

## **Alternatives to the neoliberal economic and social model of the European Union**

This article takes a critical look at the neoliberal structure of the economic and social constitution of the EU. It is argued that the Single European Act of 1987 and the Maastricht Treaty of 1993 consummated a change in the EU's economic model from Keynesianism to neoliberalism. These treaties established a system of competing states that has resulted structurally in wage, social and tax dumping. At the same time, economic policy has been realigned: price stability is the primary objective of monetary policy, with financial policy dedicated above all to consolidating the public budgets. Growth and employment targets are only second-rate in this system. Based on this critical analysis, suggestions are then made as to how re-regulation policies on a European level can transform the competing states into a mutual solidarity community, furthermore how the policy of the ECB should be realigned, and how the introduction of a European economic government can empower the EU to deal more efficiently with economic crises.

To a great extent, these suggestions overlap with the demands made in the "Manifest zur Europapolitik" (Manifesto on European policy) just published by the German trade union Ver.di under the title of "Einem sozialen Europa Zukunft geben" (Giving social Europe a future).

### **1 From Keynesianism to a neoliberal role model in the economic and social policy of the EU**

In 1957, the European Economic Community (EEC) was established by the Treaties of Rome. In terms of its inner constitution when it was founded the EEC consisted of a community of national economies that had learnt their lessons from the far-reaching crisis of the early 1930s. The Keynesian role model prevailed with the following elements:

- The markets are left up to their own devices and do not necessarily bring about an economic balance with full employment. On the contrary, the state has to stabilise the national economies by implementing a macro-economic policy.
- The stabilisation function consists of an anti-cyclic monetary and fiscal policy. In times of crisis, the central banks are supposed to reduce interest rates in order to stimulate investment and consumption, while the state stimulates general economic demand by reducing taxation and/or increasing state expenditure – in other words, by means of so-called fiscal policy.

- Wage policy is supposed to ensure that labour is allowed a full share of economic progress. To this end, real wage levels have to grow just as quickly as overall economic productivity.
- Social security systems are supposed to expand the welfare state. This results in a growing share of social expenditure in the gross domestic product (increasing quota of social security benefits).
- Together with economic policy, an efficient state also has to perform services of public interest (education, health, infrastructure). In addition, fiscal policy is supposed to bring about more social justice (redistribution).

On this basis, the Community saw hitherto unknown dynamic economic growth. Advancing European integration in the markets for goods, services, labour and capital permitted a greater division of labour, enhanced the productive forces and brought down production costs, to the benefit of all citizens of the European Union. Together with Japan, during the 1960s the European Community was the most successful economic region in the world.

It soon became clear that the growing interrelationships of European national economies also made national economic policy less effective. Plans were therefore discussed aiming at the Europeanisation of economic and monetary policy which in the end also entailed greater coordination of national fiscal and social policy.

These findings were reflected in the early 1970s in the projects of the Werner Plan. As well as introducing a common European currency, this also included transferring economic policy competence to the European level (economic government) together with a common European fiscal policy (fiscal union) and Europeanisation of social policy (social union). However, these plans were doomed in the mid '70s by the global economic crisis at that point in time.

It was then the parallel occurrence of high unemployment and high inflation (stagflation) that lessened the appeal of the Keynesian role model in the late 1970s and heralded the successive triumph of neoliberalism.

The neoliberal role model is in every respect the antipole of the Keynesian model, consisting of the following core economic and social policy elements:

- The market tends towards a balance of its own accord. This is why state intervention is to be kept to a minimum as this would only interfere with market processes. The share of the state in the gross domestic product (GDP), i.e. the government spending ratio, is to be minimised by reducing expenditure and bringing down taxation.
- Financial policy is to be aligned to keeping public budgets balanced on average throughout the economic cycle. Further state deficits are to be cut

back. Meanwhile the neoliberal mainstream has even gone over to the conviction that public deficit is unacceptable at any time.

- Monetary policy must aim primarily at avoiding inflation. The money supply should grow continuously with production potential. The state should refrain from using monetary policy instruments to influence the economic cycle.
- Nominal wage levels should be geared to growth in productivity. To break inflation, wage increases should not take account of previous inflation rates. It is appropriate for wage levels to differ according to sectors, regions and companies. As long as there is unemployment, wage growth should even remain behind growth in productivity.
- To enhance the forces of supply in the economy, the welfare state should be restricted to a minimum. Demographic change, the need for balanced budgets and international competition are further factors pleading for cutbacks in the social security systems.
- Along the lines of reducing the government spending ratio and the quota taken up by social security benefits, as many public services as possible should be privatised (health and education, utilities, transport services and infrastructure). Fiscal policy should not intervene in the primary distribution of income but is aimed mainly at stipulating the forces of supply in the economy.

This neoliberal philosophy has emerged in the European integration process above all through projects of the common market and the Economic and Monetary Union (EMU). Single market and EMU became the flywheel for implementing the neoliberal role model above all through strict compliance with two highly specific elements in the construction of the EU's economic and social constitution:

On the one hand, competences for the single market and for monetary union were transferred to the European level, whereby the Treaty of Maastricht ensures that (European) monetary policy was tailored in a one-sided fashion to price stability, while (national) financial policy was tailored in an equally one-sided fashion to balancing public finances.

On the other hand, competences for collective bargaining policy, welfare state policy and fiscal policy were left quite deliberately on the level of the individual member states.

These two cornerstones of the economic and social constitution in the EU have extremely negative consequences for employees. On the one hand, they result in structural wage, social and fiscal dumping between the member states, while on the other hand the objective of full employment is neglected alongside the anti-cyclic economic policies pursued in the EU's monetary and financial policy.

While right through to the early 1990s the European Commission under Jacques Delors was still aiming to harmonise the rules for competition in the framework of the Keynesian model, the transition to the neoliberal model has now brought about a situation where emphasis is placed on competition between the rules, thus triggering a vicious circle in fiscal, social and wage policy.

## **2 The system of competing states and dissymmetry between economic and social integration**

Right from the start, the EU has been flawed by a defect in its structure which urgently needs correction. Already the Treaties of Rome in 1957 placed an emphasis on economic freedom, while failing to regulate effective social rights. Nor do the Treaties of Rome contain any regulations for safeguarding services of public interest. The Single European Act of 1987 that established the EU single market turned the four so-called fundamental freedoms of movement of goods, services, capital and labour into the defining political project of European integration. The pathetic choice of words (fundamental freedoms) is supposed to cover up the fact that these are by no means traditional rights of freedom arising from European fundamental values, and instead merely binding but naked clauses in the treaty for deregulating the European market. It is only at first glance that the Charter of Fundamental Rights of the European Union appears capable of balancing out this deficit. Article 53 of the Charter places these so-called fundamental freedoms, i.e. those of the market, on the same level as human rights, so that it qualifies and therefore debases the constitutional guarantees of the fundamental rights.

Furthermore, the Treaty of Maastricht also launched the introduction of an economic and monetary union. In elaborating the two leading socio-economic projects – the single market and the EMU – the EU countries quite deliberately refrained from setting up a social union, a fiscal union and a European collective bargaining system at the same time.

In the European form of the economic and monetary union, where monetary aspects are a community policy i.e. on a European level, but where wage, social and fiscal policy remain explicitly in the hands of the member states, dumping practices are inevitable on account of the structure. In this kind of system, the national states compete for international capital investment on the basis of their wage and social costs and with regard to the level of corporate taxation. The EMU has triggered a general race to cut back wage costs, dismantle the welfare state and bring down corporate taxes.

This form of supranational locational competition can be referred to as a system of competing states. It is a powerful motor for realising the objectives of neoliberalism: the state, in particular the welfare state, can be cut back, wage and social costs come down together with corporate taxation, while deregulation and privatisation give ever greater scope to market forces.

Against this background, the so-called fundamental rights have increasingly dominated concrete political action in the EU. The most radical expression of this was the presentation of the European Commission's draft services directive in 2004. This focused on the attempt to assert the principle of the country of origin, with wage, quality and safety levels defined by the country where the service originated. Thanks to the commitment of the trade unions and many civil society groups, it was possible to prevent this neoliberal large-scale attempt to cancel out protective regulations, convincing European lawmakers – the European Parliament and the European Council of Ministers – that this principle should not apply.

Problems are again posed by the system of competing states when unequal development of the competition parameters causes gaps to widen in the rival positions between the participating countries. In early 2009, a working paper published by the European Commission warned that the Euro zone may fall apart. A leading group with Germany, the Netherlands, Finland and Austria have clearly improved their competitiveness. By contrast, France, Italy, Spain, Portugal and Greece form a group whose situation has deteriorated, in some cases drastically. This applies above all to Italy.

This kind of imbalance can only be avoided by developing EU rules for competition in terms of wages, social costs and taxation.

### **3 Possible concepts for overcoming the system of competing states in wage, fiscal and social policy**

To curb the above-mentioned dumping practices brought about by the system of competing states, which could also cause the Euro zone to fall apart, it is necessary to re-regulate wage, fiscal and social policy on a European level.

Since the Doorn Initiative in 1998 and the adoption of coordination guidelines by various European industry associations, as far as wage policy is concerned the trade unions are trying to prevent the process of wage dumping in the EU. These efforts must be clearly intensified, because up to now the coordination rules have not been able to rectify the worsening of wage competition on an inner-European basis over recent years in the Euro zone, particularly since unit labour costs were brought down in Germany, nor the growing redistribution of income in favour of capital as witnessed by nearly all EU countries in the last fifteen years.

In this context, the European trade unions should also advocate a European minimum wage. This should be 60% of the average wage existing in each specific EU country. A minimum wage of 50% could be agreed as a first step.

Furthermore, there is an urgent need to put a stop to the escalating practice of taxation dumping in the EU. As well as introducing a common assessment base, this will also entail agreeing on minimum taxation rates for corporate taxes. Under the Kohl administration and particularly under Schröder, Germany has reduced its corporate taxes to such an extent that the effective tax burden on

companies is meanwhile in the bottom third of the EU. This taxation dumping policy, practiced in the EU in particular also by Ireland, the Netherlands, Slovakia and Estonia, distorts competition between the national locations and results in huge losses in state income that are simply not acceptable. This cannot be the guideline for European policy. In the short term therefore, minimum taxation rates should be asserted in the EU, with common corporate taxation rates as the long-term objective.

European coordination is also compulsory with regard to the social security systems in order to curb further cutbacks in the welfare states as a result of competition. Here Ver.di proposes the so-called corridor model and calls upon the EU to agree on a European social stability pact. This would stipulate that the size of the welfare state is coupled to the economic development level of the particular country. In terms of per capita income, the EU has four groups of states. Here a bandwidth or corridor of social security benefit quotas should be defined for each group. The group of richer countries would have a higher corridor than the group of poorer countries. Those countries undergoing economic recovery move from a low to a higher corridor.

An agreement to establish this kind of corridor system would achieve the following:

- It would put a stop to social dumping. Individual countries could not benefit from competitive advantages by providing a quota of social security benefits on a level below the average for their income level.
- This form of social policy regulation would not put less developed national economies out of their depth. They would only have to provide a level of social security benefits that they can "afford" in terms of their income level.
- During the course of economic recovery by the less developed countries, levels of social security benefits in the EU will converge; expenditure in terms of age, illness, invalidity and unemployment benefits would grow closer not only in relative but also in absolute terms.
- Initially, quantitative regulation of social policy on a European level would be restricted to a minimum, without any kind of income redistribution between the member states. As this method would only regulate the aggregated variables (levels of social security benefits), under the subsidiarity principle the EU countries would initially remain autonomous with regard to distributing the various social benefits (old-age pensions, illness, unemployment, family benefit).

Implementing this kind of regulation would break the system of competing states. In terms of the social stability pact, the EU would see a convergence in economic and social policy in the course of progress. Right from the outset, it would then be possible to prevent dumping strategies such as those practiced by Ireland and Spain and meanwhile also pursued among the new member states by

the three Baltic countries and Slovakia.

#### **4 The design of economic policy in the EU**

The Treaty of Maastricht not only installed the system of competing states: the introduction of the Economic and Monetary Union also re-designed economic policy along neoliberal lines. The crucial elements here are the one-sided approach of the European Central Bank's monetary policy solely focusing on price stability, the primary obligation of national financial policy to consolidate public budgets, and the deliberate decision not to have a European economic government.

The contractual provisions regulating the tasks of the European Central Bank (Treaty of Nice, Article 105) make it clear that price stability takes absolute priority. In contrast to the American central bank, which has to pursue the aims of price stability, economic growth and employment enjoying the same priority, the ECB is obliged primarily to promote monetary stability. Economic growth is therefore merely attached secondary importance, with no mention made at all of any employment objective.

The ECB has set an average target inflation rate of 2% for the Euro zone. In order to achieve its objective of preserving price stability, the ECB pursues a certain strategy in terms of monetary policy. It analyses the data of the national economies using its so-called two-pillar concept. The first pillar consists of analysing the money supply, while the second focuses on evaluating various economic and financial indicators. For implementing its decisions, the ECB has various instruments such as open-market operations, the constant facilities and the minimum reserves system. The two-pillar concept ascertains which interest rates are necessary on the money market to safeguard price stability; the various instruments are then used to realise these interest rates.

Hitherto the policy implemented by the ECB has illustrated how strictly it interprets its obligation to aim for price stability, tending to pursue a restrictive monetary policy even in stagnation periods. This was clearly revealed between 2001 and 2005 after the internet bubble burst (see below), and also in the current economic crisis. Although recessive trends were apparent in the Euro zone already in spring 2008, high inflation rates made the ECB increase the prime rate yet again in summer 2008, causing a pro-cyclic increase in the economic slump.

While the EMU placed the competence for monetary policy on a European level, financial policy still remains in the competence of the national states. This gives the EU a specifically asymmetric EMU construction with supranational monetary and national financial policy. However, the financial policy of the member states is subject to certain rules through the Treaty of Maastricht and the EU regulations in the framework of the so-called Stability and Growth Pact.

Accordingly, the member states undertake to pursue a sound budget policy, avoiding excessive budget deficits (more than 3% of GDP) and excessive overall debt (more than 60% of GDP) (Treaty of Nice, Article 104), while consolidating the public budgets. Furthermore, with the Stability and Growth Pact the member states also subject themselves to regulations for achieving balanced budgets in the medium term (stability and convergence programmes) and for avoiding excessive deficits on the basis of an early warning system, Council recommendations for bringing deficits down and, if necessary, sanctions (fines) if the recommendations are not heeded.

Although many countries have already infringed the 3% criterion, sanctions have never been imposed: on the contrary, the affected member state, Commission and Council finally reach a compromise on how to reduce the "excessive" deficit. Following conflicts emerging in this context between the Commission and some major member states (Germany, France, Italy), further modifications were introduced to the stability pact in spring 2005. Greater flexibility has been introduced to the definition of the medium-term budget objectives with the member states allowed to deviate temporarily from the medium-term objectives when structural reforms are implemented. The deadlines for taking measures to correct excessive deficits have been extended. But the reference values of 3% and 60% for deficit and debt levels have not been changed.

In spite of this flexible approach to the stability pact and in spite of its latest reform, the latent impact of the contractual provisions and the pact itself in terms of restrictive finance policy should not be overlooked. The member states are constantly under observation, have to submit consolidation programmes all the time and must expect to receive unpleasant post from Brussels, face up to Ecofin recommendations or even have to cope with financial sanctions. This leaves the EU no scope for courageous anti-cyclic efforts to deal with economic crises, as seen in the USA, in Japan and recently in China. Even during what is currently Europe's greatest economic crisis since 1929, in some member states the stability pact is still taken as reference framework even though the dramatic situation has meanwhile even prompted the Commission to give the all-clear for a more flexible interpretation of the pact.

In contrast to the Werner Plan of the early 1970s, the deliberate decision to do without a European economic government is another specific feature of the Maastricht EMU. The Werner Plan states that "The key values of the overall public budgets must be stipulated on a Community level, particularly changes in their volume, the size of the deficit or surplus and how these are to be funded or used." The only consequence from this statement can be to install a European economic government that plays a crucial role in defining the economic policy of the community and also controls the fundamental direction of the national budgets through its fiscal responsibility. The Delors plan for preparation of the



Maastricht EMU dispensed with this parallel approach to Europeanisation of monetary and economic policy in favour of the asymmetric design. This change in paradigm shift from the Keynesian approach to liberal economic doctrines (the supply approach, monetarism, new classical macro-economics) made fiscal policy a less significant factor in stabilising the economy, with greater importance being given to balanced budgets and the least possible government spending ratio. But this paradigm shift has come at a price: the EU has no central decision-making body for economic policy that could effectively define and coordinate the fiscal policy in the member states and which could provide an appropriate combination of monetary and fiscal policy (policy mix) in cooperation with the ECB.

The weaknesses of this design of economic policy became clear in the Euro zone after the New Economy bubble burst in 2001, and again with the arrival of the largest economic crisis since the 2<sup>nd</sup> World War in 2008/2009.

In contrast to the USA, from 2001 to 2005 the ECB and the governments of the Euro zone made no active efforts to combat economic stagnation by means of an anti-cyclic policy. This is why growth in the Euro zone remained behind that of the USA and other EU countries (United Kingdom, Denmark, Sweden). At the same time, the dissimilar economic development within the Euro zone (boom in Ireland and Spain, stagnation in Germany and Italy) clearly revealed that the ECB and the governments were not implementing an appropriate combination of monetary and fiscal policy. The ECB's interest rate policy was too reflationary for countries with a strong economy (Ireland, Spain) while at the same time being too restrictive for countries suffering from stagnation (Germany, Italy): consequently, fiscal policy in Ireland and Spain should have curbed the economy with an austerity approach while Germany and Italy should have implemented an expansion drive.

This combination, this policy mix of monetary and fiscal policy, is not possible in the Euro zone: on the one hand the EU Treaty and the regulations of the stability pact force governments to pursue one-sided consolidation of the public budgets, while on the other hand nothing can be effectively implemented because Europe has no economic policy body that can dictate the fiscal policy deemed necessary for the member states (austerity or expansion). In Germany, the Social-Democratic/Green government of the day attempted to fulfil the stipulations of the stability pact by cut backs in expenditure, but this pro-cyclic approach only served to exacerbate the economic decline. In the end, falling tax revenues only served to increase the budget deficit that should actually have been decreased.

The current world economic crisis which is having a huge impact on Europe is once again clearly revealing the deficits of the economic policy constitution of the EU.

In both the financial market crisis and the economic crisis, the EU countries reacted in an initially inconsistent and uncoordinated manner, even taking up opposing positions. France and Germany in particular failed to take up any uniform position on the issues at stake in both cases, in terms of whether the crisis was affecting Europe at all, which instruments should be used to cope with it, which scope any corresponding programme should have and when it should be implemented. The German government has stood out by misinterpreting the extent of the crisis and by procrastinating when it came to implementing an anti-cyclic economic programme. France, on the other hand, was willing to take prompt and above all common European action in both crises, an approach that Germany rejected. In the end, this has led to each country setting up its own national rescue package to overcome the financial market crisis, with great differences in volume and above all in the extent of state intervention in the banking system. The national economic programmes also differ in volume, in the application of fiscal policy instruments and above all, in the time when these measures were adopted. It was only after harsh international criticism that Germany adopted its first meagre stimulus programme, then being forced by the risk of isolation in Europe to push through a second economic programme. Although Germany has been in recession since mid 2008 with economic growth falling by two percent in the last quarter of 2008 and forecast to fall further by another two to three percent in the first six months of 2009, the German fiscal programme will not start to take effect until the second half of 2009 and above all in 2010. The programme is too late, and is failing to give a powerful incentive to private consumption because of its structure. Given that the ECB also showed the wrong reaction at first by increasing interest rates in the summer of 2008 followed by only hesitant, tentative cuts in interest rates since autumn 2008, this more than clearly reveals the major weaknesses of the economic policy design of the EU.

With its one-sided emphasis on price stability in monetary policy and the prevailing institutional structures in fiscal policy with the national states as decision-making centres, the EU fails to pursue any consistent economic policy. As revealed by the current situation, an economic crisis affecting all EU states is dealt with too late, inconsistently and with inadequate means. This makes the recession stronger and longer than necessary.

## **5 Reform of the economic policy constitution of the EU**

This criticism of the current economic policy constitution of the EU results in the following reform requirements:

1. The *European Central Bank* must be obliged to give equal priority to the goals of economic growth, full employment and high monetary stability. The conflict of objectives resulting time and again from this obligation must be accepted and force the ECB to adopt a flexible

monetary policy and to coordinate its approach with fiscal and wage policy. This would rule out pro-cyclic interest rate policy and the restrictive monetary policy practiced by the ECB.

2. *In the short to medium term*, the aim must be to *coordinate national policies on the EU level* in such a way that better use can be made of economic rooms for manoeuvring, also achieving an appropriate reconciliation between European monetary policy and European fiscal policy. To this end, the EU Commission in collaboration with the Council of European Economy and Finance Ministers (Ecofin) must be awarded the competence laid out in the Werner Plan for stipulating the basic direction of fiscal policy in the member states in accordance with their particular economic situation (consolidation and expansion course). This would be a first step to establishing a European economic government. If the EU had already had this competence, in cooperation with a reformed ECB, this would have permitted a swift, determined monetary and fiscal approach to dealing with the crisis.
3. However, the prerequisite for such a policy is to abolish the rigid Stability and Growth Pact. In a crisis situation, the countries in the EU must be able to stimulate demand by expanding public debt in order to close the demand gap emerging in the market. This entails accepting deficits generated by the prevailing economic situation that go above a level of 3% of GDP. In expansive growth phases, tax revenues must also be used to reduce budget deficits. But during a boom phase, new debt should not be dogmatically limited to a specific target, as debt funding of future investments, for example on the education sector, can also be an appropriate task for the state.
4. In the long term, decision-making competence for economic and trade cycle policy must be moved to a European level; to this end, the EU must be given its own supplementary fiscal supremacy and a larger budget. France has been demanding this for many years, calling it a European economic government. The intention is for the strong institution of the ECB to be joined by an equally strong institution for fiscal policy to put monetary and fiscal policy on the same level and to permit efficient cycle and economic policy in Europe. This demand must be given principal support. Fiscal policy must become European, particularly within the Euro zone. But this Europeanisation of fiscal policy is not an end in itself. It must be used to provide growth, employment and an ecological reform. A European economic government would be responsible for implementing an expansive economic policy for qualitative growth. It would also have to assume responsibility for Community tasks, for example setting up an efficient

trans-national infrastructure.

# **Social Dialogues in the European Union**

**Berndt Keller**

## **1. Introduction and Definitions**

Having become increasingly institutionalised since the mid-1980s, social dialogues are structured processes that set out to actively involve the European umbrella organisations of the collective bargaining parties, referred to as social partners in EU jargon, in the various phases of European Union policymaking, particularly in the context of employment and social policy. They represent an indispensable element of every version of a European social model and so require careful analysis.

Social dialogues can be conducted at bipartite level, i.e. exclusively between the social partners, or at tripartite level, i.e. actively involving the Commission. In recent years, we have observed a clear trend from the tripartite to the bipartite form ("autonomous social dialogues"); the Commission is abandoning the role of agenda setter, placing this task in the hands of the social partners. The corporate stakeholders at macro level are the European associations of the national umbrella organisations, in particular the European Trade Union Confederation (ETUC) and BusinessEurope (formerly UNICE), at sectoral level the various European associations of the national industry federations, i.e. European trade union federations and sectoral employer organisations.

Social dialogues take place at two levels, the macro or interprofessional level as well as the industry or sectoral level. For many years, the interests of the stakeholders and of the public clearly concentrated on the macro level although specific and "flexible" arrangements tend to be expected at sectoral level. The workplace and company level, particularly the growing activities on the part of the European Works Councils (EWC), should remain excluded as the situation here is different from the aspect of the legal/institutional basis and also in terms of the stakeholders involved. And last but not least: social dialogues must not – contrary to the original hopes and expectations of many a trade union – be confused with collective bargaining. The former takes place at European, the latter exclusively at national level. The former only addresses "soft" topics, such as further training or health and safety at work, the latter predominantly "hard" issues, such as wages. Ultimately, there is a fundamental difference between the instruments applied to insert interests: Whereas the use of

industrial action, i.e. strikes and/or lockouts, is explicitly ruled out in the context of social dialogue, it is always in principle possible in collective bargaining. The problems of coordinating collective bargaining transnationally will be dealt with elsewhere.

## **2. Social Dialogues at Macro Level**

Three development phases must be distinguished:

### **2.1. Val Duchesse**

The social dialogue started at the initiative of then Commission President Delors (1985 – 1992) was to strengthen the "social dimension of the single European market" by intensifying the involvement of the social partners. This initial phase was marked by a high degree of informality. This traditional form resulted in around 40 joint opinions and declarations of intent all of which remained without obligation, i.e. had no consequences for the stakeholders in the sense of a necessity to transpose or implement them. The employer federations always favoured this voluntary character, the trade unions voted for the results to have more binding force.

### **2.2. Maastricht**

The Maastricht Treaty or, to be more precise, its protocol on social policy later integrated in the Treaty of Amsterdam without substantial changes (Art. 137-139), formed the institutional basis for the second phase (1993-2000). The options available to the social partners were formalised and significantly strengthened. They were not only given the right to a second consultation on all of the Commission's initiatives; they were even able to enter voluntary framework agreements recognised by the Commission as being legally binding. In the event of any failure, however, the Commission reserved the initiative to legislate; as such, they were always "negotiations in the shadow of the law".

Transposition from European to national level took place either through the traditional legislative process ("at the joint request of the signatory parties, by a Council decision on a proposal from the Commission") or by way of a new negotiation option ("in accordance with the procedures and practices specific to management and labour and the Member States"). With regard to implementation at national (regional or

company level), allowance could be made for legal and institutional differences between the national systems of industrial relations. The majority of member states opted for the legislative approach.

- Table 1 approximately here -

This phase resulted in a few binding framework agreements (parental leave in 1995, part-time work in 1997, fixed-term work in 1999) that had to be transposed and implemented by the member states within defined periods. Negotiations on other Commission initiatives failed, leading to separate opinions, or were not taken up. In retrospect, this second phase must be seen as the heyday of social dialogue on account of the relatively high binding force of the results it produced. UNICE entered negotiations several times in an effort to beat the Commission to initiatives or better influence the results. The ETUC would have liked to enter further framework agreements and extend the process.

### **2.3. Lisbon**

The third and so-called Lisbon phase of development (from 2000 onwards) is marked by the further retreat on the part of the Commission. It now leaves the agenda-setting or negotiating initiative to the social partners, with social dialogues no longer being trilateral but bilateral; the Commission only provides logistical support. The procedure is similar to that of the "Open Method of Coordination" that was initially developed in the late 1990s for European employment policy but also applied in other policy-making areas after 2000.

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The results of this phase are "New Generation Texts" (including telework in 2002, work-related stress in 2004, harassment and violence at work in 2005). These autonomous agreements have no binding force in law; if at all, they can therefore only be transposed and implemented by the above-mentioned way of negotiation through initiatives on the part of the social partners. Negotiations are only conducted on issues for which consensus might be reached because the above-mentioned

"shadow of the law" within the meaning of a possible initiative on the part of the Commission is no longer given if they fail; one side can prevent a result. This limits the range of issues and precludes those involving a clash of interests. Agreement is often reached at the level of the lowest common denominator.

- Table 3 approximately here -

### **3. Social Dialogues at Sectoral Level**

In a similar way to the macro level, a distinction can also be drawn between the development phases at sectoral level. However, these are not identical at both levels.

#### **3.1. Social Dialogues up to Institutional Reform**

Lasting until 1998, the first phase witnessed several institutionalised forms, primarily Joint Committees and Informal Working Groups. They were initially set up in sectors with traditional common policies (e.g. agriculture) or later on in cases of liberalisation and deregulation. All told, social dialogues took place in over 20 sectors.

