



Social policy plays an essential role in our efforts to build a more caring Europe, more united and more successful in economic terms. It gives meaning to our actions. It enables us to mobilise strengths and combine forces in working towards shared aims.

This first Commission Report on Industrial Relations shows that European social policy has far-reaching effects; it is steadily becoming a more integral part of the decision-making and strategies of numerous players.

That goes without saying in fields where the European Union has clearly defined and affirmed its principles: respect for fundamental social rights in a frontier-free Europe; workers' rights to information and consultation on company operations; social dialogue as a mainstay of good governance and a means of involving citizens in the European venture.

However, far beyond such areas, it is interesting and encouraging to note that the European dimension is on the table in national negotiations on wages or the adaptation of working time, and that it was raised in the discussions culminating in the conclusion of the national employment pacts.

For that reason, it was important to have a tool for information and analysis at our disposal, available to a wide public, increasing our understanding of this common heritage and throwing light on the initiatives taken by those who play a part in shaping day by day the image of social Europe.

Anna Diamantopoulou

# Summary

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This report, the Commission's first on the subject of industrial relations in Europe, fulfils a requirement for greater transparency in an area which affects the everyday life of Europe's citizens. The information it contains is intended for a wide audience, with an eye to boosting industrial relations at all levels.

Key developments occurring over the last few years are also noted in the report. The firmly rooted national element of industrial relations has assumed a wider dimension as a result of growing Europe-wide cooperation in the economic, monetary and employment spheres, giving rise to innovative, flexible forms of interaction. These changes are happening quickly but are not yet completed.

Depending on the Member State or sector concerned, industrial relations are driven mainly by individual employment contracts, company or branch agreements and national rules laid down on a statutory or collectively agreed basis. While a quarter of the Member States' wealth on average is derived from exports to the rest of the Union, meaning that one worker in four is producing for the "internal" market, the underlying social conditions continue to be determined locally. The developments highlighted in this report show that the players involved must increasingly take the European dimension into account.

## Highlights

*The major influences on industrial relations in the European Union over the last few years have been as follows:*

- Economic and monetary union has helped to create a more cooperative industrial relations climate based on shared macro-economic objectives. The sharp drop in the number of labour disputes illustrates this change. The number of working days lost through disputes in the European Union fell from more than 85 million in 1979 to less than 7 million in 1996.
- In spite of the far-reaching structural changes affecting industry and the European economy more generally, and consequently their members, the social partners have adapted and they now have a greater say in

matters. At national level, new tripartite approaches were taken in 11 Member States during the 1990s, leading to the adoption of a series of social pacts for employment. At European level, the social partners have been concerned mainly with getting the European employment strategy off the ground, and their contribution to this process is the current focus of attention.

- Wage developments have been very moderate in the European Union over the past two decades, with increases in real employee compensation tending to remain below productivity growth. As a result, real unit labour costs fell by about 6% between 1991 and 1998, thereby paving the way for a readjustment of economic policy and stabilisation of inflation at a very low level. From an average rate of around 10% between 1970 and 1985, inflation has fallen to less than 2%. The introduction of macro-economic dialogue and increasing awareness of the European dimension among national negotiators is impacting markedly upon wage negotiations.
- Enlargement will bring into the European Union a number of countries with wage levels in the region of 300 euro per month, as opposed to more than 2 000 euro in many of the current EU Member States. However, these wage levels are roughly in line with productivity. Far from being a competitive threat to the 15 Member States, Central and Eastern Europe represents a huge and growing market that absorbs more imports from the current EU than it exports to it. The EU's trade surplus amounted to some 27 billion euro in 1998.
- The annual duration of working time in 1998 was 1 660 hours, ranging from 1 425 in the Netherlands to 1 940 in Greece. Innovative changes in hours of work and working patterns are now widespread, geared to achieving not only greater flexibility but also a restructuring of working life, family life and leisure time. Involvement in part-time work continues to grow, covering 6% of men and over 30% of women in 1998. The question of reducing weekly working hours is still very topical.

- The social dialogue at European level is expanding considerably. More than 100 texts adopted jointly over a 10-year period and six recent agreements provide evidence of this dynamism. Under the Treaty, the European social partners now have a greater say in shaping social policy. Three cross-industry agreements have been incorporated into directives, thereby becoming compulsorily applicable.

