union authority and union centralisation, averages

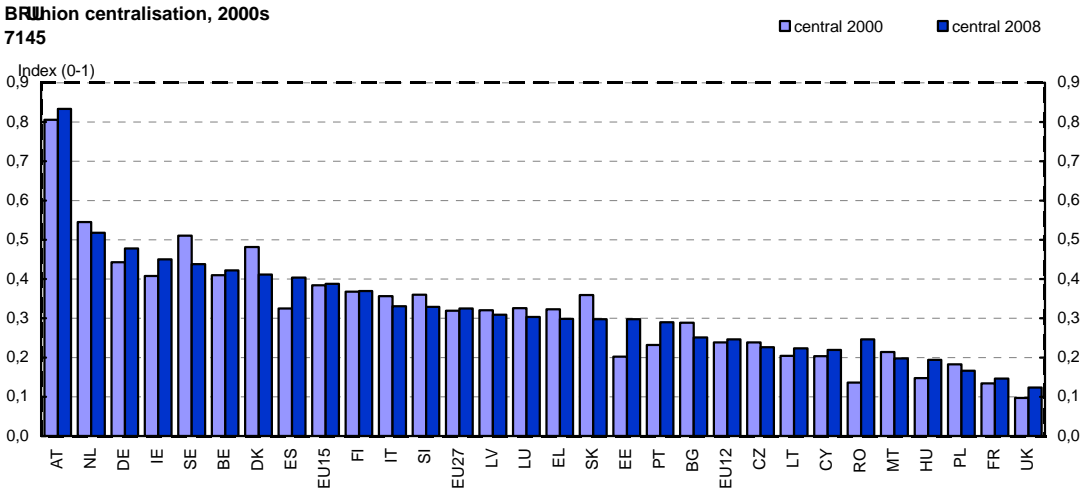
	Confederal authority		Affiliate authority		Centralisation index	
	1997-99	2007-09	1997-99	2007-09	1997-99	2007-09
Averages						
EU-27	254	.259	306	.300	319	.324
EU-15	341	.332	–	411	.387	–
EU-10						
+ EU-2	144	.167	+	175	.192	+
Coefficient of variation						
EU-27	.686	.642	–	.679	.642	–
EU-15	.534	.533	–	.523	.533	–
EUnM						
S	.493	.498		.528	.498	

Source: J. Visser, ICTWSS database 3.0; 2010; see Appendix A1.2 for data by country.

Overall, measuring the centralisation of trade unions as a combination of union authority and union concentration (see Box 1.3), we observe neither centralisation nor decentralisation. The small decline in union and confederal authority in some countries in the EU-15 is compensated by further concentration, whereas the opposite — rising authority amidst further fragmentation — is found in some countries in the 12 new Member States.

Ranking the countries by degree of union centralisation (Chart 1.1), we find that the five most centralised union movements are in Austria, the Netherlands, Germany, Ireland and Sweden. The position of Germany and Ireland is remarkable, since the authority of the German and Irish confederations (DGB and ICTU) is rather limited. But both union movements are highly concentrated; in Germany, the power of unions over their branches is formidable; in Ireland the participation in seven consecutive social pacts with the government and central employers' associations since 1987 has caused an upward shift in authority, as the Irish Congress of Trade Unions (ICTU) has increased its role in relation to affiliates.

Chart 1.1: Union centralisation, 2000s



Source: J. Visser, ICTWSS database 3.0, 2010.

Judged in terms of union centralisation, the UK, France, Poland and Hungary occupy the bottom positions. The weakness of the Trade Union Congress (TUC) vis-à-vis its affiliates is well-known. In the absence of regular national consultation with employers and governments over the past three decades, and with the replacement of sector by company bargaining, the national unions are left with limited authority. The French union confederations have a centralised outlook and policies are decided in relatively centralised fashion, but local or sectional interests wield significant control on the ground, in particular in the public sector. The Polish trade union movement, in particular NSZZ Solidarność, is decentralised, with its basis in company unions, even though its key political stance tends to be based on centralised decisions. Hungary is characterised by an extreme degree of fragmentation between and within confederations.

1.2.4. Affiliation and organisation at the European level

In spite of massive diversity at the national level, trade unionism at the European level is characterised by a high degree of unity. The European Trade Union Confederation (ETUC) brings together all major confederations. Of the 98 confederations identified in Table 1.1, 64 are member organisations of the ETUC, with a combined membership of 56 million people. This includes the 5 million members claimed by Eurocadres, the European federation of managerial staff, which is an associated member organisation of the ETUC. There is another organisation for executive managers, the Confédération Européenne des Cadres (CEC, founded in 1989), which claims 1.5 million members in 16 national organisations from 15 countries (mostly in the EU-15). Since 2009, Eurocadres and CEC are recognised, in addition to the ETUC, as official 'social partners' by the EU.

About 8 million employees in the EU join independent unions and confederations that are not affiliated with the ETUC. Some of these organisations, with an estimated total of about 4 million members, are represented in the European Confederation of Independent Unions (CESI, reflecting its French name: Confédération Européenne des Syndicats Indépendents, founded in 1990). CESI has member organisations in 15 EU Member States, mostly in the EU-15 ⁽²⁾.

The ETUC is represented in each and every country of the EU-27 and its associational monopoly at the European level, measured as its share in the total membership, is close to 88 %, with majorities in each Member State, varying from 51 % in Slovenia to 100 % in Hungary and Austria. Beyond the EU-27 the ETUC has 18 affiliates in Norway, Iceland, Switzerland, Turkey, Turkish Cyprus, Croatia, Andorra, Monaco, Liechtenstein and San Marino, bringing the total number of national affiliates to 82. Five confederations, from Bosnia and Herzegovina, Serbia and the former Yugoslav Republic of Macedonia have observer status in the ETUC.

Table 1.4: Affiliation and membership in the ETUC, 1993–2008

	1973	1983	1992	2003	2008
Total membership (million)	36	41	45	59	56
Number of national affiliates	17	34	46	77	82
Number of countries	14	20	22	35	36
European industry federations	6	10	15	11	12

Source: Ebbinghaus and Visser, 2000, Chapter 19, updated with the ETUC reports and website.

Starting with 36 million members in 1973 from 14 countries (Table 1.4), all in western Europe, the ETUC's combined membership has increased to nearly 56 million in 36 countries, spanning the whole European (sub)continent. Also affiliated to the ETUC are 12 European industry federations (see Table 1.5), grouping almost all major EU trade unions in their respective sectors.

Table 1.5: European industry federations, affiliated with the ETUC, 2010

Sector	European industry federation	Website
Food, agriculture, tourism	European Federation of Trade Unions in the Food, Agriculture and Tourism sectors and allied branches	http://www.effat.org
Chemicals, mining, energy	European Mine, Chemical and Energy Workers' Federation	http://www.emcef.org
Metal, engineering	European Metalworkers' Federation	http://www.emf-fem.org
Textile, clothing, leather	European Trade Union Federation — Textiles Clothing and Leather	http://www.etuf-tcl.org
Construction and wood	European Federation of Building and Woodworkers	http://www.ebww.org
Transport	European Transport Workers' Federation	http://www.itfglobal.org/ETF
Services	Union Network International	http://www.uni-europa.org
Arts and entertainment	European Arts and Entertainment Alliance	http://www.uniglobalunion.org
Journalism, media	European Federation of Journalists	http://www.ifj.org

⁽²⁾ The estimate of 4 million union members of CESI must be interpreted with caution, since only few of these organisations publish membership numbers and no independent check of published data is possible. The four Italian confederations (CISAL, CISAS, Conf.ILL and Conf.S.A.L) are estimated to have a combined membership of 1.8 million, which is 15 % of total membership in Italy. The German Civil Servants' Federation DBB, with almost 1.3 million members in 2008, is the dominant organisation in CESI.

Public services	European Federation of Public Service Unions	http://www.epsu.org
Police	European Confederation of Police	http://www.eurocop-police.org
Education	European Trade Union Committee for Education	http://www.csee-etuce.org

Source: ETUC website (<http://www.etuc.org/>).

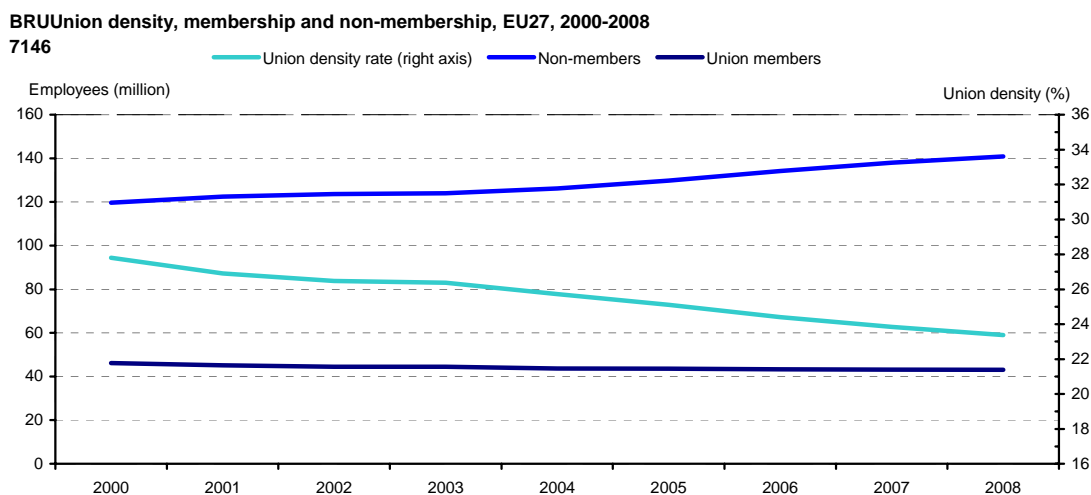
Should the ETUC be ranked in terms of ‘union concentration’, ‘union authority’ or ‘union centralisation’, the organisation would score high on concentration and low on authority and centralisation. In other words, the ETUC would find itself somewhere between the TUC in Britain and the ICTU in Ireland. The ETUC does represent its member organisations in consultations with the Commission, the Council, the European Parliament and the European Central Bank, and it has a mandate from its members for negotiating with BusinessEurope and CEEP. Occasionally it does reach agreement with these organisations on matters of labour market regulation, which subsequently requires implementation at the national level. The European framework agreements on stress at work (2004) and inclusive labour markets (2010) are examples (see Chapter 6). Although far from a full-fledged federal structure, by relying on majority voting the ETUC can and occasionally does overrule the veto of its largest members and contributors, such as the British TUC and German DGB.

1.2.5. Union membership and density

The trend of union decline that began in the 1980s and became more widespread in the 1990s continued. On aggregate, between 2000 and 2008 union membership among the employed salaried workforce in the EU fell by nearly 3 million people, from 46 to 43 million, whereas the number of non-unionised employees increased with more than 20 million from 120 million to 140 million people. As a result, aggregate union density — union members with paid employment as a proportion of all employed wage and salary earners — in the EU-27 fell from 27.8 to 23.4 (Chart 1.2).

Chart 1.2 shows that the decline was fairly linear; each year the trade unions lost terrain and 2008 was no different from earlier years. At the time of writing, mid-2010, we have not yet comparative membership and employment data for 2009, the first year in which the effect of the crisis on unemployment and union membership can be observed. From scattered data, there is no reason to believe that the trend has turned — the main confederations in for instance Germany, Austria, Denmark, Sweden and Finland had fewer members in January 2010 than a year earlier, and it appears that most losses are due to unemployment and came from the unions in construction and manufacturing. For the near future, the announced cuts in staff numbers in the public sector are a threat to the unions, as this is where they have the highest membership numbers in nearly all countries.

Chart 1.2: Union density, membership and non-membership, EU-27, 2000–08



Source: J. Visser, ICTWSS database 3.0, 2010.

1.2.5.1. Absolute and relative membership gains and losses

During the 2000s unions in about half of the EU Member States lost members; in the other half there were small gains. Of the total losses, 2 million occurred in CEE countries, 1 million in the EU-15. The biggest losses, in absolute terms, happened in Germany (nearly – 1.5 million members), Poland (– 650 000) and Romania (– 424 000); the biggest gains took place in Italy (+ 555 000), Spain (+ 317 000) and Belgium (+ 205 000). In percentage terms, the biggest losses happened in Lithuania (– 47.7 %), Estonia (– 43.6 %), Slovakia (– 43.4 %), the Czech Republic (– 27.9 %) and Poland (– 25.5 %); trade unions in Spain (+ 15.4 %), Cyprus (+ 14.6 %), Greece (+ 13.9 %) and Belgium (+ 11.5 %) made the largest gains.

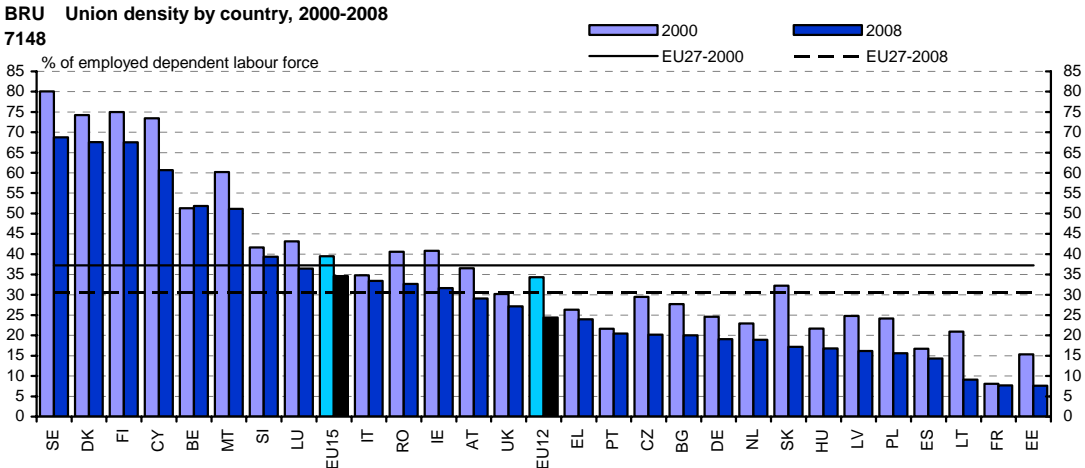
These gains and losses must be compared with developments in employment. For instance, the decline in membership in the Czech Republic or Romania is partly explained by the lack of growth in employment, whereas the strong growth in union membership in Spain reflected, and lagged considerably behind, the very strong increase in employment. The general trend in these years is that increases in employment were not matched by increases in union membership. Two examples of this development over a longer period are Ireland and the Netherlands: both have experienced rapid employment growth, small increases in membership and a falling union density rate. In a recent study Roche (2008) concludes that the rapid increase of the ‘pool of potential members’ and the inability of unions to organise in new sectors and among (migrant) workers with less than standard contracts ‘exerted a drag on density’. Something similar occurred in the Netherlands. Often driven to defend the employment protection rights of the incumbent workforce and membership, unions clearly suffer from the expansion of a labour market built on flexibility and the dualism of two types of employment status.

1.2.5.2. Union density rates

Within a general trend of decreasing density rates, the differences across countries have remained as large as ever (Chart 1.3). In 2008 union density varied from 68.8 % in Sweden and 67.6 % in Denmark to 7.6 % in Estonia and 7.7 % in France. In general, the lowest density rates are currently found in the post-Communist countries — Slovenia and Romania

are the exceptions — and in southern Europe — where Italy, Malta and Cyprus are the exception. In the EU-15 the highest rates are found in Sweden, Denmark, Finland and Belgium. For explanations of these differences, authors have pointed to political and institutional conditions that vary across countries, such as coordinated and multi-employer bargaining, at sector level or higher, versus uncoordinated and single-employer bargaining; the general acceptance and recognition of unions in national and workplace consultation; and union involvement in unemployment insurance (Ebbinghaus and Visser, 1999, for a summary). In recent times, scholars have drawn attention to variations in union coalition building and legacies of the past, especially in CEE countries (Avdagic, 2005) and differences in union organising strategies (Frege and Kelly, 2003; Kaminska and Kahancová, 2011).