There was ambivalence in the way their results were seen. For many years, the "joint opinions" remained without any binding effect. This status finally prompted the Commission not only to engage in fierce criticism but also to carry out fundamental institutional reform. The old heterogeneous structures were disbanded in late 1998, being replaced with uniform, harmonised committees that could only be set up on the basis of a joint request by the sectoral social partners; in a similar way to the second phase at macro level, their aim was to agree binding framework agreements ("negotiated legislation").

#### **3.2. Social Dialogues since Institutional Reform**

After a decade, the consequences of this reform can be summarised as follows. On the whole, there is a good measure of continuity between the two phases. It was possible to integrate all of the old committees into the new structures as it was only by taking this step that the relevant social partners were able to continue securing resources from the Commission (e.g. covering the costs for simultaneous interpreters, travel and hotel accommodation). In quantitative terms, development is marked by a slow and gradual increase (to a total of 36 at the end of 2008), with



significant differences being established in relation to size (e.g. between tanning and commerce).

Dialogues, however, are still underdeveloped or lacking completely in important sectors of national economies, such as in the metal or chemical industry. Some sectors (e.g. transport) see more than one dialogue which means that the Commission's official method of counting must be interpreted with caution as it can exaggerate actual development. There is no definition of criteria that constitute a sector. Ultimately, the Commission feels the need to examine the representativity of the social partners on the basis of defined criteria. As organisational structures at the respective national and European level do not coincide, conflicts are inevitable.

- Table 4 approximately here -

As far as the results are concerned, there are clear differences in the speed at which they are achieved as well as between the sectors; no linear development takes place. The results cover a broad range of issues and extend far beyond employment and social policy. The addressees of the "joint texts" are mainly European and national institutions as well as national organisations. In other words: They tend to be instruments of sector-specific lobbying rather than procedures for settling specific problems of sectoral industrial relations. Binding framework agreements, as the target of institutional reform officially formulated by the Commission, are still not reached.

The implementation of results by way of negotiation is dependent on voluntary, active cooperation of the national social partners. Interest on both sides cannot be assumed in all cases; the possibilities the European umbrella organisations have of influencing their national associations – who are in possession of the relevant scarce resources – are limited. Given the autonomous nature of these social dialogues, no provision is made for sanctions if they are not observed; the initiated processes of follow-up and monitoring are shown to be difficult and protracted. At best, rates of coverage are achieved at national level that are usual for sectoral collective bargaining; however, these rates vary considerably within and between the member states. Procedures for declaring general binding force would be able to resolve this problem. But they do not

exist in all member states; the procedures in place are not always applied consistently everywhere.

#### **4. Summary and Outlook**

Any overall judgment must disclose its assessment criteria. If social dialogues are understood to mean instruments with which the social partners can jointly lobby national and, in particular, European institutions, primarily the Commission, their balance is doubtlessly more positive than by regarding them as procedures for negotiating legally binding framework agreements.

Table 5 approximately here

In the light of experience, the contribution they actually make towards developing a European social model is limited. In their current state, they are hardly in a position to narrow or even close the gap that still exists between progressing economic and stagnating social integration. As instruments, they could become more effective if the Commission were to re-strengthen its own influence and return to its "negotiate or we'll legislate" strategy. However, in view of the dominant principle of subsidiarity and under the portent of regulatory minimalism, a step of this kind must be regarded as unrealistic.

In terms of industrial relations, a distinction can be drawn between three levels: workplace or company, industry or sector as well as the overall economy. At European level, the process of Europeanisation is developing in widely differing ways. As a result of the EWC Directive adopted in 1994 and the growing number of EWCs that have come into being since then, it has progressed much further at company level than it has at sectoral level. This assessment holds true despite the problems that still exist, such as virtually stagnating rates of coverage and different levels of activity by individual EWCs. This gap is a problem because in spite of tendencies towards deregulation, collective bargaining at national level still takes place primarily in a sectoral context – in the old, continental member states at least. This being so, the development of a system of "dual" industrial relations at European level represents an unrealistic scenario. On top of this, the EU's eastward

enlargement has exacerbated this situation as the overwhelming majority of the new member states does not have the requisite structure of associations at sectoral level.

**Table 1: Cross-Industry Social Dialogue since Maastricht  
– Consultations under Article 138**

<b>Date</b>	<b>Subject</b>	<b>Social partners' contribution</b>	<b>Result</b>
1993	European works councils	Opinion following attempt at negotiations	Directive 94/45/EC
1995	Reconciling work and family life	Framework agreement on parental leave (14.12.2006)	Directive 96/34/EC
1995	Burden of proof in cases of discrimination based on sex	Separate opinions	Directive 97/80/EC
1996/ 1995	Flexibility in working time and workers' security	Framework agreement on part-time work (06.06.1997) Framework agreement on fixed-term work (18.03.1999) Failure of negotiations on temporary work (May 2001)	Directive 97/81/EC Directive 99/70/EC Directive 2008/104/EC
1996	Prevention of sexual harassment at work	Separate opinions	Directive 2002/73/EC
1997	Worker information and consultation	Separate opinions	Directive 2002/14/EC
2000	Protecting workers against employers' insolvency	Separate opinions	Directive 2002/74/EC
2000	Modernising and improving employment relations	Autonomous framework agreement on telework (July 2002)	Implementation reports by the social partners (2006) and by the Commission (2008)
2000	Protecting workers against the risks connected with exposure to asbestos at work	Separate opinions	Directive 2003/18/EC; Commission proposal for codification COM(2006)664
2000	Health and safety at work for the self-employed	Separate opinions	Council recommendation (2003/134/EG)
2002/ 2001	Protecting employees' personal data	Separate opinions	Commission Communication COM(2007)87

Source: European Commission (2004): Industrial Relations in Europe 2004. Luxembourg, 107; own additions.

## **Table 2: Cross-Industry Social Dialogue since 2000**

### **– New Generation Texts**

- Framework of actions for the life-long development of competences and qualifications (2002)
- Autonomous framework agreement on telework (2002)
- Policy orientation “Orientations for reference in managing change and its social consequences” (2003)
- Autonomous framework agreement on work-related stress (2004)
- Framework of actions on gender equality (2005)
- Policy orientation “Lessons learned on European Works Councils” (2005)
- Autonomous framework agreement on harassment and violence at work (2007)

Source: Commission of the European Communities (2004): Communication from the Commission - Partnership for change in an enlarged Europe - Enhancing the contribution of European social dialogue. COM(2004)557 final.

**Table 3: Results of European Social Dialogue – Typology**

<b>Social Dialogue Results – Types of Texts</b>		<b>Implementation and Monitoring</b>
I. Agreements in accordance with Article 139(2): minimum standards	a) Council decision	Member States responsible for transposition and implementation (even where implemented by collective bargaining); monitoring by the Commission
	b) Autonomous agreements *	Implemented in accordance with the procedures and practices specific to management and labour and the Member States; social partners responsible for implementing and monitoring
II. Process-oriented texts*	a) Frameworks of action	Identification of certain policy priorities; these priorities serve as benchmarks; follow-up and annual reporting by the social partners
	b) Guidelines, codes of conduct	Recommendations and/or guidelines to national affiliates concerning the establishment of standards or principles; regular follow-up and reporting by the social partners
	c) Policy orientations	Proactive promotion of policies; regular follow-up and reporting by the social partners
III. Joint opinions and tools	a) Joint opinions	Provide input to the European institutions and/or national public authorities; no implementation, monitoring or follow-up provisions
	b) Declarations	Outlining future work and activities which the social partners intend to undertake; no implementation, monitoring or follow-up provisions
	c) Tools	Practical advice to employees and companies; exchange knowledge of good practice; no implementation, monitoring or follow-up provisions
IV. Procedural texts	Procedural texts	Rules for the bipartite dialogue between the parties

\* Texts of type Ib and II are called “new generation texts” by the Commission.

Source: Weber, S. (2008): Autonome Sozialdialoge auf EU-Ebene. Zur Problematik der Implementation von "Texten der Neuen Generation". In: Industrielle Beziehungen 15 (1), 55.

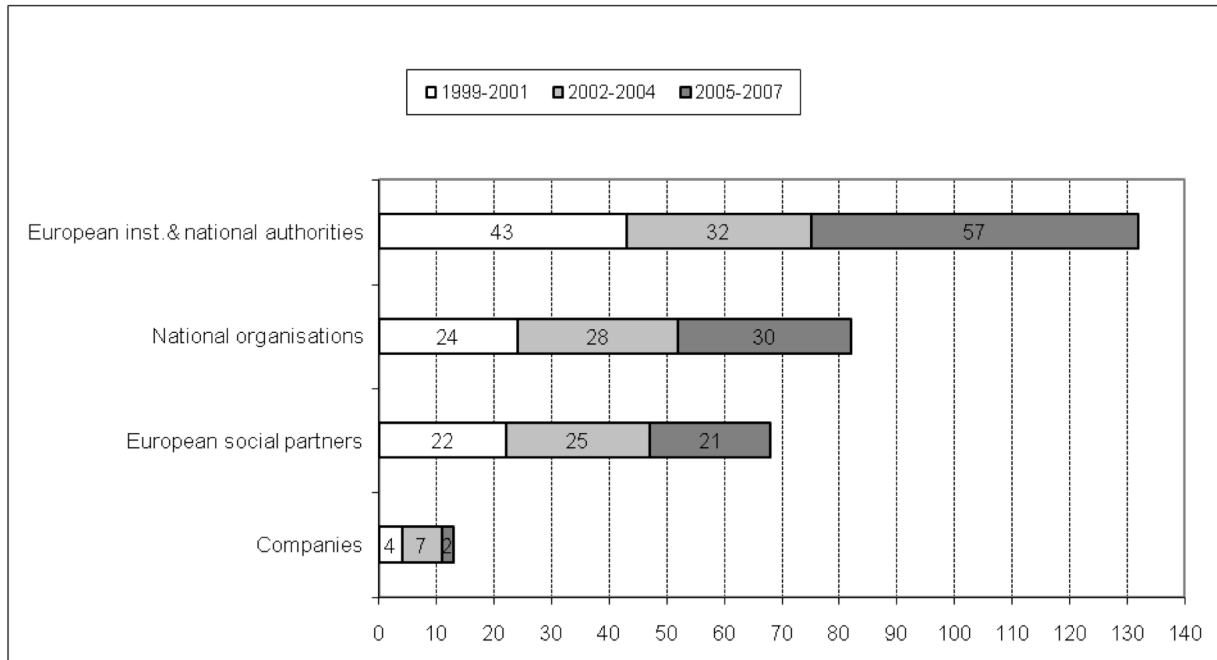
**Table 4: Sectoral Social Dialogues – Old and New Structures**

	<b>NEW STRUCTURE</b>		<b>OLD STRUCTURES</b>	
	Joint request for a Sectoral Dialogue Committee	New dialogue	Joint Committees	Informal Working Group
Agriculture	1		1	
Audiovisual	1	1		
Banking	1			1
Catering	1			1
Chemical industry	1	1		
Civil aviation	1		1	
Cleaning industry	1			1
Commerce	1			1
Construction	1			1
Electricity	1			1
Extractive industry	1		1	
Football	1	1		
Footwear	1			1
Furniture	1			1
Gas	1	1		
Horeca	1			1
Hospitals	1	1		
Inland waterways	1		1	
Insurance	1			1
Live performance	1	1		
Local+regional gov.	1			1
Personal services	1			1
Postal services	1		1	
Private security	1			1
Railways	1		1	
Road transport	1		1	
Sea fisheries	1		1	
Sea transport	1		1	
Shipbuilding	1	1		
Steel	1		1	
Sugar	1			1
Tanning and leather	1			1
Telecommunications	1		1	
Temporary work	1	1		
Textiles and clothing	1			1
Woodworking	1			1
	<b>36</b>	<b>8</b>	<b>11</b>	<b>17</b>

Sources: Commission of the European Communities 1996: Annex II; Peeters, A.; Ph. Pochet; E. Léonard and E. Perin (forthcoming): Dynamics of the European Sectoral Social Dialogue. Dublin, 1-17.



**Table 5: Qualitative Developments – Addressees of Joint Social Partner Texts (1999-2007)**



Source: Peeters, A. ; Ph. Pochet; E. Léonard and E. Perin (forthcoming): Dynamics of the European Sectoral Social Dialogue. Dublin.

## **European Works Councils**

*Hans-Wolfgang Platzer, Volker Telljohann*

Safeguarding and improving workers' rights and industrial democracy in the EU and through the EU is an indispensable component and central pillar of any European social model. Within the ensemble of different EU directives that (aim to) guarantee the rights of employees to be consulted and participate in the European Union and/or within the European Economic Area, the Directive on the Establishment of a European Works Council (EWC) that came into force in 1994 is of particular significance.

In view of their growing numbers and potential to represent and protect workers' interests at transnational corporate level, European works councils play a pivotal part in the further Europeanisation of company-level employee representation and trade-union policy. Against the backdrop of a progressively developing "dual shift", i.e. a tendency for industrial and collective-bargaining relations to be decentralised to company level on the one hand and an increasing transnationalisation of central corporate decision-making and the competition logic of business and industry on the other, greater Europeanisation of company-level and trade-union policy is a strategic dictate of the hour.

Structurally, EWCs are able to provide the "shell" and, institutionally, to create the conditions for the Europeanisation processes to take place "horizontally" (cross-border networking of national company-level and trade-union stakeholders) and "vertically" (supplementing and extending national co-determination levels by a common supranational level). In terms of the sectors involved and countries of origin, a quantitatively representative number of European works councils capable of participating and acting under qualitative aspects at the same time create resources for a cross-company policy for the trade unions in the EU (industrial policy, sectoral social dialogues, transnational coordination of bargaining) and beyond the EU (EWCs as a regional basis for negotiating international framework agreements or creating global structures of representation).

### ***Development Situation***

The negotiation and development of EWCs takes place within a pre-structured legal framework shaped by social practice. A brief look at the way in which EWCs have developed in terms of quantity and quality illustrates the problems and opportunities of this transnational institution of employee representation at company level; it also clearly shows the different demands that must be made on and also met by the trade unions as well as the need for action on the part of the European legislator.

In the course of EU eastward enlargement, the number of undertakings that would be able to have a European works council has risen to around 2,300. Some 40 of these EWC-eligible undertakings are Central and Eastern European parent companies. The first EWC in a CEE company was established in a Hungarian gas and refinery group in autumn 2004. Of the total 880 or so European works councils<sup>1</sup> currently established, approx. 500 have subsidiaries in CEE. This being so, European works councils provide an important channel and potential for addressing the challenges associated at company and trade-union level with EU eastward enlargement – e.g. locational competition, intensifying cooperation between trade unions in East and West, strengthening the often deficient industrial relations in the new EU member states. At the same time, EU eastward enlargement has seen the shortfall in coverage grow further. This is mitigated by the fact that European works councils have so far predominantly been established in Europe's multinationals, with these EWCs currently representing around 60% of potentially eligible employees (measured against EWC-eligible undertakings).

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<sup>1</sup> Cf. <http://www.ewcdb.org/documents/wwwewcdbeustats.pdf> (11-02-2009)

Under the auspices of quality, EWC development and practice is sufficiently documented by extensive empirical EWC research. Some of the most important empirical values include:

No two EWCs are alike. Depending on the form and degree of their internal constitution on the one hand and the interests and willingness to cooperate on the part of company management on the other, EWCs have a broadly ranging capacity to act. Despite this "inescapably" diverse nature of EWCs, it is possible with sufficient clarity to identify and generalise basic patterns, achievements and weaknesses.

A large number of EWCs persists at a "symbolic" or passive level; practice falls short of the requirements, rights and possibilities of the Directive's subsidiary minimum conditions. A sizeable number of EWCs operates more or less in line with these and is, to a limited extent, in a position to produce a "European added value" in terms of employee representation.

Finally, an appreciable number of EWCs has grown into the role of a transnational stakeholder that is able to demand and actively exploit the rights and possibilities defined in law or by agreement in respect of being informed and consulted on a regulated basis. In turn, these EWCs include – extending beyond the directive – "negotiating" EWCs. Negotiations and agreements have so far mainly applied to "soft" matters, such as social framework agreements. According to the EU Commission, no fewer than 147 transnational agreements were entered by the end of 2007 in 89 companies. In an ever-increasing number of cases, the EWC meanwhile represents the "place" for substantial strategic agreements, such as the negotiation of agreements to secure production locations in the context of company restructuring measures.

With numbers developing and the widely differing yet also in many cases deficient practice of existing EWCs, action is demanded on the part of the trade unions and the European legislator alike. Substantive improvement to the directive is a necessary prerequisite for any improvement in future EWC practice. At the same time, the European trade unions are called upon to promote the EWC process for their part. This produces the need for activities on three fronts:

- Initiate and monitor negotiations to close the coverage shortfall
- Activate passive EWCs not capable of acting by conveying "good practice"
- Coordinate active EWCs, giving them strategic orientation.

First and foremost, however, the EU legislator is urged to conclude the long-overdue revision of the directive and, through substantial improvement, ensure that the targets and demands defined in the directive's recitals can be met. The European trade unions have long since put forward uniform proposals and detailed demands in this regard.

### ***Recast of the EWC Directive***

On 2 July 2008, the European Commission proposed revising the legal provisions from 1994 on European works councils. At the invitation of the Council Presidency, the ETUC and BusinessEurope on 29 August 2008 formulated a joint opinion advocating the Commission's proposal and suggesting a number of amendments. At the end of the revision process, the Council and the European Parliament together with the Commission adapted the overall package comprising the Commission's proposal and the above-mentioned joint opinion and, on 17 December 2008, accepted the new directive in the first reading.

The recast of the directive<sup>2</sup> has only taken up part of the demands originally made by the ETUC<sup>3</sup> to improve the role of European works councils. Above all, the recast attempts to provide answers to a number of central inadequacies of the old directive. Problem areas have so far included:

- Lacking implementation of the right to employees to be informed and consulted at transnational level
- Complications in coordinating the various levels of informing and consulting employees
- Uncertainty with regard to the future of EWCs in the case of mergers, takeovers and other restructuring measures
- Lacking arrangements in respect of the role of European trade unions in establishing and advising EWCs
- Lacking rights to training measures for employee representatives
- Legal uncertainties and practical problems in applying the Directive
- Inadequate coherence between EU provisions in the domain of informing and consulting employees.

One of the central demands made by the trade unions focuses on the necessity to define "information" and to be more precise in defining "consultation". According to the European Commission, the lacking or inadequate precision of these definitions has in the past led to different interpretations that have severely undermined the clarity of the legal framework, the effectiveness of the rights stated in the directive and its legal certainty. In practice, lacking clarity has led to the failure of EWCs being informed and consulted within the meaning of the directive. The ETUC has therefore demanded clear definitions that do not represent any retrograde step with regard to the definitions of information and consultation at European level in the way already clearly defined in directive 2001/86/EC. By and large, this demand has been met in the recast of the directive. This now states that "...information *shall* be given at such time, in such fashion and with such content as are appropriate to enable employees' representatives, in particular, to conduct an appropriate study and, where necessary, prepare for consultation" with the competent organ of the Community-scale undertaking or Community-scale group of undertakings. "Consultation" in contrast, is understood to mean "...the establishment of dialogue and exchange of views between employees' representatives and central management or any more appropriate level of management, at such time, in such fashion and with such content as enables employees' representatives to express an opinion on the basis of the information provided [about the proposed measures to which the consultation is related, without prejudice to the responsibilities of the management], and within a reasonable time to the competent body of the Community-scale undertaking or Community-scale group of undertakings". The subsidiary requirements furthermore define that consultation shall be conducted in such a way "... that the employees' representatives can meet with the central management and obtain a response, and the reasons for that response, to any opinion they might express".

These definitions have contributed to improving the conditions for actually realising the right of employees to be informed and consulted at transnational level as they extend the possibilities of reaching an understanding on the general principles of a planned decision, the potential consequences for the employees and a coordinated and balanced form of implementation. Furthermore, the new definitions can help to make information and consultation more effective at local, national and European level and thus contribute to greater coherence in this domain.

A further step forward in the new directive is the obligation on the part of central management as well as each management of an undertaking belonging to the group of

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<sup>2</sup> Cf. <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0602&language=DE&ring=A6-2008-0454> (11.02.2009)

<sup>3</sup> Cf. <http://www.etuc.org/a/578> und [http://www.etuc.org/IMG/pdf\\_ETUC\\_response\\_EWC\\_ENrevised2.pdf](http://www.etuc.org/IMG/pdf_ETUC_response_EWC_ENrevised2.pdf)

undertakings to provide the employee representatives with all information imperative for entering negotiations on the establishment of an EWC. The undertaking or group of undertakings must guarantee that employees are able to determine whether the undertaking or group of undertakings where they work is a Community-scale undertaking or group of undertakings. Furthermore, employees must be enabled to make the necessary contacts to draw up a request to commence negotiations.

The recast of the directive for the first time explicitly wants the trade union organisations recognised at EU level to play a role within the scope of the special negotiating body (SNB); indeed, the new directive makes provision for trade union representatives to be present at negotiation meetings in an advisory capacity at the request of the SNB. The right by trade unions to officially attend meetings of the EWC, however, has not been taken up. Consequently, the possibility to attend such meetings continues to be derived from functions that may be performed by trade union officials in the capacity of experts to the EWC. The new directive also fails to take account of the demand by the ETUC to shorten the negotiating period of the SNB from three years to one year.

With regard to the role and powers of employee representatives, the recast of the directive makes provision for an obligation on the part of EWC members to report to the employees they represent as well as for the right to receive the training they require. The new directive furthermore stipulates that the members of the EWC must be provided with such resources as are necessary for them to exercise their function as employee representatives. However, it fails to make any provision that would give the EWC the possibility of deciding on the content of training measures in the way demanded by the ETUC.

The new directive also makes an attempt to improve coordination between the processes of information and consultation at national and transnational levels. Whereas the ETUC is of the conviction that information and consultation procedures concerning more than one country must take place simultaneously at local, national and transnational levels, the new directive merely contains the general formulation stating that EWC agreements "...*must* lay down the arrangements for linking the national and transnational levels of information and consultation of employees appropriate for the particular conditions of the undertaking or group of undertakings". The recast of the directive goes on to state that "The arrangements must be defined in such a way that they respect the competences and areas of action of the **employee** representation bodies, in particular with regard to anticipating and managing change".

A further step forward has been achieved in relation to asserting the rights contained in the recast of the directive. The EWC directive is now geared towards the general principles of Community law which require that effective, dissuasive and proportionate sanctions be imposed in the event of any infringement of the applicable provisions. The recast of the directive, however, fails to make any provisions that would govern the legal personality of EWCs despite such being necessary in the context of taking steps were the directive to be violated.

The provisions made in the new EWC Directive in relation to amending or renegotiating EWC agreements in response to a change in the structure of an undertaking must also be viewed in a positive light. This arrangement is intended to take account of accelerated change in undertakings, e.g. as a result of mergers and takeovers.

The demand by the ETUC for all EWCs to be given the opportunity to take advantage of the improvements in the recast of the directive, irrespective of whether they are derived from the agreements under Article 6 or Article 13 of directive 94/45/EC, has not been taken up in the new directive. This being so, Article-13-agreements continue to be omitted from the provisions of the new directive and no basis is provided either for any general obligation to renegotiate the agreements entered under Article 6 of directive

94/45/EG between 22 September 1996 and the date<sup>4</sup> required in Article 16 of the new directive.

Further trade union demands ignored in the recast of the Directive concern, among other aspects, the size of the undertaking or group of undertakings in which EWCs can be established, as well as the definition of the term "controlling undertaking". In the first case, the threshold of 1,000 employees remains unchanged, as does the definition from directive 94/45/EC in the second case.

Clearly shown by empirical studies, the subsidiary requirements often play an important part as guidance or explanations for negotiated solutions. It is also possible to establish that these are being applied directly in more and more cases. Since a number of deficiencies and inadequacies have come to light in this context, the ETUC demands that the subsidiary requirements relating to various issues be extended and formulated with greater clarity.

Apart from being more precise in its definition of the right to consultation, however, the recast of the directive merely contains an improvement in respect of the size of the select committee which, under the new provisions, may comprise as many as five members. All of the other demands made by the trade unions to extend and state the subsidiary requirements more precisely have been left unanswered in the recast of the directive.

Among others, these include the demand for:

- A clearer definition of exceptional circumstances under which extraordinary meetings may be convened
- At least two ordinary meetings a year
- The introduction of new subject matter about which employees must be informed and consulted
- An internal debriefing of worker representatives to be held after the meeting with the management
- The deletion of the limitation of the undertaking's obligation to cover the funding for one expert only
- The experts to attend all meetings insofar as such is requested by the employee representatives
- Translations and interpreting services to be provided for all internal preliminary talks and follow-up meetings of the employee representatives and select committee.

## **Conclusions**

Summarising, it can be stated that the recast of the EWC Directive is doubtlessly an improvement of the legal framework conditions for the activities of EWCs in defending interests. Clearer definitions (e.g. information and consultation), extended powers through the right to training, greater legal certainty (e.g. with regard to adaptation as a result of restructuring) and a stronger ability to assert interests through appropriate sanctions in particular improve the conditions for making EWC practice more effective. The improved rights to being informed in advance of negotiations on establishing a European works council may help to increase the number of EWCs and thus reduce the shortfall in coverage. A further major step forward is seen in the recognition given to the role of trade unions in establishing new EWCs. Despite these improvements, however, the new EWC Directive must be criticised for failing to contain any relevant innovations. It merely comes closer to the standard of other directives, such as the SE Directive, and in many points falls short of ETUC demands.

In view of the advances made in the new directive, it is now a matter of applying the new and extended rights in an effective manner. In the past, research reports have pointed

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<sup>4</sup> Two years after the new directive comes into force.

out that even the rights contained in directive 94/45/EC have often only be exploited inadequately by the EWCs. Proceeding from the new rights relating to information and consultation, training and trade-union involvement, trade unions and EWCs thus face the challenge of improving EWC practice on a sustainable basis.

# **Promoting Work and Employment in Europe**

## **European Employment Strategy and Employment Policy**

### **Requirements**

Arne Heise, University of Hamburg

There is little disagreement about the fact that unemployment is one of the most serious social problems of modern society. In addition to income and life chances, people's self-esteem in Western achievement-oriented societies significantly depends on whether and what employment they have. Work integrates, unemployment excludes. It should therefore really be evident that full employment, defined as a situation in which a job is available for everybody seeking work, should be a prime objective of economic policy for social democracies such as we expect to encounter in the European Union (EU).