## Wages

In the 1980s, the European social partners were forced to experience wage restraint. Erratic rises in nominal wages – reaching an average of 14% in the 1970s – were quickly eaten away by inflation. As a result, the social partners, governments and monetary authorities began to favour a concerted strategy. The policy of nominal wage restraint has helped to get inflation under control (falling below 2%) and offers the best prospect of an increase in real wages.

This policy, pursued over a 15-year period, paved the way for the convergence needed to establish economic and monetary union. The credibility of the process is reflected in the long-term lowering of interest rates, now in the region of 4%. This policy remains vital to the ongoing process of regenerating the European economy.

A radical change in the outlook of trade unions and employers is a necessary corollary to such developments. The social partners have been obliged to include the question of macro-economic stability in their discussions; their key role in macro-economic development has been recognised at the highest level of the European Union. The Cologne European Council set up a permanent mechanism for exchanges at technical and policy levels between the social partners, the Council, the Commission and representatives of the European Central bank.

These "macro-economic dialogue" meetings show how the fundamental approach to wage negotiation is changing and how European developments are influencing decentralised industrial relations.

One point to note is that, given these changes, certain trade-union bodies are coming together to rethink at multinational level the terms of wage negotiation. These efforts are aimed at strengthening the trade-union negotiating stance over a broader range of issues, including the objective of macro-economic stability, and encompassing access to training, equal opportunities and mobility.

The goal of stability has also led the social partners to look for other ways of sharing in productivity gains. The development of schemes to provide par-

ticipation in profits and enterprise results is a step in the right direction, giving rise to new forms of in-house organisation. 80% of the 500 largest European companies have already introduced financial participation schemes. Innovative methods are springing up in a number of Member States and the Commission is keeping a keen eye on the situation.

The social partners continue to have the final say on wages, although there is a limiting factor in that the public authorities determine the level of social security contributions – generally between 30 and close to 60% of the total labour cost. They may give guidelines, e.g. by setting minimum wage levels, as is the case in eight Member States. It is, however, the social partners' input which, in the final analysis, determines general wage trends.

In this context, the persistence of gender-related wage inequalities is all the more unacceptable. In spite of a Directive adopted in 1975 (75/117/EC), the wage gap between men and women remains at around 28%, due partly to objective factors such as couples' sharing of responsibilities (women having more frequent career breaks), and reflecting also the difficulty of reconciling work and family life. The social partners can help to lessen such inequality by incorporating the gender dimension into their agreements and by giving women more prominence in collective bargaining.

The next enlargement will bring in countries with low wage levels compared to the current EU States. Far from being a homogeneous group, the candidate countries themselves display significant wage-cost differentials, varying from 105 euro per month in Bulgaria to 854 euro in Slovenia. With labour productivity taken into account, the wage competitiveness of the candidate countries is close to that of the European Union. The EU's experience of integrating Portugal, Spain and Greece shows that the raising of real wages is a slow process, in line with internal productivity trends rather than an abstract European "norm".

Furthermore, it is generally the high-wage countries that benefit most from trade. This is particularly striking in relations between the EU and Central and Eastern Europe : Western Europe had a large trade surplus of 27 billion euro with Central and Eastern Europe in 1998.

## Working time

Besides wages, the second structural element of collective bargaining lies in determining working time and patterns of work. While recent developments in wage negotiation have centred around the objective of economic stability, discussions on the organisation and duration of work have diversified and expanded, being currently the focus for numerous innovations.

The standard model of daily, weekly, monthly and annual working time is the subject of much debate. Working-time flexibility is emerging in the shape of variable hours, the development of part-time or weekend working, the annualisation of working time and the introduction of opportunities for taking career breaks and adjusting the age of retirement. Between 1985 and 1998, part-time work increased from 4 to 6% for men and from 28 to 32% for women.

These developments reflect the need to adapt production rhythms and service availability more closely to demand, with the aim of giving companies the necessary flexibility and finding the most efficient and productive forms of organisation. The changes also meet workers' expectations in terms of having more leisure time and being able to reconcile family and work responsibilities more effectively.