Chart 1.3: Union density by country, 2000–08



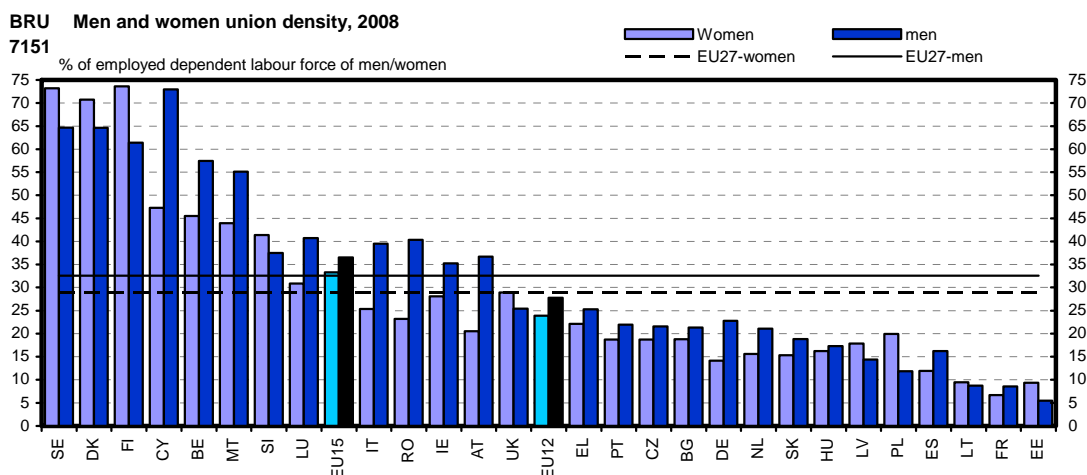
Source: J. Visser, ICTWSS database 3.0, 2010; the averages for the EU-27, EU-15 and 12 new Member States are weighted.

To assess possible future developments it is necessary to decompose these aggregate figures on unionisation. With the help of the European Social Survey (ESS) and national survey data, differences according to selected aspects of three types of characteristic are reviewed: individual (gender, age, etc.), employment status (unemployment, type of contract, working hours, etc.) and employment situation (sector, workplace, size, etc.).

1.2.5.3. Individual characteristics

The feminisation of unions has continued through the 2000s, although at a slower pace than in the preceding decade. This is the result of two contrasting trends — a small decrease of the female presence in unions in CEE countries, starting from very high levels, and continued progress of the share of female members in the EU-15. Overall, the number of female (employed) union members was stable at 18 million, whereas male (employed) membership decreased from 28 million in 2000 to 25 million in 2008; as a result the female share rose from 42.8 to 44.1 %. The variation across countries is still large. There are now more female than male union members in Estonia, Latvia, Lithuania, Poland, Hungary, Finland, Sweden, Denmark and the UK. The lowest share of female members, no doubt reflecting their weaker position in the labour market, is observed in the southern countries (Spain, Italy, Greece, Cyprus, Malta, Romania, but not Portugal and Bulgaria) and in the Netherlands, Luxembourg, Germany and Austria.

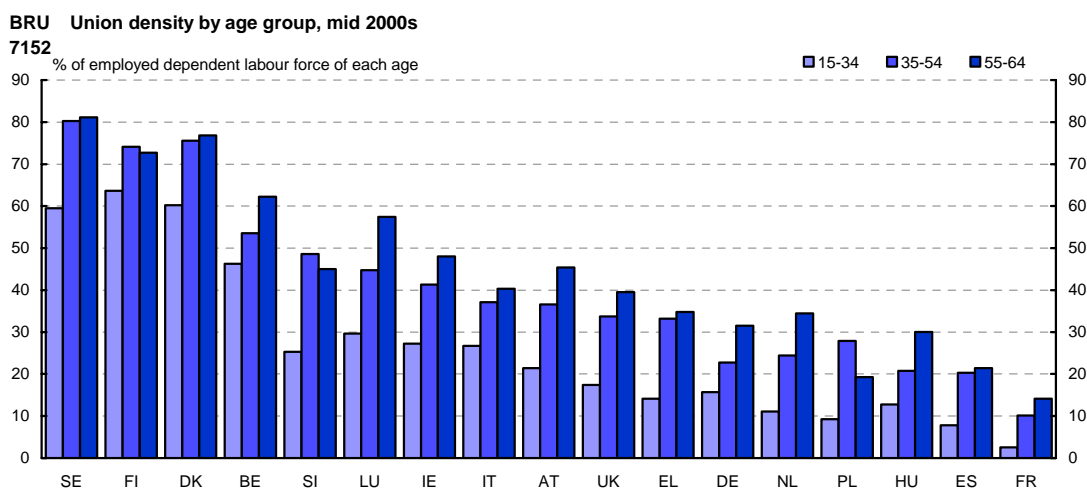
Chart 1.4: Men and women union density, 2008



Source: J. Visser, ICTWSS database 3.0, 2010, with estimates for the male and female union density rates based on survey data (ESS, ISSP) and national surveys for FR, NL, SE and UK. The averages for the EU-27, EU-15 and 12 new Member States are weighted.

Age-related density rates can be estimated with the help of ESS and ISSP surveys⁽³⁾. From these estimates a clear picture emerges of much lower density rates of young people, between 15 and 34 years (Chart 1.5). In many countries young people reach only half the unionisation rate of workers aged 35 years and older. Moreover, unionisation rates in the oldest age group, over 55 years of age, tend to be highest. For the future of trade unionism the development of unionisation rates among young people and the comparison with earlier generations is of great interest. Nearly all trade unions, including those in Scandinavia, report a lower inflow and decreasing unionisation of young people (Pedersini, 2010). As fewer young people join, European trade unions are ageing and more union members near retirement age. A triple effect is at work: smaller birth cohorts are entering the labour market; entry into the labour market is later, due to longer education and a longer school-to-work transition via temporary jobs; and the unionisation propensity among younger generations is lower.

Chart 1.5: Union density by age group, mid-2000s



Source: J. Visser, ICTWSS database 3.0, 2010, based on estimates from ESS and ISSP surveys.

⁽³⁾ Van Gyes in *Industrial relations in Europe* 2006; also based on the European Social Survey (ESS), waves of 2002/03; Ebbinghaus et al 2008 use the same waves, but show different results. Yet different are the estimates from the same waves published by Schnabel and Wagner, 2007. Blanchflower (2006) and Checchi and Visser (2009) use data from the International Social Science Program (ISSP) which has the advantage of longer time series, but the disadvantage of fewer EU countries.

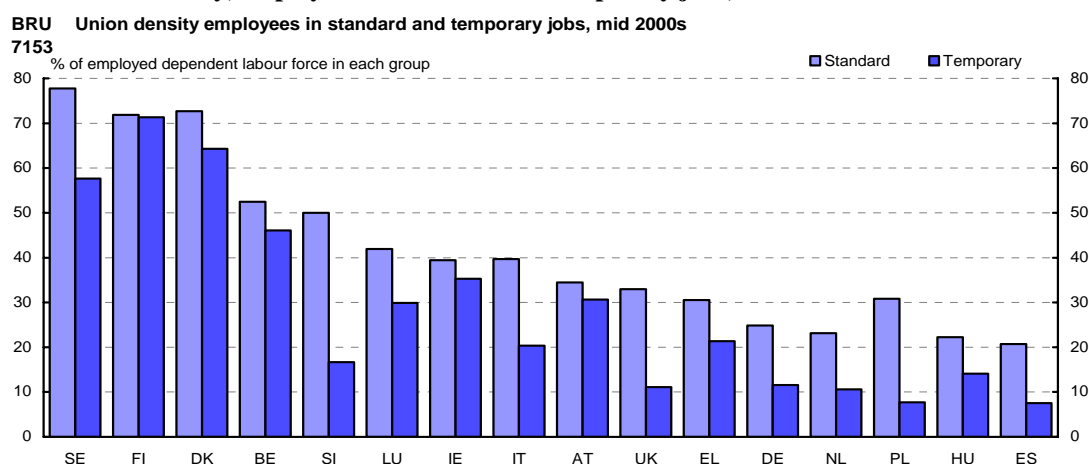
1.2.5.4. Employment status

Almost a quarter of all trade union members in the EU are without paid employment: 13.6 million of the total of 56.6 million union members in 2008 (they are excluded from calculating density rates). The average share of members without paid employment varies per country and is almost five times higher in the EU-15 than in the 12 new Member States. The highest share, in particular of pensioners but also members in (temporary or partial) unemployment, is found in Italian unions (52 %), followed by Belgium (37 %) and Finland (34 %).

Results from the ESS suggest that in most European countries only a minority of the unemployed are union members. In the Netherlands, Germany and Ireland around 10 % of the unemployed retain membership, in Finland and Belgium about 50 %, and in Denmark and Sweden about 70 %. Recent legislation in Sweden has weakened the incentives for unemployed workers to combine union membership with membership of a voluntary unemployment insurance fund, and this is one reason why in 2007 and 2008 there has been a sharp drop in union membership (Kjellberg, 2009). In Finland and Denmark, the creation of general state-sponsored unemployment funds, at greater distance from the unions, has been associated with a decline in unionisation, especially among the young (Böckerman and Uusitalo, 2006; Lind, 2009). Not relying on voluntary unemployment funds, but with strong involvement in the administration of the compulsory system, Belgian unions have continued to grow, with high unionisation rates among young people, industrial and lower-skilled workers, i.e. those with the highest risk of unemployment (Van Rie and Marx, forthcoming).

Employees working on fixed-term employment contracts are likely to have lower probabilities of unionisation. Chart 1.6 shows that the gap in unionisation between workers in standard and temporary jobs is still very large in Slovenia, Italy, Spain, Poland, the UK, Germany and the Netherlands. There are no data for France, Portugal, Bulgaria, Romania and the three Baltic states. Various unions in, for instance, the Netherlands, Ireland, the UK, Italy, Spain and Hungary have campaigned in recent years to recruit temporary workers. A particular challenge for trade unions is the recruitment of the increasing number of (temporary) migrants and self-employed workers. Migrants, many coming from outside Europe, are a huge challenge for unions in Malta, Spain and Italy; Irish and Swedish unions have focused on organising migrants from CEE countries, Dutch and Italian unions have set up special unions for the self-employed (Pedersini, 2010).

Chart 1.6: Union density, employees in standard and temporary jobs, mid-2000s



Source: J. Visser, ICTWSS database 3.0, 2010, based on estimates from ESS and ISSP surveys.

Employees working part-time tend to join unions less than those working full-time, but with the ‘normalisation’ of part-time work, the differences have become smaller. They are smallest in countries such as Denmark, Finland and Sweden where part-time work is culturally accepted and distinctions in employment and social security rights, by law and in individual or collective contracts, are absent. However, employees working in small part-time jobs, of less than 15 hours, tend to remain outside unions; the prevalence of these jobs in some countries, especially among young people and married women, explains part of the large gap in unionisation between part-time and full-time workers in the Netherlands, Germany and the UK ⁽⁴⁾. In southern and eastern Europe, part-time employment is much less present and the unionisation of part-time workers has been much less an issue for the unions.

1.2.5.5. Employment situation

In all countries, unionisation levels are much higher in the public than in the private sector, sometimes by a factor two or three. Density rates in the public sector in Scandinavia are well over 75 %; above 55 % or twice the level in the private sector in Austria, the UK and Ireland, probably also in Italy (if we include the membership of the ‘autonomous’ unions); above 40 % in Germany and the Netherlands; and some 15 % in France, which is at least three times higher than in the private sector. In Belgium, however, the differences appear slight. Data for most other countries are not comparable or non-existent. The situation in CEE countries seems to be different, with relatively high unionisation rates in the ‘old’ state-based industries and firms and rather low unionisation rates among central government employees (Bordogna, 2008).

Unionisation levels rise with establishment size (Visser, 1991), perhaps because the benefits of membership rise with size, impersonal management leads to greater alienation and demand for protection, or because size proxies unions’ organising costs. This is strongly related to workplace-level union organisation and employee representation, which tends to be guaranteed, by law or national agreement, for establishments above a particular size. Such rights may help trade union representatives to organise, although this is not always the case.

1.2.6. Conclusion

The Achilles’ heel of European trade unions is the lower and often decreasing unionisation rates of young people, the difficulty to recruit and retain union members in the expanding services sector, in small firms, and among those with flexible and fixed-term employment contracts. The mirror image of this weakness is that unions are ageing and increasingly reliant on the public sector. The strongest unions in Europe in, say, Germany, Sweden, Belgium, Italy, Spain or the Netherlands, still have their basis in industry and in large firms. How these unions weather the current crisis is crucial and the use of short-time working and part-time unemployment schemes (see Chapter 3) may have helped to sustain employment. Challenges ahead lie in the public sector. Given the high proportion of union members in the public sector, austerity programmes and job retrenchment threatens to translate in membership losses and may push more union members into (early) retirement. Whether unions can compensate this by recruiting more members in ill-organised service sectors is an open question (Pedersini, 2010).

⁽⁴⁾ Estimates based on the Dutch Labour Force Survey suggest that the unionisation rate of people working between 20 and 35 hours per week is almost twice as high as the rate among people with small part-time jobs, of less than 20 hours (22 versus 12 % in 2006), and nearly as high as among full-timers (26 %).

1.3. Employers' associations

The problems of collective organisation of employers differ from those of workers. For trade unions, the biggest problem is to recruit and maintain members, followed by the problem of solidarity and unity among workers. Control over members is usually much less a problem for trade unions than for employers' associations, whose members are usually not individuals but organisations (firms). For employers' associations discipline and cohesion rather than membership are the key issues: 'employers find it a much greater sacrifice [than workers] to comply with the decisions and regulations of their organisations, as these reduce their much cherished freedom of enterprise' (van Waarden, 1995: 75). This reluctance to cede control and mandate the association, for instance in matters of pay bargaining or negotiations with the government, is visible at all levels: sector, national and European. As will be seen, for most employers associations it is not so difficult to maintain high levels of membership, once the association is established and provides services to its members. This may be different if the association is in its initial phase and has yet to demonstrate its usefulness — as in the case in many CEE countries after 1989, where employers' associations had to start from scratch.

1.3.1. Employers' confederations and the main divisions

A total of 111 national confederations and peak associations of employers were counted amongst the 27 EU Member States in early 2010. This is slightly more than in 2000, and also more than the number of national union confederations. This number does not include farmers' organisations, (con)federations representing cooperatives, organisations for the self-employed and agencies or associations representing public services^(c). The outcome confirms the conclusion of earlier studies that the organisation of employers tends to be more fragmented than the organisation of workers (Traxler, 1993; van Waarden, 1995). Of these 111 confederations, 49 are 'general' organisations with member firms throughout the private economy; 39 specialise in organising small- and medium-sized firms; and 23 specialise in organising a particular sector, either in industry (6), construction (4), trade and commerce (8), finance (5) or agriculture (10). Table 1.7 presents the data for each country.

There is considerable diversity; on the one hand there is a small group of countries with one or two peak associations, on the other there is a group with five or more, with Italy and Romania in a class apart. There is some relation with the number of union confederations, though the correlation is modest ($r = .46$). In some countries there are only one or two organisations on either side (Austria, the UK, Latvia), whereas in other countries both sides are very fragmented (Italy, Romania, Hungary, Portugal, Slovenia). There are also countries where labour is fragmented but capital relatively united (Luxembourg, the Netherlands, Spain, Lithuania); the opposite also occurs (Ireland). Until 2000 Luxembourg had eight national employers' associations and the Netherlands had five until 1990, but in both countries either through creating a joint umbrella organisation (Luxembourg) or via mergers (the Netherlands), this number was reduced.

(c) Including farmers' organisations reduces the comparability across countries, since in some countries (Netherlands, Italy, France) the same organisations are included that are excluded in others (Belgium, Spain, UK). Organisations representing producers' cooperatives and associations looking after the interests of self-employed persons are excluded for the same reason, and since they may just as well be counted as 'labour' organisations.