#### **1. Europe's employment problem – some preliminary empirical considerations**

Unemployment and employment policy has in fact determined economic policy discussions in different ways in the EU and in most member states over the past fifteen years. On the one hand, employment development has now become a European sphere of responsibility and a genuine field of EU policy through the European Employment Strategy (EES), which will be further discussed below. On the other hand, it has certainly not been possible to overcome the EU's employment plight. This is despite several years during which the subject has been viewed from a neoliberal supply-side policy perspective and given a corresponding policy stamp, influenced in the EU by the EES and in Germany by Agenda 2010, for example. It is also contrary to some media campaigns (for example, those responsible for the Agenda 2010 policy in Germany actually announced the "new economic miracle"). Figures 1 – 3 illustrate a significantly higher level of unemployment in the EU<sup>1</sup> than in the USA on the one hand throughout the entire period since the European Employment Strategy came into force with the Treaty of Amsterdam in 1997. The lower unemployment in the USA compared to the EU (Fig. 3) is reflected in a correspondingly better development of the economy (Fig. 1) and of employment (Fig. 2). If the economic downturn following the terrorist attacks in September

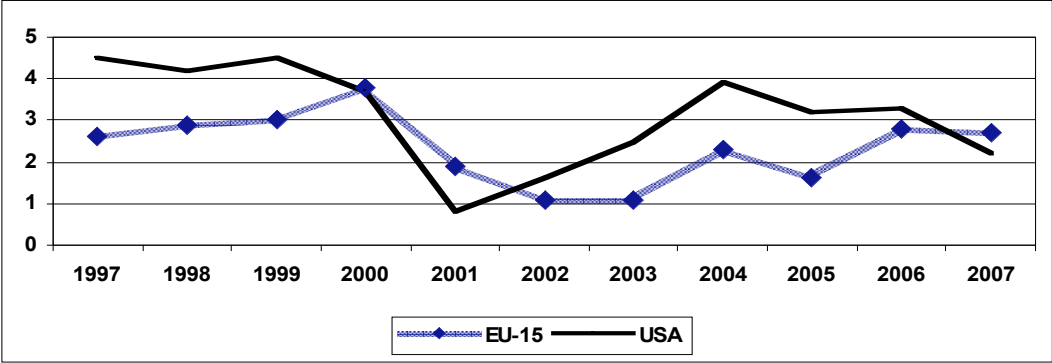
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<sup>1</sup> This selected data from the 'old' EU of the fifteen member states, because firstly the EES only took effect for the new accession countries as from 2005, and secondly their structural and transformation problems must be considered in isolation.



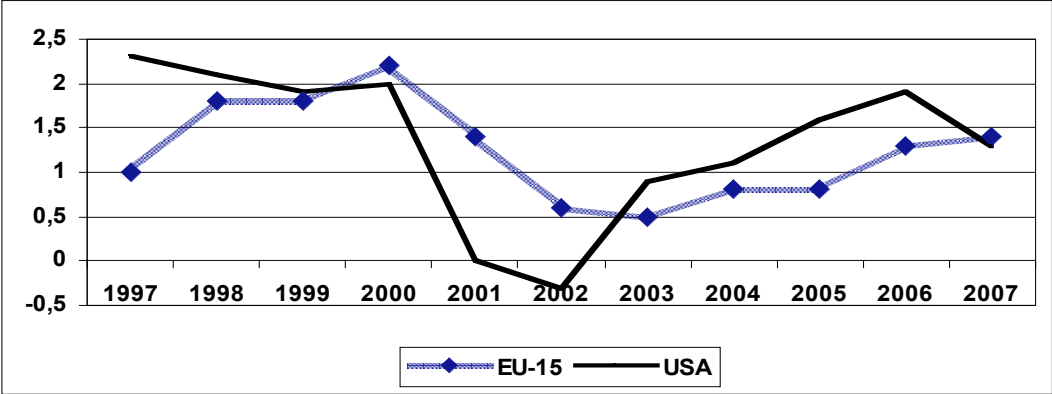
2001 in the USA had not had a greater impact in the USA than in Europe, then the differences would have been even more pronounced.

Figure 1: GDP development in the EU-15 and USA, 1997 - 2007



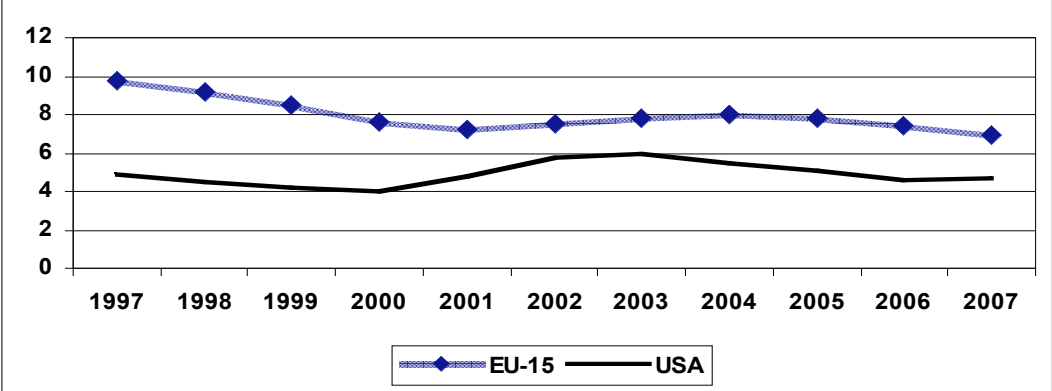
Source: AMECO database

Figure 2: Employment development in the EU-15 and USA, 1997 - 2007



Source: AMECO database

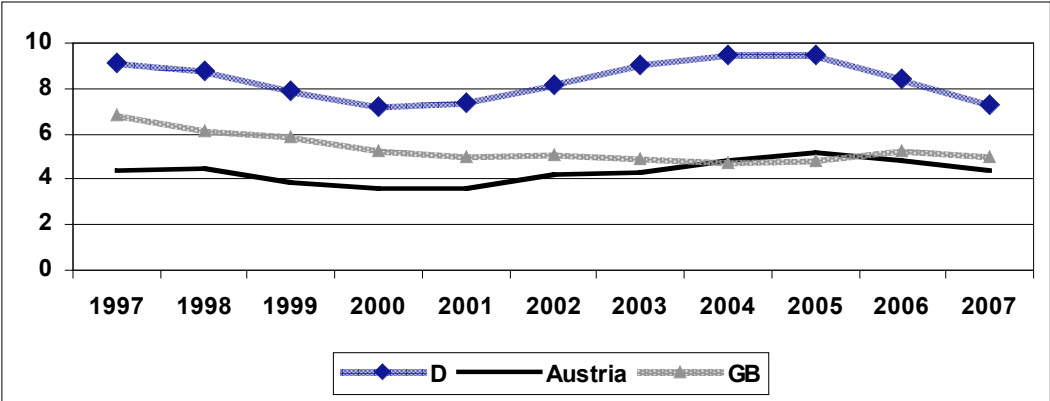
Figure 3: Unemployment in the EU-15 and USA, 1997 - 2007



Source: European Economy, Stat. Annex 2007

It is not possible, however, to overlook the fact that there have been real differences in labour market and employment performance within the EU. On the one hand, there are a number of smaller countries – the Netherlands, Austria or Denmark – with unemployment consistently below the EU average and who were frequently stylised as an example for the entire EU without an exact functional analysis, as was the case with the Danish ‘flexicurity’ system; the EES promotes this tendency for dubious imitation.

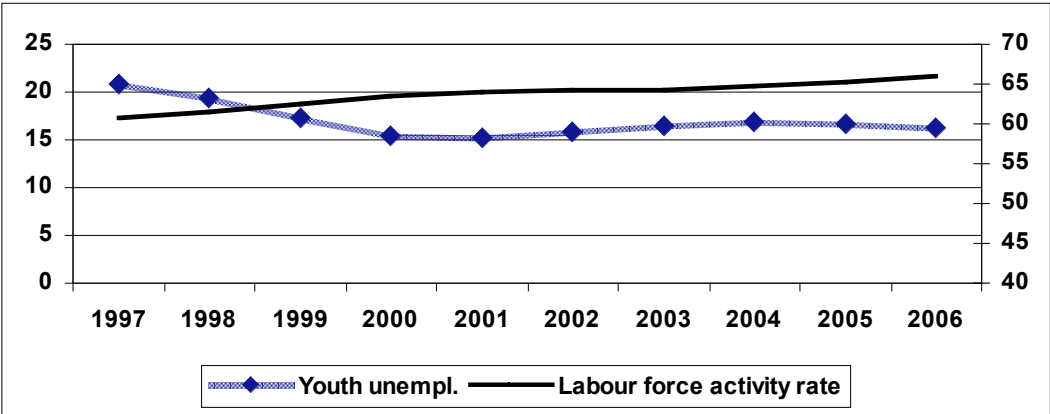
Figure 4: Unemployment in Germany, Austria and Great Britain



Source: European Economy, Stat. Annex 2007

By contrast, there are countries such as the United Kingdom or Sweden whose above-average performance is associated at least temporally (and also causally?) with their remaining outside the European Monetary Union (EMU). These stand opposite countries, including first and foremost Germany and France – the largest members of the EU – who have clearly seen below-average employment and labour market development and where the pressures to reform have been correspondingly high.

Figure 5: Youth unemployment in the EU-15 and development of the labour force activity rate, 1997 - 2006

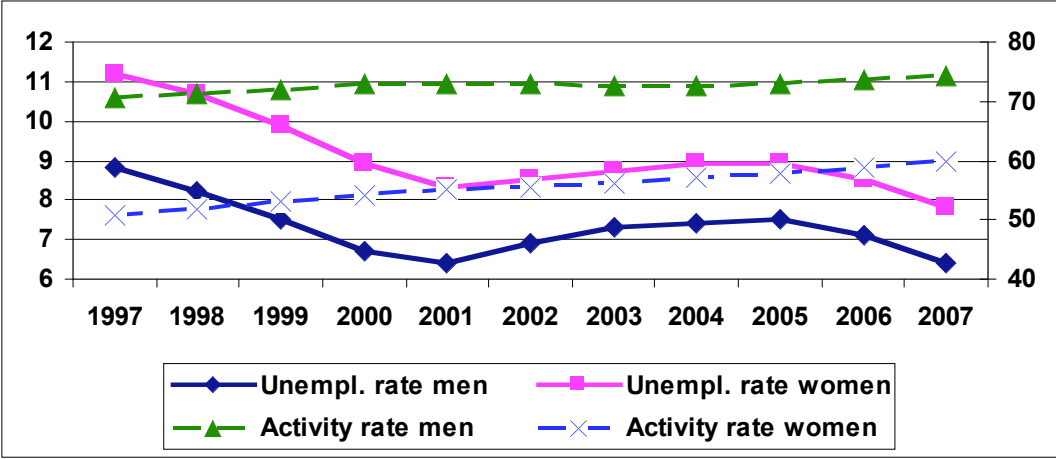


NB: Scale on left: youth unemployment rate; right scale labour force activity rate

Source: AMECO database

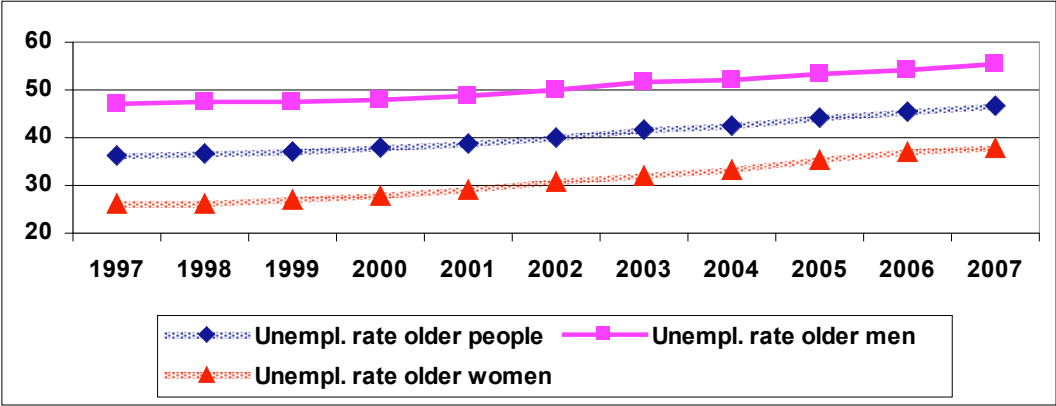
Before taking a close look in the following at the European Employment Strategy, we should briefly examine a few special features of labour market and employment development which have repeatedly played a role in the EES: on the one hand, youth unemployment continues to be alarmingly high in the EU (see Fig. 5). Although it has been possible to detect a slight positive trend since 1997, the average youth unemployment in the EU of around 16% (with differentiation from 23 – 26% in France and Greece and 6 – 7% in the Netherlands and Denmark) means that no all-clear can be given. On the other hand, while the labour force activity rate in the EU has risen slightly, the benchmark of 70% (which will be discussed later in greater detail) is far from having been achieved (see Fig. 5).

Figure 6: Unemployment rate and labour force activity rate by gender in the EU-15



Source: Ameco Database

Figure 7: Labour force activity rates for older workers (55 – 65) in the EU



Source: Ameco Database

Fig. 6 represents gender-specific rates of unemployment, which continues to demonstrate the poorer integration of women in the labour market, even without taking wage discrimination

into consideration. This applies both to the higher unemployment rate for women, and in particular to the lower labour force activity rate for women compared to men. It is furthermore clear when looking at labour force participation rates for older workers (Fig. 7) that we are still a relatively long way away from the labour force activity rate target of 60%. It is also questionable, however, whether the increase in labour force activity rates for older workers actually shows that we are moving closer to a target of an improved structural age mix in the workforce, or whether the phasing out of labour policy measures this decade, such as rules for early retirement, is really behind the recorded increase. This raises the question of the fundamental suitability of using indicators such as rates of labour force activity as target variables for successful employment policy.

## **2. Employment policy as European competency – development of a policy field**

EU member states have long resisted delegating employment and labour market policy competences to the European level. This can even be deemed to be correct and consistent, depending on the way one wishes to view employment and labour market policy because it is evident that a microeconomic explanation of employment and unemployment oriented to the labour market shows no international or pan-European interdependencies (externalities) which would argue in favour of an EU-wide coordination of labour market policy. The principle of subsidiarity correctly applies here whereby problems are delegated to that (national or even regional) level best able to solve them. EU-wide coordination could, at best, facilitate the comparison of experiences, but in the worst case could promote a uniform perception of problems and political perspectives ('neo-liberalism'). If, by contrast, a macroeconomic perspective is assumed, whereby employment and unemployment depend on the amount of aggregated demand for investment and consumer goods, then of course considerable interdependencies exist in a Europe which is growing closer together, especially in view of the harmonisation and coordination of monetary and financial policy in EMU; this argues in favour of making employment policy an area of European competency.

Naturally political decisions are seldom made on the base of functional (instrumental) reasoning. The handing-over of competency for labour market and employment policy to the EU level did not take place therefore following the publication in 1993 of the EU White Paper on 'Growth, Competitiveness, Employment', which especially emphasised macroeconomic interdependencies. Rather, the European Employment Strategy was only drafted in the course

of revising the Maastricht Treaty at the EU summit in Amsterdam in the spring of 1997 when a chapter dealing with European employment was incorporated into the Treaty of Amsterdam and through the so-called Luxembourg Process in the autumn of 1997. The background to this was the economic and employment crisis at the beginning of the 1990s and the growing criticism of Maastricht Treaty criteria oriented exclusively towards price stability, which resulted in diminished approval for EMU. What was required above all was a symbolic act. The momentum of these processes then rapidly led to a policy field being developed without any real transfer of competencies taking place from the national to the EU level:

- **Institutional:** An employment committee was established that was concerned with formulating or commenting on the Employment Guidelines (EGs) of the EES.
- **Procedural:** A process of soft governance corresponding to the method of open coordination was created which ranges from the formulation of the EG and involvement of the Commission, the European Parliament and the social partners through to national development (national action plans or reform programmes) and to the reaction of the Commission (recommendations).
- **Strategic:** Further processes were created, embedding the Luxembourg Process in the Cardiff, Cologne and Lisbon Processes.

Up until the first amendment to the EES the EGs were based on four pillars whose microeconomic orientation can scarcely be overlooked:

- Improvement in employability
- Development of entrepreneurship
- Promotion of adaptability of the company and its workforce
- Promotion of equal opportunities

The alignment of the EES was amended from 2003 to three objectives following bitter criticism by the “Employment Taskforce” headed by Willem Kok, the former Prime Minister of the Netherlands; this accused the EGs of concentrating on interim rather than final aims and feared that the EU would fail to achieve the Lisbon objectives (in which EU becomes the most dynamic economic area in the world). The three objectives are as follows:

- Full employment

- Strengthening productivity at work
- Strengthening social cohesion

It was also decided to produce the ‘Integrated Guidelines for Growth and Jobs’ to establish greater links between the EGs and economic policy guidelines. With the explicit appraisal of the macroeconomic environment as prerequisite for improved employment development it might be supposed that there would be a revival of the new orientation of European employment policy temporarily put forward as part of the Cologne Process, but far from it. In actual fact the new objectives are almost identical to the interim objectives of the four pillars of the old EG and its indicators, for example the achievement of a labour force activity rate in the EU of 70% or a labour force activity rate for women of 60%; meanwhile the factors embedded in macroeconomic policy have gone unchanged, still featuring a financial policy oriented towards a balanced public budget (as defined in the Stability and Growth Pact) and a monetary policy directed at price stability. Furthermore, there are calls for a stability-oriented wage policy and incentive-oriented fiscal policy. All of this should come as no surprise, but it does clearly indicate that European labour market and employment policy continues to operate doggedly in a single direction even after 10 years of the EES which can generally be more aptly described as ‘neoliberal’ or ‘supply side politics’ than ‘progressive’.

### **3. Macroeconomic status quo and the need for change**

As shown by looking at the development of European employment, the EES can definitely not be described as successful. It would appear that neither its own demands nor objectives have been achieved (something that ultimately can only really be evaluated in 2010, because sensibly medium-term goals were set), nor is the EU in a good position when compared internationally. After a degree of economic recovery in the middle of the decade, which has sometimes been interpreted as structural change, the EU is facing renewed risks and challenges from the turbulences on international financial markets.

Even if it has not yet reached mainstream policy advisors in the EU (e.g. in the Employment Taskforce), the economic community is increasingly breaking with the so-called ‘post-Keynesian consensus’ which detached employment development from financial and monetary policy interventions at least in the medium to long-term, concentrating therefore on price stability and budget consolidation. Put differently, there is increasing recognition that an

excessively restrictive monetary and financial policy can actually lead to long-term losses in employment. The USA, and also the United Kingdom and perhaps also Sweden would appear to have achieved a more growth-friendly macroeconomic policy.

This overdue move away from the 'Post-Keynesian consensus' does not, however, signify an uncritical return to the expansive politics of classic Keynesianism ('back to the seventies'). It illustrates rather that a macroeconomic employment policy is not able to achieve specified employment objectives, with some kind of hydraulic action to achieve full employment or a certain labour force activity rate. It can merely create the framework conditions that must be defined as encouraging or discouraging employment. If the framework conditions which comprise financial and monetary policy institutions and rules as well as collective bargaining systems and other structural factors (e.g. exchange rate regimes) are reasonably permanent, then we can speak of market constellations or macroeconomic regimes.

The burgeoning literature covering interaction and cooperation has illustrated that a permanent and credible coordination of macroeconomic policy areas (in other words monetary, financial and wage policy) offers the ideal conditions to create an employment-friendly market constellation. At the same time it has also been seen, however, that this coordination does not simply come about automatically: one-sided aims as in the previous 'classic assignment' of European economic policy as well as strictly rational behaviour when it comes to uncertainty or also just the failure of responsible actors can contribute to making the macroeconomic policy mix less than ideal. The consequences of this are problems for employment and sometimes also inflation. The market constellation which might and will result can be anticipated using the macroeconomic structure and system principles and can be reduced and summarised using a clearer two-actor constellation:

Table 1: Archetypal market constellations and their macroeconomic results

		Monetary policy (and financial policy)			
		Accommodating	Not accommodating		
Wage policy	Centralist-corporatist	<i>Stackelberg leadership of monetary policy</i>  UR: low INF: medium	<i>Stackelberg leadership of wage policy</i>		<i>Cooperative Nash equilibrium</i>  UR: low INF: low
			UR: medium – low  INF: low	UR: medium  INF: low	
	Decentralist	UR: medium INF: high	<i>Non-cooperative Nash equilibrium</i>  Soskice case: UR: medium – high INF: medium – low  Calmfors-Driffil case: UR: low – medium INF: low – deflationary		

NB: UR = Unemployment rate; INF = Rate of inflation; Soskice case: strong trade unions at company level ('local pushfulness'); Calmfors-Driffil case: weak trade unions at company level; a central bank is described as 'daring' if its reaction is symmetrical when signs of inflation gaps appear (deviation of actual from tolerated inflation); central banks that are described as 'not daring' demonstrate an asymmetry with respect to their inflation gap in the sense that exceeding the inflation target leads to a more distinct interest reaction (increase) than is seen when falling below the target (reduction).

In addition to the cooperative solution there are the so-called kinds of 'Stackelberg leadership'<sup>2</sup>, in which one of the actors involved clearly defines a strategy and leaves adjustment to other actors; these market constellations offer 'second-best' solutions, uncooperative behaviour of actors provokes the worst macroeconomic results.

There is widespread lack of EU-wide coordination of wage policy, restrictive coordination of financial policy in line with the Stability and Growth Pact and a complete lack of efficacy when it comes to the European Macroeconomic Dialogue (EMD) from the Cologne Process. Currently it must therefore be feared that the EU, and we are focusing on the EURO zone since the monetary and financial regimes only apply here, is in an uncooperative market constellation. Depending on whether there are strong social partners and in particular strong trade unions at least at the company or regional level, or whether we must assume a situation of weak trade unions 'traumatised' by past developments on the labour markets and insufficient social support, this might be expected to result in the worst possible employment development and even in destabilisation in the case of a sudden economic downturn. Provided

<sup>2</sup> Named after the German economist and mathematician Heinrich von Stackelberg



that the development of collective bargaining in Germany acts as a signal to actors (other trade unions and also the European Central Bank) in the Euro zone, it would at best be possible to speak of a Stackelberg leadership (of wage policy). These hypotheses are reinforced by comparing economic development and some of the instruments responsible for it:

Table 2: A comparison of market constellations

	<b>Stackelberg leadership of wage policy</b>	<b>Cooperative Nash equilibrium</b>	<b>?</b>
	<b>United Kingdom 1997 - 2005</b> (not daring monetary policy; expansive financial policy)	<b>USA 1997 – 2005</b>	<b>EURO zone 1997 – 2005</b>
<b>Interest/growth differential<sup>+</sup></b>	0.3	-0.3	0.8
<b>Total deficit</b>	-0.7	-1.7	-2.6
<b>Structural deficit *</b>	-1.0	N/S	-2.5
<b>Rate of inflation (consumption deflator)</b>	<b>1.4</b>	<b>1.9</b>	<b>1.9</b>
<b>GDP growth</b>	<b>2.6</b>	<b>3.2</b>	<b>2.1</b>
<b>UR</b>	<b>5.5</b>	<b>5.0</b>	<b>8.9</b>

NB: + Difference between real short-term interest rate and GDP growth as measure of monetary policy orientation; \* the level of structural deficit in the EURO zone is considerably overestimated due to the costs of German unification; N/S: not specified

Source: European Economy, Statistical Annex, Spring 2007 and European Economy, no. 60, 1995; own calculations

The anti-growth and employment policy mix in the EURO zone can be seen from the relatively unfavourable interest-growth differential (Tab. 2), as a result of which the moderately expansive financial policy (structural deficit) has been counteracted and macroeconomic new borrowing has turned out to be unnecessarily high.

#### **4. Economic policy conclusions**

Despite all the criticism relating to the details of the European Employment Strategy, we should remember that it has led to the creation of an employment policy responsibility at the EU level, something resisted by member states for a long time. This gives a long overdue signal that European integration does not only stand for market liberalisation, price stability and budget consolidation, but also makes the real problems of the people in Europe a shared matter, something that should be acknowledged.

Nevertheless the overall evaluation is somewhat critical: the objectives are often insufficiently clear (e.g. no clear employment objective) or worthy of discussion (such as labour force activity rate targets). Where they are formulated in quantitative terms, they are in the main not achieved. And above all: despite great divergence in development, the EU as a whole is not in a good position at the start of the imminent recession. The level of unemployment at the end of a period of strong economic development is still much too high; specific segments of the labour market (younger, older and also low-skilled workers) highlight particular problem areas. Finally, these labour market imbalances and the labour market and social reforms derived from them, such as the Hartz IV laws in Germany, are the cause of further social distortions: the increasing precariousness of work and increasing poverty almost everywhere in the EU. The above deliberations are intended to elucidate the fact that a permanent decrease in unemployment cannot be hoped for without creating an alternative market constellation, and that the foundation for this must be greater cooperation between macroeconomic actors and coordination of policy areas. Such a macroeconomic perspective cannot be a substitute for deploying microeconomic labour market policies where special problems exist, e.g. in the area of qualification of workers, where discrimination can be seen for certain groups of workers etc., but if they are not accompanied by macroeconomic measures then microeconomic measures remain a macroeconomic zero sum game: the relative improvement of one group of people on the labour market leads to the worsening of the prospects for other groups of people, something which applies until an overall improvement in the job situation takes place. The experience in countries such as Spain and Ireland also shows that problems in individual segments of the labour market can be solved more easily when the overall labour market situation improves.

The creation of an alternative, more employment-friendly market constellation initially requires fundamental rethinking: the neo-liberal market euphoria must be replaced by critical market realism, and the ‘market making’ dominant in the history of European integration by ‘market correcting’. An allocative microeconomic perspective must be replaced by an interventional macroeconomic perspective. The direction of developments in the scientific community aimed at transcending the “post-Keynesian consensus” is promising but has not yet fully reached Europe. The current crisis in the financial markets may contribute to a change in perspective through its sheer dimensions. But the object is not simply to change the theoretical foundations of economic policy. The attitudes of society (culture) vis-à-vis collective actors and their significance, i.e. primarily trade unions but also employer organisations, must also change to recognise the eminently important contribution such actors make to social well-being (corporatism). If this is not the case it will hardly be possible to halt the process of erosion of social partners as responsible actors.

Changing ideas and perspectives is a prerequisite for changing policies and institutions. The latter implies a correction of the governance architecture in the EU: the aim on the one hand is to introduce an amendment to straighten out conflicting structures of governance – here the cooperation-oriented macroeconomic dialogue in the Cologne Process, there the assignment-oriented Stability and Growth Pact (SGP) and the one-sided interpretation of independence of the ECB. On the other hand, European macroeconomic dialogue must be institutionally configured in such a way that it is possible to overcome the cooperation trap or which at least makes it possible to achieve a Stackelberg leadership market constellation. The latter may be the best we can hope for in view of the large number of actors involved principally from different levels (national [collective bargaining parties and ministers of finance] and EU level [ECB]).

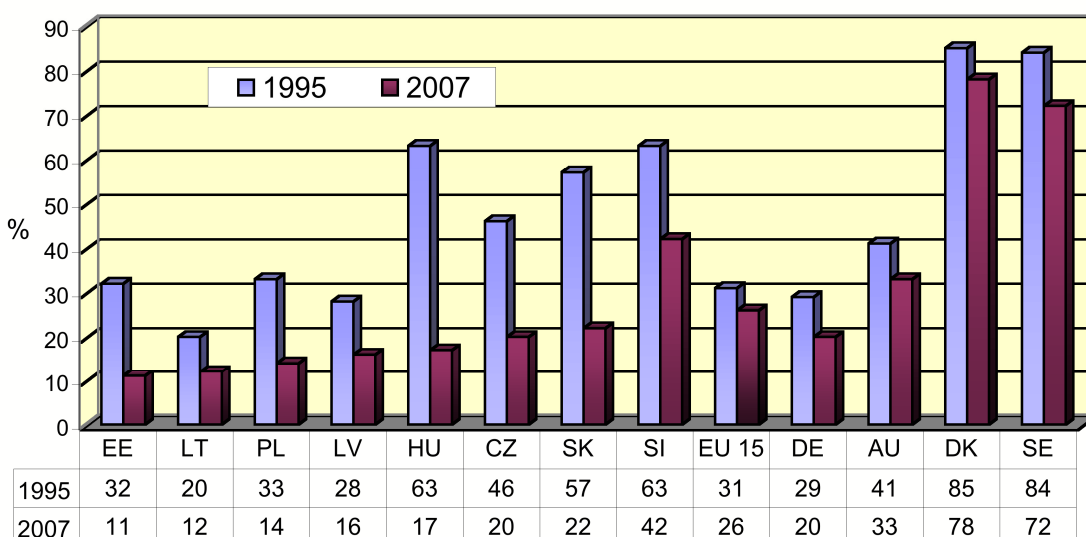
## Perspectives for industrial relations and the integration of the Central and Eastern European Countries (CEECs)

The “social dimension” has been a substantial pillar of the nascent European social model since the gradual process of EU integration commenced at the end of the 1980s. This integration project encompassing ever more European countries is based on the structural combination of economic dynamism and social balancing, achieved in the diverse areas of “social dialogue” at European and national as well as at industry and company level.<sup>1</sup>

The freedom of association and the related fundamental rights of employees and employers represent an essential basis for effective industrial relations in these areas. They are guaranteed both in the European Social Charter and in constitutions, particularly in those of the new EU member states who have also ratified the significant ILO conventions on the freedom of association and negotiation (87, 98 and 135). The unrestricted enforcement of these basic standards relating to the freedom of association and to social dialogue is another matter. This aspect is the subject of the following real and deficit analysis of industrial relations in the EU 27 which has been enlarged by the 10 CEE countries.<sup>2</sup>

Almost without exception, trade unions in Europe demonstrate a striking and up to now unstoppable decline in the number of their members. This has been the case for Western European employee organisations since the mid-1970s. Unions in the CEECs were previously government-supported with compulsory membership; the transformation of their role from an agency designed for all-round social care to the one now required to guarantee wages and employment has been paid for with huge losses in membership: on average, the rate of unionisation has approximately halved since 1995 (Fig. 1)\*.