One issue raised by these developments, however, is the new balance to be struck between working time flexibility and employee protection. Insecurity may stem both from employment periods and from the employment contract itself. Discussions are focusing more and more on the need to consider fragmented periods of working time from a general vocational point of view, including periods spent acquiring new knowledge and skills.

The working population in Europe (i.e. 61% of people of working age) works an average of 1 600 hours a year, corresponding to a full working lifetime of around 70 000 hours. This quantity of work may be managed in various ways, having regard to two questions to which all the EU Member States have tried to find answers.

The first question has to do with the flexibility of working patterns and hours. The burgeoning areas of part-time work (17.4% of employment in 1998) and weekend working indicate a trend towards individualisation of working time and patterns. The many possibilities for taking a career break (training leave, sabbaticals, parental leave, etc.) provide further scope for arranging one's working life.

The second question has to do with the reduction of working time, either in the form of maximum weekly and annual hours or in the form of early retirement. There is clearly an ongoing long-term trend towards shorter working hours. The current technological revolution, bringing with it significant productivity gains and heightened aspirations for a better quality of life, has given fresh impetus to the debate.

The Community approach in this field has been geared to protecting employees against risks to their health or safety. More recently, the social partners' framework agreement on part-time employment contracts endorsed the principle of equal treatment. The social partners in the agricultural

sector have, moreover, negotiated a reduction in annual working time as part of a process to improve the organisation of work and promote employment. Such developments show how this issue is being addressed at Community level and give some idea of the far-reaching economic and social implications of discussions or measures dealing with the duration and organisation of working time.

## Social dialogue at European level

The European social dialogue has been instrumental in smoothing out cultural differences with regard to industrial relations. Bipartite bodies set up from 1985 onwards at cross-industry level, extending gradually to a number of sectors, have provided a forum for experimenting with 15-strong negotiating teams and for clarifying the ground rules.

In this context, it is essential to get the social players at European level structured properly. Aspects of representativeness and delegation of authority have been central to the debates conducted in the wake of the entry into force of the Treaty on European Union ("Maastricht Treaty"). With discussions continuing on these issues, the response from the social players themselves has been extremely encouraging.

The social dialogue has now reached the point where it must focus on the partners' ability to seize the opportunities afforded by the Maastricht and Amsterdam Treaties. On matters which are vitally important to companies and workers, such as information and consultation, skills acquisition, lifelong training and mobility, it is necessary to modernise the existing provisions, taking into account the rapid introduction of new technologies, the growing need for business flexibility, and the desire on the part of workers for further qualifications, mobility and a better balance between working and family life.

It can be seen from the slowly emerging forms of cooperation at European level that the social players are increasingly taking account of the European dimension and, in a number of cases, are using or creating the new tools needed for action at this level.

Nowhere is this clearer than in the case of transnational companies where, under the impetus given by Directive 94/45/EC, more than 600 agreements setting up mechanisms for informing and consulting employees have been signed. Lending a new form to European social dialogue, group works councils help to foster exchanges of views and discussions which are essential for the development of a multinational understanding of industrial relations. In years to come, these group works councils could provide the proper forum for addressing issues such as mobility, transferability of rights and equal opportunities.

The sectoral social dialogue is gradually taking shape, with a voluntary bipartite dialogue process currently being developed in 24 sectors at European level. In traditional areas, where common Community policies have been applied for a number of years, or in the emerging sectors, the social players are seeking forms of cooperation at European level. In most cases, the initial dialogue is geared to identifying relevant problem areas for the social dialogue and trying out a common "vocabulary". This explains why, at the present stage, commitments resulting from the sectoral social dialogue are still thin on the ground.

The sectoral element is no less crucial. It is, in many Member States, the bridgebuilder of collective bargaining, allowing the specific features of each area of activity to be taken into account while determining the general conditions in which industrial relations can flourish. At European level, agreements on the reduction of working time (agriculture – July 1997) and on the organisation of working time (maritime transport – September 1998, railways – September 1998) have been signed.