Table 1.6: Number of employers' confederations, domains and key divisions in 2010

	Total	General	SMEs	Sector	Of which				
					Industry	Building	Trade	Finance	Agriculture
LU	1	1	(1)						
UK	1	1							
AT	2	1		1	1				
FI	2	1	1					1	
LV	2	1	1						
LT	2	1	1						
NL	2	1	1					1	
ES	2	1	1						
BE	3	1	2						
EE	3	1	2						
ES	3	1	1	1			1		
MT	3	2	1						
SK	3	2	1						
FR	4	1	3						
SE	4	1	1	2	1			1	
CZ	4	2	2						
DK	4	2	1	1				1	1
DE	4	2	2						
CY	5	1	1	3		1	1	1	
IE	5	2	2	1		1			
SI	5	2	2	1			1		
PL	5	4	1						
PT	6		1	5	1	1	2	1	2
HU	6	3	3						1
BG	7	5	2						
IT	10	1	5	4			3	1	4
RO	13	8	1	4	3	1			
	111	49	39	23	6	4	8	5	10

Source: J. Visser, ICTWSS database 3.0, 2010; Carley 2010.

1.3.1.1. Organisational change

The overall structure of peak-level employer representation has remained stable over the past decade (Carley, 2010). In the countries that have seen change, this has in the majority of cases been through mergers, usually with the aim of strengthening employers' collective voice towards the government and the trade unions and, in some cases, avoiding duplication in activities and creating more economy of scale, for instance when building up a (national) representation at European level. Many if not most peak associations have been under pressure to cut their budgets, scale down or commercialise activities (Streeck and Visser, 2006). As part of a larger trend of re-integrating industrial relations and social policy in general business practice, the once common division between 'trade' or 'business' association on the one hand and 'employers' association on the other has almost disappeared. The separation between the employers' confederation BDA and the industry confederation BDI in Germany is one of the last examples of a dual organisation that was quite common in Europe 20 to 30 years ago.

Another trend, also found among trade unions, is to merge associations in industry and services. This happened in 2004 in Malta, in 2005 in Finland and, in 2008, at the sector level, in Denmark, when Dansk Industri (DI), the powerful Confederation of Danish Industries, which negotiates the main multiannual collective agreement with a cartel of blue-and white-collar unions in manufacturing, merged with the main organisation in commerce, transport and service. In some cases, confederations, seek more mutual cooperation, whilst stopping short of merger. This is the case in Germany, where BDA and BDI have stepped up cooperation at home by occupying the same headquarters building and abroad through a joint representation in Europe. In Romania eight employers' confederations created an 'alliance' in 2007, but stopped short of full integration. In the Netherlands, however, the attempt to merge the general confederation VNO-NCW with the confederation for SMEs failed. In central and eastern Europe, where employer organisations proper have existed for only two decades, the direction of change has been less clear-cut, and the structure of employer representation is still in a state of flux in some countries (Carley, 2010). There are both cases of business associations, representing special interests, combining their resources, for instance in Bulgaria in 2006, and new organisations splitting off from existing ones or being created new, for example in Poland, Bulgaria and Slovenia.

Business associations usually organise only firms and activities in the private or market sector. Within the public sector, the core of government activities, including local and central administration, policy, army, and most of education remains outside the scope of business associations and the government may have set up special, quasi-independent agencies or coordination bodies for the purpose of representation and negotiations with the unions, as in Italy or Cyprus. Under the influence of new public management the management and organisation of the public sector has changed with tendencies towards full or partial privatisation, outsourcing, decentralisation, strengthening of the prerogatives of management and management by contract rather than hierarchy, and a reform of personal policies. Generally business associations now also recruit members (firms and associations) that were previously in the public domain. Telecom firms, postal services, railway companies, energy providers, hospital associations, even university associations are now among the member organisations of general business associations (see, for instance, the European Foundation study on social partnership organisations in hospitals (Traxler, 2009)).

1.3.1.2. Number of associations

At the sector level employers' associations tend to be more differentiated and numerous than the trade unions. The main general employers' confederations have an estimated 1 700 sector affiliates, which represents an average of 74 per country (no data were available for Austria, Slovenia, Lithuania and Romania). This is more than twice the average (of 29) counted for the main union confederations.

Table 1.7: Major employers' confederations, number of affiliates and organisation rates in the private sector

All enterprises				Small- and medium-sized enterprises		
Members of BusinessEurope				Members of UEAPME		
	Name	Affiliation	Density	Name	Affiliation	Density
AT	IV	21	13.0 %	WKÖ	130	75.0 %
BE	FEB/VBO	33	75.0 %	UCM, UNIZO	...,100	..
BG	BIA	69	..	NCCB, UPEE	..., 24	..
CY	OEB	61	..	KEBE	141	..

CZ	SPŽ ČR	29	..	AMSP-CR, CCC	7,..	..
DE	BDA/BDA	56,34	80.0 %	ZDH	..	..
DK	DA,DI	13,..	90.0 %	Håndværksrådet	..	..
EE	ETTK	24	23.0 %	EVEEA	..	..
EL	SEV	..	..	GSEVEE	26	..
ES	CEOE	164	75.0 %	CEPYME	100	..
FI	EK	34	72.0 %	SY	80	..
FR	MEDEF	85	..	CGPME, UPA, APCM	..,50,..	..
HU	MGYOSZ	50	20.0 %	IPOSZ,KISOSZ,OKISZ	..,22,22	..
IE	IBEC	60	..	ISME,SFA	....	..
IT	Confindustria	22	..	Cna, Confapi, Confart, Confes.	..,9,..,60	..
LT	LPK	32	..	LVDK	..	..
LU	FEDIL	..	..	ChdM, FDA	..,51	..
LV	LDDK	47	35.0 %	LAK	..	..
MT	MCCEI	..	..	GRTU	..	..
NL	VNO-NCW	150	85.0 %	MKB	120	25.0 %
PL	PKPP Lewiatan	28	..	ZRP	..	..
PT	AIP,CIP	..,40	..	CMPME	..	..
RO	ACPR	..	..	CONPMMR	..	..
SE	SN	50	85.0 %	Företagarna	..	..
SI	ZDS	..	35.0 %	OZS	..	18.1 %
SK	RUZ	24	..	SZZ	..	..
UK	CBI	150	33.3 %			

Source: J. Visser, ICTWSS database 3.0, 2010; Carley 2010.

The variation across countries is very large, from 15 affiliates in the Danish employers' confederation DA and 18 in the Italian Confindustria, to 134 affiliates in the British CBI, 150 in the Dutch VNO-NCW, and 164 in the Spanish CEOE. The latter three organisations admit also individual (large) firms as members. This contrasts with the practice, for instance of the German BDA or Italy's Confindustria, to admit only associations of firms as member organisations. Often, there are a few dominant affiliates, sometimes themselves federations with associations as their members, which have more resources than the parent confederation. A case in point is Dansk Industri (DI), which after its merger with the parallel organisation in commerce, transport and services, covers 62 % of the DA's total membership and clearly outstrips DA in resources. The General Employer's Association (AWVN) in the Netherlands, VNO-NCW's largest member, is in a similar position, although it has left international representation in matters of employment and social policy entirely to its parent confederation. At home, representing nearly all large firms in negotiations with the unions and responsible for 70 % of all collective agreements in the country, it pays the piper and calls the tune.

1.3.2. Involvement in national bargaining and consultation

It is not possible to measure the degree of concentration, authority and centralisation of employers' confederations as was done for trade unions in the previous section. Membership in business associations often overlaps, with firms belonging to more than one association. Regarding bargaining mandates, there are only limited, recent data on the division of resources, authority and tasks.

Until the 1990s the *raison d'être* of an employers' federation was linked to the conclusion and administration of multi-employer collective bargaining but this is no longer the case. Services and lobbying in national and international arenas have acquired a much more prominent

place. This went along with the merger of functions between employer and trade associations and a restructuring of activities in the direction of smaller ‘industrial relations’ departments and more decentralisation in representational structures. Still, many national peak associations of employers are involved in bargaining or consultation at the national level. However, with fewer binding agreements or with agreements that are in reality recommendations, they need less elaborate structures for monitoring, implementation and adjudication. Probably in all EU countries the organisational centralisation of employers is lower than union centralisation. This results both from the lower authority and the greater fragmentation of employers’ organisations.

At some point between 2000 and 2010 in all countries, except Germany, the UK and the Czech Republic, national employers associations negotiated and signed agreements with the unions or the government (Avdagic, Rhodes and Visser, 2011). A minority of these agreements were about wages and wage setting (Belgium, Estonia, Greece, Ireland, Finland, the Netherlands, Slovenia, Romania, Spain and Portugal). In Belgium, Estonia and Greece the central employers organisation negotiate the minimum wage with the central union organisations before it is declared binding by the government. In Luxembourg minimum wage decisions are in the hands of the tripartite commission deciding on the application of price indexation to (minimum) wages, benefits and pensions. In 2008 the central organisations in Romania reached agreement on the annual rise of the minimum wages until 2014; a similar agreement, for 10 years, was reached in 2006 in Portugal. In Bulgaria, the Czech Republic, Hungary, Latvia, Lithuania, Poland, Portugal and Slovenia and in recent years also in Spain the central organisations are involved in non-binding consultations over the statutory minimum wage.

In France, Belgium and Poland central organisations negotiate over the implementation of European legislation before it is implemented in national law; in the UK, the central organisations of employers and unions, CBI and the TUC, negotiated a ‘joint statement’ on how to implement the ‘Agency Work’ directive. Cross-industry bargaining over specific issues, sometimes in preparation of a bargaining round at the sector level happens on a regular basis and with success in Denmark and Spain, and on an irregular basis and in 2009 without success, in Sweden. In sum, in nearly all countries the central employers are involved in negotiations and consultations at the national level, although it is clear that this nowadays rarely results in a wage agreement that binds their member organisations. Slovenia, Finland and Ireland were the last countries where such central incomes policy agreements detailed wage developments, but in Finland the employers pulled out in 2007 and in 2009 social partners in Ireland failed to reach agreement over how the existing social pact had to be revised in response to the severe economic crisis (see Chapter 3).

At the industry level, sectoral employers’ organisations with a collective bargaining role are key components of the industrial relations systems in Austria, Belgium, Denmark, Finland, France, Germany, Italy, the Netherlands, Portugal, Spain and Sweden. In Ireland, the UK and Luxembourg there are hardly any sectoral employers’ associations which retain a bargaining role. In the new Member States, sector bargaining has failed to become the dominant model, with the notable exception of Slovenia. Some degree of multi-employer bargaining, with the involvement of employers’ associations at the sector or national level, is also found in Bulgaria and Romania.

1.3.3. European-level organisations

There are three European organisations representing employers’ interests. BusinessEurope is

the main ‘general’ organisation for large and small businesses in all sectors of the privately owned economy. It has 40 national member organisations: 30 (of the 111 listed in Table 1.6) from the EU, one in each Member State and two in Denmark, Germany and Portugal; and 10 outside the EU, in Croatia, Iceland, Norway, San Marino, Switzerland and Turkey. BusinessEurope was founded in 1957 as the Union des Industries de la Communauté Européenne (UNICE), with eight affiliates from the founding Member States of the European Community. It renamed itself as BusinessEurope. In addition to national member federations, it has formed the Alliance for a Competitive European Industry with 11 major sector industry federations, though this alliance has no direct role in industrial relations. BusinessEurope also has an Advisory and Support Group which brings together 33 major multinational firms.

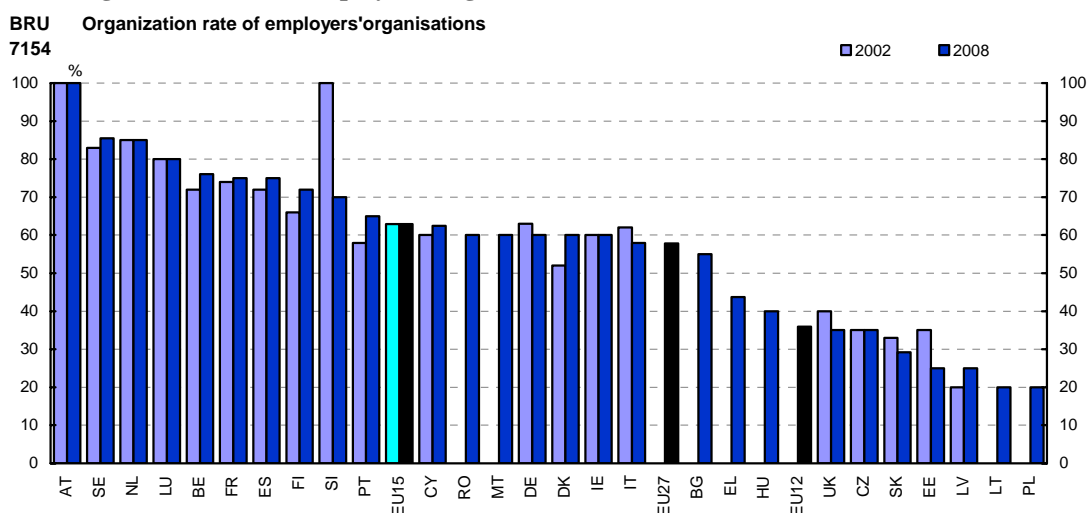
The European Association of Craft, Small and Medium-sized Enterprises (UEAPME) represents small- and medium-sized businesses in Europe. UEAPME has 39 national member organisations in the EU (out of the list of 111), with one or more in each Member State, with the exception of the UK. UEAPME has associated members in Croatia, Liechtenstein, Montenegro, Norway, San Marino, Serbia and Turkey. There are also five sector European organisations for SMEs in construction, foodstuffs, transport, services and healthcare associated with the organisation. Since 1998, UEAPME and BusinessEurope have cooperated closely in EU-level social dialogue and negotiations with the trade unions. The European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP, Centre Européen des Entreprises à Intérêt Publique), which was founded in 1961, represents enterprises and organisations with public participation or carrying out activities of general economic interest, irrespective of their legal or ownership status. CEEP has national sections in all EU Member States, except the three Baltic states, Cyprus, Malta, the Czech Republic and Slovakia.

At the European sector level, there are hundreds of organisations representing business interests. However, only a minority of these are employers’ organisations, in the sense that they represent their members on employment issues or have relations with the trade unions. Such organisations are mainly found in those sectors where a sector social dialogue has developed. The role and development of the EU sector social dialogue is addressed in Chapter 6.

1.3.4. The organisation rate of employers

The organisation rate of employers’ organisations is hard to assess, due to lack of data, difficulties of definition and firms that join two or more organisations. The figures available therefore need to be interpreted with caution. In few countries membership of employers’ organisations is documented in official statistics. Unlike household or labour force surveys with questions on union membership, there are no parallel enterprise surveys with information on a comparable European scale on membership of employers’ associations. Consequently, the figures on absolute or relative membership are mostly based on self-reported data from the organisations themselves. An additional problem is the definition of ‘potential membership’. Unlike trade unions, which with a few exceptions recruit and represent individuals throughout the economy, the government sector is not within the domain of business and employers’ organisations.

Chart 1.7: Organisation rate of employers' organisations



Source: J. Visser, ICTWSS database 3.0, 2010; the averages for the EU-27, EU-15 and 12 new Member States are weighted.

Similar to union density, which is measured as the proportion of all employees joining a trade union, employer organisation density can be defined as the proportion of all employers (firms) joining an employers' association. By taking into account the employment size of firms, an employment density rate for employers can be calculated, expressed in terms of the share of employees working in firms joining employers' associations. After adjustment for the size of the government sector, this yields a statistic that is commensurate with union density. Chart 1.7 presents the results.