Figure 1: Collapse in union membership between 1995 and 2007



<sup>1</sup> For further details see Kohl/Platzer 2004, p. 285 et seq.

<sup>2</sup> See the survey project conducted by the Warsaw FES office with experts from these countries in cooperation with the BwP Erkrath. Further sources used here are taken from the country reports on “Capacity building” in the area of social dialogue of the new EU member states and candidate states as well as the national *industrial relations* profiles throughout the EU produced by the Dublin European Foundation for the Improvement of Living and Working Conditions. The project also drew on the sobering International Trade Union Congress (ITUC) annual reports on the violation of union rights (see European Foundation 2007; Van Gyes et al. 2007; ITUC 2007 and 2008).

Attributing this process on the one hand to the decline of socialism and the patent constraints of the national social state in a global capitalist environment may appear plausible but is an inadequate approach for both East and West. Rather questions should be asked about the extent to which the freedom of association practised as well as working standards and their material effects are causal factors.

### I. Statutory regulatory frameworks in Eastern Europe

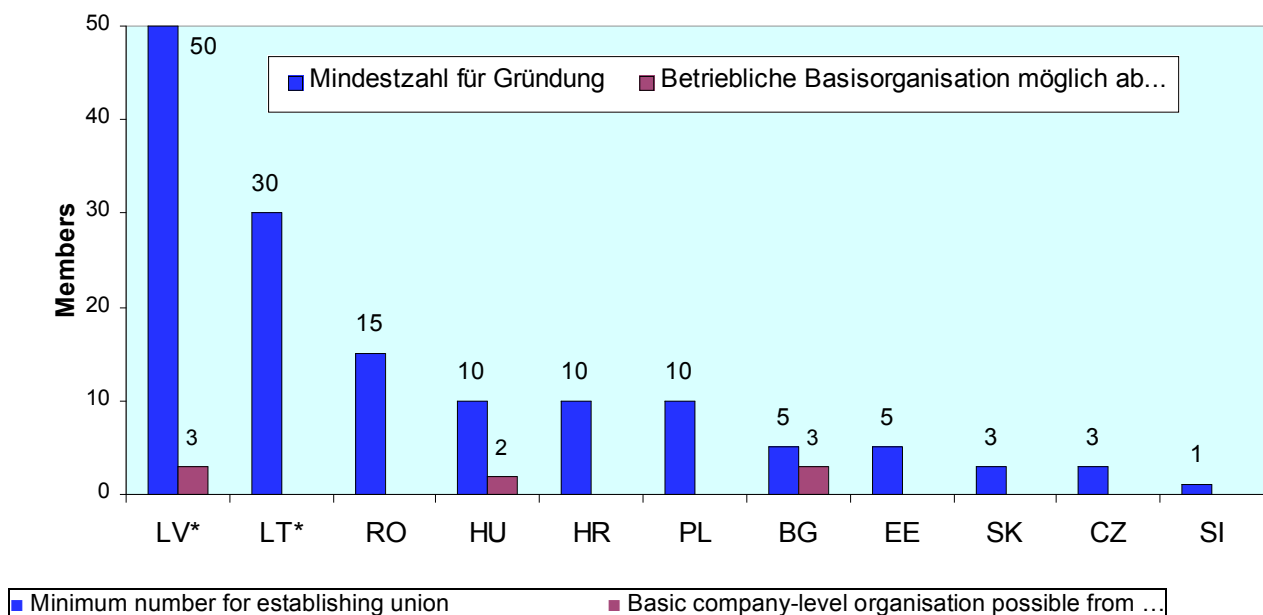
In accordance with the 1948 ILO Convention 87, the statutory foundations of free trade unions necessarily always include the following:

- The unhindered association and joining of a trade union
- The necessary representation of interests and participation on site (at least within the framework of the 2002 EU Directive on Information and Consultation)
- The real possibility to conclude collective agreements for all employees where possible, also using the means of industrial action where applicable
- And, not least, something often overlooked during a purely formal consideration: the effective control and sanctioning of failures to heed fundamental employee and trade union rights.

In formal terms the statutory requirements for social dialogue are present almost without exception. There are enough legal texts. The problem is their implementation.

There is even a cumbersome excess of regulation in some of the sub-areas that are important if trade unions are to represent interests effectively. This can make it almost impossible to pursue industrial action. These include specific trade union laws, the applicable representativity criteria and obligations for registration, the exclusion of certain persons from membership and not least the rules governing the settling of disputes and strike legislation, parts of which are extremely restrictive. It starts with the statutory rules on minimum numbers for a basic trade union organisation (Figure 2) in conjunction with specific trade union rules which virtually preclude the representation of interests e.g. in the rapidly growing number of small and medium-sized enterprises (SMEs).

Figure 2: Prerequisites for a company-level trade union organisation

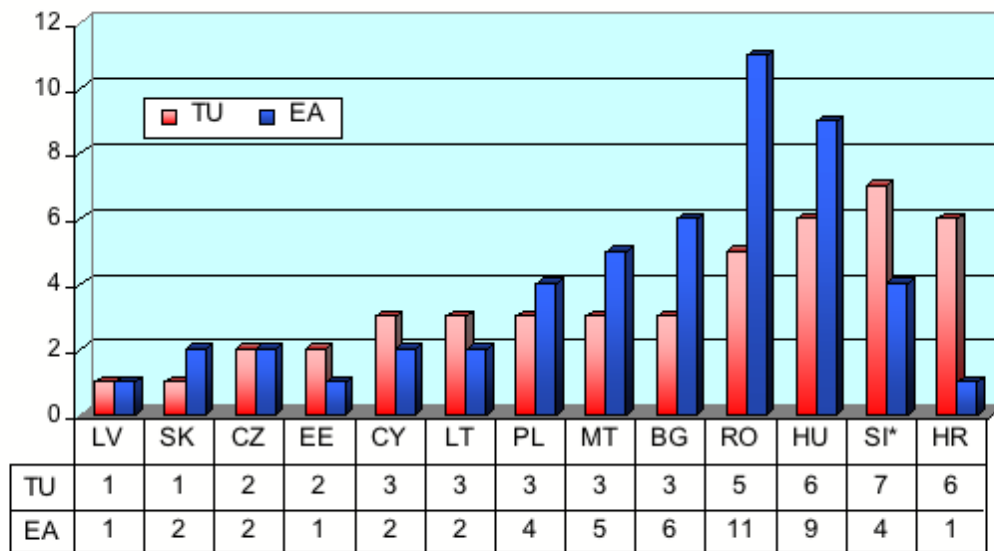


\* The requirement for creating a trade union in small Lithuanian companies with fewer than 30 employees is that 1/5 of all employees join, while for Latvian small companies with fewer than 50 employees it is that 1/4 of all employees join.

The significance of these rules that more or less exclude large groups of workers is reinforced by the fact that pay bargaining frequently only takes place in the company, which always requires the presence of a basic organisation (as is the case in Hungary, Poland and the Baltic States).

Added to this are the problems arising from many instances of pluralism of associations in the CEECs, something which applies to both social partners (Figure 3):

Figure 3: Number of representative umbrella organisations of the social partners



\*2006: + 1 TU (public services); Employer: including 2 chambers of commerce

*Registration and joining a union – the exclusion of certain people*

On the other hand, the state intervenes in a regulatory manner in countries with particular multiplicity of associations, introducing rules governing the status of representativity of a trade union organisation which determine specific minimum quotas of members required for collective bargaining or also participation in national tripartite committees. However, these have an impact on the regulations concerning the freedom of association, with far-reaching consequences, especially when the result is to exclude certain groups of people from membership through the law or the rules of the organisation either legally or de facto (Figure 4).

Figure 4: Barriers to union membership in Eastern Europe

	<i>People excluded from joining a trade union</i>	<i>Access barriers</i>
Lithuania	Only gainfully employed persons may become members, i.e. not students, the unemployed, pensioners, self-employed	Membership generally takes place only via the basic company-level organisation, and in exceptions also via the industry. Possibility of “direct membership” currently being discussed
Latvia	Only gainfully employed persons and apprentices may become members. This excludes members of the state security services (e.g.	Membership usually takes place via the basic company-level organisation (high barriers for SMEs)

	border police etc.)	
Poland	Excluded are: those not having a permanent employment contract, contractors, students, the “bogus self-employed” (until 2002 also police, border patrol, people working from home). Civil servants are not permitted to assume an active trade union function	Depending on union regulations, membership only through basic company-level organisation, which e.g. has a precondition of a minimum number of ten trade union members. This barrier excludes around 30% of employees working in SMEs with fewer than 10 employees. No direct membership possible
Slovakia	Legal obstacles only for those belonging to the armed forces	There are ordinary (i.e. employed) and extraordinary members (those incapacitated, pensioners, those on maternity or parental leave, people temporarily unable to work)
Estonia	No formal restrictions	Membership generally via basic company-level organisation
Slovenia	No formal restrictions	Direct (individual) membership possible, also for those not in employment
Hungary	No formal restrictions	2003 law on equal opportunity is intended to put a stop to hurdles to membership, but few legal sanctions. Membership also possible for non-nationals
Czech Republic	No formal restrictions	Membership also possible for non-nationals and migrant workers
Bulgaria	No formal restrictions	2004 antidiscrimination law is stemming obstructions
Rumania	Senior government officials, members of the police, military and telecommunications workers are excluded, but not pensioners	Prerequisite for establishing a trade union is an existing work contract
Croatia	Legally, only gainfully employed persons are entitled to union membership... The burden of proof in a charge of discrimination on grounds of union membership is on the employer	...at the same time there are indirect impediments both with respect to establishing and joining a trade union due to the extremely high percentage of temporary contracts when people are hired (around 90%)

Under some circumstances the establishment of a company-level trade union is also complicated by the widespread obligation for public authority registration which may then be rejected or only granted with added conditions imposed.

#### *Obstruction and discrimination of trade unionists and elected officers*

A wide range of impediments to trade union activities exists, from individual intimidation through to massive violation of rights as a consequence of privatisation and restructuring; these can be seen most clearly in the ITUC reports on the violation of trade union rights throughout the world published each year. These repeatedly refer to the following

management approaches towards members and officials that are sometimes extremely ruthless (Figure 5).

Figure 5: Impediments to freedom of association of trade unionists (cases)

<i>Individual trade union members</i>	<i>Trade union officers</i>
<ul style="list-style-type: none"> <li>– Intimidation attempt and mobbing</li> <li>– Offer to change temporary contracts in the event of leaving the trade union</li> <li>– Special bonuses for non-union members</li> <li>– Changing contracts from employment to contractor contracts, which then preclude membership of the trade union</li> <li>– Threat of termination and actual dismissal</li> <li>– Relocation to parts of the company which have been spun off, combined with</li> <li>– Reorganisations and possibly subsequent closing of factories/works</li> <li>– Frustration of recruiting campaigns in the company</li> <li>– Employer continuously expects renewed confirmation when deducting contributions from salary</li> <li>– Disregarding of court orders on reinstatement after wrongful dismissal</li> <li>– The trade union organisations are obliged periodically to inform employers of the total number of union members (for example each quarter in Poland)</li> </ul>	<ul style="list-style-type: none"> <li>– Threat and execution of disciplinary measures</li> <li>– Relocation to jobs with excessive qualification requirements and subsequent reprimand</li> <li>– Relocation to very distant places of work</li> <li>– Salary deductions, withholding of bonuses and fringe benefits owed</li> <li>– Attempts to bribe or high severance payments for voluntarily leaving</li> <li>– Termination for disciplinary or similar alleged reasons</li> <li>– Reduction in existing leaves of absence</li> <li>– Refusal to provide necessary information and consultation</li> <li>– Spinning off of parts of the company to a size below that legally required to establish a trade union or representation</li> <li>– Withholding collected membership contributions by the employer</li> <li>– Refusal of access to authorised trade union representatives</li> <li>– Playing off the works council and trade union against each other (especially where the distribution of competences is unclear)</li> </ul>

The following is a summary of the *groups of people excluded* from joining a trade union by law or rules in many countries:

- People who are not permanently employed or who are not employed:
- The unemployed, students, pensioners
- Sub-contractors, bogus self-employed, freelancers.
- Those employed in certain areas of the civil service: senior government officials, those belonging to security-related services such as the police, border patrol, telecommunications, members of the armed forces
- Non-nationals and migrant workers

Also relevant here to the question of an organisation’s actual freedom of association are the regulations governing where members’ contributions go and whether the type of distribution results in the union headquarters of the industry or umbrella organisation having sufficient agency. Since between 60 and 90% of the contributions paid by



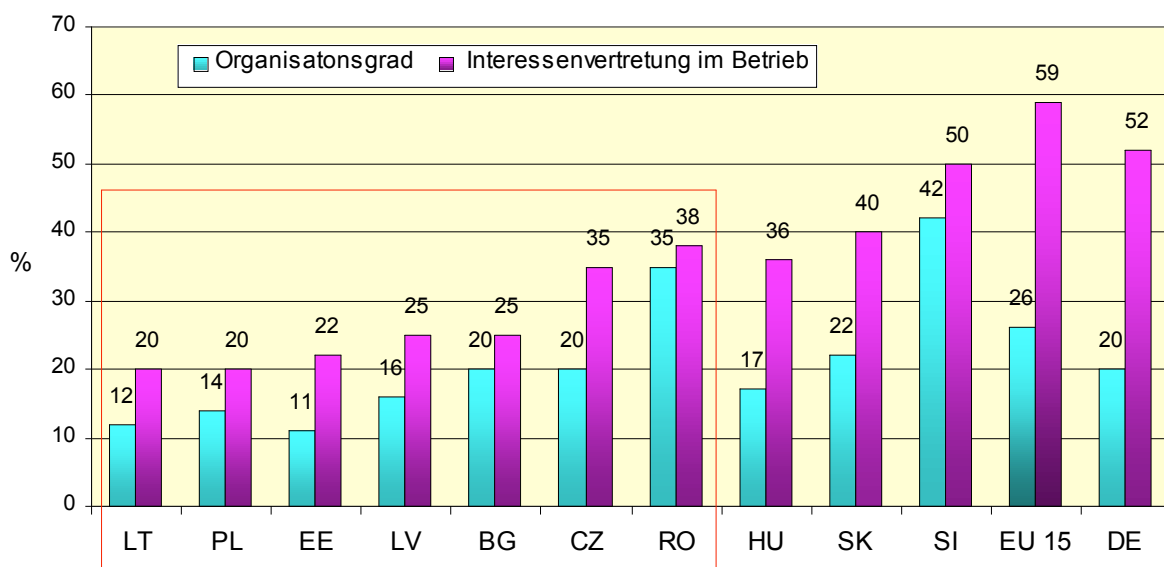
members generally remain in the company-level organisation, the respective industry and confederation headquarters receive only a minimal and usually insufficient percentage of funds. This leads to general complaints of a lack of financial resources and in turn of legal or economic experts, specialists and counsellors required for collective bargaining negotiations etc.

This deficit is reinforced by the fact that the very countries where the statutory minimum number of founding members is low also have an enormous number of small trade union organisations not allied to an umbrella organisation (an extreme example is Poland with over 300 autonomous industry federations in addition to the 23,000 company-level trade unions registered as legal entities).

## II. Foundations of company-level representation for employees

Representation of interests in the workplace in Eastern Europe is traditionally the domain of local trade unions. However, this generally only covers a minority of those employed, especially since small and medium-sized enterprises (SMEs) largely remain “trade union-free”. The percentage of employees represented locally is substantially increased where it is possible to establish an institutional representation elected by everybody in the form of works councils (Figure 6).

Figure 6: Share of employees in the company represented by the trade union and works councils (in relation to average degree of unionisation)



Despite a relatively low unionisation rate, where company-level representation exists in addition to trade union representation (in the form of a works council) which has been elected by all staff and which has legally guaranteed consultation rights (see the right half of the graph, starting with HU = Hungary), a high rate of representation can be found which also has positive effects for the trade union presence on site.

Prerequisite for the effective and complementary interaction of both representation bodies is a clear definition of responsibilities between the trade union as collective bargaining party on the one hand and statutory representation of interests on the other. International experiences demonstrate that this can be a positive help when canvassing and retaining members as long as trade unions make active use of this extended instrument of representation.

Through the 2002 Information and Consultation Directive, EU community law has given a significant boost to the aspect of a minimum framework for employee representation and consultation. Comprehensive information in good time is a decisive condition for any effective participation by trade unions and works councils. National governments of the new member states have implemented this stimulus provided by the EU in different ways before and after the respective accession date, as seen in Figure 7.

Figure 7: The three different kinds of company-level representation in the CEECs

1. <b>Only trade union representation of interest(s)</b>	2. <b>Alternative: Trade union representation or works council</b>	3. <b>Dual representation: by works council + trade union</b>
<ul style="list-style-type: none"> <li>Estonia (general practice, but new law 2006, s. 3.)</li> <li>Latvia (general practice, but new law 2002, s. 3.)</li> <li>Lithuania (general practice, but new law 2005, s. 3.)</li> <li>Poland (until 2006, exceptions were public corporations)</li> </ul>	<ul style="list-style-type: none"> <li>Czech Republic (as from 2001)*</li> <li>Lithuania (special law in 2005)*</li> <li>Poland (2006 law: works councils in companies as from 50 employees possible where there is no trade union representation)*</li> <li>Rumania (from 2003 or 2007: works council where there is no trade union representation)**</li> </ul>	<ul style="list-style-type: none"> <li>Hungary (as from 1992)</li> <li>Slovenia (as from 1993)</li> <li>Croatia (as from 1996)</li> <li>Latvia (2002 law, rarely applied)**</li> <li>Slovakia (as from 2003)</li> <li>Estonia (as from 2007, rare)**</li> <li>Bulgaria (as from mid-2006, still extremely rare)***</li> </ul>

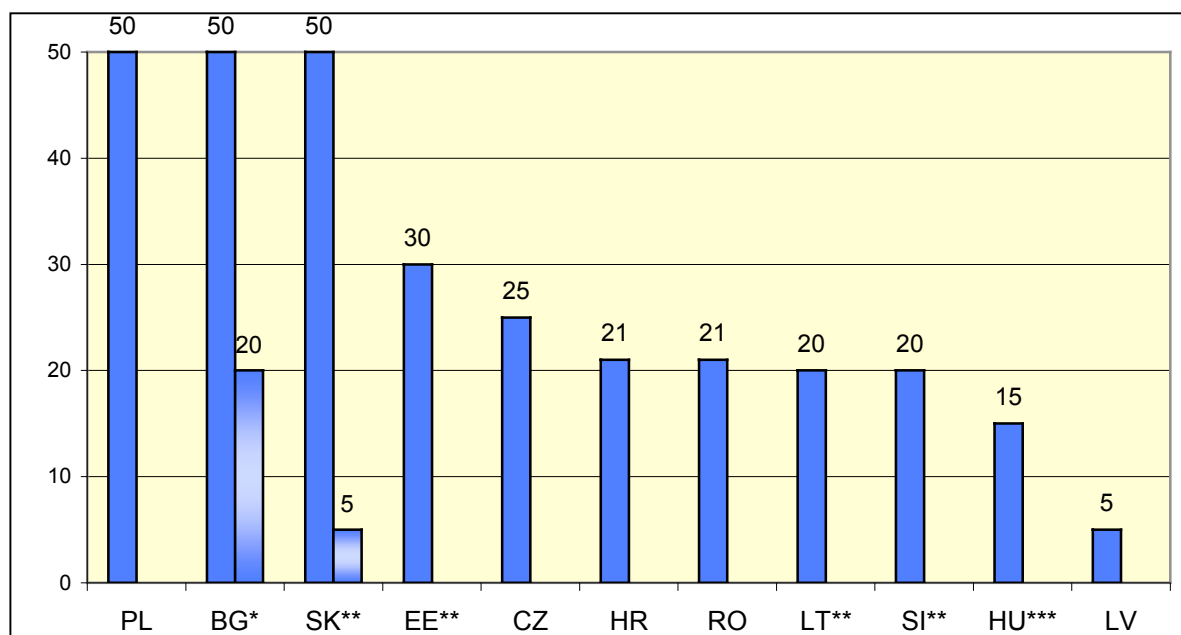
\* In the Czech Republic, Lithuania and Poland, works councils may only operate when and for as long as there is (still) no trade union representation in the company ("Czech model").

\*\* In Latvia, Lithuania, Estonia and Rumania, works councils also have the right to conclude collective agreements, in the Baltic States also to take industrial action where applicable.

\*\*\* Employees can elect a special representation board to exercise their information and consultation rights; as from 50 employees this can also be in addition to an existing trade union representation.

A further significant problem of the freedom of association is the statutory requirement for a specific size to establish works or employee councils, which is another clear disadvantage for those working for SMEs (see Fig. 8).

Figure 8: Minimum number of staff to establish a representation body



\* A consultation body can be created as from just 20 employees in branches of an enterprise.

\*\* Below this size: 1 representative of employees (in SK: minimum number five employees); in EE, however, without full information and consultation rights (the latter also applies in CZ if there are fewer than ten employees).

\*\*\* 1 staff representative; works council with more than one representative only as from 51 employees.

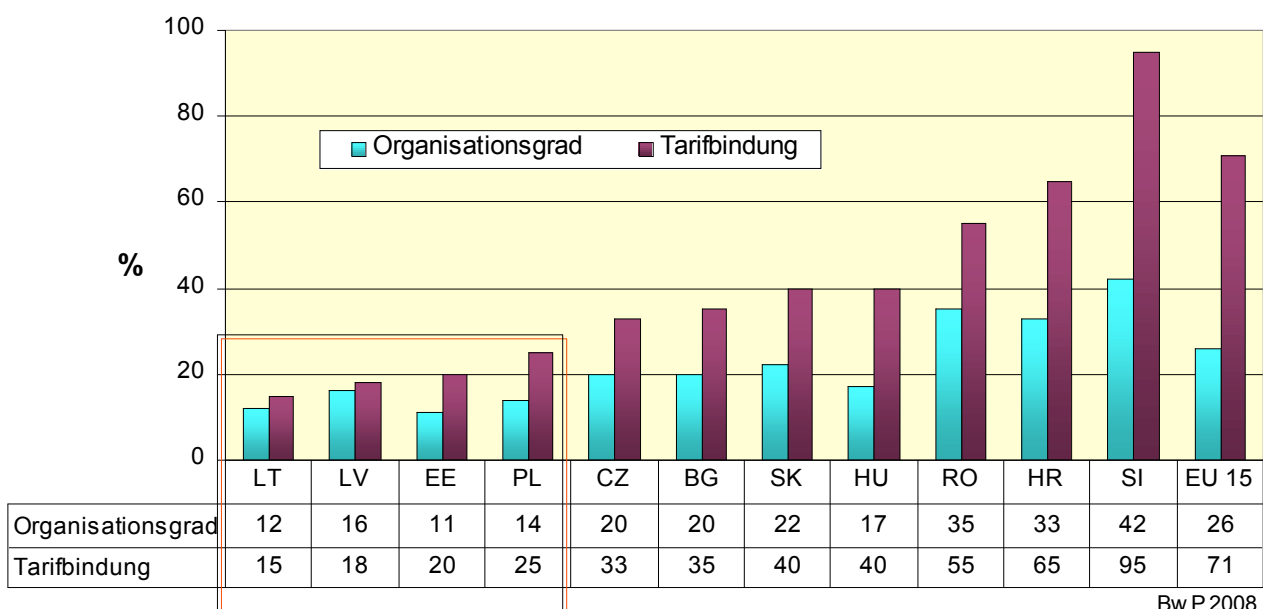
### III. Collective bargaining law and distribution policy

Since collective agreements in Eastern Europe are predominantly concluded at company level (with the exception of Slovenia and to a certain extent also of Slovakia, Rumania and Bulgaria), the setting up of trade unions at the primary level is once again a crucial criterion for exercising the right of association; this then has decisive consequences for the material results of distribution policy.

In turn, statutory regulations come into play when it comes to the question of the ability of the trade union to conclude collective agreements as a *bargaining party*. These regulations demand that representational requirements be complied with in the form of a minimum number of members among employees. Alternatively, as in Hungary, they stipulate the indirect authorisation of the negotiating party based on the results of the last works council elections (i.e. a vote of >50% or in the case of several trade unions of at least 65%).

Countries with private sector wage bargaining exclusively at company level (see the countries framed on the left hand side of the graph in Fig. 9) exhibit a lower rate of collective bargaining coverage than countries which conclude or which primarily conclude industry-wide collective agreements. Depending on the national legal practice, coverage through a collective agreement is significantly extended by universal applicability clauses, such as those contained in industry collective agreements declared by the Ministries of Labour in Slovenia and Rumania in particular as well as in the Czech Republic and Croatia and occasionally also in Hungary, and which affect all employers in the same industry.

Figure 9: Share of workers covered by collective agreements



#### Groups of workers not covered by negotiations

Aside from the problematic exclusion of many employees in SMEs for whom there is no trade union representation to conclude collective agreements due to their size, many workers *in the public sector* in Eastern Europe are disadvantaged by a range of restrictive legal provisions. Sometimes civil servants are excluded from collective bargaining, as are

government employees. In Croatia, for example, agreements on basic salary are possible, but not on other salary components; in Hungary wage settlements in public institutions are only permissible where over 25% of the respective employees there are members of the negotiating trade union. In the Czech Republic, the matter of public sector salaries was totally excluded from collective bargaining until 2007.

#### IV. Legally restricted strike action

Industrial action is an indispensable weapon of last resort for trade unions trying to conclude a collective agreement. This much needed pressure was frequently deployed shortly after the fall of the Iron Curtain, but has apparently become blunt in recent years as can be seen from the record of strikes in Eastern Europe, particularly in the private sector. In addition to the decrease in unionisation, the in some countries extremely restrictive strike legislation also constitutes a significant reason; the pertinent ILO committees (the “Committee of Freedom of Association”) have already been called on to act on a number of occasions.

To suppress what are feared to be excessive strike practices, some countries have a broad range of administrative hurdles and openly expressed bans (see Figure 10).