In a number of sectors affected by a rapid process of restructuring, the social partners are becoming increasingly aware that Europe is the most suitable arena for dealing with the changes and for taking the necessary action. With new areas for discussion now opening up, such as the social impact of the emerging information society and teleworking, the social partners in many sectors are discussing ways of providing more support for developments at national level.

The cross-industry social dialogue comprises two elements: tripartite concertation and autonomous bipartite dialogue. Born of a strong political will to have the social partners more centrally involved in the ongoing process of European integration, the desired effect has been achieved.

Established initially in an advisory capacity (cross-industry advisory committees), tripartite concertation was strengthened in the 1970s (setting up of the Standing Committee on Employment and organisation of tripartite conferences), with the focus on matters relating to employment. Tripartite discussions have taken place on such issues as the acquisition of vocational training, improvement of young people's access to the labour market, equal opportunities for women and men, and integration of the long-term unemployed, leading to conclusions which indicate that there are broad areas of consensus.

The tripartite concertation process was recently regenerated with the introduction of the European employment strategy and discussion of the employment guidelines, resulting in consolidation of the forums for concertation and creation of new structures.

Technical aspects of the employment guidelines are regularly discussed by the "Employment and Labour Market" Committee and the social partners. Economic policy coordination and closer interaction between wage trends and economic, budgetary and financial policy are discussed from the technical and policy-oriented points of view within the framework of a "macro-economic dialogue" established by the Cologne European Council. Half-yearly meetings within the Standing Committee on Employment and with the Troika of heads of state and government give Europe's social partners the opportunity to discuss economic guidelines and employment policies and their interaction.

The institutional avenues open to the social partners from the outset enable them to take a proactive stance on two key aspects of Community action: coordination of economic policies and implementation of the European employment strategy.

The bipartite cross-industry social dialogue or "Val Duchesse" social dialogue has played a key role at European level, providing a springboard for engaging in dialogue leading to agreement-based outcomes. This approach, adopted in 1985 by UNICE, CEEP and the ETUC, has proved fruitful, resulting in the role of the social partners being recognised in the Treaty (Articles 138 and 139). The organisations involved in this dialogue are able to explore and discuss together the key issues to be addressed in the building of Europe: the setting up of a cooperation strategy for economic policies; the completion of the Internal Market; the implementation of the Social Charter of the Fundamental Rights of Workers; and the progress towards economic and monetary union. On these matters, thanks to their dialogue, the social partners in Europe have been able, at Summit meetings or through the adoption of opinions and recommendations, to influence recent developments and play a part in establishing policies.

The most striking manifestation of this influence occurred at the 1991 Intergovernmental Conference, in the course of which a contribution by the social partners (agreement of 31 October 1991) served as a basis for drawing up the new Treaty articles stipulating the role of the social partners at European level.

The entry into force of the new provisions in 1993 launched the cross-industry social dialogue into a new era. The social partners' right to be consulted on proposals in the social field and to opt for agreement-based rather than legislative measures now makes them central players in the European social arena. The "joint opinions" period has thus gradually given way to the negotiation of European framework agreements.

Three framework agreements have been signed since 1995: parental leave (December 1995); part-time employment contracts (June 1997) and fixed-

term employment contracts (March 1999). The significance of this development is that it constitutes a first step in the use of the innovative provisions of Articles 138 and 139 of the Treaty, placing the social partners in a position to determine, on their own initiative, subjects of common interest which they wish to address in future negotiations.

## Community social law

The scope of European social policy has widened and diversified over the lifetime of the Community. The initial efforts to establish an area of occupational mobility have been supplemented by provisions aimed at combating distortions of competition, promoting equal opportunities for women and men, and improving health and safety protection at the workplace. The progress made most recently on the institutional front means that the European social sphere now encompasses employment-related aspects, especially efforts to combat discrimination.

Community social law nowadays focuses on four main areas: freedom of movement for workers; labour law; equal opportunities for women and men; and protection of health and safety at the workplace. Community proposals in these areas are designed to establish new rights on transnational matters (freedom of movement; European works councils; posting of workers) and to determine minimum entitlements without prejudice to more favourable provisions at national level.

The task of incorporating the guidelines laid down by Community Directives into national legislation or collective agreements is an important facet of European social law. Besides monitoring and evaluating the situation, the competent national authorities need to interact with one another.