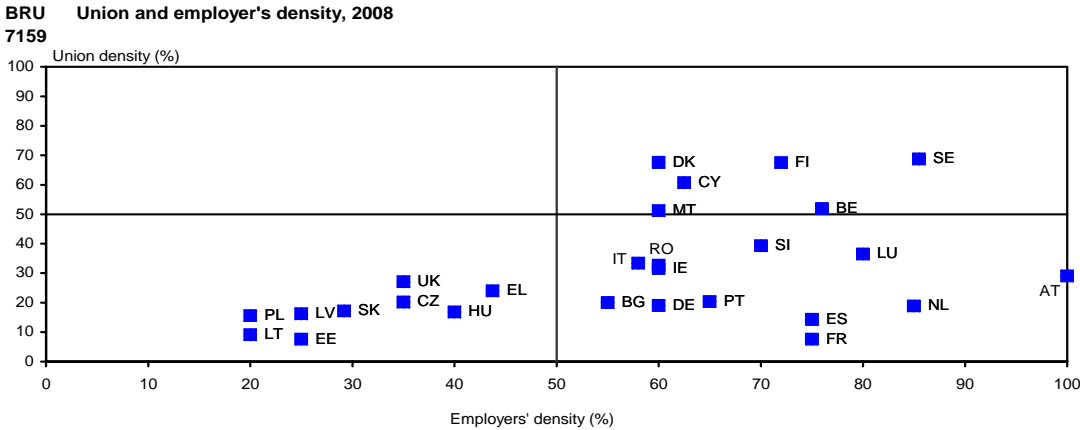
In 2008 approximately 106 million employees, or nearly 58 % of the relevant European Union total, worked in firms affiliated with employers' associations. This is more than double the level of unionisation, illustrating the point made earlier that maintaining high membership levels seems easier for employers' associations than for trade unions. It is not possible to make a comparison with 2000 for the EU-27, as in a number of CEE countries there are no comparable data. However, in the EU-15 the organisation rate of employers was stable at 63 %. Chart 1.7 confirms that the changes over time were rather small — except in Slovenia where obligatory membership of Chambers was replaced by voluntary organisation, and the organisation rate dropped from 100 to 70 %. Within the EU-15 the organisation rate of employees decreased in Germany and the UK, but increased in Sweden, Denmark, Finland, Belgium, France and Spain. To avoid further membership losses, some German employers' associations have introduced an option for companies to become associate members, not bound by the collective agreements signed by the association ('Ohne Tarifbindung'). Gesamtmetall, the powerful association which coordinates the regional agreements in metal-engineering with the IG Metall union, did so in 2005.

The variation in the level of organisation across countries is considerable, with the 12 new Member States grouped towards the lower end, together with the UK. In central and eastern Europe only about one third of all employees work in firms organised in employers' associations. However, both Romania and Bulgaria appear to have rather high levels of employer organisation, and the same goes for Malta and Cyprus. One of the problems of employers' organisations in CEE countries is that, like trade unions, they find it hard to gain a foothold in the newly emerging private sector, either because these firms are exceedingly small and rapidly changing, or because employers, especially in the international large firm sector, are reluctant to join or form associations for the purpose of collective services and representation. In addition, these organisations often lack a mandate from their members and

their financial position is often too weak to enable them to provide adequate services to member firms. Frequently, this creates obstacles to social dialogue, concertation and collective bargaining.

Chart 1.8 compares the density rate of employers and of workers. Overall, there is a positive association between the two ($r = .47$). Three combinations are apparent: (1) high union density and high employers density (in the upper right corner): the Nordic countries, Belgium, Malta and Cyprus; (2) low union density and low employer density (in the lower left corner): the UK and most CEE countries; (3) low union density and high employer density (in the lower right corner): countries in western and southern Europe. The fourth combination of high union density and low employer organisation does not feature; the upper left corner of Chart 1.8 is empty. The finding suggests three hypotheses. First, where labour is highly organised business will be highly organised as well, and through central bargaining each side will have incentives to maintain cohesion and high levels of organisation (the Nordic trajectory, at least until recently). Second, where labour has a hard time organising and the state prioritises market liberalisation, the pressure on employers to organise is limited and both sides will be locked into a relationship at low levels of organisation and internal cohesion (the post-Communist or CEE countries trajectory). Third, where the state’s role in social policy is extensive, business needs to be highly organised, but the pressure on labour to organise is comparatively less since labour may rely on the state and public policy instead (the continental, southern and western European trajectory).

Chart 1.8: Union and employer density, 2008



Source: J. Visser, ICTWSS database 3.0, 2010.

Overall, with 58 % of all employees working in firms joining employers’ federations, the level of employer organisation in the EU appears stable and high, albeit with a significant gap between the EU-15 and the 12 new Member States. However, as in the case of trade unions, employers’ associations are challenged by changes in their environment, for instance, national and transnational mergers of firms, a greater emphasis on company as opposed to sector bargaining, and pressures for greater effectiveness in European and global representation.

1.4. Collective bargaining

Voluntary collective bargaining plays a key role in industrial relations and is a defining element in social partnership within and beyond the EU. Across EU Member States there are, however, large differences in the role, coverage and effectiveness of collective bargaining and

in the attitude taken by the authorities. This section first analyses the differences due to variation in the rate of union and employer organisation and discusses the use of extension mechanisms by the state. Second it considers the organisation and centralisation of collective bargaining and its coordination across different levels (company, sector, region or nation). The main findings are that a large majority of European employees are covered by collective agreements, that extension mechanisms based on public law continue to play an important role, that decentralisation of actual pay setting has continued and sector agreements, where they apply, are increasingly amended by company-level agreements and arrangements, and that coordination across bargaining units and agents is a distinguishing feature in most EU-15 but not the 12 new Member States.

The existence of EU-level actors notwithstanding, there is as yet no EU-level competence or capacity to undertake collective negotiations over wages, working hours or other core conditions of employment which mirror collective bargaining at national, sector or company level. Unlike the previous sections, therefore, there are no paragraphs devoted to EU developments. The capacity to engage in EU-level agreement-making exists under the social dialogue at cross-sector and sector level, and is addressed in Chapter 6. It has also emerged in some multinational companies, and Chapters 3 and 6 touch on this.

1.4.1. Bargaining coverage

The bargaining coverage rate is an indicator of the extent to which the terms of employment are negotiated by trade unions. Operationally, the coverage rate is defined as the number of employees covered by a collective agreement as a proportion of all wage- and salary-earners in employment. This definition renders the measurement of bargaining coverage comparable with union and employer density. While union density is one of the indicators of potential bargaining strength and solidarity among workers, bargaining coverage measures the real rather than potential extent to which employees are subject to union-negotiated terms and conditions of employment.

There are a number of reasons why employees may not be covered, even if collective bargaining takes place (Traxler and Behrens, 2002). First, unions and employers may be too weak to include all employees belonging to their domain of action. Second, the bargaining parties may explicitly exclude certain employee groups. In the past, collective agreements often excluded (part-time) employees working less than a minimum number of hours per week, thereby excluding large numbers of women and young people — a practice that would now contravene the spirit if not the letter of the EU's part-time workers' directive and anti-discrimination legislation. Collective agreements may also exclude managers or employees above a certain pay threshold. In such cases, employment terms are regulated by individual contract. Third, certain categories of employees may be legally excluded from the right to collective bargaining. This sometimes applies to civil servants or particular groups such as the police and the armed forces, whose employment terms are regulated unilaterally by the state.

Box 1.4: Measurement of bargaining coverage rates

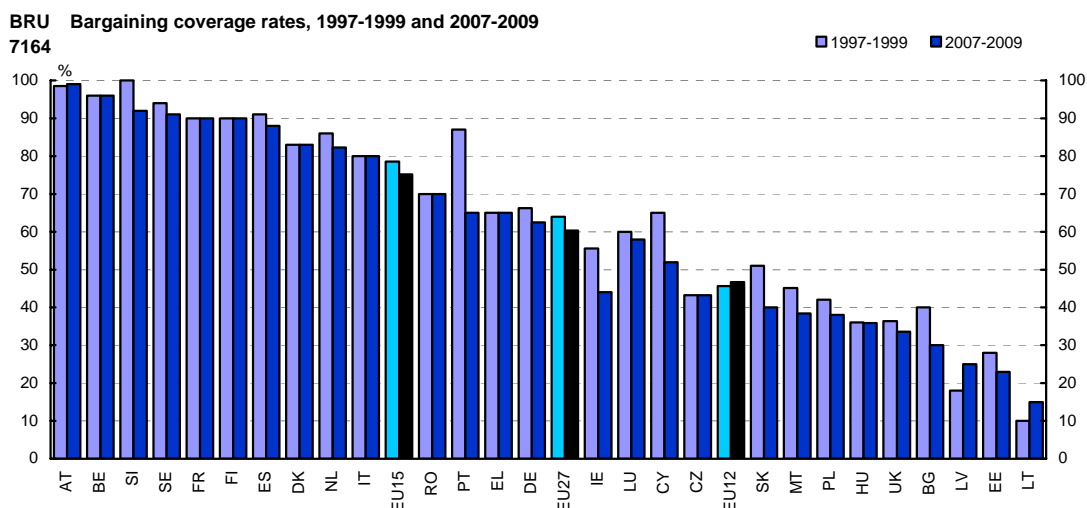
The coverage data used are from the ICTWSS database; in some countries this is based on household surveys, for instance the UK; in others on occasional surveys among enterprises and employers' federations (e.g. Hungary, Italy, the Netherlands, Poland); and in most countries on administrative data and estimates by the government. The ICTWSS data incorporate EIRO data (Traxler and Behrens, 2002), including the annual Industrial Relations reports of the European Foundation and the country profiles in EIRO. For 2008–09 we have been able to compare the ICTWSS data with data obtained from the European Company Survey, which relies on estimates from management but excludes firms with less than 10 employees. The ranking is very similar; the correlation coefficient between the ICTWSS data and the ECS data is $r=.94$. The ICTWSS data have the obvious advantage that it allows a comparison through time, in many cases since 1960.

As in the case of calculating union density and employers' organisation rates, there are many data and measurement problems. Comparing across countries it seems useful to take account of the fact that some groups of employees may be excluded from collective bargaining (and from the right to strike). In that case it is necessary to calculate an *adjusted* coverage rate, i.e., to calculate the number of employees covered by a collective agreement as a proportion not of all employees but only of those with the right to bargain. In most Member States the difference is slight, since only very few are excluded. In some Member States, however, such as Austria, Germany, Hungary, Luxembourg or Spain, it does make a difference when public employees without bargaining rights are taken out. Besides these adjustment difficulties, a problem of comparability may also arise due to the fact that, under multi-level bargaining, many employees are covered by two (or more) agreements. This may cause double counting in statistics on coverage. Confusion may also derive from multiannual agreements and missing specification of the date when agreements expire. Sometimes collective agreements are only reported in their first year of validity, thus excluding still valid multi-year agreements from an earlier year. In the statistics reported, every effort has been made to include all collective agreements that are (still) valid during the year under consideration and calculate adjusted rates. Finally, the data refer only to the formal coverage of collective agreements, as demarcated by their scope. Hence the informal application of the terms of the agreement by firms not formally bound by the agreement is not considered, though this may give collective bargaining additional representation and influence. Formal coverage does, however, include those employees covered by extension procedures.

A measurement problem that remains is that bargaining coverage is measured only for the formal sector or registered employment. OECD and Eurostat estimates of the informal sector, including self-employed and family workers, vary from 5 % in some northern economies to 35 % in Greece.

An estimated 121.5 million of the 184 million employees in employment in the EU were covered by a collective agreement in 2008. This translates into an adjusted bargaining coverage rate of 66 %, or two-thirds of all EU employees. Over the first decade of the 21st century the number of employees covered increased by more than eight million, but since employment increased much faster, the coverage rate slipped by 2 percentage points. The most striking feature of Chart 1.9 is the huge cross-national variation, ranging from virtually 100 % in Austria to less than 20 % in Lithuania. There was a small decrease in coverage rate in many countries, and some larger declines in Portugal, Slovenia, Slovakia, Cyprus, Malta and Poland. The erosion of collective bargaining coverage in Germany between 1995 and 2005 appears, however, to have slowed. During the 1990s bargaining coverage increased in Denmark, Finland, Sweden, the Netherlands, Spain and Portugal, but this increase came to a halt or reversed after 2000. In Portugal there was a large decline in coverage in response to a change in the law in 2004, which ended the practice, common in many countries, that collective agreements remain valid even after they expire, until a new agreement is reached. Although employers and unions reached a central agreement restoring the practice in 2006, the coverage rate — although recovering somewhat — has not returned to its previous level.

Chart 1.9: Bargaining coverage rates, 1997–99 and 2007–09



Source: J. Visser, ICTWSS database 3.0, 2010.

In the 1990s the two countries with the largest decline in bargaining coverage were the UK and Germany, but developments after 2000 were less dramatic. In the UK, bargaining coverage shrank from 54 % in 1990 to 32.3 % in 1998, but has since stabilised and was 33.6 % in 2008. This may reflect the effect of legal changes in 1999, introducing a statutory mechanism for workers to secure union recognition and thereby bargaining representation. Nonetheless, bargaining coverage in the UK is the lowest amongst the EU-15 — a striking expression of the consequences of the near absence of significant sector-level collective bargaining. In Germany, the second half of the 1990s saw a noticeable erosion of bargaining coverage. According to the IAB enterprise panel the coverage rate of firms fell from 72 to 63 % in the ‘old’ Federal Republic and from 56 to 44 % in the five new eastern states (Kohaut and Schnabel, 2003). Coverage slipped further to 56 % of the firms in the western and stabilised around 41 % in the eastern part between 2003 and 2008 (Ellguth and Kohaut, 2008). Most defections came from small- and medium-sized firms and were related to the difficulty faced by employers’ associations in binding employers to standardised collective agreements with the unions. With moderate pay settlements and allowing ‘hardship clauses’ and settlements emphasising investment, employment stability and flexibility in working time arrangements, the main German unions, especially in chemicals and metal, have tried to stem the decline and strengthened their cooperation with the main employers’ federations. This seems to have curtailed the tendency towards ‘disorganised’ decentralisation and contributed to some degree of re-regulation (Haipeter, 2009).

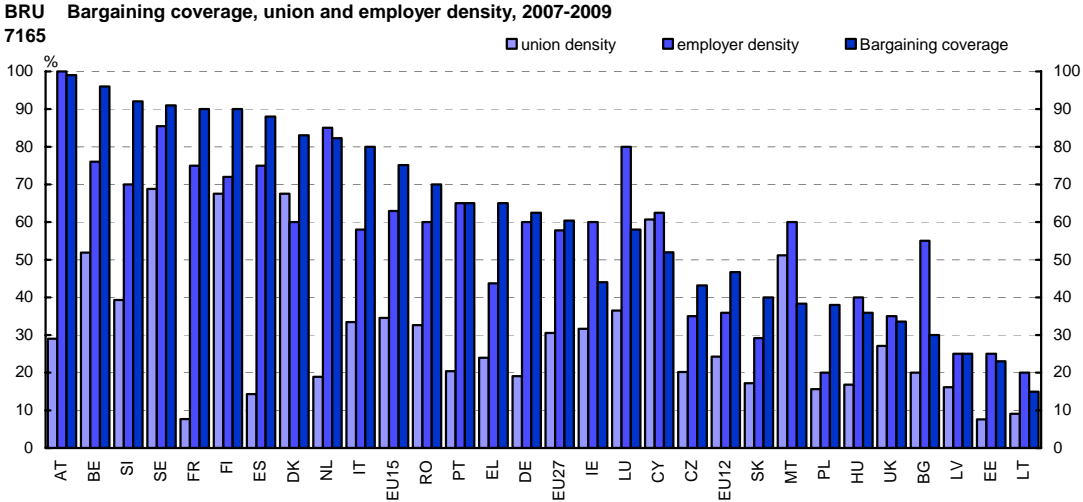
Collective bargaining structures and practices remain fragile in central and eastern Europe and coverage is low — the average of 43 % around the end of the decade is 4 percentage points below that in 2000. There was a decline in Estonia, Poland, Slovakia, Slovenia and Bulgaria, and a small rise, from very low levels, in Latvia and Lithuania. The rate was broadly level in Hungary and the Czech Republic. Low coverage rates and weak collective bargaining structures amongst the CEE countries tend to go together with a still considerable role for the state in private sector wage setting, mostly through the mandatory minimum wage — a feature which is returned to below (see also Chapter 4).

1.4.1.1. The relation between bargaining coverage, employer organisation and union density

There appears to be a weak albeit significant association between union density and bargaining coverage ($r = .45$; 27 countries). Chart 1.10 shows that coverage rates exceed

union density rates in all EU Member States except Cyprus and Malta. Often the ‘excess’ of coverage over density is by a very wide margin, for instance in France, Spain, Portugal, Austria, Germany and the Netherlands. A much stronger association exists between bargaining coverage and the employers’ rate of organisation ($r = .84$; 26 countries). High bargaining coverage occurs under multi-employer bargaining, and requires the existence of organisations of employers with a mandate to negotiate agreements with the representatives of employees.