Figure 10: Rules to restrict industrial action in CEECs

	<i>Exclusion of employee groups</i>	<i>Legal provisions</i>
Estonia	Civil service (state/municipalities), armed forces	Prior notice: 7 days Works council may have right to strike
Lithuania	Electricity services, military personnel Heating and gas supply (until 2005) Widespread strike in an industry legally virtually impossible	2/3 vote of participating staff Prior notice: 7 days In many “significant” supply and service areas 14 days (plus guarantee of an emergency service)
Latvia	Police officers and security forces, border patrol and those belonging to the armed forces “Substantial service and supply areas” (guarantee of an emergency service required)	3/4 vote of staff Prior notice: 10 days Strike because of breach of contract permitted State can prohibit strike Works council may have right to strike
Poland	Civil service (state/municipalities): only protest action or demonstrations possible; so-called “significant” services”, those working for the armed forces, police	Prior notice for demonstrations 30 days, also safety measures and observation of road traffic regulations Strict sanctioning of illegal strikes
Czech Republic	Supply-relevant areas (mineral oil, gas pipelines etc.), security services, members of the armed forces Significant health services or telecommunication institutions	Strike ballot of >50% of workers in companies or industry (from 2007: at least 50% of those entitled to vote) as well as positive vote of 2/3 of those participating List of those prepared to strike sent to employer (until 2006), now only the number Strike not permitted for breach of contract
Slovakia	Supply-relevant areas (distribution of mineral oil, gas etc.)	Strike for disregarding provisions of the collective agreement permitted
Hungary	Restrictions for extensive areas of the civil service (according to the agreement with trade unions in 1994)*	Industrial action for the continued applicability of a collective agreement and specific types of strike not permitted; reprimands possible

Slovenia	No formal restrictions, only guarantee of essential services	Merely proceedings for disregarding the principle of negative freedom of association
Rumania	Restrictions for workers in health, education and communication sectors (radio and TV), in traffic services, gas and electricity supply (emergency service of at least 1/3 of staff necessary)	Notice of 48 hours before strike begins, vote of 50% of members or ¼ of staff sufficient; strikes often declared unlawful and suspended by courts for formal reasons Public enforced arbitration possible
Bulgaria	Civil service (only protest allowed); postal services, trains (see right) Energy supply, communication and health services (until 2006)*	In the case of trains a minimum service of 50% must be maintained; this is the subject of criticism of excessive measures on the part of the ILO
Croatia	Restrictions in civil service for the police, train staff, post, telecommunications, health service	Strike only possible where a collective agreement has expired.

\* Criticised by the Council of Europe due to infringement of the European Social Charter

#### V. Regulations for workers not covered by collective agreements

Where no collective agreements exist or where existing sectoral agreements have not achieved general validity for all employers in an industry due to the decision of the Ministry of Labour (declaration of universal applicability), the only measure remaining for staff is that of individual contracts of employment and thus in general merely the legally fixed minimum wage. At best, the level of this is 50% of the average income in a country, but in Eastern Europe it is usually far less than that (Figure 11).

Figure 11: Ratio of the minimum wage to the respective average national income

30 – 35%	35 – 40%	41 – 46%
Rumania	Poland	Bulgaria
Latvia	Hungary	Estonia
Lithuania	Czech Republic	Slovakia
	Croatia	Slovenia

However, when estimating further development it should be noted that recently and especially in 2008 there have been disproportionate rises in minimum wage particularly for CEE countries occupying the lower income recipient segment in an EU comparison. Compared to last year's figures these were as follows:

Latvia	+32.8%
Rumania	+28.2%
Bulgaria	+22.2%
Estonia	+20.8%
Poland	+20.2%
Lithuania	+16.7%

These very high adjustments for the lowest incomes on the periphery of North-Eastern and South-Eastern Europe can be primarily attributed to the clear necessities of an ever more noticeable *shortage of skilled staff* in these countries.

In Bulgaria and Rumania, a good fifth of potential employees work outside the country. In the Baltic States, the departure of numerous nurses and doctors has already left significant gaps in health care. It was thought that this negative trend can only be countered by raising the minimum wage for health care employees in 2007 by 25% and in 2008 by a further 20%. Bottlenecks in parts of labour markets have also been seen in Poland. Against this background, the government recently announced its willingness to increase civil service salaries by between 9 and 10% in 2008.

## **VI. Enforcing workers rights and the right of association**

It is generally recognised that it will take several more decades to complete the process of pan-European convergence of wages and working conditions which is a substantial prerequisite for tackling constant social dumping in the old EU countries. Its speed firstly depends on the economic framework conditions of each country. Growth and productivity have developed rapidly in Eastern Europe over recent years, especially in the above-mentioned outer geographical zones. Nevertheless, the extent to which the economic room for manoeuvring and distribution can be utilised in future is a question influenced by the actions of social and collective bargaining partners and the respective type of remuneration and distribution policy. Therefore the right of association practised and actual potential for implementation of trade union rights come to the fore again.

Apart from their legal definition in written law, the implementation and enforcement of basic rights of workers and unions as defined by international minimum standards always depends on the existence and efficiency of the following essential actors and situations:

- ◆ **Representation of interests** close to the workplace with guaranteed competencies
- ◆ The action of institutions to **regulate individual and collective conflicts** (joint arbitration committees with neutral chairpersons, mediation, conciliation, settlement and arbitration proceedings)
- ◆ Adequate **labour inspection** with effective enforcement and sanctioning options
- ◆ A **specialised industrial tribunal system** with fast decisions when legal rules are infringed, where possible involving representatives from both sides, e.g. using lay judges or assessors, and the unrestricted execution of any legally binding judgements.

Despite the fact that there has been universal demand from trade unions for this strategic legal lever (which is decisive for inspecting and hence raising working standards), with the exception of the practice now shown to be effective in Hungary and Slovenia, the governments concerned have constantly resisted its creation for fiscal reasons. This is a huge hurdle for the development of regulated industrial relations.

While there is no provision for special industrial tribunals with several instances, linked to the possibility for pre-judicial arbitration, or at least providing special divisions for labour matters within ordinary courts, the following shortcomings consistently cited in a survey of lawyers and trade union experts in the CEECs will persist:

- Duration of proceedings of up to three years or more remain without effect as a deterrent and do not constitute a reasonable solution for pending proceedings under labour law; there is a widespread “excessive backlog” here (according to the ECJ).
- Judgements that have been pronounced are not respected by the defendant and their execution is not enforced. The latter may also apply to actions for wrongful dismissal of trade union members or union officials, when the obligation to reinstate the person is ignored or merely often settled with severance payments.
- Orderly courts are often biased towards employers (“economic arguments and interests take priority”); they certify a legal dispute as having “a lack of social relevance” or the fines they hand out are too low.

- Trade unions furthermore complain of a lack of the right to representation and legal action in the case of individual proceedings for infringement of rules under labour law.

In Germany, for example, over half a million cases are filed at industrial tribunals each year. More than half of all disputes, predominantly dismissal and remuneration problems and questions of codetermination of employee representatives, are resolved through the parties arriving at a compromise at the pre-judicial stage rather than through a court judgement. In addition to professional judges there are lay judges for both the employer and trade union side. This means that enforcement is relatively prompt in the case of infringements. The average duration of proceedings is seven months, with a further twelve months added if there is an appeal to higher instances.

In relation to the need to further assert employee and trade union rights, the following principal deficits in Central and Eastern Europe exist:

- The practical obstacles and restrictions to the freedom of association (to join and operate a trade union, exercise the right to strike and necessary leverage against infringements of existing collective bargaining standards)
- Blatant gaps in company-level representation and the associated deficiency in collective bargaining practice
- Often unsatisfactory checks by the labour inspectorate as a consequence of both a “lack of commitment” and personnel and due to insufficient possibilities for sanctions, despite a large number of repeated infringements of existing regulations.

## **VII. Consequences for EU integration and the European social model**

The now largely completed process of transformation of former socialist states and their integration into the EU has led to the creation of a new type of industrial relations in Eastern Europe. This cannot be completely assigned to any of the previously dominant models in Europe: not to the North European/Scandinavian, the Central European, Roman or the Anglo-Saxon model, although there are several parallels to the latter. By contrast to the determining and constitutive trends of the EU social model in Western Europe, this can be defined by the following features (see box).

## Industrial relations in Eastern Europe and core elements of the EU social model

<i>Eastern Europe</i>	<i>Western Europe</i>
<ul style="list-style-type: none"> <li>▪ Industrial relations are of an “etatist” nature: tripartism plays an important role, in particular using the minimum wage as a substitute for collective agreements.</li> <li>▪ Collective agreements take place primarily at company level since employers refuse alternatives and strikes do not give trade unions sufficient power.</li> <li>▪ The presence of trade unions in companies is very patchy.</li> <li>▪ A wide range of laws tends at times rather to constrain trade unions than support them, especially since legal enforcement is extremely limited.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The state largely abstains from intervention in social dialogue. It tends instead to correct existing imbalances through regulation.</li> <li>▪ Collective agreements are concluded autonomously primarily at industry level. Strikes as a means of last resort may help to bring about a compromise.</li> <li>▪ Presence of trade unions in companies is supplemented by works councils.</li> <li>▪ The statutory framework gives social dialogue actors the necessary freedom to manoeuvre, while industrial tribunals enforce standards in the case of conflict.</li> </ul>

The question arising in view of this situation is the extent to which the major elements of the European social model will be able to make an increasing impact on the industrial relations in Eastern Europe in future, or whether a negative scenario results in which these elements come under pressure from global neo-liberal deregulation and lose some of their creative power. This would then challenge the concept of a “social Europe” which has already been burdened by certain positions adopted at EU level and in particular by the most recent decisions of the ECJ which prioritise market freedoms over fundamental social rights. This is to say nothing of the as yet hardly foreseeable consequences of the current global economic crisis.

If during initial transformation a “pull effect” upwards was noticeable or at least hoped for as a result of orientation towards Western European working standards, a reverse trend has since become apparent in the course of numerous business relocations: with reference to the lower CEEC standards and the distortion of competition through tax and social dumping, there has been effective downward pressure on existing industrial relations and collective bargaining standards throughout the entire EU.

This means the socio-economic convergence process is also moving in the wrong way. It is slower than is economically possible because of deficiencies in industrial relations structures. In the medium and long term, the solution to obvious discrepancies between Eastern and Western Europe can only consist in accelerated convergence and thus further integration within the framework of an enlarged Europe. A prerequisite of this is the more forceful promotion of industrial relations in Central and Eastern Europe and the development and greater use of national and transnational participation structures. In concrete terms this means:

- An urgently needed extension of social dialogue in companies and enterprises in accordance with the EU Information and Consultation Directive: crucial precondition of this is the setting up of a body representing interests in all companies including the ever increasing number of SMEs.
- It is equally important to maintain an intensive international exchange of experiences also after the accession phase through internships, joint seminars and training



courses (including those in negotiation skills) as well as reinforced cooperation in the existing European works councils, the cross-border interregional trade union councils and within joint campaigns conducted by the ETUC.

- These can also be expected to produce new impetus for successful image campaigns and canvassing of new members using Western experiences of organising methods.
- Transnational collective bargaining coordination is indispensable for maintaining standards, especially in critical times. So is an appropriate distribution policy (see the example of the “Viennese memorandum” with its collective bargaining coordination between the Central and Southern European trade unions of the metal industry in Austria, the Czech Republic, Slovakia, Slovenia, Hungary, Croatia and the Bavarian IG Metall, including seminars, campaigns and public demonstrations).

With respect to long-term forecasts for convergence, the EU Commission has established that Slovenia, for example, will catch up with the average income per capita in the EU within the next 15 years if previous trends continue. By contrast, this target margin would only be possible in three to four decades for the areas on the periphery of the EU in South-East Europe, the Baltic States and in Poland.<sup>3</sup> However, recent observations suggest that the labour market bottlenecks in sub-areas of the labour markets in these countries caused by sustained migration may well serve to considerably accelerate the pressure to converge to the EU level.

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<sup>3</sup> EC, Enlargement, two years after, Brussels 2006

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Re P. 1, Fig. 1:

*\*Country abbreviations:* BG=Bulgaria; CZ= Czech Republic; EE= Estonia; HR= Croatia; HU= Hungary; LV= Latvia; LT= Lithuania; PL=Poland; RO= Rumania; SI= Slovenia; SK= Slovakia; EU 15= EU Member States up to 2004; AU= Austria; DE= Germany; DK= Denmark; SE= Sweden

**Ernst Kistler, Georg Michenthaler, Frank Mussmann**

For More Quality of Work in Europe

More and better jobs – there are clear signs that, in some countries at least, insufficient attention is being paid to the latter goal of the European Employment Strategy (EES). "Good work", or "decent work", as it is called in the ILO Declaration, however, has its own inherent value. It is an inherent and inalienable goal (European Convention on Human Rights). And in the meantime, there is not only sufficient scientific evidence to establish that good work is also of instrumental significance within the meaning of a crucial prerequisite for the innovativeness and competitiveness of companies and economies, a central precondition for inclusion and, ultimately, also for democracy.

As emphasised by the European Commission itself in its 2007 and 2008 Employment Reports, the aspect of work quality in European employment policy and in many member states has come second to creating jobs at almost any price ("jobs, jobs, jobs"). Here, the fact has been and continues to be overlooked that precarious employment or bad working conditions are often not only less inclusive and less sustainable but can even go as far as adversely affecting the employability of the workers affected and promote their exclusion from society. A differentiated approach to reporting on work quality, in contrast, would take on the function of revealing deficits and negative external effects of the economy while also laying the foundation for preventive orientation.

This is not only an important objective in the interest of workers in atypical jobs, but to all employed persons: even among those ostensibly unaffected, precarious working conditions and wage dumping and a widespread fear of redundancy lead to stress levels that extend as far as psychosomatic disorders. Conditions of this type, however, are not a conducive basis for motivation, productivity and innovation. As such, companies themselves benefit from investing in improved work quality. Good work also pays off for them, too.

In view of demographic change, these arguments gain additional importance and produce immediate pressure to act. Given the imminent sharp rise in the number and

proportion of older persons in gainful employment (the baby-boomers are gradually entering this age bracket), age-compatible and ageing-compatible work is now on the agenda – i.e. conducive working conditions for older persons and preventive quality improvements also for the younger age groups.

Essentially, it is a question of the working capacity and the employability of the active population, of the jobless and of the hidden reserves. In this context, central sub-goals or fields of action regarding working capacity are a) the maintenance and promotion of skills, b) health prevention, including occupational safety, as well as c) aspects of motivation (management, remuneration) and work organisation. However, employees' ability to work is only a necessary and by no means a sufficient condition for their employability. In addition to this, the labour market must be receptive and employers also willing to employ or take on all age groups without discrimination – including both genders, ethnic minorities etc. This is where legal instruments alone, such as discrimination bans and equal opportunities laws, are not enough. Particularly in view of the high degree of group specificity underlying the subject of work quality, a labour-market report must also be an analysis of legal facts.

In respect of a number of important aspects of good work (e.g. life-long learning, psychic burdens, "working poor"), results from Eurostat (the Statistical Office of the European Communities) and the European Foundation in Dublin along with a number of national findings show working conditions to be improving hardly at all and, for some sectors in a number of countries, even clearly deteriorating. Viewed overall, increasing productivity and changes in the economic and employment structure have the combined effect of being less integrative (within the meaning of the European Employment Strategy) and also cost-intensive (particularly from the aspect of shifting costs to the social welfare systems).

Stagnating and, in some cases, even dwindling endeavours on the part of companies to train, a high number of "working poor", a rising share of precarious employment and an altogether endemic spread of work intensification and pressure are examples of such undesirable developments – in a number of member states. Giving priority to boosting rates of employment, a high price is paid for many an "employment success story" without paying attention to the quality of these new jobs.

It must also be remembered in this context that the quantitative measurement of employment or unemployment and the associated statistics must, in part, be severely criticised – both at international and national level. Meanwhile internationally

accepted, the definition of employment (any paid work for one hour or more per week) is one such example if it neglects the level of payment and working conditions.

Above all, however, the lack of valid representative information in most countries and at European level on the trend underlying working conditions is shown to be increasingly problematical. The subject of work quality plays far too small a role in the European and national systems of social indicators and in the social reporting systems. In terms of the European Employment Strategy for increasing the quality of work, improving the information base is a necessary requirement for any purposeful policy and for future-directed action, not least on the part of the company-level stakeholders.

For these reasons, unreserved support must be given to the demand by the European Economic and Social Committee to improve ongoing reporting on work quality or for an index on the quality of employment in Europe respectively. Preliminary studies in this regard as well as a number of elaborated instruments are now in hand at international level (e.g. ILO, ETUI-REHS, UNECE/ILO/EUROSTAT Task Force on the Measurement of the Quality of Employment) and from individual member states (e.g. Austria, Germany, Finland). Brief examination of these measurement and indicator systems shows: there are several options for differentiating and structuring the levels of coverage as well as for constructing composite indicators. It is possible, for example, to collect data on work satisfaction at various levels of detailing. Another approach – also with the possibility of varying differentiation – is to obtain descriptions of working conditions from those affected<sup>1</sup> and to record the types of stresses they cause. In principle, it is also possible to channel "objective" information, such as unemployment rates, frequency of work accidents etc. into an index system or aggregated index.

All of the examples and attempts stated so far are of value in terms of developing a practicable and beneficial reporting and indicator system reflecting the reality of working conditions in Europe – discussion is not starting from scratch. The examples of the "Work Climate Index" compiled by the Upper Austrian Chamber of Labour and

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<sup>1</sup> As important as expert ratings are at the level of company analyses – e.g. in providing a differentiated assessment of the risks associated with specific jobs – as the basis of representative statements on the quality of work in a country (industry or region etc.), they are equally unsuitable as the sum of non-randomly (randomised) selected company-level surveys. Rating by the individual of the quality of his or her own working conditions is a data base that must not be neglected.

the "Good Work" Index of the German Confederation of Trade Unions (DGB) are to be taken here as the basis for briefly explaining a number of important questions which – also in relation to the index calculations recently presented in the 2008 Employment Report – must be discussed and answered in the context of achieving informative reporting on employment quality in Europe.

The Austrian Work Climate Index is essentially based on around 4,000 representative personal interviews conducted each year among employed persons in quarterly survey cycles each covering 1,000 respondents. Migrants with knowledge of German sufficient for an interview are included. Recently, the sample was also extended to cover self-employed categories, such as self-employed service providers. Two survey cycles are taken as the basis for calculating a half-yearly index. The questionnaire contains 25 index-forming questions. Apart from covering sociodemography, it also asks a number of questions on more or less changing issues as well as company-related and personal background questions for differentiated evaluations. The hierarchically structured index is aggregated on a weighted basis from the 25 basic indicators into 16 subdimensions and four index components (society, company, job and expectations). The index was calculated for the first time in 1997. Uninterrupted between 1997 and December 2008, a time series has been produced with a total of 25 measuring points. In addition to publishing the actual results of the index, special theme-related reports are brought out and other monitors (e.g. executive-staff monitor, work health monitor) tested or in some cases compiled together with the Work Climate Index as a permanent addition to it. Furthermore, a set of indicators has been developed to ascertain "resigned work satisfaction", this being used on a case-to-case basis for estimating the resignation components of high work satisfaction despite unfavourable objective working conditions.

Highly frequent reporting with quarterly press conferences that can address current work-related issues, as well as accessibility to the index values on the website of Upper Austria's Chamber of Labour ([www.arbeitsklima.at](http://www.arbeitsklima.at)) with its own evaluation options is the basis for the high level of response from the media and acceptance of the Work Climate Index by the experts.

Several employee surveys in prominent Austrian companies are meanwhile based on the concept of the Work Climate Index and, by correlating them with external

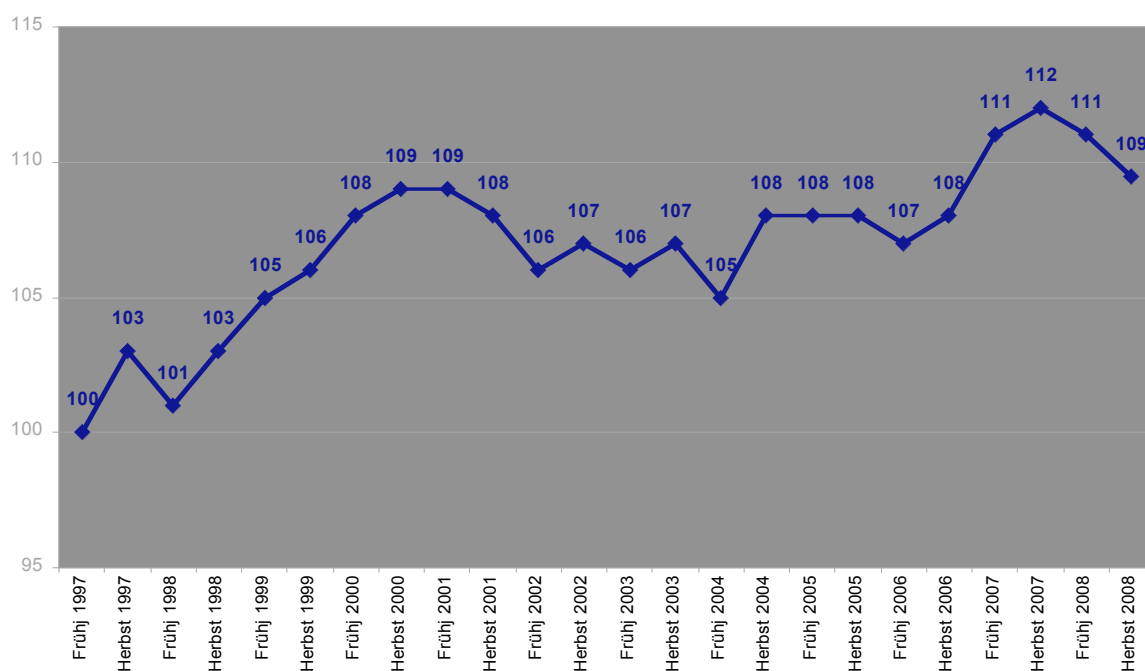
reference data, provide new insight into the subjective perception of the corporate work environment.

The analyses are based on cross-sectional and longitudinal comparisons of index values at different levels of aggregation. The findings they are capable of revealing, however, extend much further, as will be illustrated in a second step using a small example of the effects the existence of works councils have on the quality of work.

### Trend in the Austrian Work Climate Index Since 1997

Between 1997 and 2000 – corresponding to the improved labour market situation – a constant improvement was ascertained in the working climate. Following a period of stagnation lasting until early 2006, the work climate is seen to improve again up to the autumn of 2007. The last measurement periods of 2008 now show a marked fall in the working climate – with the threat of a deep-seated economic crisis resulting from the collapse of the world's financial system (cf. Diagram 1). This being so, the percentage share of those who are "very" or "rather" optimistic about Austria's economic future fell significantly from 81 per cent to 72 per cent between spring and autumn 2008.

Diagram 1: Trend in the Austrian Work Climate Index (normalised overall index) 1997-2008

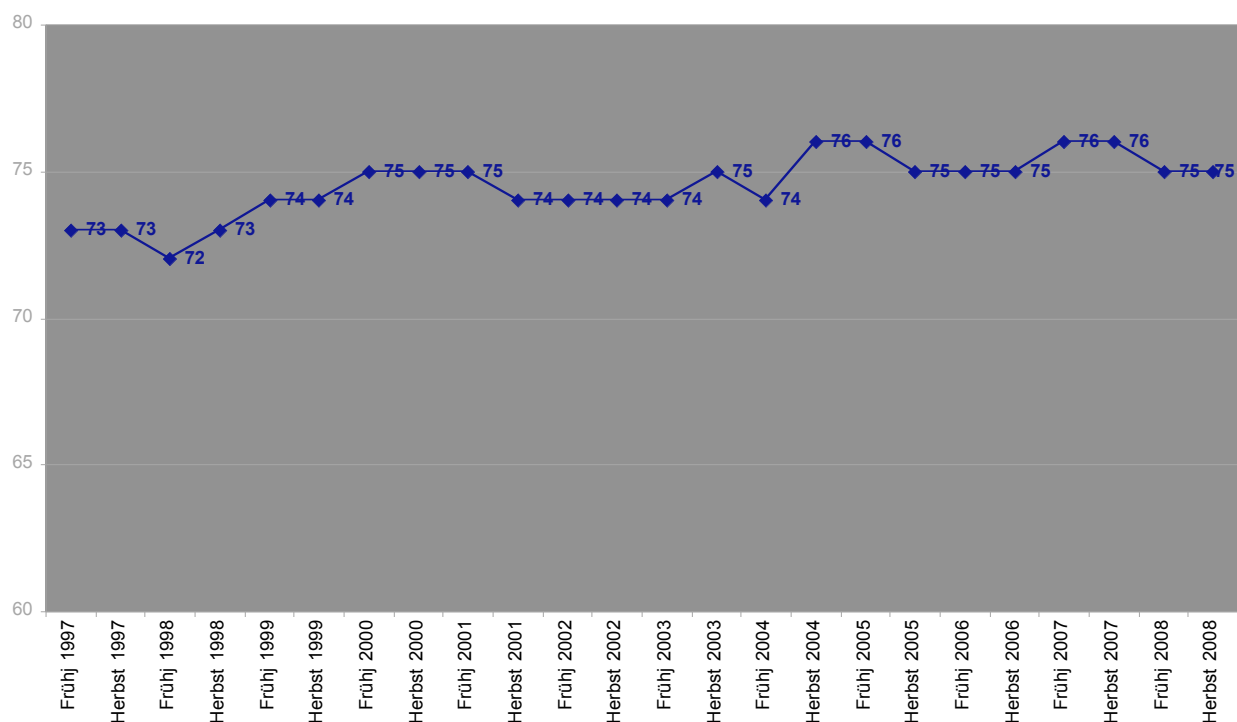


The "Society" and "Expectations" sub-indices of the Work Climate Index are governed to a considerable extent by the general labour market situation and economic cycle and thus undergo greater fluctuations over time. The former ranges more or less between a low of 57 index points in spring 1997 and a high of 70 points in autumn 2007. A similar pattern is established for the "Expectations" sub-index which falls to 49 points in the springs of both 1997 and 1998 and reaches a maximum of 59 in the first half of 2007.

Over the course of the last decade, the "Company" and, in particular, "Work" sub-indices were also seen to undergo minor fluctuations. The former reflects the way in which individuals perceive the economic prospects of their own company, their satisfaction with the style of management, with the company's image as well as with their social benefits. The lowest value was 68 in the springs of both 1997 and 1998, the highest at 75 during the course of 2007 as well as in spring 2008.

The high level of significance attached to "Work satisfaction" in constructing the Work Climate Index in the narrower sense is underscored by the fact that the "Work" sub-index is represented by 15 of the 25 individual indicators and also goes into calculating the overall index with a weighting of 40% as opposed to only 20% in the case of each of the other sub-indices.

Diagram 2: Trend in the "Work" sub-index from 1997-2008





The fluctuations in the "Work" sub-index observed in the period from 1997 to 2008 remained within a narrow bandwidth from a minimum of 72 to a maximum value of 76 index points (cf. Diagram 2).

The fall in the "Physical stress" subdimension from 29 to 23 index points in the long-term comparison between 1997 und 2007 is striking. Innovation-linked stresses were also significantly lower towards the end of the observation period than they were when measurements began. The first finding reflects, among other aspects, structural changes in the world of labour of the last decade when the share of physically strenuous manual work activities declined in favour of white-collar activities. The lower level of innovation-related stress, in turn, must be seen in connection with the onset of "normalisation" after an intensive phase of liberalisation and privatisation in the Austrian economy of the late 1990s.