An increasingly important challenge lies in ensuring that Community social law is properly understood and applied.

The practice of informing and consulting employees is widespread in Europe. Companies anxious to capitalise on the motivation and commitment of their staff, and aware that this form of dialogue is a source of innovation and improvement in the organisation of work, have generally developed on a voluntary basis mechanisms for informing and consulting their staff. Provisions introduced at European level have sought to clarify the conditions governing employee involvement and the level at which it should occur. The first "labour law" directives in the early 1970s made it compulsory to inform and consult employees about major economic upheavals: "collective dismissals" and "transfers of businesses". Council Directive 94/45/EC of 22 September 1994 made it obligatory to inform and consult employees within European groups employing more than 1 000

people. A more recent proposal is aimed at extending this obligation to all European companies with more than 50 employees.

The approach adopted at Community level is designed to place greater emphasis on national practices in the face of internationalisation (information on the European group's strategy enhances the information supplied locally) and to promote equal treatment for workers and companies. In a period of radical and rapid structural transformation, with European companies having constantly to adapt and reorganise, it is essential that the social impact of change be taken into account.

Steps are currently being taken at national level to redefine the internal ground rules applying to the different levels and areas. Occurrences on two fronts will have an effect on collective bargaining: a trend towards greater freedom at decentralised levels vis-à-vis the standards and guidelines negotiated centrally, and broadening the scope of negotiations.

Some clarification is still required as to where the European dimension fits into the scheme of things. The multi-layering of negotiation on the same topics – the European framework being interpreted nationally, then consolidated at branch or company level – would lead to very general guidelines being laid down at the highest level. A central task in this context is to find ways of achieving complementarity between the levels.

A trend towards the coordination of collective bargaining at European level is emerging in the light of certain recent developments, whether in the form of decentralised initiatives or initiatives taken by European social partner organisations. This applies particularly to trade-union action in connection with wages in cross-border regions. More generally, there is now an increasing spread of issues and practices, and ever-growing awareness of being part of the Union in national or decentralised discussions between the social partners.

Practices governing the framework of dialogue, the outcome of collective bargaining, the conditions for collective action and the arrangements for resolving conflicts are, however, still determined at national level. European law is not applicable to such matters, which are underpinned by strong national traditions.

## Social pacts for employment

In the 1990s, tripartite pacts or agreements for employment were signed in many Member States. The growing influence of the tripartite approach with regard to matters concerning employment promotion, control of inflation and modernisation of social protection systems marks a new stage in industrial relations in Europe.

Through the social pacts, the partners are required to turn their attention to areas traditionally reserved for public action: employment-oriented policies and economic policy guidelines. On the other hand, they undertake to negotiate, beyond their contractual autonomy, framework guidelines for wage trends or changes in the operation of the labour market.

The efforts invested by the Member States in conjunction with the advent of economic and monetary union would undoubtedly not have been possible without partnership and without input from the social partners in their own spheres of competence.

Over the last few years, this partnership-based approach has been pursued by a number of Member States engaged in the negotiation of "second-generation pacts", with the objective of preparing for and mastering current developments: globalisation of markets, increasing competition and demands of competitiveness; growing influence of the information society and lasting transformation of production methods, consumer habits and lifestyles; demographic ageing and new inter-generational compromises resulting therefrom; development of working-time flexibility and the question of continuity of rights in the event of career breaks and job changes.

Against this backdrop, the social dialogue is taking on fresh significance. As a key instrument for involving representatives of the working population in decisions which affect them, it has become the forum for airing a wider range of views and expectations held by society generally.

The trend towards adopting social pacts at national level has given rise to a parallel approach at Community level. The European employment pact, the draft of which was launched at the Cologne European Council, seeks to reproduce on a Europe-wide basis the highly positive dynamism set in train in many Member States.

If it is to succeed, the partnership-based approach at European level needs a strong commitment from everyone and from the social partners first and foremost. It demonstrates, alongside the other aspects emphasised in this report, what is really needed to boost industrial relations at European level.

# Industrial relations at European level

## The various players and institutions at European level

With the process of European integration gathering pace, the social partners have become increasingly involved at European level.