Chart 1.10: Bargaining coverage, union and employer density, 2007–09



Source: J. Visser, ICTWSS database 3.0, 2010.

The level of employer organisation exceeds bargaining coverage, by a large degree in Bulgaria, Luxembourg, Malta and Cyprus, and by a small margin in the Netherlands, the UK, Hungary, Estonia and Lithuania (Chart 1.10). These differences could arise for at least two reasons: some employers’ associations may not seek negotiations with trade unions; where they do have a mandate to negotiate they may, however, fail to identify an appropriate union capable of signing an agreement. The standard case, found in most countries, is that bargaining coverage exceeds the rate of employer organisation. The main explanation for this is the extension of agreements to non-organised employers, either voluntary (and perhaps under union pressure, as is customary in Scandinavia) or through extension mechanisms under public law.

1.4.2. Extension of collective agreement and sector organisation

As reported in the 2002 *Industrial relations in Europe* report, most EU Member States have availed themselves of a legal technique allowing the public authorities, usually the Ministry of Labour, to extend the collective agreements reached by unions and employers, or clauses from agreements, to similar employers who are not members of the relevant employer association (Traxler and Behrens, 2002). Usually, extension applies to similar firms in the same sector or branch of economic activity. In some countries the mechanism is used to include all firms under a national agreement, for instance in Belgium with regard to the minimum wage. In a few countries extension mechanisms are used to apply the agreement outside the sector by means of a procedure termed ‘enlargement’ (see Table 1.8).

Table 1.8: Extension of collective agreements and minimum wage legislation

	Extension	Enlargement	Functional equivalents	Mandatory minimum wage
AT	widespread	other sectors	membership Chamber	almost
BE	widespread			yes
BG	limited/not used			yes
CY	no			partial
CZ	limited			yes
DE	limited		public procurement rules	partial
DK	no			no
EE	limited			yes
EL	widespread		national covering agreement	yes
ES	widespread	other sectors		yes
FI	widespread		public procurement rules	no
FR	widespread	other sectors		yes
HU	limited			yes
IE	no		joint labour committees	yes
IT	no		courts	no
LT	limited/not used			yes
LU	widespread			yes
LV	limited			yes
MT	no			yes
NL	limited			yes
PL	limited/not used			yes
PT	widespread	other regions		yes
RO	no		national covering agreement	yes
SE	no			no
SI	limited			yes
SK	limited			yes
UK	no			yes

Source: J. Visser, ICTWSS database 3.0, 2010; Traxler and Behrens, 2002, and EIROnline.

The possibility of legal extension of collective agreements exists in 19 out of 27 EU Member States. In eight (Austria, Belgium, Luxembourg, Finland, France, Spain, Portugal and Greece)

the practice of extension is widespread and quasi-automatic, and in four of these countries agreements can be applied in other sectors or regions. In 11 countries extension is more restricted through the requirement that the agreement meets a threshold of representation, that both unions and employers agree, or that the agreement promotes some public policy objective or at least does not contradict it. In some countries extension is legally possible but hardly practiced because few sector agreements are reached; Poland, Lithuania and Bulgaria, in recent years also Slovakia and Hungary, are cases in point. In Germany extension is little used because employers hold an effective veto and tend to oppose use of the mechanism to raise the minimum wage in a particular sector, a practice which has expanded from construction to other sectors in the context of regulating minimum conditions for posted workers in Germany. In Ireland, although the formal scope for extension is wider, in practice it applies only in construction.

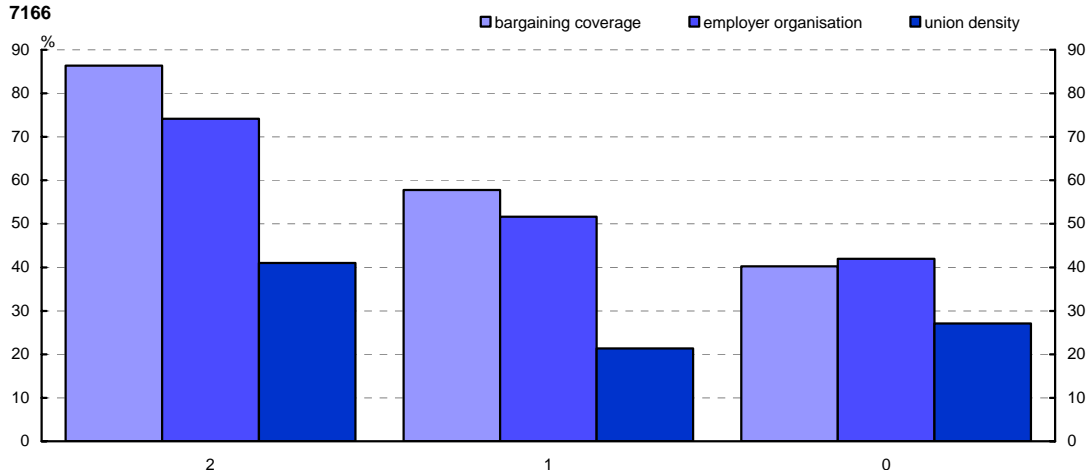
Of the eight countries without extension laws, five have a mandatory minimum wage (Ireland, the UK, Romania, Malta and Cyprus for some occupations) and in one, Italy, the courts tend to enforce minimum wages in similar occupations. The annual national collective agreements in Greece and the five-year agreement in Romania, concluded in 2006, can also be counted as functional equivalents of public extension in so far as they cover all occupations and sectors in the formal economy. This leaves only two EU Member States, Denmark and Sweden, with neither the possibility of legally extending the collective agreement nor a mandatory minimum wage or some functional equivalent for either of the two. In both countries the trade unions see it as their task to assure that all employers, organised or not, pay the going rate, though the methods used to assure compliance have been challenged by the Court of Justice 2007 ruling in the *Laval* case (Davies, 2008; Malmberg and Sigeman, 2008).

Finally, although important for ‘excess coverage’ above the level of union and employer organisation, extension does not correlate strongly with the ranking of countries in terms of bargaining coverage. There are too many other factors that play a role, e.g. employer organisation, bargaining centralisation and/or union pressure. Far more important is the organisation of collective bargaining and, in particular, the dominance or absence of the sector as the key organising device for trade unions, employers’ associations and collective bargaining. Chart 1.11 shows a clear pattern. Where sector organisation is the dominant principle in collective bargaining (score = 2), bargaining coverage, employer organisation and union density rates are higher. Where sector organisation is weakly or partially applied (score = 1), coverage rates as well as organisational levels of employers and unions are lower. Where the sector is absent as an organising principle (score = 0), coverage and employer organisation rates, though not union density, are lowest. Finally, ‘excess coverage’, i.e. the distance between bargaining coverage and the rate of union organisation, is largest in countries where the sector principle applies.

Chart 1.11: Sectoral organisation, bargaining coverage, employer and union density, 2007–09

BRU Sectoral organization, bargaining coverage, employer and union density, 2007-2009

7166



Source: J. Visser, ICTWSS database 3.0, 2010.

NB: '2' = AT, BE, DE, DK, ES, FI, IT, NL, SE and SI; '1' = EL, FR, HU, LU, PL, PT, RO and SK; '0' = BG, CY, CZ, EE, IE, LT, LV, MT and UK.

1.4.3. Decentralisation and organisation of collective bargaining

The main trend in industrial relations in the past two or three decades is decentralisation. This means that the centre of gravity in decision-making on employment contracting, wages and human resources has moved closer to the firm. In countries with sector bargaining, single-level bargaining tends to make way for multi-level bargaining. These developments put pressure on collective organisations outside the firm, such as trade unions and employers' organisations, and also the state and the law to make room for derogation, for firms, groups or individuals, from general and collective standards set for the entire sector, or wider economy. To this end, different techniques are being used, from individual opt-outs to company social pacts and agreements negotiated by works councils, union workplace representatives or designated staff members.

A further component of decentralisation is procedural, allowing more flexibility in the application of legal norms and collective standards. Rather than standard terms, collective agreements tend to set minimum conditions; or in some cases, the terms set by collective agreements allow deviation both above and below the norm, if some procedural conditions — for instance, fair negotiations involving representatives from the group of workers making concessions — have been met. Some of the implications of these developments for collective labour law have been discussed in the 2006 *Industrial relations in Europe* report.

1.4.3.1. The level of bargaining

The distinction between levels (i.e. national or regional, sector and company bargaining) is only a first approximation of the reality in each country. First, in no country does bargaining take place exclusively at one level. The extreme cases are, at one end, Lithuania, where according to the European Company Survey's management respondents, 94 % of all bargaining activity, in terms of coverage, is based on company bargaining and, at the other, Finland where 76 % of those covered rely on sector or national bargaining (ECS, 2010). In many countries, bargaining over wages and working hours takes place at two or more levels: the company and the sector (metal, textile, construction, banking, etc., or in some cases the entire manufacturing or private sector). It may be that the level of bargaining alternates

between levels in different years, especially when national or sector agreements set terms for several years, to be detailed in subsequent firm-level negotiations, as is the case the Nordic countries and Italy.

Over the years 2007–09, the sector was the main level at which wage negotiations took place in 11 EU Member States: Austria, Belgium, Denmark, Finland, Germany, Italy, the Netherlands, Portugal, Spain, Sweden and Slovenia. According to the ECS, for more than half of all employees covered by collective agreements in these countries, there was no additional firm-level bargaining. This is a situation which characterises services and smaller firms, rather than manufacturing and larger companies, where multi-level bargaining is becoming increasingly widespread. In Sweden recent collective agreements in industry have incorporated provisions for local pay review and opportunities for individuals to negotiate their own wages (Granqvist and Regnér, 2008). In Denmark, recent agreements in industry detail general conditions and procedures, as well as minimum, youth and entry wages, and leave the allocation and division of pay rises to firm-level negotiations. In Austria since 1997 some industrial agreements include a distributional pay component that can be decided at company level. In the Netherlands, most sector agreements detail pay increases, but there is now a staggering diversity in types of agreements. In the private sector area of FNV Allies and the employers' federation AWWN, which covers some 700 of the country's 1 000 agreements, 36 % of all agreements are multi-level, 55 % have *à la carte* provisions which allow employees to make a choice between types of working hours arrangements and between pay and working hours, and the building up of 'personal budgets' for training, paid leave and early retirement (Zielschot, 2010). Since the 2004 'Pforzheim' agreement in metal engineering in Germany and a similar, earlier agreement in chemicals, 'opening' and 'hardship' clauses in sector agreements have been tied to company negotiations over employment, investment and, in some cases, advantages for union members (Ellguth and Kohout, 2008; Haipeter, 2009). In Italy, ever since the 1993 social pact, bargaining over wages takes place at two levels — sector, over cost-of-living increases and firms, over performance- or productivity-based increases. In practice, firm-level negotiations cover only employees in large firms. In a recent pact, signed in 2009 by two of the three main confederations — but not the CGIL union, Confindustria and the government, this structure was reaffirmed, but with sector pay increases tied to actual (past) rather than predicted (future) inflation and greater scope for firm-level negotiations.

In France, Ireland, Greece, Romania and Luxembourg, too, a majority of all employees were covered by agreements that set standards above the level of firms in 2007–09, but in each of these cases the sector plays a less prominent role. Sector agreements play a role in France, especially in setting minimum standards in sectors with many small firms. They do so with the help of the public authorities, through extension or, if no bargaining takes place or agreement is not reached, through imposing the rules of another, similar sector. However, the most vibrant element in recent times has been company bargaining. This has been stimulated by negotiations over working time reduction, with tax concessions and incentives tied to productivity and work organisation issues. In Ireland sector bargaining never played an important role, except in construction, but since 1987 pay bargaining had been determined by a series of triennial social pacts or 'partnership programmes', the last of which was negotiated in 2006 with a pay clause for 24 to 35 months, depending on the economic sector. When negotiations over an adjustment of the pay clause to the economic crisis broke down in 2009 and employers pulled out, Ireland braced itself for a return to company bargaining. Company negotiations prevail in Luxembourg and cover many employees, but the adjustment of the cost-of-living index, based on consultation with social partners, has remained a very important source of wage regulation. In contrast, in Greece, unions and employers, assisted by

the government, negotiate each second year a biennial national agreement, though a new agreement for 2010–11 has not yet been reached. In Romania the central social partners are used to signing a national agreement on minimum conditions. In both countries, for most workers the national agreement, together with the law, is the only source of regulation of wages and working hours, since few large companies exist and additional company negotiations are therefore rare.

In 11 countries the main and for most workers the only bargaining activity, if there is bargaining at all, is in the company: Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and the United Kingdom. With the exception of Malta and Cyprus these are precisely the countries with the lowest coverage rates. According to the ECS, in these countries for more than 50 % of the (relatively few) employees who have their pay packages decided through collective bargaining, company bargaining is the only source. Higher-level bargaining, at the level of sectors or groups, does occur in some of these countries, including Bulgaria, the Czech Republic, Hungary, Poland, Romania and Slovakia. But it is unstable and fairly limited in coverage and/or in the scope of the regulation specified.

1.4.3.2. National pay agreements and pattern setting

National pay agreements or cross-industry social pact have not completely disappeared, but with the end of such agreements and pacts in Finland in 2007, in Ireland in 2009 and in Slovenia in 2010 they have become few and far between. In Greece the national agreement for 2008–09 faces a difficult renewal. National agreements continue to be an important feature in Belgium, the Netherlands and Spain, and the most recent agreements concluded since the onset of the crisis are reviewed in Chapter 3. In the absence of national agreements, pattern setting between sectors is, or has become, prominent in some countries.

In Finland, which since 1968 has had a history of central incomes policy pacts, the last such pact expired in September 2007. Bargaining has subsequently shifted to sector level, with employers pressing for flexibility at company level. Accordingly, the sector agreements concluded in 2008 and 2009 introduced some measure of flexibility, especially regarding working hours and overtime. It seems that Finland is moving closer to the situation of its Nordic neighbours. In both Sweden and Denmark, national pay agreements have long since disappeared, though in Denmark the agreement between DI and a cartel of unions for the entire industrial sector usually sets the trend for the subsequent private sector agreements under the umbrella of the national union and employers' confederations LO and DA. In Sweden, conflict has arisen over which sector should set the trend — the retail and commercial services sector, as some unions wanted, or the industrial export sector — which has been hit hard by the recession — as had usually been the case. In Germany and Austria the collective agreement in the metal industry has long acted as the pattern setter for other sectors (Traxler, Blaschke and Kittel, 2001).

Finally, the involvement of unions and employers in agreements and consultations over the minimum wage can play a similar, though clearly less influential role, in coordinating national wage developments, especially in central and eastern Europe.

1.4.3.3. Centralisation and coordination of (wage) bargaining

With more decentralisation, multi-level bargaining and the larger space for company or even individual bargaining, coordination across bargaining units (or bargaining agents, be they firms or unions) in a horizontal sense or within bargaining units (or agents) in a vertical sense

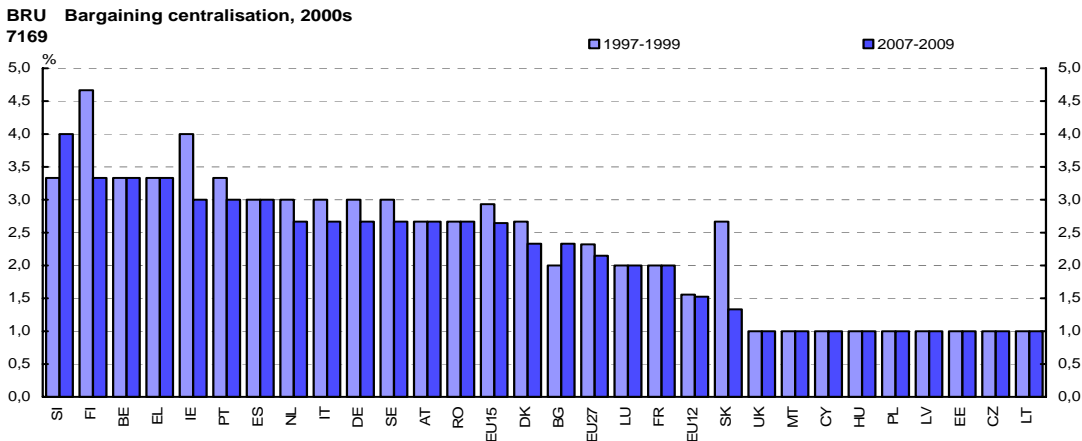
tends to become more rather than less important. Some of the national agreements or trend setting arrangements described in the previous section have exactly that function.