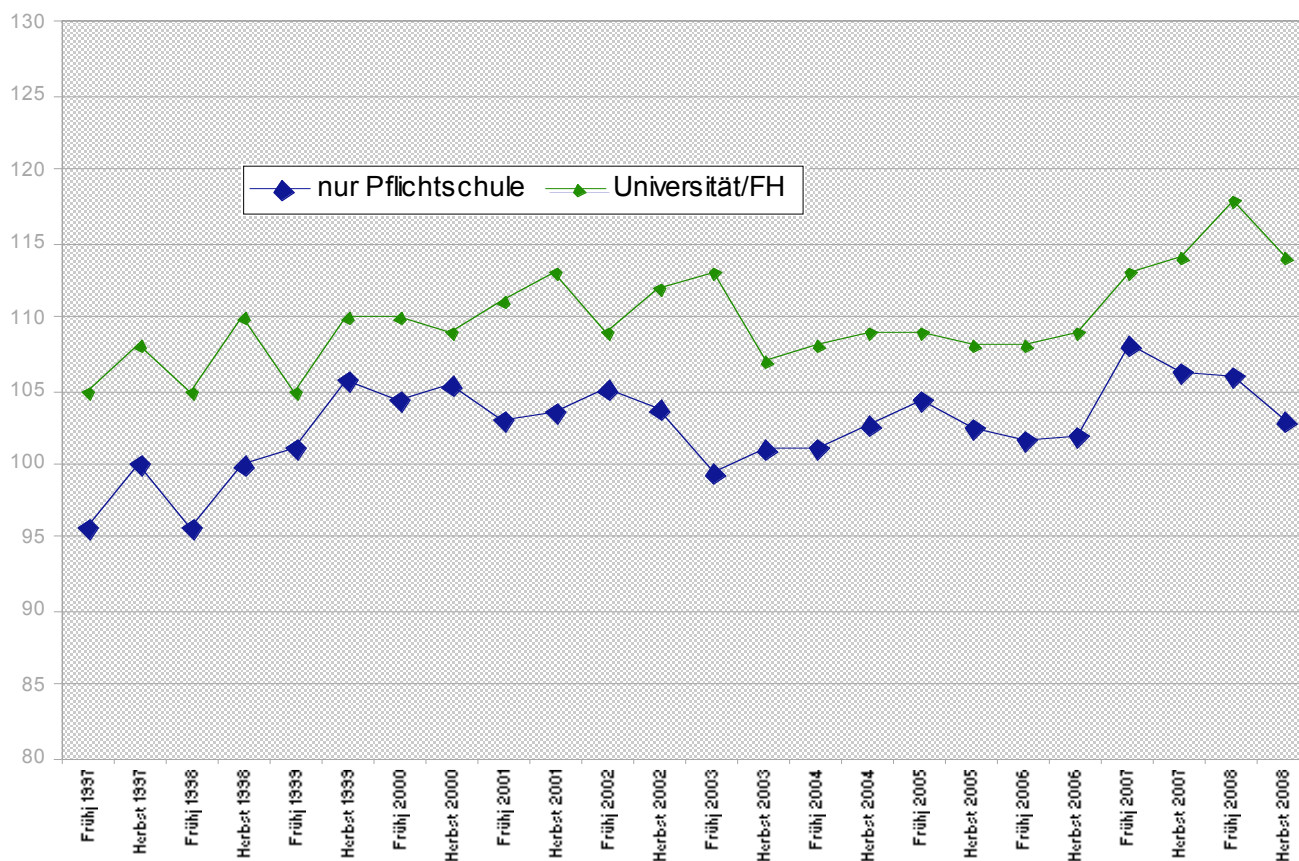
Seen in context, a number of detailed results of the Work Climate Index over the course of the last decade illustrate the altogether successful strategies companies have pursued in harmonising work satisfaction – and thus motivation and productivity – with the demand for profitability and competitiveness, i.e. low labour costs, wherever possible:

For instance, long working hours and increasing work intensification in numerous employee groups – particularly those of qualified employees – does not necessarily lead to subjectively higher stresses from pressure of time. Broader decision-making latitudes and greater working-time autonomy – through to a tendency for working time and leisure time to overlap –, supported by management concepts based on self-control, are possible explanations of the fact that, despite an objective "acceleration" observed everywhere in the world of labour, subjective stress from time pressure even fell slightly in the ten years after 1997 and that satisfaction with management style today is significantly higher.

Conversely, it is also characteristic that – alongside numerous upwardly pointing indicators in the Work Climate Index – subjective satisfaction with income has stagnated since 1997 and, even at the time the overall index reached its zenith in spring 2007, never moved beyond the 1997 starting level.

Formal qualification is shown to be a key criterion for the subjective work climate in constructing the Austrian Work Climate Index: The higher the level of employee training, the lower specific stresses will normally be, particularly those of a physical nature, and the higher numerous satisfaction indicators will be, this being reflected in the level of sub-indices and overall index.

Diagram 3: Trend in the Work Climate Index based on formal qualification from 1997-2008



As shown in Diagram 3, employees with only a compulsory school-leaving certificate (blue line) exhibit a Work Climate Index some 4 to 12 points lower than those with an academic qualification (green line) at all stages in the period under review. Whereas the difference in the periods of a general rise in 2006/2007 merely accounted for between 5 to 8 index points, the period of decline shows a spread of 11 to 12 index points. While from spring 2007 to autumn 2008, the working climate of academics even rose by an additional point (from 113 to 114), that of the lowest qualified group fell by 5 index points (from 108 to 103) over the same period.

Since measurements began, however, an increasing spread is being observed in the values measured between the different employee groups.

### Effects of the Existence of Works Councils

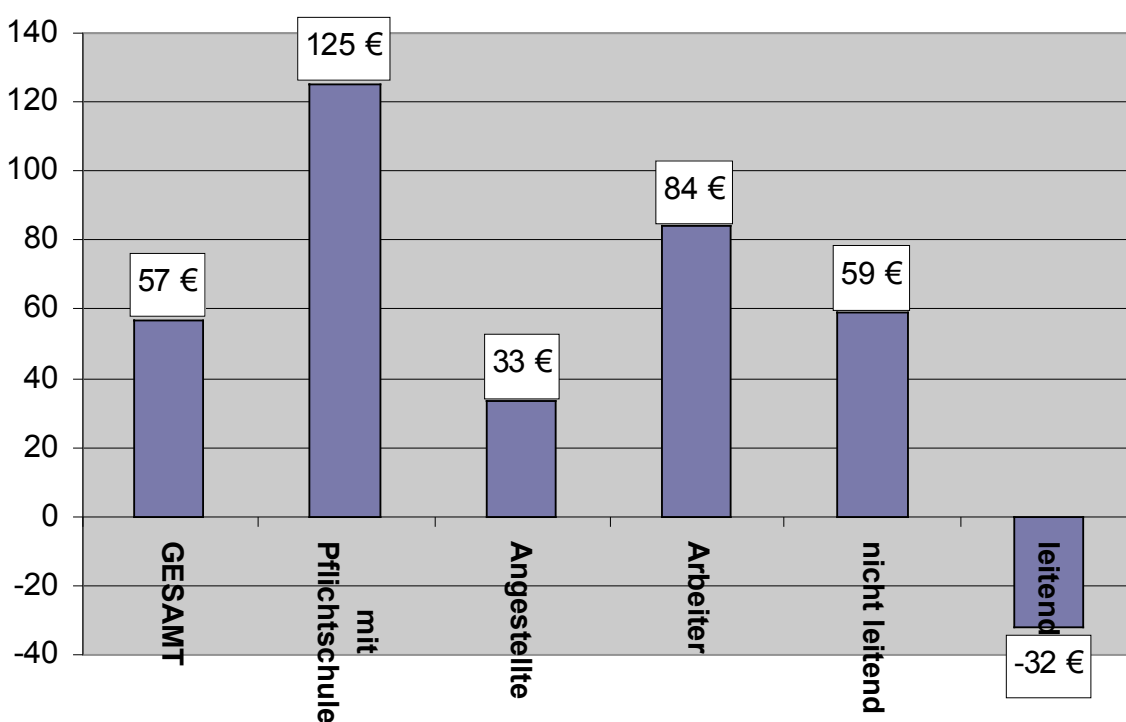
Using just one further example from the many cross-sectoral thematic analyses of the last decade, the versatility with which the Austrian Work Climate Index can be applied is now illustrated in respect of a general reporting system for promoting "good work":

The question to be analysed was that of the correlation between the existence of works councils and working conditions at the companies concerned. The secondary statistical analysis from the extensive pool of data provided by the Work Climate Index is based – using selected indicators – on a comparison of private enterprises of the 20 – 99-employee category with an approximately equal spread of such with and without company-level employee representation.

Works councils were shown to have a moderating influence at various levels: both subjective job security as well as average length of service was significantly higher in those companies with works councils, remarkable differences also being revealed in the level and spread of income:

At private enterprises of the stated size with works council, employees on average earned € 57 a month more between 1997-2005 than those without representation. This difference could still be explained by the longer periods of service – not however the far lower spread in wages also observed: for instance, persons with only a compulsory school-leaving certificate in companies with employee representatives even earned € 125 more – compared with the reference group – executive employees on the other hand € 32 less (cf. Diagram 4).

Diagram 4: Average monthly net income of employees in private enterprises with 20 to 99 employees with works council compared with those without works council (cumulated values 1997-2005)



The example of the Austrian Work Climate Index with its quarterly representative surveys and regular public presentation and discussion impressively demonstrates the "political" value of such an instrument – also for Europe:

With the evaluations from the constantly growing stock of data and its extended content being up to date and relevant, the Austrian Work Climate Index has meanwhile become a generally acknowledged standard instrument for describing the world of labour in Austria.

At the same time, the Work Climate Index – albeit scientifically founded – is by no means unbiased but explains and argues from a clearly positioned interest in which work satisfaction – resulting from good working conditions – is a value in itself and not primarily a means of boosting motivation and productivity.

This humanistic approach also involves giving back work its actual significance as source of human development – in addition to being a purely material means of securing livelihoods. This too can be achieved with an indicator system that provides a true reflection of reality. The focus, however, is on the very important and indispensable task of pointing to the dark sides and thus generating political pressure for corrections.

### **The German DGB Good Work Index**

Since 2007 the German Confederation of Trade Unions (DGB) has published the Good Work Index based on around 6,000 written interviews conducted by mail among gainfully employed persons (able to answer in German). The Access Panel of TNS-Infratest Sozialforschung provides the basis for selecting representative respondents. In addition to covering sociodemography, the questionnaire contains 31 index-forming questions. These are aggregated into 15 index dimensions and three sub-indices (stresses, resources, income/security) as well as ultimately into an overall summary index. The hierarchical structure of the index produces an indirect weighting. All questions forming the basis for the index are consistently formulated so as to obtain a subjective description of an employee's own workplace by that employee and establish the stresses resulting from it for and registered by the employee. In addition, the six-page questionnaire contains further questions – not entering the index – relating to a more complex measurement of work satisfaction, to the expectations of employees on good work (according to the 15 index dimensions) as well as questions, changing in yearly modules, on specific work-related issues

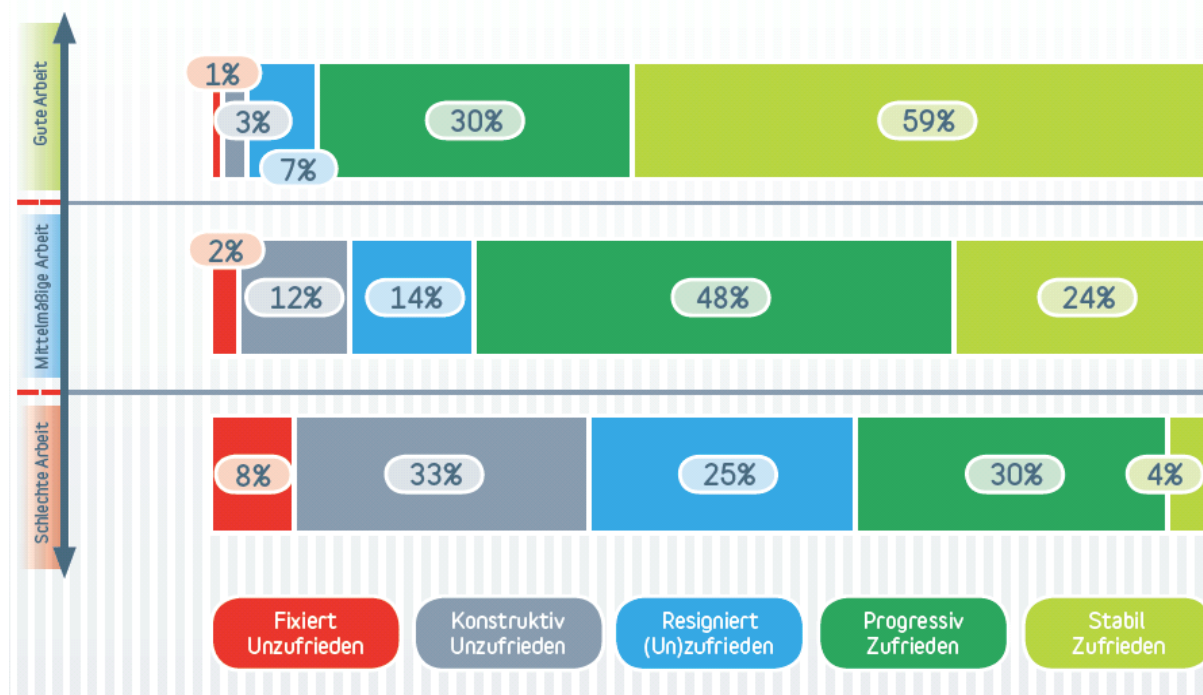
(working time, work/life balance, further training etc.). The results hitherto obtained show major group-specific differences in work quality and in the comparison between expectation levels and workplace description. The validity of the construct is very high, particularly also in connection with those variables not forming part of the index (cf. a number of examples given below in this respect).

In addition to publishing results once a year as an effective means of PR work, widely ranging special evaluations are also conducted and published. So far, the level of response from the media has been high. The same also applies to acceptance in expert debate – albeit with strong rejection on the part of some employers.

Given by way of example, the following results from the evaluations of the German DGB Good Work Index initially demonstrate why it makes sense to construct such a composite indicator resulting in a hierarchically structured index. Many individual indices are quite simply unable to demonstrate a correlation of this type in such a clear and understandable manner. Diagram 5 correlates the index, which describes work quality from the perspective of the employee, with work satisfaction as a factor also covered in the questionnaire. In line with a concept developed by Bruggemann in the 1970s, the latter is measured at five levels and, for example, also accounts for the aspect of resigned satisfaction (– for want of alternatives, employees settle into an attitude of "resigned satisfaction" to reduce cognitive dissonances in what are actually poor working conditions). As a summary measure, the DGB index can take on values of between 0 and 100 points as an expression of extremely poor or absolutely perfect working conditions in all dimensions. Here, a distinction is drawn in rough categories between bad (0 to below 50 points), medium-grade (50 to below 80 points) and good work (80 points and more).

As shown in Diagram 5, there is a clear and highly significant correlation between both indices: the higher the work-quality index (DGB index) score is, the higher will be the share of satisfied employees and the lower the share of dissatisfied employees. The fact that this marked correlation also exists on a similar scale when differentiating respondents into subgroups and is also seen to prevail at a stable level in different surveys is a clear indicator of the validity of this index construction.

Diagram 5: Work (dis)satisfaction in the context of work quality (DGB index)

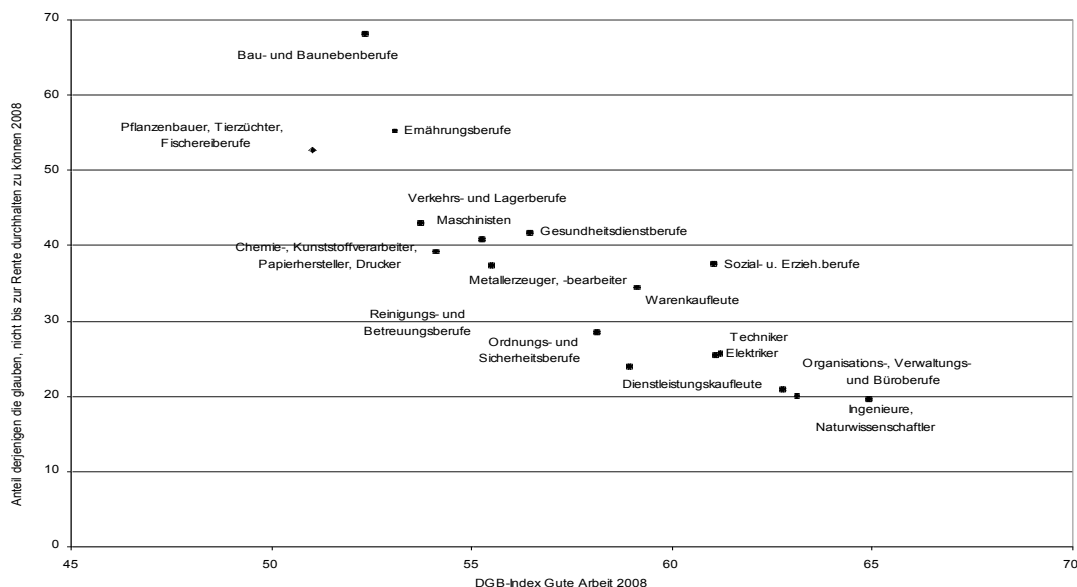


Source: DGB Index of Decent Work for 2008; INIFES.

The same applies to the relationships shown in Diagrams 6 and 7. They in each case show the correlation – differentiated by occupational group – between the values for the index of work quality and, also surveyed but not entering calculation of the index, the aspect of subjectively expected working ability up to retirement<sup>2</sup> (Diagram 6). Diagram 7 shows the relation between the DGB index and the share of early retirements on account of reduced earning capacity among the occupational groups examined. A clear pattern is shown to exist between the quality of work described by the index and the aspect, also surveyed, of subjectively anticipated working capacity until retirement, as well as the "objective" indicator of the share of pensions for reduced earning capacity among all persons entering retirement.

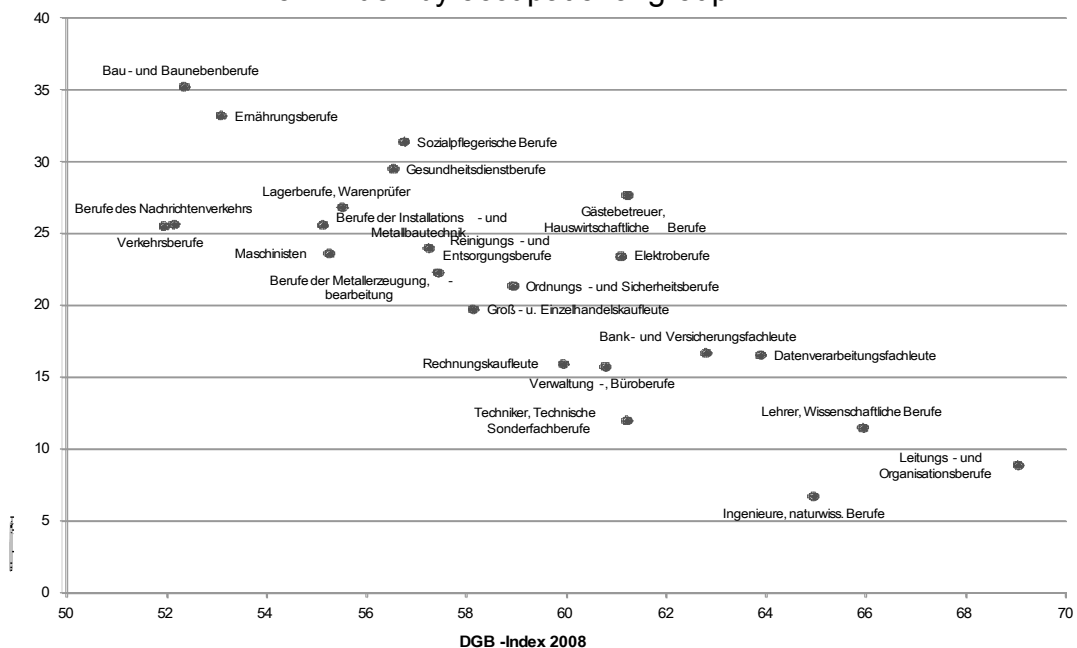
Diagram 6: Subjective expectation of being able to work in the current job until retirement and quality of work according to DGB Good Work Index by occupational group

<sup>2</sup> The wording of the question asked in this context: "Please think for a moment about your work and the state of your health: Do do think that under the present level of demands you will be able to perform your current job to retirement age?" In various national and international studies, this question has proven to be a good (occupational)-group-specific predictor for jobs left prematurely on account of incapacity for work.



Source: DGB Good Work Index 2008; INIFES.

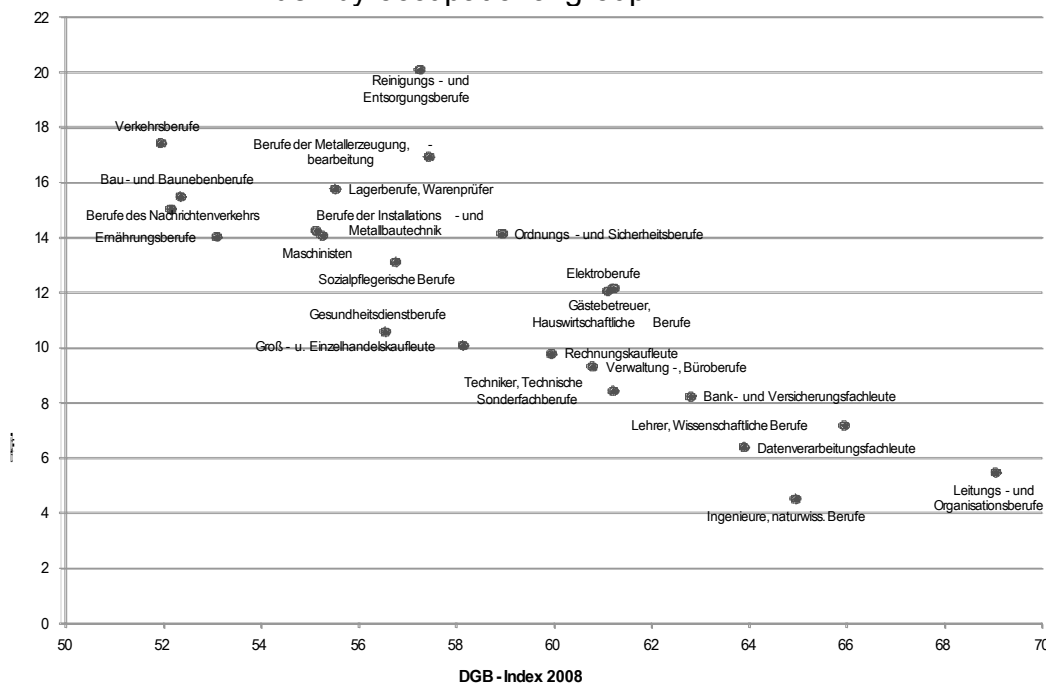
Diagram 7: Share of pensions for reduced earning capacity among all persons entering retirement and quality of work according to DGB Good Work Index by occupational group



Source: DGB Good Work Index 2008; INIFES and data from Deutscher Rentenversicherung Bund (German Pension Fund)

As a final example, the correlation – again broken down by occupational group – is shown here between the Good Work Index and the absenteeism indicator for days away from work per 100 members (cf. Diagram 8). Although the latter index is rather complex as it is governed by many influencing factors, it reveals a clear pattern coinciding with expectations. In short: the yardstick constructed with the Good Work Index is shown to be a highly valid instrument for measuring the quality of work.

Diagram 8: Absenteeism and quality of work according to DGB Good Work Index by occupational group



Source. DGB Good Work Index 2007 and data from BKK-Bundesverband (German Federal Association of Company Health Insurance Funds)

## At European Level

Compared with the initial approach of a European Index presented in the 2008 Employment Report, the national examples shown from Austria and Germany exhibit a number of essential method-related differences that are in need of discussion, further research in terms of their consequences and, with a view to future reporting on the quality of work in Europe, also some experimental testing. Reference is made to the following examples:

- Both the German and Austrian example of an index construction are based on – sizeable – representative surveys each conducted for this purpose. "Objective" indicators (within the meaning of economic and labour-market data) only play a (somewhat subordinate) role in the Austrian Work Climate Index. The solution put forward by the Employment Report, in contrast, is a mixture of subjective and many objective indicators. From the aspect of establishing a European work index, on the other hand, keeping the subjective description strictly separate from the objective measures does appear worth considering (– this, of course, does not preclude further endeavours towards providing a summary in a common



meta-index). The method-related stringency – particularly with a view to validity and reliability tests – of separate treatment in a hierarchically structured index should not be abandoned. This way, it is also possible – as shown above – to work out and examine correlations more clearly between the objective and subjective side.

- Unanswered is the question regarding the periodicity in which such an index should be calculated or the relevant data collected at European level. A year seems rather too frequent on account of the low levels of fluctuation in working conditions and the large amount of work involved in gathering data. In contrast, the intervals at which the European Foundation in Dublin conducts the European Working Conditions Surveys (EWCS, approx. 5 years) are too long. The effects produced by fluctuations in the economic cycle cannot be adequately covered on this basis. The trend-cycle problem in time series cannot be handled with cycles of such length. In fact, it would be better if no competition or substitution were to be seen at all between EWCS studies and a European index of work quality. In the long term, both instruments should instead complement, "verify" and support each other.
- Particular consideration must be given to weighting the different index dimensions, particularly in an index designed to provide an international comparison. (In this context, it must be remembered that "dispensing" with any weighting also means opting for weights!). In view of the different states in development of national economies, industrial relations and working conditions in the various EU countries, it is, however, also important not to select the standards of the "stragglers" as the yardstick – e.g. to spare them excessively "bad marks". Good work is an investment into the future, making it indispensable in all countries.

Particularly with regard to the latter point, the discussions taking place in the ZAUBER process also argued that it would not be possible to achieve acceptance for "too exacting" an indicator system or, for that matter, even the formation of a summative index. The aim, therefore, should be to dispense completely with the formation of a composite, hierarchical index – and its analytical benefits – in a similar way to the Laecken indicators. Irrespective of the argument put forward, for example, by ILO representatives that painful experience exists in this regard, such as with competing emerging countries in Asia: for European countries who have committed themselves to one model that promises "more and better jobs", an attitude as

defensive as this cannot be accepted! Political resistances in this point should not be regarded as an obstacle but rather as a challenge.

There are doubtlessly many different ways of constructing indices on a subject matter as complex as that of work quality. Although there are method-related standards to be observed at all cost – this is where the 2005 OECD Handbook on Constructing Composite Indicators should serve as an important source and standard – the selection of an indicator model is not predetermined. It must also be borne in mind that the underlying data used to form such indices are not minor clinical or company-level polls but mass surveys with all their benefits and drawbacks that in some cases can be rather unwieldy in their approach to the normal psychometric test criteria.

Let it be understood, these brief comments on the subject of method must not be seen as general criticism of the first work index to be presented by the European Commission in 2008. The Commission's 2008 Employment Report for the first time puts forward and describes examples of an indicator system and concepts for constructing indices. This in itself is a step forward and one that must be welcomed. All the same, many questions remain unanswered and there are various theoretical and methodological aspects that need to be resolved.

## **Conclusion**

In just the same way as a number of other instruments that are available for measuring good work/decent work, the 2008 Employment Report is – this being the extent of criticism – based on a good measure of pragmatism: data are used that are more or less readily available. Particularly with regard to the question of whether or not to strive for an index that is hierarchically structured (to the greatest possible extent) – producing a coefficient as a condensed overall result – it is possible to detect a certain element of wanting to avoid political conflict. This involves running the risk of making do in the long term with "too little differentiation and representativity". The resultant country rankings would not exactly make it easier to reach any later and more meaningful international consensus on a (innovative) work-quality reporting or indicator system.