Box 1.5: Index of bargaining centralisation and dominant level of bargaining

In the ICTWSS database there is, in addition to the indicator on *union centralisation*, discussed earlier, an indicator of *bargaining centralisation* based on the *dominant level* at which bargaining takes place. This is scored on a five-point scale: 5 = national (cross-sectoral) bargaining; 4 = national (cross-sectoral) bargaining with derogation and additional sector or company bargaining; 3 = sector- or industry-level bargaining; 2 = sector- or industry-level, with additional local or company bargaining; and 1 = local or company bargaining. Bargaining centralisation tends to increase with union centralisation, but the correlation is modest ($r = .52$). With union and confederal authority the correlation is .62.

The *coordination index* in the ICTWSS database is derived from Kenworthy (2001) and has the following values: 5 = economy-wide bargaining, based on (a) enforceable agreements between the central organisations of unions and employers affecting the entire economy or entire private sector, or on (b) government imposition of a wage schedule, freeze, or ceiling; 4 = mixed industry and economy-wide bargaining: (a) central organisations negotiate non-enforceable central agreements (guidelines) and/or (b) key unions and employers associations set pattern for the entire economy; 3 = industry bargaining with no or irregular pattern setting, limited involvement of central organisations, and limited freedoms for company bargaining; 2 = mixed or alternating industry- and firm-level bargaining, with weak enforceability of industry agreements; 1 = none of the above, fragmented bargaining, mostly at company level.

Chart 1.12: Bargaining centralisation, 2000s



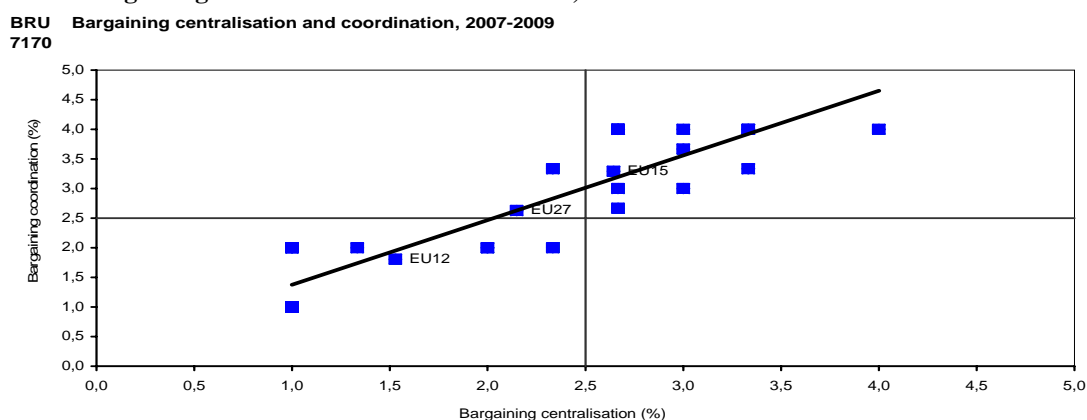
Source: J. Visser, ICTWSS database 3.0, 2010.

The first main message from Chart 1.12 is that there is a large divide between the EU-15 and the 12 new Member States. In the EU-15 sector some other form of multi-employer bargaining prevails, the main exception being the UK. In the 12 new Member States company bargaining prevails, albeit mixed with some element of multi-employer bargaining, although usually not at the sector level; here there appear to be three exceptions, i.e. Slovenia, Romania and Bulgaria. The second main message is that there is a clear tendency towards decentralisation and that sector bargaining with the possibility of additional company bargaining has become the mainstream in the EU-15.

Finally, bargaining centralisation and coordination are nicely aligned, as is shown in Chart 1.13. There are two main groups in the European Union: the economies of CEE countries plus Malta, Cyprus and the UK, where on average decision-making over wages is taking place in the company, with less coordination among bargaining agents or units (lower left corner); and the continental European countries of north and south Europe, plus Ireland and Slovenia, where decisions over wages are also influenced by bargaining agents above the level of firms

and these agents coordinate among themselves (upper right corner). Within each group, however, there is considerable variation, with for instance France much lower on coordination than Germany, Italy or Spain, and a more coordinated wage bargaining approach in Romania compared to the rest of the new Member States.

Chart 1.13: Bargaining centralisation and coordination, 2007–09



Source: J. Visser, ICTWSS database 3.0, 2010.

1.5. Employee representation in the enterprise

Employee representation in enterprises for the purpose of information and consultation is a key feature of European industrial relations. Legal provisions for employee representation exist in all countries and are required by EU law, based on Directive 2002/14/EC on information and consultation. The ways of organising employee organisation; the rights and activities of representatives; their reliance upon the unions; independence from management; formal and informal involvement in grievance handling and negotiations in the workplace or enterprise differ widely across the EU. In the *Industrial relations in Europe* reports of 2002, 2004 and 2006 various descriptions and categorisations have been offered.

This section takes stock of the situation in 2008 or 2009 and of developments since 2000. First, we discuss the pattern of employee representation, including the relation with trade unions. Next, an attempt at ‘measuring’ the formal or organisational strength of employee representation in the enterprise by integrating four different pieces of information (see Box 1.6) is presented. Third, with help of the European Company Survey, the focus shifts to the incidence of employee representation in the enterprise. Developments in transnational representation in (multinational) enterprises, through European works councils and the provisions for employee involvement in European Companies (SEs), are also reviewed.

1.5.1. National variations in employee representation in the enterprise

Forms of employee representation at the workplace have been legally established and institutionalised in most of the EU Member States⁽⁶⁾. In recent history, EU directives have fostered the formation and revision of institutional arrangements for workplace representation, not least in the 12 new Member States. Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community has been an important landmark in this context. A great variety of institutional structures exists

⁽⁶⁾ This section draws heavily on a contribution from the European Foundation, based on the summary findings of the 2009 European Company Survey issued in March 2010.

among the Member States with regard to the formal organisation of employee representation in the enterprise. The basic differentiation is whether employee representation proceeds through the union or is based on a construction that is formally independent from the union, i.e. the works council. This difference has various consequences, i.e. how representatives are elected; whom they represent; what powers they hold; and what competences they have.

Workplace representation through the union, as in the pure ‘single channel’ model, is based on election by and or appointment from union members. It does not pretend to represent the interests of non-union members and derives its powers and competences from the union, though this may be specified by the law or in agreement with employers. Member States in which such ‘single channel’ representation dominates include Sweden, Finland, Denmark, Ireland, the UK, Malta, Italy, Poland and the Czech Republic. Workplace representation based on works councils, as in a pure ‘dual channel’ model, exists in addition to and is independent from unions. It is usually elected by and from all employees (with some restrictions on those with temporary or part-time contracts, etc.); is held accountable to union and non-union members alike; and operates within powers and competences defined by the law. Dual channel representation based on works councils is found in Germany, Austria, the Netherlands, Belgium, Luxembourg, France, Spain and Hungary.

In reality various mixed forms are found and in many countries both structures exist alongside each other. In many countries trade union and works council representation are treated as being complementary, with a division of tasks between them. Negotiating and strike rights tend to be ‘invested’ in the union and denied to the works council, but this is not universally so and in firms where unions are absent councils can sometimes take over the union’s role. The opposite is also possible and in some countries the works council ceases to exist when a trade union is established at the workplace. It is important to note that several countries have separate regulations for the public sector, although these often amount to nominal differences only. Institutional differences also exist in the powers assigned to works councils, in particular whether the works council has only consultation rights, as established through the EU directive, or co-determination rights — that is, the right to decide jointly with management. Works council regulations in Austria, Germany and the Netherlands, for instance, include co-determination powers in specific areas.

The ESC data confirm that in most Member States works council members are also active in the trade union. Based on the response of employee representatives, the survey indicates that in 84 % of the works councils there are trade union representatives and in 56 % of the councils union members are in the majority. Compared with the much lower average for union membership in the EU — around 25 % — and considering that works councils are elected, this might be seen as a vote of confidence in the unions.

1.5.2. The organisational basis and formal power of employee representation

Combining various pieces of information including formal rights, involvement in co-determination and firm-level negotiations, as well as the nature of the relationship with the union(s), the formal strength of employee representation in the enterprise can be assessed (see Box 1.6). Chart 1.14 summarises the variation between EU Member States and the developments since 2000.

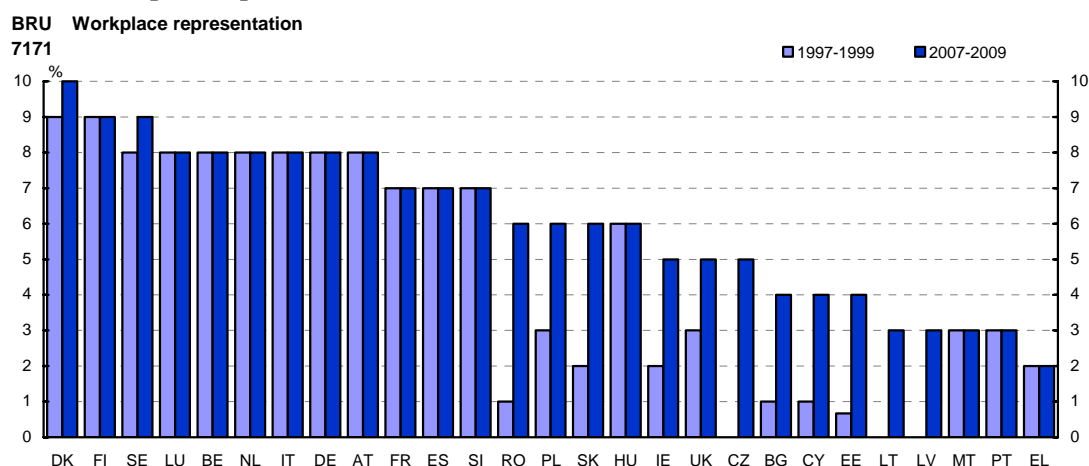
Box 1.6: the organisational strength of employee representation in the enterprise

The ICTWSS database contains information on (a) whether a provision for information and consultation in the workplace exists (0–2); (b) whether it can rely on strong or weak powers delegated to it by the unions, or acts

independently from the unions (0–4); (c) has strong or weak rights of intervention against management in a narrow or wide range of issues (0–3), and (d) is directly involved in negotiations over (aspects of) pay, working hours and conditions of the firm’s workforce (0 or 1). With this information an additive, 10-point scale has been constructed.

The picture that emerges is, again, one of diversity. At one end are the three Nordic countries, with the strongest workplace representation rights, based on integration between union and employee representation, backed by basic agreements and legal rights. This is followed by a group of continental European countries — Benelux, Germany, Austria and Italy, then France, Spain and Slovenia — each with strong works councils but with different arrangements concerning the cooperation between unions and councils. At the other are the Baltic states, Cyprus and Malta, Bulgaria and Greece, with weakly institutionalised bodies of employee representation, alongside or instead of trade unions, and with weak rights vis-à-vis management. The other message from Chart 1.14 is that EU Member States have to some extent converged on this issue, with more rights accruing to employees in countries where employee representation was weakly founded. The convergence is clearest in the area of formal rights where, before the introduction and application of Directive 2002/14/EC, few existed amongst the 12 new Member States or in Ireland and the UK. It would, however, be wrong to infer from Chart 1.14 that employee representatives have become more powerful as against other stakeholders in the firms. In fact, works councils and other employee representation bodies often express concern that they in practice have lost influence in the recent past.

Chart 1.14: Workplace representation



Source: J. Visser, ICTWSS database 3.0, 2010.

1.5.3. *The incidence and coverage of employee representation in the enterprise*

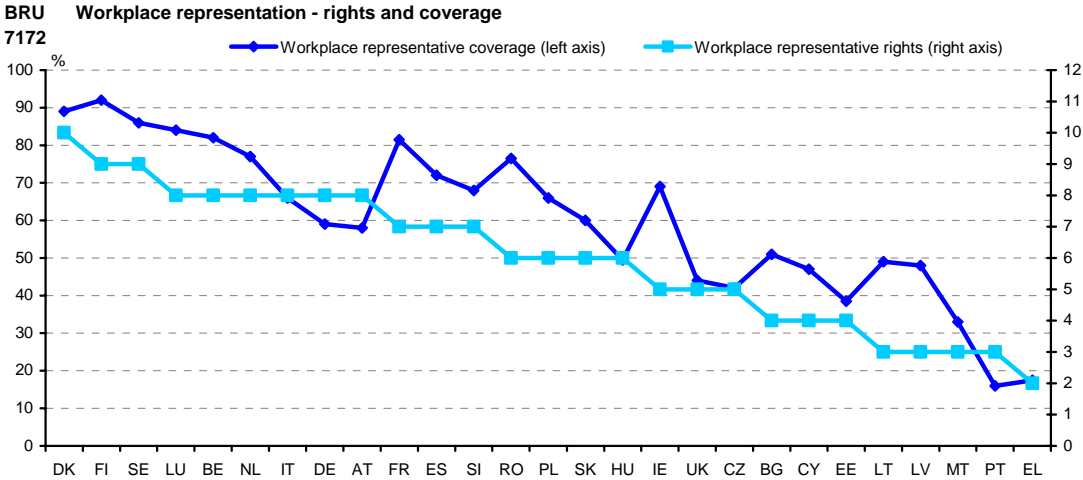
According to the ECS, in 2009 about 37 % of all establishments with 10 or more employees had an institutional form of employee representation. This translates into a ‘representation coverage rate’ of about 60 % of the employees in these establishments. With a correction for the employees working in small firms — including them would yield a lower coverage rate, somewhere near 50 % — a comparison can be made with union density and the bargaining coverage rate. The employee representation coverage rate is almost twice as high as union density. In other words, due to institutionalised forms of enterprise representation unions can extend their audience and influence. But representation coverage rate is lower than that for bargaining coverage. The main reason is that most national regulations and Directive

2002/14/EC contain thresholds, usually 50 employees, above which representation becomes mandatory. There are pronounced differences in incidence and coverage of employee representation by company size and sector. The highest coverage rate — up to 90 % — is reached in large firms and in the public sector, followed by industry. Coverage is noticeably lower in private services, and lowest in firms with 20 to 49 employees.

As shown in Chart 1.15 there are significant differences across the EU in the incidence and coverage of employee representation. These differences are somewhat related to union density ($r=.41$), but more strongly to bargaining coverage ($r=.57$). In one group of countries, a majority of the establishments have an institutional form of employee representation at the workplace, with more than 70 % of the employees being covered. The group is led by the Nordic countries and also includes Belgium, Spain, France, Luxembourg, Romania and the Netherlands, all countries with a high bargaining coverage rate, although some (Spain, France, the Netherlands) have a rather low unionisation rate. Countries with a low incidence and coverage are situated in CEE countries and in southern Europe, with Portugal and Greece revealing the lowest rates.

Chart 1.15 further compares the coverage rate, based on the ECS, with the ICTWSS indicator of ‘representation strength’. The two are aligned: it seems that coverage is highest where employee representation has a stronger organisational basis, independent from management, can rely on union support, workplace representatives are routinely involved in negotiations, and have strong information and consultation rights regarding major company decisions.

Chart 1.15: Workplace representation — rights and coverage



Source: J. Visser, ICTWSS database 3.0, 2010; ECS data.

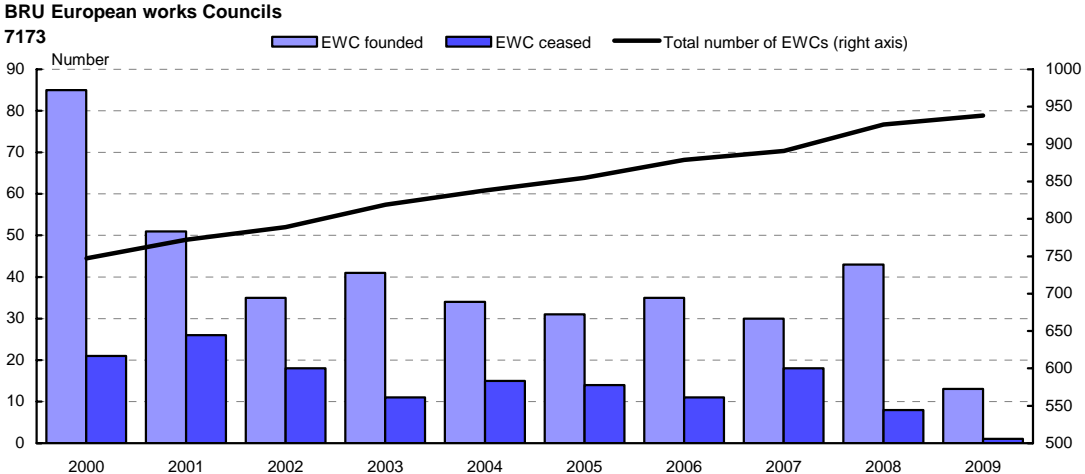
European-level employee representation within the enterprise

There are two main forms of European-level employee representation within multinational enterprises. First, European works councils (EWCs) are standing bodies providing for the information and consultation of employees in Community-scale undertakings and groups of undertakings as required by the 1994 European works council directive (Directive 94/45/EC), recast in 2009 as Directive 2009/38/EC (see Chapter 7). Second, European Companies (SEs) established under the 2001 regulation on the statute for a European Company (Council Regulation (EC) No 2157/2001), have to comply with provisions for employee involvement, including board-level representation and/or European-level works councils under Directive 2001/86/EC (see Box 1.7).

The thresholds required for an enterprise to be covered by the European works council directive are, for a Community-scale undertaking, ‘at least 1 000 employees within the Member States and at least 150 employees in each of at least two Member States’ (Article 2(1)(a)). Essentially, the aim of the directive is to promote voluntary agreements on the constitution and operation of EWCs. Not all of the multinational companies covered have established an EWC. This is because the introduction of EWCs is not automatic but requires either the initiative of central management or ‘the written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States’ (Article 5(1)). According to the EWC database of the European Trade Union Institute, 938 EWCs were active at the beginning of 2010, representing some 16 million workers ⁽⁷⁾. This represents a coverage rate of around 40 % of the multinationals, and 60 % of the workforce, estimated by the Institute to be covered by the directive. Since 2000, each year some 40 EWCs have been newly established, whereas 14 ceased to exist — largely due to mergers and acquisitions. Cumulatively, the number of EWCs has increased by 255 since 2000 (Chart 1.16).

Practice amongst EWCs has varied widely. In some instances, they have played an extremely limited role and were often a simple recipient of information about a restructuring exercise, sometimes even after the decision had been taken. More rarely, they have been fully involved participants, becoming a site for collective bargaining in some multinational enterprises ⁽⁸⁾.

Chart 1.16: European works councils



Source: ETUI, database on works council agreements (<http://www.ewcdb.eu/>).

Box 1.7: Employee involvement in European Companies (SEs)

A European Company (Societas Europaea (SE)) is a European legal form established by Council Regulation (EC) No 2157/2001 on the statute for a European Company. The Regulation introduces a set of rules directly applicable in all Member States, in particular on the formation and the structure of the SE. The legal regime of the SE in completed with cross-references to the national legislation applicable to public limited-liability companies. Council Directive 2001/86/EC supplementing the SE Statute stipulates employee involvement rules in SEs in the form of information and consultation of employees and, in some cases, board-level participation. Both the Regulation and the Directive were adopted on 8 October 2001 and were to be implemented in the Member States by 8 October 2004 (however, the Directive was transposed by all Member States only at the beginning of 2007). EU-based companies may form an SE in four ways (the first three involve more than one company): merger; creation of a joint holding company; creation of a subsidiary; or when a Single EU-based

⁽⁷⁾ The ETUI’s database on European works council agreements can be found at <http://www.ewcdb.eu/>
⁽⁸⁾ M. A. Moreau and J. J. Paris, ‘Le rôle du comité d’entreprise européen au cours des restructurations, expériences et perspectives’, *Semaine sociale Lamy*, 2008. suppl. No 1376.

company is transformed into an SE, provided it had a subsidiary governed by the law of another Member State for at least two years. A company based outside the EU may (if individual Member States so decide) participate in the formation of an SE on condition that it is created under the law of a Member State, has its registered office in that Member State and has a real and continuous link with a Member State's economy. An already existing SE may also itself set up one or more subsidiaries in the form of SEs.

For the first time ever, the SE directive introduces into and defines 'participation' in Union law, i.e. the influence of the body representative of the employees and/or the employees' representatives in the affairs of a company by way of the right to elect or appoint some of the members of the company's supervisory or administrative organ, or the right to recommend and/or oppose the appointment of some or all of the members of the company's supervisory or administrative organ. Though in a manner that leaves significant space for the self-regulation of practical arrangements at company level, the SE accepts the fact of employees' interest representation where applicable. Where this right was conferred by national statute and used before the creation of the SE, employees have the guarantee that this will remain in the corporate bodies of an SE.

As regards the date on existing SEs, as of July 2010, some 595 SEs had been registered in the EU/EEA Member States. Around a quarter (151) were known to be 'normal SEs', i.e. operating and with 5 or more employees. Around 6% (43) of all SEs were known to be 'micro SEs', i.e. operating with between 1 and 4 employees. Many of the SEs (77) are so-called 'shelf' companies which are for sale, with most of them in the Czech Republic (44), 'empty' SEs (83), operating but apparently without any employees yet, and a rather large number of SEs (around 241) which were known or seemed to be operating but for which the information on the number of employees were not available. This implies that to date a large number of SEs is operating but without actively employing people (or only employing few people). This diverse picture of different types of SEs is replicated also with regard to the geographical coverage: in eight EU Member States (BG, FI, EL, IT, LT, MT, RO, SI) no SE had been registered by summer 2010 and the diffusion of 'normal' SEs, operating and with 5 or more employees, in the remaining countries is quite unequal with Germany being the most important country (74 out of 151), followed by the Czech Republic (25), France (9), Netherlands (8) and Austria (7)⁽⁹⁾. At least 30 of the 'normal' SEs have employee representatives on the company's supervisory or administrative body, and over 60 have transnational arrangements for employee information and consultation through SE works councils.⁽¹⁰⁾

In reviewing the interim results of the case studies of the Eurofound project⁽¹¹⁾, the influence of SEs on any 'Europeanisation of industrial relations' should not be overestimated. Two other preliminary findings from the fieldwork are of note. First, initial results of the case studies confirm that the negotiation and implementation of practical arrangements of employee involvement follow company specific requirements and paths. In the long run SEs could turn out to be a factor in the emergence of supranational, enterprise specific industrial relations which are different from the respective national IR environments. Second, there are indications that in some cases the new legal form of an SE may have been used to circumvent existing national regulations for employee participation rights. Yet, the analysis of 10 company cases demonstrates that employee involvement is widely regarded as an integral part of corporate governance in the EU.

1.6. Industrial conflict

Industrial or social conflict is an inherent part of industrial relations. The right to bargain for better conditions implies the right to strike as a means to exert pressure should negotiations reach an impasse or fail. This is recognised in Article 28 of the Charter of Fundamental Rights of the EU: 'Workers and employers, or their respective organisations, have, in accordance with Community law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.' The exercise of this

⁽⁹⁾ The figures are taken from the Commission Staff Working Document, SEC(2010) 1391, accompanying the Report on the application of the Regulation on the Statute for a European Company, of 17.11.2010.

⁽¹⁰⁾ ETUI (2010), European Company (SE) Factsheets, <http://ecdb.worker-participation.eu/>

⁽¹¹⁾ In July 2009, the European Foundation for the Improvement of Living and Working Conditions in Dublin launched a research project on the European Company Statute. The aim of this research is to gather information about the practical functioning of European Companies (SEs). The project was completed in summer 2010, consisting of an analytical report and 10 separate company case studies. The contactors were Wilke, Maack and Partner, Hamburg, in consortium with IRES, Paris. The consortium was supported by the Seeurope network of ETUI. The analytical report and the company case studies are available online at <http://www.eurofound.europa.eu>

right, notably strikes or lock-outs, constitutes a high-profile aspect of industrial relations in terms of public impact and media coverage.

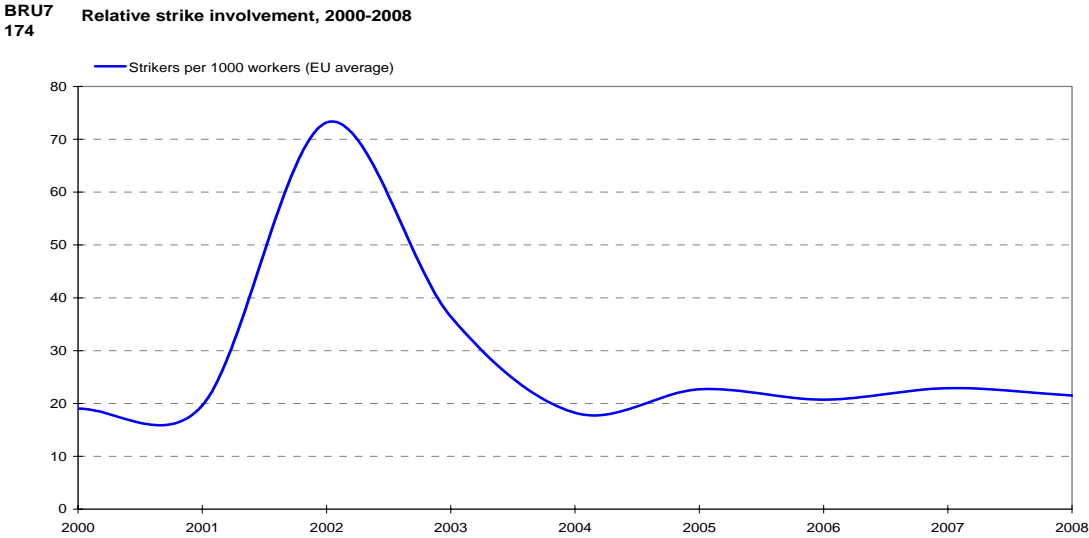
Box 1.8: strike statistics

Statistics in this area are notoriously difficult, especially when comparing across countries. Methods, definitions and thresholds for recording differ greatly, despite efforts to harmonise statistics by the International Labour Organisation. Eurostat has collected strike data since 1960 and since 2005 has a data-sharing arrangement with the ILO, using the same international definitions. The data include an annual series on the number of strikes and lockouts; the number of working days lost (1 000); the number of working days lost per 1 000 workers; the number of workers involved (1 000); and the number of workers involved per 1 000 workers. Below we have used the national data collected by EIRO (M. Carley, ‘Developments in industrial action, 2005–09’, document TN10040495), with additional data from Eurostat and the ILO Laborstat database for earlier years. One reason for this choice is that Carley also reports data on the sectors involved, the reasons for industrial action and strike threats that are not carried out. Unfortunately, despite the title, the EIRO data cover the year 2009 for very few countries. Since 2009 is neither covered by Eurostat nor by the ILO, it is not possible to assess the impact of the current crisis on industrial action. For all years, data for the Czech Republic are absent.

In strike statistics it is common to make a distinction between the frequency of strikes (number of strikes and lockouts), the duration and size of strikes (number of says lost) and participation (number of workers involved). This section focuses on participation, i.e. strikes per 1 000 employees.

Considering the period 2000–08, a wave-like pattern in the EU average of strike participation is observed with a peak in 2002–03 (Chart 1.17). In these two years some particularly large strikes took place in ‘low strike’ countries like Austria, Slovenia and Sweden, whilst large-scale mobilisation affected ‘strike prone’ countries like Greece, Italy, France and Romania. Generally, strike activity was up in most countries and it is tempting to view this in the context of wage and job conflicts in the wake of the 2001–02 ‘Dotcom’ and 9/11 recession. Some conflicts in central and eastern Europe were related to reforms preparing for accession to the European Union and satisfying conditions for future participation in the EMU. Setting aside this peak, the ‘equilibrium’ level, with 20 workers involved in industrial conflicts per 1 000 workers, is lower than the long-term average in the 1970s and 1980s (Shalev, 1992) and also the 1990s ⁽¹²⁾. The EU average is also lower than the average of the non-European OECD countries.

Chart 1.17: Relative strike involvement, 2000–08



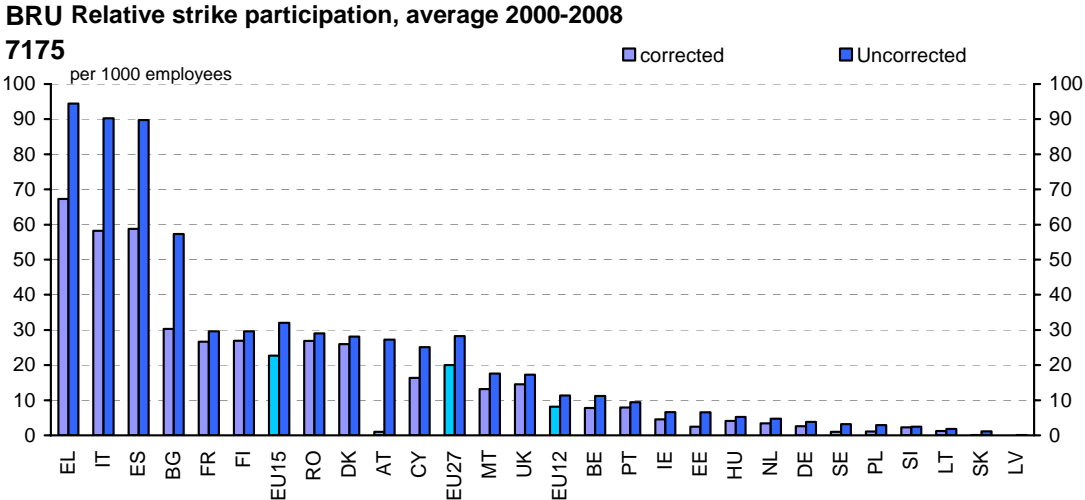
Source: Own calculations from Carley 2010, Eurostat and ILO Laborstat.

⁽¹²⁾ According to data analysed by the UK Office for National Statistics, as reported in *Economic and Labour Market Review*, April 2008.

The EU average hides large variations across Member States (Chart 1.18). To begin with, there appears to be more labour acquiescence in the 12 new Member States than in the EU-15. This may reflect the weaker position of trade unions and the harsher economic conditions faced by workers in the CEE countries. This is not to say that high rates of conflict, expressed in the number of strikes, the duration of strikes, working days lost or relative involvement, is necessarily an indicator of union strength. It has long been noted that strong unions may call strikes only rarely and judiciously, whereas weaker unions have very limited control over the strike weapon. Moreover, the strike participation data used here are strongly influenced by the use of so-called 24 hours strikes — a practice currently used by the unions in Greece in their mobilisation against the government’s austerity package. Generally, these are a more widespread practice in France and the southern Member States than elsewhere in the EU.

In order to show the variations across countries, an ‘adjusted’ average for the years 2000–08 has been calculated. Since the average can be unduly influenced by what happened in one particular year, the adjusted average simply replaces the year with the highest strike involvement by the average for the other years. The resulting corrected average, without the outlier year, better reflects the long-term trend in countries’ level of conflict. By definition, this procedure reduces the average in all countries (see Chart 1.18), and the difference is particularly large in Austria, where the ‘unadjusted’ average was strongly influenced by the huge conflict in 2003 over pension reform.

Chart 1.18: Relative strike participation, average 2000–08



Source: Own calculations from Carley 2010, Eurostat and ILO Laborstat.

On the basis of the adjusted averages, the 25 EU Member States (no comparable data for Luxembourg and the Czech Republic) can be divided in three groups: (1) countries with, in an average year, less than 10 workers per 1 000 involved in industrial action: Estonia, Latvia, Lithuania, Poland, Hungary, Slovakia and Slovenia, as well as Austria, Germany, Sweden, the Netherlands, Belgium, Ireland and Portugal; (2) countries where industrial action is at moderate levels, with an average of 10–30 workers per 1 000 involved in conflicts: Denmark, Finland, the UK, Malta, Cyprus, France, Bulgaria and Romania; and (3) countries where industrial action was at relatively high levels, with in an average year more than 50 workers per 1 000 involved in conflict: Greece, Spain and Italy.