With an international system that compares work quality only on the basis of data and indicators already available in the different countries and forgoes the formation of aggregated, more complex indices, there is a risk of "downgrading" the demands

made on the informative content of available data: Experience shows that the availability of differentiated data on work quality also tends to be low in those countries with manifestly bad working conditions. Just because data may be readily available there, the method-related demands cannot and must not be geared in this context towards those countries in which the data situation – and quality of work – is poorest! More demanding index constructions, in contrast, tend to give countries with inferior data the motivation to make the efforts that are needed. In the best case, greater transparency and better information – entirely along the lines of the Method of Open Coordination – also coerces action to improve working conditions themselves.

Proceeding from these considerations – and following the above-mentioned demands of the Economic and Social Committee – it is essential to make more effort on the research side and also collect more (dedicated) data.

To begin with, existing national experiences should be evaluated and measures initiated to improve European comparability. To do this, it is essential to examine the best methods of application at European level by carrying out appropriate research work and fostering cooperation among the pertinent stakeholders. Examination of this type must, for example, address the following questions:

- Are appropriate reporting or indicator systems to incorporate so-called objective data (e.g. from official statistics) as well as so-called subjective data (from employee surveys)? In forming an index, should they be aggregated on a combined or on a separate basis?
- How can international comparatistics and (more differentiated) national indicator systems be structured for greater compatibility and better integratability?
- How valid are individual indicators – also when applied in different countries, sectors of the economy, "cultures" etc.?
- Possibilities of theory-based discussion of methods and external validation?
- What data bases can and should be used? Synthetic indices or primary surveys? Panel data?
- If applicable: Widening of the European Working Conditions Survey (EWCS) or European Labour Force Survey (LFS)?

As already mentioned, an undertaking of this type must not substitute or compete with other surveys, such as the studies conducted at intervals of several years by the Foundation in Dublin, or with other detailed polls. Equally, an index on work quality

does not absolve from the necessity to improve other reporting systems (from further-training statistics to those on occupational diseases). In fact, these activities must be structured such that they permit the comparison of results wherever possible and mutually enrich each other. On top of this, however, the development (and effects) of inadequate working conditions must be analysed on a broader scale and in greater depth.

# **Taking Stock of Ten Years of European Coordination in Collective Bargaining Policy**

Thorsten Schulten

At the end of the 1990s, the trade unions agreed for the first time to coordinate their national collective bargaining policy on a European level. This development resulted from the introduction of the European Monetary Union (EMU) as of 1 January 1999. The discontinuation of the exchange rate mechanism meant it was no longer possible to balance out economic differences between the individual states through revaluation or devaluation of the national currencies. According to prevailing economic theory, the wages were now to assume the role of the exchange rates, as wage developments will now have a direct effect on the price-related competitiveness of a national economy within the EMU.

The European trade unions had great fears at the end of the 1990s that the introduction of the EMU would lead to a wage cutting contest throughout Europe. The background to these fears consisted of experience gained in collective bargaining over the two preceding decades. Already during the 1980s, many European countries had seen a de facto transformation in collective bargaining policy, moving from a productivity to competition basis. Consequently wage growth rates increasingly failed to keep up with the national scope for the distribution of wealth resulting from price and productivity development. The increasing economic integration of Europe driven by the European Single Market since the mid 1980s has exacerbated the competitive pressure even more. Under these conditions, the political sector in the individual nation states was increasingly geared to creating the best possible local conditions for capital operating on a transnational scale. In doing so, the classical fields of infrastructure and fiscal policy were joined increasingly by job market and social policy, to relieve the pressure on companies in terms of labour costs. Wage policy was also increasingly incorporated in efforts to improve the national location factors, for example in the context of so-called "social packages". Restrictive wage developments that fail to exhaust national scope for the distribution of wealth were supposed to enhance national competitiveness compared to foreign contestants.

As far as the trade unions are concerned, European coordination of collective bargaining policy aims primarily to limit the national wage competition triggered by the European Single Market and to prevent the scenario of a European wage-cutting contest feared for the European Monetary Union. The following paper looks first of all at the various initiatives taken by the trade unions for European collective bargaining cooperation and reviews the experience gained hitherto (*Chapter 1*). This is then juxtaposed with the actual development trends in collective bargaining policy over the last decade (*Chapter 2*). A third part then analyses the growing political influence of the European Union on national collective bargaining policy, looking in particular at the significance of the most recent rulings pronounced by the European Court of Justice (ECJ) (*Chapter 3*). Finally, political conclusions are drawn for the on-going development of the coordination approach and for the trade union collective bargaining policy in Europe (*Chapter 4*).

## **1. Trade union initiative for European coordination of collective bargaining policy**

European debate takes a very broad view of "collective bargaining" and uses the expression to refer to all forms of collective agreements between employers and the unions. For example, the social dialogues and corresponding agreements are often referred to as "European collective bargaining" or "European collective agreements" (e.g. Sadowski et al., 2003). While in individual cases it is quite possible for European social dialogue to impinge on national collective agreements, in fact such social dialogue really only has very little to do with collective bargaining in the narrower meaning of the word when it comes to the distribution of the social product. Nor are there any indications that European social dialogue will lead to European collective agreements in the foreseeable future (Keller 2008). This is being prevented not only by organizational and institutional hindrances, but above all by the fact that the employers and trade unions are pursuing totally different interests with regard to European regulation of collective bargaining standards (Streeck 1999).

Up to now, European coordination of collective bargaining is a unilateral approach taken by the trade unions, which is not only extensively rejected and deemed superfluous by the employers, but also lacking any support from the political sector. Accordingly, the trade union initiatives do not aim to conclude "European collective agreements". Instead, the intention is rather to achieve a European coordination of *national* collective bargaining policy, with the aim of coordinating national collective bargaining disputes so as to bolster the position of the

trade unions in general. In contrast to European social dialogues, the coordination approach primarily addresses those core aspects of collective bargaining which are relevant to the distribution of wealth, i.e. wages and working hours.

### **1.1 Collective bargaining cooperation structures of Europe's trade unions**

The initiatives for European coordination of collective bargaining emerging at the end of the 1990s emerged above all on the macro and sectoral level<sup>1</sup>. On the *macro level*, the European Trade Union Confederation (ETUC) has set up a collective bargaining committee manned by representatives from the national trade union confederations and representatives of the sectoral European industry federations. Furthermore, the so-called Doorn initiative encompassing trade unions from Germany, the BeNeLux countries and France offers a further transnational trade union forum which played a major pioneering role in the original development of the coordination approach in the ETUC.

But the focus of the trade union initiative for European coordination in collective bargaining is clearly on the *sectoral level*. This is based on the fact that in most (old) EU countries, the sectoral collective agreement is still the most important collective bargaining agreement, so that the collective bargaining strategies of the trade unions are geared primarily to the respective industry (Schulten 2005). The major players in European collective bargaining cooperation are therefore the sectoral European trade union federations. The most advanced approach to European collective bargaining coordination in both institutional terms and with regard to contents is shown by the European Metalworkers Federation (EMF), which is meanwhile also being followed by other European industry federations. In the meantime, the metal industry is joined by six other sectors (chemical industry, textile industry, building trade, printing industry, financial industry and the public service sector) with regular meetings of collective bargaining coordination bodies on a European level (*Table 1*). There are also cross-border trade union cooperation forums in various industries that look at collective bargaining issues. The metal sector has a number of cross-border collective bargaining partnerships between individual metalworkers' districts of the IG-Metall in Germany and the trade unions from neighbouring European countries.

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<sup>1</sup> A (limited) number of studies is meanwhile available on the trade union initiatives for European coordination of collective bargaining policy. Cf. among others Dufresne (2006), Glassner (2008), Schulten (2003, 2004), Sterkel et al. (2004).

**Table 1: Collective bargaining cooperation structures of European trade unions**

<b>Macro level</b>	European Trade Union Confederation (ETUC) Doorn Initiative
<b>Sectoral level</b>	European trade union federations, including: <ul style="list-style-type: none"><li>• European Metalworkers Federation (EMF)</li><li>• European Mine, Chemical and Energy Workers' Federation (EMCEF)</li><li>• European Federation of Public Service Unions (EPSU)</li><li>• European Trade Union Federation : Textiles, Clothing, Leather( (ETUF-TCL)</li><li>• European Federation of Building and Woodworkers (EFBWW)</li><li>• UNI-Europa Graphical, union for the printing industry, and UNI-Finance for the financial industry</li></ul>
<b>Company level</b>	Future European works councils?

Source: Own table

Up to now, the *company level* has not played any role as a trade union arena for European coordination of collective bargaining policy. On the other hand, there are already some European works councils (particularly in the automotive industry) that have concluded framework agreements on a European level with their companies which can also impinge on collective bargaining issues (da Costa/Rehfeldt 2008). However, in future it looks as if the company level will gain in importance. The collective bargaining landscape in the EU has seen drastic changes with the Eastern enlargement of the EU: since then, collective bargaining takes place on a company level not only in the UK but also in the majority of Central and Eastern European countries. What is more, many old EU countries are witnessing a persistent trend to decentralisation in collective bargaining with the emergence of multi-stage negotiation systems (Schulten 2005, Keune/Galgoczi 2008). The *dual* structure of collective agreements and company agreements prevailing in Germany, Austria and the Netherlands is simply unknown in most other European countries. Instead, they have *monistic* structures where workers' interests within the company are represented not by members of the works council but by company trade union organisations; here company-level agreements automatically assume the character of collective agreements.

A greater focus on the company level of collective bargaining coordination could on the one hand reinforce the position of the European trade union federations in terms of action and



power policy. On the other hand, there is a risk that company-level coordination could start to counteract the existing sectoral collective agreement systems on a national level and drive the decentralisation of collective bargaining even further. There is therefore a need for close integration of European works councils in the European trade union federations as a central task for the on-going development of the collective bargaining coordination approach.<sup>2</sup>

## **1.2 Contents of collective bargaining coordination**

Up to now the contents of collective bargaining coordination can be broken down into three levels. Firstly, there is systematic exchange on major collective bargaining events and developments in Europe. Some European trade union federations have meanwhile set up their own collective bargaining information systems. These include establishing a permanently available communication structure for swift, prompt exchange using, in most cases, e-mailing lists. This is joined by regular evaluation of collective bargaining results, together with early sharing of planned collective bargaining demands.<sup>3</sup>

The second level of European collective bargaining coordination consists in stipulating joint rules and regulations for national collective bargaining policy. Here the focus is on coordinating annual wage negotiations. Both the ETUC and most sectoral European trade union federations have reached agreement that the target of national collective bargaining must be at least to fully utilise the national scope for the distribution of wealth on the basis of the respective national price and productivity developments. This wage coordination formula used by the European trade unions constitutes a clear rejection of collective bargaining policy for wage moderation based on competition, as this leads to on-going redistribution in favour of capital income and also violates the stability demands made in the context of the EMU.

As well as coordinating general wage growth, up to now the EPSU is the only European trade union federation to speak out in favour of coordinating a minimum wage policy at European level, whereby the lowest collectively agreed wages should be no less than 60% of the national average wage (EPSU 2006). Over and beyond wage policy, it is above all the EMF which has defined political objectives and minimum standards for a series of further collective

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<sup>2</sup> To deal with possible tensions between sectoral and company-level coordination, the EMF has adopted its own rules of procedure to ensure that European agreements in transnational companies do not breach sectoral collective agreements on a national level (EMF 2006b).

<sup>3</sup> The ETUC for example presents an annual European collective bargaining report which makes reference to the survey of national member trade unions as well as assessing statistical data (cf. Keune 2008 for the latest report).

bargaining issues (e.g. working hours, profit sharing, etc.) that are to be implemented in the national collective bargaining negotiations.<sup>4</sup>

And finally, for the first time the EMF has also progressed towards the third level of collective bargaining coordination and established a first joint demand in the context of a European collective bargaining campaign that refers to a right to qualification and further training guaranteed by collective agreements (EMF 2006a: p. 339 et seq.) An initial evaluation indicates that more than half of the EMF member organisations have included the demand in their national collective bargaining negotiations, obtaining concrete results in the majority of cases (Borgo/Johansen 2008). At the moment, the EMF is planning a second European collective bargaining campaign on the issue of precarious employment.

Together with collective bargaining coordination initiatives on the sectoral level, whose claim is to have a concrete impact on national collective bargaining, coordination on the macro level aims above all to legitimise the ETUC as macro-economic player vis-à-vis the other economic players in the EU. This has become necessary among others after the emergence of so-called macroeconomic dialogue on a European level in the late 1990s, although this hitherto has not extended beyond the noncommittal exchange of information between the European Central Bank (ECB), the European Commission, the Ecofin Council, the European employer associations and the ETUC (Hein et al. 2004, Hallwirth/Koll 2009).

Since the late 1990s, the European trade unions have altogether succeeded in establishing collective bargaining as a new field of European policy, thus also clearly increasing the awareness of European effects from national collective bargaining policy, particularly in the context of the European Monetary Union. The intensity with which trade unions strive for European coordination differs greatly from industry to industry. It is above all the export-oriented sectors with strong competition whose collective bargaining cooperation structures are on a relatively developed level, while European collective bargaining coordination is still not an issue in most sectors with a more domestic/internal outlook. In the active sectors, the range of activities extends from simply sharing collective bargaining information through to implementing campaigns on a European level. But even in the metal industry the European dimension is scarcely perceptible in national collective bargaining negotiations, apart from symbolic actions<sup>5</sup>. The wage claims of the trade unions are still almost exclusively addressed

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<sup>4</sup> Corresponding documentation can be found at: EMF (2006a).

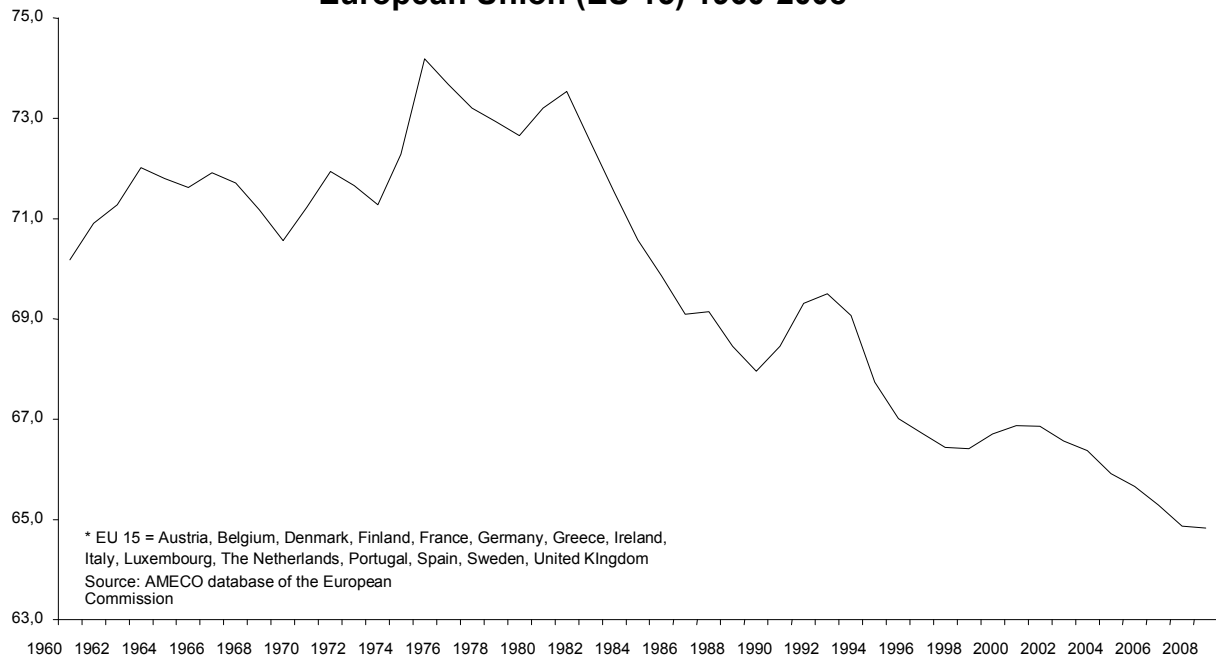
<sup>5</sup> For example, during the 2002 bargaining round, the German IG Metall brought the Presidents of the European Metalworkers Unions to Frankfurt in a PR measure to declare their European solidarity with the wage claims of the German metalworkers (EMF 2006a: p.300 et seq.).

to national circumstances, while the European justification context scarcely exists, either within the trade unions or in public debate.

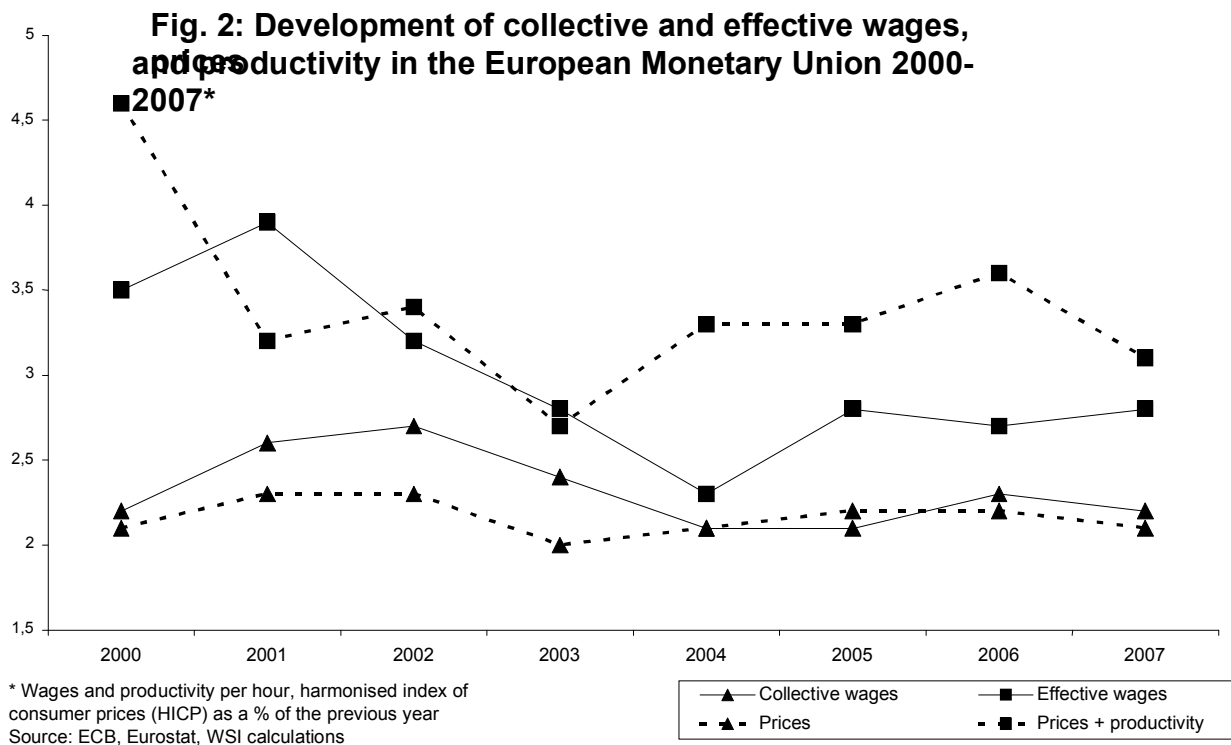
## **2. European development trends in wage policy**

From the point of view of the trade unions, one of the prime objectives of European collective bargaining coordination consists in stopping or reversing the trend to massive redistribution of national assets in favour of capital and investment incomes, which has persisted since the 1980s. Since the late 1970s, the European Union has seen a clear trend to falling wage shares as an indication of massive changes in the functional distribution of income, to the detriment of dependent employees (*Figure 1*, see also ILO 2008). Apart from cyclic fluctuations, the trend to declining wage shares has also persisted since the turn of the millennium, even though at a somewhat slower rate. This indicates that in overall economic terms, most countries failed to achieve full utilisation of the scope for distribution of wealth as the core aim of European collective bargaining coordination. However, this does not necessarily apply to the same extent for all industries. The German metalworkers union IG Metall, for example, presumes that there has not been any "systematic and deliberate failure to exhaust the overall economic scope for the distribution of wealth" as a result of trade union collective bargaining policy since the wage policy coordination rule was adopted in the EMF (Welzmüller 2008).

**Fig. 1: Development of the adjusted wage share in the European Union (EU 15) 1960-2008\***

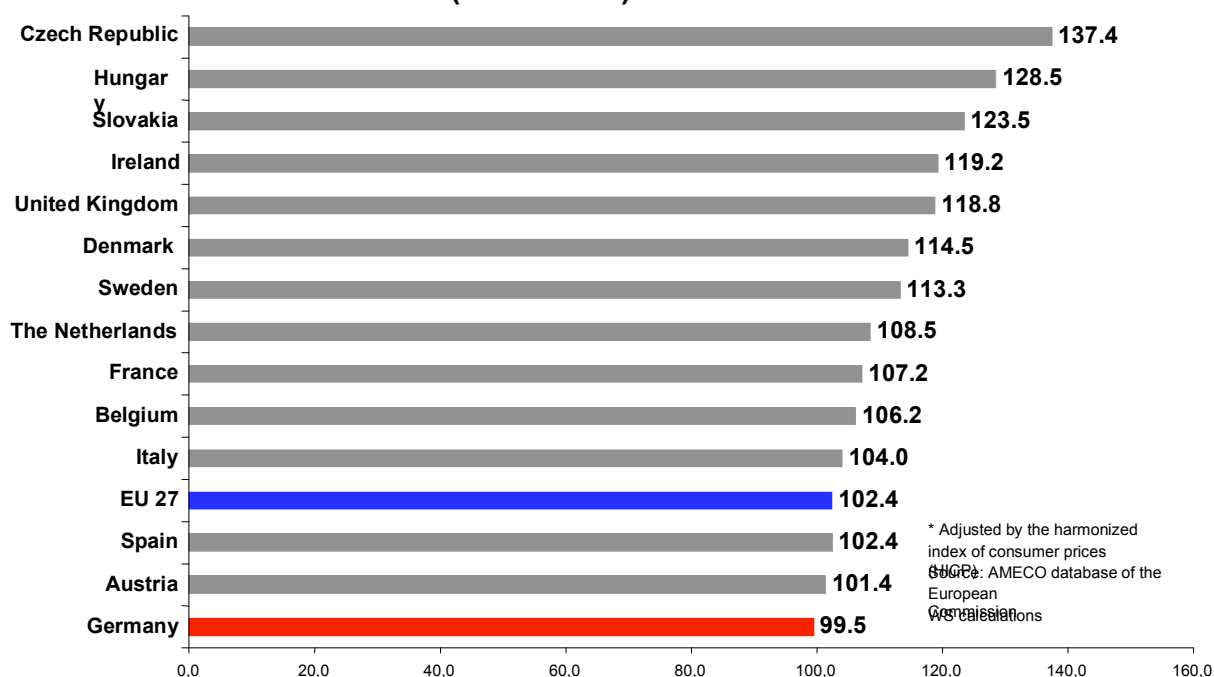


It is difficult to verify the extent to which collective bargaining policy has actually utilised the available scope for the distribution of wealth, as up to today there are no official European collective wage statistics permitting a pan-European comparison. The only official indicator to exist hitherto is the collective bargaining wage index of the European Central Bank that is used to measure the average collective wage increase in the EMU. Accordingly, collective wage developments in the Euro zone were extremely stable between 2000 and 2007, fluctuating merely between 2.1% and 2.7% (*Figure 2*, see also Collignon 2009). Throughout the entire period, the effective wage increases were above collective wage growth, with the EMU region standing out altogether with a positive wage drift. Collective wage increases were not in a position in any year to utilise the scope for the distribution of wealth from price and productivity development, but with the exception of 2005 they were always located above the rate of inflation. In six of eight years, effective wage development lay below the scope for the distribution of wealth, only utilising this to the full in 2001 and 2003. Altogether wage development in the EMU continues to be extremely restrictive, remaining behind economic development in both collective bargaining and effective terms.



The existing data only permit a comparison of wage developments between individual European countries on the basis of employee wage payments that encompass both the wage itself and the so-called ancillary labour costs. At first sight, great differences can be seen in the development of real wage payments within Europe since the turn of the millennium after making adjustments for consumer prices (*Figure 3*). The highest real growth in wages occurred in Central and Eastern European countries, expressing the persisting process of economic recovery in these countries as they catch up with the old EU countries. Contrary to some expectations, there has not been any convergence in wage development even within the EMU (Collignon 2009). The differences in wage development have even increased again slightly between the individual EMU countries compared to the 1990s. It is also clear to see that Germany plays a special role in wage policy terms, not only showing by far the lowest wage increases between 2000 and 2007 but moreover being the only country in Europe that has had to accept real wage losses.

**Fig. 3: Development in real wages in selected EU countries  
2000-2007\* (2000 = 100)**

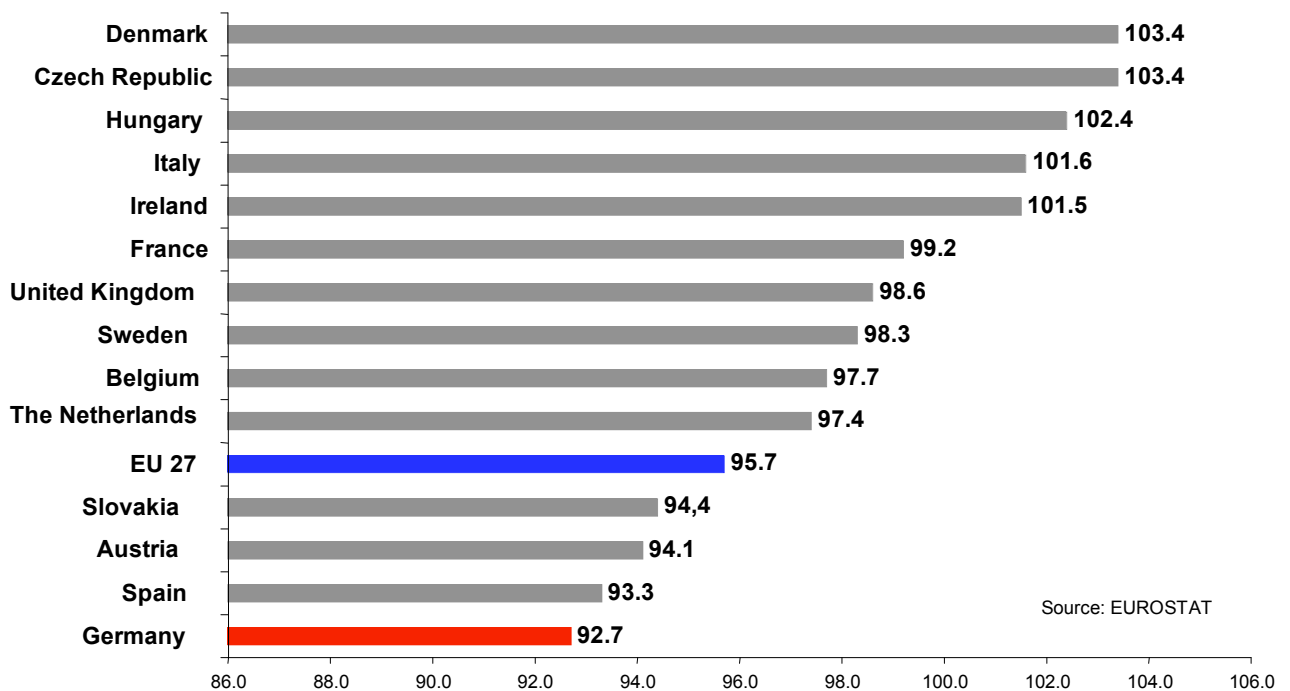


The extent to which real-wage development was covered by productivity growth can be derived from development in real unit labour costs (*Figure 4*). In most countries, these declined between 2000 and 2007, indicating that wage increases failed to utilise national scope for the distribution of wealth. Since the turn of the millennium, European wage competition has been driven above all by Germany with real unit labour costs declining by far the greatest amount, with corresponding huge increases in price-related competitiveness. Given the German economy's outstanding position in Europe, it is rather surprising that labour cost pressure was not far greater in other European countries.<sup>6</sup>

While the existing pan-European competition pressure has led to a rather restrictive wage policy in most EU countries, up to now it is not possible to speak of a general European wage-cutting spiral, given the considerable differences in the development of national unit labour costs. However, if current wage development trends in Europe continue along the same lines, it can be presumed that in the long term, the other European countries will not be able to elude the German labour cost pressure so that the scenario of a European wage-cutting competition could actually become reality (Lesch 2008).