Carley (2010) offers an interesting discussion and some data on the causes of conflict, the sectors where most conflicts occur and strike threats. Pay is the most common source of conflict, together with lay-offs, restructuring and redundancies, followed by government

reform plans and working time issues. There is also some evidence that the trend, dating from the 1980s, of industrial conflict migrating from industry to public services, is continuing. Manufacturing is where most strikes occur, but the largest conflicts, with most participants, tend to occur in the public sector. Large conflicts, triggered by government public sector and/or welfare reform plans, occurred in recent years in Bulgaria, Greece, Hungary, Malta, Poland and Spain. Italy, too, has seen substantial conflict triggered by such reform plans.

Strikes may be called or threatened, but not materialise, either, because they are meant as a ‘warning’ and an accommodation is subsequently reached, or because unions are unsuccessful when balloting members. Some countries have statistics on balloting outcomes. In Italy public sector strikes must be announced in advance and they are monitored by an independent Guarantee Authority, which can sanction a union which breaks the rules. In 2008, there were 2 195 strike notifications, of which 39 % were called off. In the UK it is possible to compare the number of disputes involving industrial action with the number of successful strike ballots, which are obligatory before taking industrial action. In 2008 there were 658 successful ballots, with industrial action subsequently taking place in 144 instances (22 %), suggesting substantial use of ballots as a ‘warning’. National strikes which are threatened but subsequently called off are part and parcel of industrial relations in some countries. In Sweden, for example, two national strikes were cancelled in 2009, while LO’s affiliates called 16 regional strikes but called them all off. Unfulfilled strike threats were also reported in 2009 in Austria, Belgium, Bulgaria, the Czech Republic, Estonia, Finland, France, Germany, Hungary, Latvia, Malta, Portugal and Romania. Carley (2010) gives some examples of the issues over which collective action was threatened but did not take place. These include pay and job cuts, government reform plans and company restructuring, and suggest at least some of the unfulfilled threats are related to the worsening economic situation. It is not clear, however, whether the phenomenon has increased as compared to previous years. Such conflicts tend to be more intense and the unions’ position more constrained in times of recession.

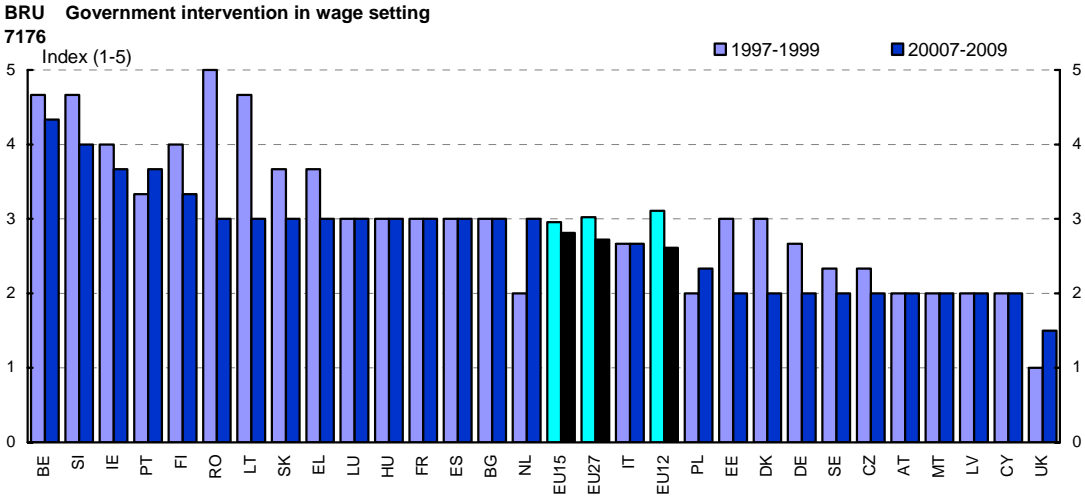
There appears to be no correlation between relative strike involvement and any of the industrial relations indicators discussed earlier in this chapter (union density, coverage, coordination, centralisation). There is some indication that under company bargaining the incidence of conflict is higher but that each dispute is smaller with relatively fewer workers involved; where bargaining takes place at higher levels relatively more workers are involved, but conflicts are fewer. But these associations are weak and further analysis is needed in which it is necessary to model economic and political variables in addition to the institutional ones portrayed here.

1.7. State and government intervention

There are various ways in which the state is involved in industrial relations and directly or indirectly influences decisions regarding wages, hours and working conditions. All EU Member States lay down basic legal guarantees on association, collective bargaining and strike action, and all are bound by a considerable body of EU law in matters of non-discrimination, health and safety in the workplace, maximum working hours, parental leave, employment contracting and employee rights of information and consultation. As noted above, most EU Member States have minimum wage legislation in place and many have procedures for extending collective agreements to non-organised employers. Governments can influence the outcomes of wage bargaining, directly or indirectly, in various ways; by prescribing conflict settlement and arbitration procedures; issuing or negotiating wage

guidelines; using public sector wage setting as an example and pace-setter for the private sector; by imposing a ceiling on outcomes, raising taxes or even suspending collective bargaining temporarily. The last mentioned technique has not been used in recent years, although it was not uncommon in the 1970s and 1980s. All the other methods have featured in the years since 2000. Based on a measure of government intervention in wage setting (see Box 1.9), Chart 1.19 portrays the cross-national variation in the EU and compares the situation in 2007–09 with 10 years earlier.

Chart 1.19: Government intervention in wage setting



Source: J. Visser, ICTWSS database 3.0, 2010.

Box 1.9: government intervention in wage bargaining

Using a scale developed by Hassel (2006), with a slight modification, the ICTWSS database distinguishes the following grades of government involvement in collective bargaining: the government imposes a settlement or ceiling on the private sector and/or suspends bargaining (= 5); the government participates directly in private sector wage bargaining and provides norms or ceilings, or tax-based compensation to achieve particular outcomes (= 4); the government influences wage bargaining outcomes indirectly through minimum wage setting, wage setting in the public sector, through compulsory arbitration and/or by withholding extension or recognition (= 3); the government provides the institutional framework for national or sector collective bargaining (legal protection of agreements, extension) (= 2); and, finally, no role of government in wage setting (= 1).

Overall, it appears that the intensity of government intervention in wage setting has decreased, albeit by a small amount and not in all Member States. Generally, we note a convergent trend, with the averages for the 12 new Member States and EU-15 moving close to each other. In particular, CEE countries economies have moved away from restrictive government controls. while maintaining influence over general wage developments through minimum wage setting and related procedures of consultation. There are no strong regional differences within the EU as a whole and this variable — the index of government intervention — does not seem to correlate with any of the indicators (unionisation, employer organisation, bargaining coverage, centralisation, coordination) discussed in this Chapter.

Government intervention is associated with minimum wage legislation and the practice of extending collective bargaining and it has centralising effects as it tends to raise the level at which bargaining takes place. But, as has been noted in the *Industrial relations in Europe* 2004 report, direct government intervention tends to be an alternative, or substitute, for coordination by the trade unions and the employers’ associations themselves. However, the absence of government intervention in matters of wage setting can combine with either a coordinated approach — as in Germany, Austria or Sweden — or with an uncoordinated,

market-based one — as in the UK, the Czech Republic or Poland.

1.7.1. Social pacts

In various EU Member States governments have tried to engage trade unions and employers' organisations in tripartite social pacts on wage moderation and reform on issues such as pensions, early retirement, employment protection, active labour market policies, unemployment insurance and training. Social pacts are defined as tripartite bargains, more precisely as 'publicly announced formal policy contracts between the government and social partners over income, labour market or welfare policies that identify policy issues and targets, means to achieve them, and tasks and responsibilities of the signatories' (Avdagic, Rhodes and Visser, 2011). Such bargains can take different forms, have a different content or scope in terms of issues and policy domains and they differ in their duration or period of application and in their potential effects.

In the years 2000–09, 44 attempts to negotiate a social pact were identified. This is half the total over the preceding decade. In both decades the failure rate i.e. of pact negotiations that do not end in an agreement is the same, at one third. Compared to the 1990s fewer governments turned to this instrument. One potential reason, discussed in a recent collection of studies (Pochet, Keune and Natali, 2010) is that social pacts were especially popular in the run up to EMU. Even so, since 2000 governments tried to negotiate a social pact at some point in 18 of the 27 EU Member States, and in 14 some agreement was reached. No pact negotiations took place during this period in Austria, the Czech Republic, Cyprus, Denmark, Estonia, France, Sweden and the UK, whilst in Germany the Alliance for Jobs, Competitiveness and Training, begun in 1998, ended at some point in 2001. In four countries — Belgium, Greece, Malta and Poland — one or more attempts to negotiate a social pact occurred but these were never successful.

Of the pacts that were signed Table 1.9 shows that the number one issue was wage setting, including conflict regulation ('wage procedure') and the use of inflation targets ('wage max'). Social security (in particular unemployment insurance) is the next most important issue, followed by vocational training, active labour market policies, employment protection and pension reform. Social dialogue procedures, together with consultations over minimum wage decisions, are relatively frequent issues in social pacts in the 12 new Member States.

Table 1.9: Issues negotiated in social pacts, 2000s

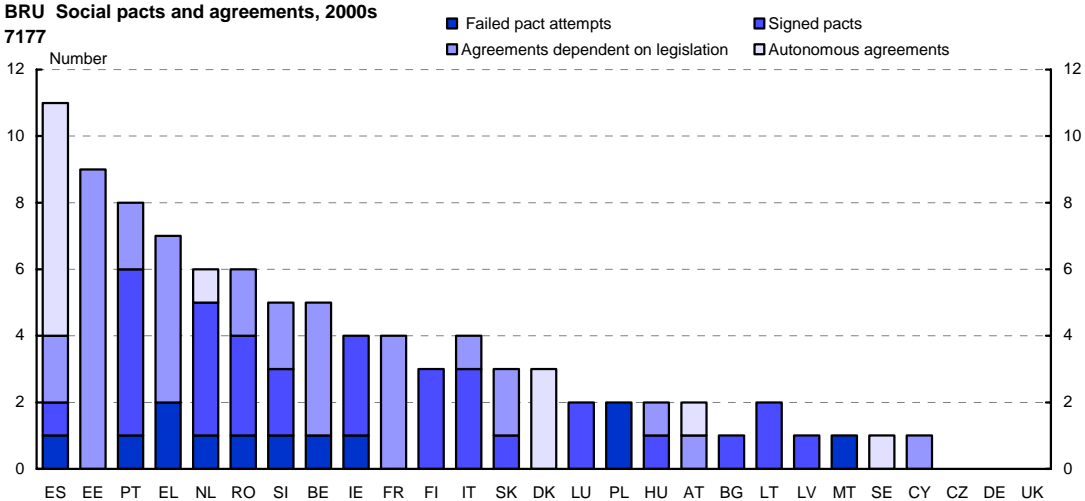
	Wage procedure	Wage max	Tax budget	Working hours	Jobs ALMP	EPL	Social security	Pension	Training	Union rights	Social dialogue
EU-27	44	15	11	4	12	10	25	10	20	9	8
EU-15	28	13	8	3	8	7	20	8	18	7	2
EUnMS	16	2	3	1	4	3	5	2	2	2	7

Source: J. Visser, ICTWSS database 3.0, 2010, multiple issues per pact.

Many of these issues can (also) be subject to bilateral agreements between the central union and employers' associations, without the participation or intervention of the government. Two types of agreement can be distinguished, similar to the two procedures specified under Article 136 of the EU Treaty. Sponsored agreements depend for their implementation on subsequent legislation by the government. They can be seen as a form of preparation for legal

intervention, similar to the European social partner agreements in the 1990s (on parental leave, fixed-duration contracts and part-time work) that were implemented by means of an EU directive. Autonomous agreements are implemented by the unions and employers themselves, by means of collective bargaining or guidelines and do not seek or require subsequent legislation. Autonomous agreements often pre-empt legislation and surely one motive for employers and unions to conclude such agreements is that they exert more influence over the content of regulation than if it were done through the law. The parallel is found in the European framework agreements on telework, work-related stress, sexual harassment, each concluded since 2000.

Chart 1.20: Social pacts and agreements, 2000s



Source: J. Visser, ICTWSS database 3.0, 2010.

As can be seen from Chart 1.20, autonomous central agreements are relatively rare; most agreements rely on subsequent legislation. Some of the agreements in Portugal after 2005, in an attempt to repair the damage of prior legislation on collective bargaining, can be classified as autonomous and the same applies to the seven procedural wage agreements and one further agreement in Spain. The other examples are found in Denmark, the Netherlands and Sweden. Sponsored agreements, some related to EU legislation, are frequent in France, southern and eastern Europe.

1.8. Conclusion

This chapter has offered a ‘bird’s eye’ overview of recent trends and variations in industrial relations in the European Union. To that end, it has presented a demography of national variations on the six major variables that, arguably, make up the institutional fabric of industrial relations: trade unions, employer organisation, collective bargaining, workplace representation, industrial action and government intervention. The result can be summarised as follows: on most variables the years since 2000 have seen a continuation and development of trends started earlier, without major breaks. This is true, for instance, for the decline of union density, decentralisation of collective bargaining, lower levels of industrial action and more employee participation in the enterprise (at transnational as well as national and sub-national levels). The combined effect of the second and fourth of these trends has been to further augment the prominence of the company level in the institutional fabric of European industrial relations. Continuities are, moreover, noted in the continued high levels of employer organisation, bargaining coverage and, a continued, albeit slightly less pronounced

role for government in industrial relations, including through public extension of collective agreements to non-organised firms, the institution of a mandatory minimum wage and the negotiations of social pacts.

Amidst such common trends and developments, the chapter has also highlighted the continued diversity of national industrial relations in the EU. Some of this diversity is between the EU-15 and the CEE countries and flows from the enlargements of 2004 and 2007. But the diversity within these two groups of countries is large as well; and other plausible ‘quasi-regional’ groupings are detectable (see *Industrial relations in Europe*, 2008 report). On many ‘hard core’ variables where EU competences are limited — the organisation of the social partners, collective bargaining over pay and primary working conditions and industrial action — diversity around common trends has persisted. Only where there is scope for EU intervention — as on employee representation within the enterprise — is some tendency toward convergence apparent.

How the trends outlined in this chapter will be affected by the current crisis, with the prospect — at the time of writing in mid-2010 — of severe public sector cuts and austerity measures in many Member States, cannot be foreseen with any certainty. Will unions gain members, industrial action go up, governments rush to negotiate social pacts? Or will the opposite happen, with further union decline, more labour acquiescence, unilateral government measures? Scattered evidence from various countries indicates tendencies in both directions.

For instance, the data for union membership and union density in 2009, where available, variously show continued but not excessive union decline (Austria, Germany, Denmark, Finland, Sweden), no change (the Netherlands) or an increase (Belgium, related to the continued role of unions in the administration of unemployment insurance). Longitudinal studies of union membership and business cycles tend to conclude that increases in unemployment are associated with membership decline, sometimes with a delay of one or two years. To the extent that a number of countries have been able to contain the effects of the crisis on unemployment with special measures, in particular by using short-time working arrangements, any consequent reduction in union membership will be less. These measures have been particularly effective in manufacturing and agreements between unions and employers have been a key tool in implementing such schemes (see Chapter 3). Come 2010, the crisis has moved on to the public sector, with most Member States now announcing severe austerity programmes with a standstill or cut-back in wages and/or employment. Unions in many countries will be propelled to take defensive industrial action in circumstances which threaten them with large losses in membership and in influence.

Finally, it is hard to foretell whether the increased coordination of fiscal policies and financial regulation in the EU, and in the euro area in particular, will trigger joint responses from unions and employers, autonomously or in concert with the public authorities, in the domain of industrial relations and wage policy. Such initiatives would seem vital for retaining some influence over how the crisis will unfold. In crisis conditions the tendency to negotiate social pacts is stronger, but the combination with other conditions — in particular the position of the government and the strength of the unions — is crucial (Avdagic, Rhodes and Visser, 2011). Economic crises as such are poor predictors of concerted, joint action.

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