<sup>6</sup> Up to now, evidence has only been found of a strong influence of German wage policy on wage developments in Austria (Traxler et al. 2008).

**Fig. 4: Development of real unit labour costs in selected EU countries 2000-2007 (2000 = 100)**



### **3. The political influence of the European Union on collective bargaining**

In formal terms, the EU has absolutely no political competence with regard to wage policy and collective bargaining systems. On the contrary, these competences lie exclusively with the nation states. The EU Treaty (article 137 (5)) states explicitly that the socio-political competences of the EU shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs. But in reality, over recent years the EU has increasingly expanded its influence on national collective bargaining. This applies both in terms of the orientation of wage developments and also with regard to the legal structure of the national collective bargaining systems.

At the latest since the European Union's Treaty of Maastricht with the introduction of the EMU, wage policy has become an important policy area in the EU. Since the early 1990s, the European Council of Ministers regularly publishes so-called "Broad economic policy guidelines" based on proposals from the European Commission, which also contain recommendations on wage policy. The currently valid version of the "Integrated Guidelines for Growth and Jobs" recommends wage increases which "are in line with the underlying rate

of productivity growth over the medium term and are consistent with a rate of profitability that allows for productivity, capacity and employment-enhancing investment" (European Council 2005: 13 et seq.). At the same time, the member states are expected to "ensure employment-friendly labour cost developments and wage-setting mechanisms." In detail, the European Council understands this to refer in particular to reducing ancillary labour costs, reducing social security contributions and taxation particularly in the low-wage sector, and adequate differentiation and decentralisation of wage agreements in accordance with local labour market conditions (ibidem: 35 et seq.)

The ECB makes an even greater effort than the Commission and Council to influence wage development in Europe. The ECB issues regular warnings to the European trade unions about "high" and allegedly inflationary wage agreements, instrumentalising wage policy to justify its rather restrictive monetary policy. At the same time, the ECB repeatedly criticises the "institutional rigidity" of the national collective bargaining systems that prevent swift adjustment of wages to changing competition conditions. In explicit terms, the ECB demands the abolition of the mechanism of indexing wages to the inflation rate which still exists in some European countries, and is against the stipulation of minimum wages (ECB 2008).

All in all, it can be said that the prevailing wage policy discourse on a European level is oriented in a completely unilateral fashion to a neo-classical labour market theory, placing the whole repertoire of supply-oriented collective bargaining policy on the agenda. By contrast, the impacts of wage policy on overall economic demand, and thus indirectly on dynamic growth and employment in Europe, are ignored completely (Stockhammer 2007).

Going over and beyond ideological discourse, recently the European Union has also intervened directly in national collective bargaining systems, clearly restricting the collective bargaining autonomy of the national players. This resulted from a series of rulings by the ECJ where the national provisions were seen to violate the fundamental economic freedoms guaranteed in the EU Treaty<sup>7</sup>. The ECJ rulings in the cases *Viking* (C-430/05) and *Laval* (C-341/05) referred to strikes initiated by the trade unions in Finland and Sweden to force companies from the Baltic states to apply Finnish and Swedish collective agreements. While these strikes were legal under national law, the ECJ was of the opinion that they hindered the Baltic companies in their freedom of establishment and provision of services, thus making them incompatible with EU law. In the case *Rüffert* (C346/06), the ECJ decided that German legislation tying the awarding of public contracts to compliance with certain collective

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<sup>7</sup> For the significance of these ECJ rulings, cf. Dräger /Mileva (2008); Höpner (2008); Kocher (2008); Krüger/Nassibi (2008).



agreements restricts the freedom of service provision in a manner incompatible with European law. And finally, in the *Luxembourg* case (C 319/06) the ECJ interpreted the very extensive employment and socio-political requirements made of foreign companies by the Luxembourg government again as a breach of the freedom of services. Among others, Luxembourg is now no longer allowed to force foreign companies to use the Luxembourg indexing system where wages are automatically adjusted to the rate of inflation.

The legal reasoning behind all four ECJ verdicts is always the same. While the right to strike and the right to collective bargaining are acknowledged as *fundamental social rights* in the EU, at the same time these are viewed according to the principle of proportionality in the light of fundamental economic freedoms (Dräger/Mileva 2008). The ECJ is of the opinion that the scope for restricting the fundamental freedoms is defined by the European directive on the posting of workers in the framework of the provision of services (96/71/EC) which permits EU countries to make certain national labour regulations mandatory also for workers posted from other EU countries. In a legally and politically highly controversial interpretation, the ECJ now interprets this directive to mean that it covers only certain *minimum* standards defined by law or in a generally binding collective agreement. All further labour regulations are interpreted as restricting fundamental economic freedoms, so that the minimum standards de facto become maximum standards. The ECJ has thus granted extensive priority to fundamental economic freedoms over worker protection rights, and promotes the trend to undermining in particular those collective agreement systems in Europe that insist to a great extent on the principle of collective bargaining autonomy, as in Scandinavia or Germany (Kocher 2008).

#### **4. Outlook**

The ever greater economic integration through the European Internal Market and the European Monetary Union is placing increasing pressure on the European trade unions in their core political activity of collective bargaining. The sectors witness ever stronger pan-European competition for the lowest wage and labour costs through an international contest to offer the best locations. Many service industries are seeing the formation of European labour markets where companies undermine national collective standards by utilising the existing wage gradient in Europe. Without a fundamental "Europeanisation of collective bargaining policy", the trade unions face the threat of a permanent loss of power where they will be

increasingly incapable of performing their core functions and ensuring that restraints are placed on labour cost competition.

And yet the development of a European collective bargaining system with collective agreements valid on a European scale remains political utopia for the foreseeable future on account of the differing levels of economic development and different collective bargaining systems in Europe. "Europeanisation of collective bargaining policy" must therefore be interpreted as a differentiated strategic approach which gives due consideration to economic and institutional differences in Europe while taking account of the political structure of the EU as a multi-level political system. The core of any such strategy must encompass three points:

Given the "radicalisation of Internal Market integration" consummated with the recent EJ rulings (Höpner 2008), the strategy has to focus *firstly* on defending national collective bargaining systems. These must be safeguarded to such an extent that they are capable of enforcing the principle "same pay for the same work in the same place". While such defence of national collective bargaining systems certainly finds links on a national level (for example with declarations making collective agreements universally applicable), it can only be enforced in principle on a European level. An initial step in this direction would consist in amending the European 'posting of workers' directive as proposed among others by the European Parliament (2008). In this context, it is important to make it quite clear that the member states have to apply mandatory labour regulations for posted workers that go over and beyond just the minimum standards. Furthermore, in principle primary EU law should stipulate that in case of any doubt, fundamental social freedoms must take precedence over fundamental economic freedoms. Here the ETUC (2008a) has proposed that a "Protocol on Social Progress" is added to the EU Treaty, and is supported in this move among others by the European Parliament (2008).

*Secondly*, the "Europeanisation of collective bargaining policy" also entails on-going development of the trade union coordination approach. The collective forms of cooperation on the various trade union levels must undergo further expansion. It is also very important that the collective bargaining guidelines of the European trade unions are made visible in the concrete collective bargaining rounds "in situ" to give them a more binding character in this way. One central challenge also exists in linking collective bargaining coordination on sectoral and company level. In this context, use should be made of the potential scope of political power of the European works councils with their integration in a sectoral collective

bargaining strategy.<sup>8</sup> In the end, this also poses the question of a European right to industrial actions and strikes on the agenda, which not only sets uniform standards throughout Europe but also explicitly allows for cross-national disputes (Jeschke 2005).

To make progress in the "Europeanisation of collective bargaining policy", *thirdly* it is important to break the dominant wage-policy discourse on the European level. Instead of a competition-oriented collective bargaining policy focused primarily on pan-European dumping competition for the lowest wage and labour costs, Europe needs a concept of "collective bargaining policy built on solidarity" that makes use at least of the national scope for the distribution of wealth, thus contributing to growth- and employment-oriented economic policy. To restrict the growing expansion of the low-wage sector, the coordination of annual wage growth rates should be joined by the development of a European minimum wage policy that defines the lowest wage limit as a certain percentage of the national average wage (Schulten 2008).

Under the slogan "On the offensive for fair wages", in 2008 the European Trade Union Confederation launched a European wage campaign, demonstrating with 35,000 participants in Ljubljana for wage policy in Europe to be placed on a new footing (ETUC 2008b). The prevailing conditions of the current economic crisis make such a campaign all the more important in face of the great risk of national withdrawal with collective bargaining policy being subordinated to national competition strategies. Moreover, a more expansive wage policy coordinated throughout Europe also offers a key to overcoming the current crisis.

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<sup>8</sup> By contrast, there are problems with placing a primary focus on the development of European company collective agreements, as suggested by the "Initiative European collective bargaining autonomy" (2008). While in the best case this would limit wage competition *within* a transnational company, it offers no solution for competition *between* the companies. In addition, such a strategy would also contribute to further erosion of national sectoral collective agreement systems.

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## **Discriminating Precariousness in Europe – Does a Trade Union Response Exist?**

Social insecurity has not simply become a mass experience since the collapse of financial markets. Rather, the renewed wider spread of insecure jobs and living conditions in continental Europe has been caused by *functioning* financial market capitalism. According to our thesis<sup>1</sup>, the 'land take' or appropriation of space in society by financial capitalism has prompted a new form of precariousness that has irreversibly changed the face of Fordist-type wage labour societies, thereby representing a challenge for European trade unions. Whilst the structural characteristics and ways of dealing with precariousness differ from country to country, there are similarities in the mechanisms of their dissemination. The following is based on the situation in Germany but establishes constant connections to the wider European situation.

### **1. What is precariousness? What is precarious employment?**

We wish to start with a short definition of precariousness. According to its etymological meaning, "precarious" can be translated as "revocable", "insecure" or "delicate". The term is currently used, however, to describe the spread of insecure employment and living conditions. Authors such as Bourdieu (1998), Paugam (2000) and Castel (2000) regard this to be at the heart of the social question in the 21<sup>st</sup> century. The increase in jobs in EU states over the past decade has to a great degree been based on the growth of flexible, predominantly precarious employment relationships (Kok 2004). These include agency and temporary work, fixed-term work and forced part-time work as well as 'mini' and 'midi' part-time jobs, dependant self-employment or state-subsidised work schemes (e.g. the 'one euro an hour jobs' in Germany). What these kinds of employment have in common is that they do not secure a permanent livelihood above the cultural minimum subsistence level.

If the dynamics advancing the precarisation of employment relationships in developed capitalist societies are to be accurately recorded, it makes sense to incorporate the subjective ways of dealing with the precariousness of insecure employment in the analysis in addition to structural criteria. Employment which may be described as precarious by virtue of its

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<sup>1</sup> Where this is formulated in the plural, this takes into account joint effort in different research groups.

structural criteria need not by any means be subjectively classified as unstable by those performing the activity. Conversely, a job may also have the potential to be precarious where the employed person consciously regards it to be a desired form of employment. The category of precarious employment therefore reflects a special relationship between an employed person and his or her employment biography. A job which is precarious based on its structural features constitutes a problematic situation for an employment biography which is then more or less actively dealt with and evaluated. Here the slant of the employment biography, individual qualifications and competencies, gender and age influence the manner of contesting and evaluating precarious employment relationships.

A provisional definition of precarious employment can be arrived at by taking the features derived from the structure of the employment relationship alongside the criteria which can be more aptly attributed to subjective ways of dealing with the situation. A job can always be described as precarious if, as a result of their activity, employees fall clearly below a level of income, protection and social integration currently defined as standard for a society and recognised as such by the majority. Employment is also precarious where it is subjectively linked to a loss of meaning, insufficient recognition and uncertainty when it comes to making plans to such an extent that social standards have been significantly corrected to the disadvantage of employees. According to this definition, precariousness is not synonymous with complete exclusion from the employment system, absolute poverty, total social isolation and forced political apathy, although it can include such phenomena. Rather, it describes a relational category whose significance depends substantially on the definition of standards of normality in society.

Following on from Robert Castel (2000), we can speak of the formation of a “zone of precariousness” where insecure work becomes a permanent state of affairs and the performance of such work represents a social position for groups of people in society; this zone can be clearly delineated from the “zone of integration” with its protected, regular jobs and from the “zone of disaffiliation” where the “expendable” members of the labour society are found (Kronauer 2002). Precarisation describes a social process which erodes standards of normality, thereby in turn affecting the integrated. Market-oriented policies continue to regard the expansion of precarious employment as a desirable way of making the labour market more flexible and of creating bridges to regular employment (Commission 1996). Current diagnoses that emphasise the destructive force of precarisation in society refute such

assertions (Baethge et al 2005; Schultheis; Schulz 2005; Dörre 2005). In the following, we use Castel's zone model as a heuristic template in order to examine the relevance of the precarisation theory for European labour societies.

## **2. From marginal to discriminating precariousness**

Current characteristics of precariousness at least in capitalist centres can only be understood against the background of the development and ultimate disintegration of a project, something Peter Wagner (1995) terms "organised modernity". Both post-war social capitalism and the state bureaucratic socialism that challenged it produced de-precarisation. The Fordist appropriation of social space finalised a system which attempted to combine the "anarchy of markets" with the militaristic-hierarchical organisational principles of differentiated bureaucracies (Sennett 2007, p. 21). Not only large companies but also welfare state organisations and institutions have long operated according to the model of the bureaucratic pyramid (Weber 1980, p. 551). A driving incentive behind such arrangements was the attempt to integrate previously unpropertied classes of workers in a regime of "organised time".

Robert Castel accurately described this development as the construction of a social citizen status for wage earners. Wage labour was transformed into a social integration machine only through the decommodifying effects arising from the ownership of collective livelihood and status security. This was manifested in guaranteed pension rights, protection against dismissal, occupational health and safety, codetermination and binding collectively bargained provisions (Castel 2000). Integration was possible because for the first time something emerged that Marx had considered inconceivable – the development of capitalism "without a reserve army of labour" (Lutz 1984, p. 184 ff.). This led to the marginalisation of poverty and precariousness in capitalist centres (Paugam 2008, p164 ff.). The marginalisation of precariousness and poverty did not progress equally successfully in all European countries, however. It was and remains most advanced in northern countries with their social democratic welfare state model. By contrast, forms of ubiquitous and therefore entrenched poverty and precariousness have persisted to the present day in countries on the periphery of Europe and in particular in southern European states. On the other hand, in the case of state bureaucratic socialist systems, latent forms of poverty and precariousness remained hidden by a lack of structural unemployment.



With the exception of the Scandinavian countries and Denmark, the Fordist type of marginal precariousness is now a thing of the past for most European countries because fundamental changes have taken place in the forms of production and in the structural characteristics of uncertain employment and living conditions. The principal cause is the appropriation of social space driven by financial markets which began in the 1970s. This spatial appropriation links the dynamising of capital accumulation with occupation of the specific external position imposed on Fordist capitalism by market-constraining institutions and the incorporation of workers' power as functional equivalent.

The associated dismantling of collective protection rights and security systems especially hits those areas where the associational power of trade unions is already less marked. This applies to the low-wage and non-profit sector with their above average share of female workers, to regions characterised by small and medium-sized enterprises and to the expanding "immaterial" labour segments which frequently do not even have works councils. Above all a blurring of boundaries between creative and precarious work has taken place in the cultural industries, the media and the non-profit sector with its further training institutions, employment and transfer companies. The full force of precarisation hits simple, low-paid activities. These are frequently personal services in the areas of care, gastronomy and the hotel trade as well as labour-intensive delivery and auxiliary activities.

The "organised time" regime in which the majority of wage earners and their families were able to participate for decades is being eroded due to the finance-driven appropriation of space. Admittedly disintegration does not mean sudden disappearance. In Germany, the majority of employees are still formally in secure employment. This majority defines the social standards for income and employment security. However, as we allege with reference to Serge Paugam (2008), this occurs in a radically altered social environment in which a transfer is taking place from "marginal" to "disqualifying" or to discriminating precariousness – a term which can be used more appropriately in the German language. Precarisation is now less the exclusive problem of those on the fringes of society than ever before. Three structural forms of precariousness can be defined which, as ironic as it may seem, span all zones of social cohesion (Castel 2000). At the lower end of the social hierarchy are those groups that Marx (1973, p. 657ff.) termed "*redundants*" in the capitalist labour society. In Germany, these include the majority of the approximately 7.4 million people receiving basic social security benefits, around 2.5 million of whom are unemployed and 1.3 million are dependent

employees (2007). Insofar as they are able to work, the great majority of people in these socially and culturally extremely heterogeneous groups aim to become integrated in regular employment. Only the small minority who have no realistic chance of gaining employment that can sustain a secure livelihood transform the objective lack of opportunities into a subjectively desired orientation towards a life outside of regular work (Dörre et al, 2008).

True precarians can be delineated from the “redundant”. The term refers to expanding groups, including most of the temporary agency workers who now number over one million taking fluctuations into consideration, who must depend on performing insecure, low-paid work with low social status for long periods. The increase in atypical employment relationships from 17.5 percent (1997) to 25.5 percent (2007) of all employees is an extremely unreliable indicator of this trend towards precarisation because it encompasses neither precarious self-employment nor the rapid expansion of low-paid full-time employment. Around 6.5 million people now earn less than two thirds of the mean wage (Bosch; Weinkopf 2007). In 2006 this already affected every seventh full-time employee. The greatest share is made up by women (30.5 percent) and people with few qualifications (45.6 percent). But around three quarters of all low-paid employees had completed an apprenticeship or even had an academic degree (Kalina; Vanselow 2008, pp. 20-24). The fact that upward mobility in the low-wage sector is declining in Germany despite these conditions signals the perpetuation of precarious situations (Bosch; Kalina 2007, p. 42ff.)

A more hidden feature of precariousness exists within what is formally still regarded as secure employment. It refers to the fear held by relevant sections of workers and salaried staff of losing status. While such fears need not necessarily correspond to objective threats, neither are they merely an indication of an excessive need for security. Location competition, real wage losses and the subtle erosion of collective agreements feed fears of losing touch with the middle classes even among the core workforce organised in trade unions. It is clear that these fears also increasingly affect people who are members of the middle class. While there is still evidence to support substantial stability in parts of the social centre, it is scarcely possible to ignore processes of erosion. Fears of losing livelihood can also be observed in the delineated “heart of society’s centre” given the growth of precarious working relationships “right on the periphery of the centre of society”, the decline of income advantages and the growing risks in the labour market (Werding; Müller 2007, p. 157; DIW, 05/03/2008).

### 3. Precarisation in Europe

Our research confirms that Robert Castel's zone hypothesis originally based on the labour society in France can be usefully applied in modified form to Germany. But to what extent does it describe a European reality? We have no material which can be used to empirically verify our own approach. However, we can link them to studies by Serge Paugam and his concept of a "double precariousness". Paugam (2008) distinguishes between a *precariousness of work*<sup>2</sup> and a *precariousness of employment*<sup>3</sup>. On this basis, he constructs four ideal types of labour-related integration: *secured integration* (satisfaction in both dimensions); *insecure integration* (satisfaction with work coupled with unstable employment); *laborious integration* (dissatisfaction with work coupled with stable employment relationship) and *disqualifying integration* (dissatisfaction with work coupled with unstable employment relationship).

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<sup>2</sup> "Wage earners are in a precarious position because their work leads them to fail to meet the specifications of employers and because they feel that their work is insignificant, poorly paid and enjoys low recognition within the company. Since their contribution to production in society is not acknowledged at all, the feeling of being more or less useless grows. In this case we can speak of precarious work."

<sup>3</sup> "Wage earners are also in a precarious position, however, if their employment is insecure and their job-related future is unpredictable. This is the case for employees whose contracts of employment are only concluded for a short period, and also for workers who are permanently threatened by dismissal. Such a situation is simultaneously distinguished by a strong economic vulnerability and at least a potential curtailment of social rights since the latter are founded at least to a considerable extent on having a fixed employment relationship. For this reason, these wage earners only occupy one of the lower positions in the social status hierarchy defined by the welfare state. In this case we can speak of precarious employment."

## Professional integration – ideal type and deviations

	Work satisfaction	Employment stability
Ideal type:	+	+
<i>Secured integration</i>		
Deviations:		
– <i>Insecure integration</i>	+	–
– <i>Laborious integration</i>	–	+
– <i>Disqualifying integration</i>	–	–

The results of Paugam’s empirical studies can be briefly summarised in three condensed findings.

(1) It can be seen that workers in northern European countries (the Scandinavian model, Denmark, Sweden and Finland) generally enjoy a much better relationship to work than employees in other countries, namely in countries with a liberal welfare state model (Great Britain, Ireland), a corporatist “Rhenish” model (France, Germany, Belgium and the Netherlands) or a “Mediterranean model (Italy, Spain, Greece and Portugal). There is evidently a less clearly defined correlation between job insecurity and dissatisfaction with work in various dimensions in the Scandinavian model than in countries with other welfare state systems. We can therefore establish that, even if insecure employment conditions generally represent a greater danger of being confronted with both poor working conditions and problems in terms of job-related integration, Scandinavian countries are in a much more favourable position than other European countries.

(2) Substantial differences can be detected between the groups of countries. Countries belonging to the “Scandinavian” model unequivocally set themselves apart from other groups. Secured integration achieves the very high level of 52 percent here, compared to 38 percent in the “liberal” model, 36 percent in the “Rhenish” model and 29 percent in the “Mediterranean” model. When it comes to the other extreme of disqualifying integration, the Northern European model has 13 percent, while the other models oscillate around the 27 and 28 percent mark. Results therefore confirm that the conditions for job-related integration differentiate

substantially according to the type of welfare state. In Northern European countries the probability that workers will experience disqualification is much lower.

(3) Differences also exist within the individual country groups. Without doubt the country with the greatest quality of integration in terms of the job-related integration of workers is Denmark. Secured integration is 68 percent, while disqualifying integration barely exceeds five percent. Compared to this, the distribution in France, for example, reveals a much more unsettling situation since only 29 percent of employees are covered by secured integration while almost 32 percent belong to the disqualifying integration type. The case of the Netherlands should also be highlighted; here distribution is closer to the trends observed in Scandinavian countries than those of the continental European »Rhenish« model: only 15 percent of workers in the Netherlands belong to the disqualifying integration type.

## **8. Conclusions**

Paugam's data illustrate that precarisation is not an inevitable fate that unavoidably affects people. Despite globalisation and Europeanisation there are considerable differences in the social security of employment within EU Europe. Although the risk of precarious working and living conditions is increasing throughout Europe, individual countries still have some scope for autonomous action. The situation in Scandinavian countries, in particular in Denmark, proves that open economies can be combined with a high level of both social security and economic efficiency. Of course Europe cannot and should not imitate Denmark. But political approaches are possible which at least stem the trends towards precariousness. To this end here are a few concluding considerations.

The official flexicurity strategy of the EU often sets the wrong priorities because they consistently afford greater priority to the further deregulation of labour markets than to the stabilisation of institutions which guarantee basic securities. Such basic securities are necessary, however, in order to provide large groups with any flexibility at all on the labour market. It is important to establish lower limits by introducing effective minimum wages and basic incomes that provide a secure livelihood. Reforms in line with the principles of "Hartz IV", which explicitly abandon the safeguarding of social status and push people down below a "threshold of respectability", specifically fail to achieve this. On the contrary, they further reinforce social insecurities arising from entrepreneurial flexibilisation strategies. A change of

priorities in the European labour market and employment policy must take place as a matter of urgency to remove pressure from the most vulnerable groups in society.

It is at least equally important to promote the self-organisation of precarians and to improve their political and trade union representation. It is encouraging that the practices of significant European trade union structures are already starting to change. Not only in Germany are pilot projects focussing on organising labour, on strategic concepts to renew the associational power of trade unions; ironically these are being initiated by US unions such as the Service Employees International Union (SEIU). The thing that is particularly attractive about the organising model from a continental European perspective is the way that the exemplary SEIU has changed in a short period from being a languishing business union to a trade union capable of acting and capable of industrial action especially in the low-wage sector and which has seen the greatest increase in membership in the USA.

In order to prevent this being an organisational policy flash in the pan, approaches to organising labour in the different European industrial relations systems will also be obliged to respond to the essential question put to them. The financial crisis and post-democracy provide sufficient raw materials for this. Trade unions cannot depart from the political stage during a time of historic upheaval precisely because of their acutely weak levels of representation. In order to counter post-democratic tendencies effectively, they must prove that “they represent general and widespread concerns” (Crouch 2008, p. 146). If such concerns are to be formulated in a credible way and linked to endeavours to organise, this will have inevitable consequences for the self-image, organisation structures and political objectives of the trade unions. It is necessary to move beyond a self-image which “in a very intelligent manner” primarily reflects “the interests of typical male workers in manufacturing trades” (Crouch 2008, p. 146). As difficult as it may seem in the light of scarce resources: organising approaches must be expansive, i.e. also directed at groups which are traditionally weakly represented. This actually concerns an anti-discrimination policy in businesses and administrations that attempts to bring about the principle of “equal pay, equal treatment” for all groups suffering from extreme exploitation and constant discrimination.

How will the global financial crisis influence the opportunities offered by such an anti-discrimination policy? Without doubt the global crash of the financial system prompted by the subprime crisis in the USA now signals the limits to the new appropriation of space (Dörre 2009, Zeise 2008). It is unlikely that a crisis resulting from internal inconsistencies in the

system and the state interventionism triggered as a consequence will alone ensure the removal of precariousness in labour societies. The extent to which the financial crisis is affecting the real economy means that initially the opposite is likely to be the case. Precarious workers bear the greatest employment risk in crisis situations. Agency workers are the first employees in companies to feel this. Added to this, it is possible that an attitude already widespread among groups representing workers' interests will be reinforced; this primarily aims at protecting permanent staff and so inadvertently increases the precarisation risk for flexible employees. What is more, financial-capitalist transfer mechanisms take on a life of their own, which cannot be overridden by limited measures to regulate financial markets.

In the medium term, however, systemic dysfunctional features of precarisation will also become noticeable. It is already possible to see that the loyalty of permanent staff to their company is disappearing due to constant uncertainty. Quality deficits and complex electronic surveillance measures confirm this phenomenon. Additional limits to precarisation strategies result from demographic change and a lack of skilled staff already acute in sub-labour markets in Germany. The discovery by precarians of trade union special interest policies such as minimum wage and agency work campaigns can be expected to gradually produce results. Therefore the financial crisis might lead to new possibilities for alternative action strategies opening up in the medium term. It is hardly possible to forecast now whether and how these will be used. Intelligent US economists such as James K. Galbraith sketch out the path for an eco-social appropriation of space based on decommodification:

“Where can we find the alternative? In relying from the start on the design of a targeted long-term strategy based from the beginning on public investment; this involves state expenditure for the reconstruction of America's infrastructure systems, for reforming the energy consumption pattern and for developing new technologies to deal with climate change and other urgent problems. It entails helping those people who are suffering from the unavoidable consequences of the bursting bubbles from the Bush era – with unemployment insurance, financial compensatory measures to fund and expand public services ... vocational training, adjustment assistance and employment programmes.” (Galbraith 2008, p. 47f.).

It is up to European trade unions to create a similar trajectory for the EU area.