To begin with, this took the form of coordinating the views of national organisations and giving expression at European level to the concerns of workers and business.

As the number of forums and opportunities for dialogue increased, the social partners gradually strengthened their European representation to enable them to play a full part in the social dialogue.

The social partners' involvement in the design and drafting of European social provisions is based on a firmly rooted tradition in most of the Member States. All aspects of the social dialogue (from consultation to negotiation) help to make the decision-making procedure more effective and to enhance good governance. The social partners are ideally placed to give real substance to industrial relations, and this has enabled them to secure an area of responsibility and room for autonomous action. By means of their negotiation role in particular, they have to make choices which structure the way industrial relations are organised and to express general views which go beyond the specific concerns of this or that group.

This role is an important aspect of the European social model, bringing together a number of values — responsibility, solidarity and participation. It is only natural, then, that the social partners should have become stakeholders in the construction of the European Community. At cross-industry level, the major European social partners' organisations have been active since the outset.

- **Social dialogue:** Process of continuous interaction between the social partners with the aim of reaching agreements on the control of certain economic and social variables, at both macro and micro levels.
- **Consultation:** A process of discussion and debate, usually distinguished from collective bargaining and negotiation in that it does not imply a process of bargaining, compromise and joint agreement.
- **Social concertation:** Method of managing labour, social and economic issues by means of consultation and social concertation between the public authorities and bodies representing employees and employers.
- **Collective bargaining:** Collective bargaining is the process of negotiation by which collective agreements are reached. Such agreements are compromises which reflect the relative bargaining power of the parties.
- **Collective agreement:** An agreement reached through collective bargaining between an employer and one or more trade unions, or between employers' associations and trade union confederations. This agreement regulates the relationships between the parties and the treatment of individual workers, and covers the wages and conditions of the workers affected.

Source: *Industrial relations glossaries, Foundation for the Improvement of Living and Working Conditions, 1993.*

Year	Organisation	Description
1958	SSE - European trade union secretariat	UNICE - Union of Industrial and Employers' Confederations of Europe
1961		CEEP - European Centre of Enterprises with Public Participation
1969	CESL - European confederation of free trade unions	
1973	ETUC - European Trade Union Confederation	
1979		UEAPME - European association of craft, small and medium-sized enterprises
1989	CEC - European confederation of Executives and Managerial staff	

UNICE, CEEP and ETUC have taken the lead in organising and developing the social dialogue at Community level. They were the first to become truly aware of the creation of a European area for industrial relations, and it was they which, in 1985, agreed to take part in the 'Val Duchesse'-type dialogue, going well beyond pure and simple consultation.

More recently, a number of European organisations which were

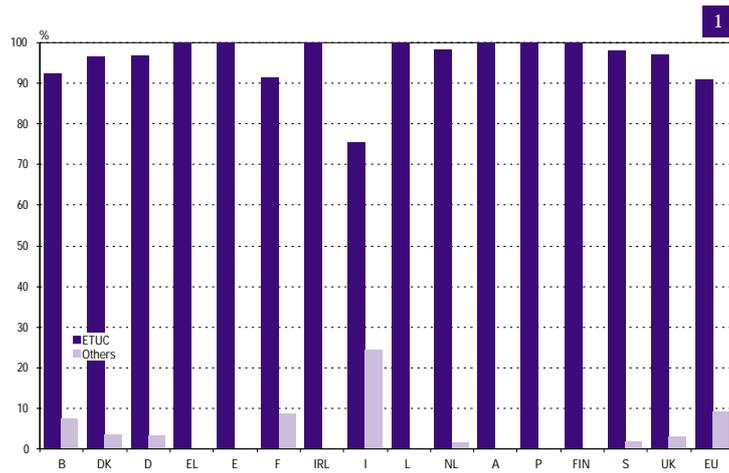
not present at the outset have staked a claim for their place in the social dialogue, the upshot being endeavours to reach cooperation agreements with UNICE, on the one hand, and with ETUC, on the other.

There are currently two major European cross-industry organisations which are well ahead of the others in terms of representativeness: UNICE on the employers' side, and ETUC on the workers' side<sup>1</sup>.

## Cross-industry union representation<sup>2</sup>

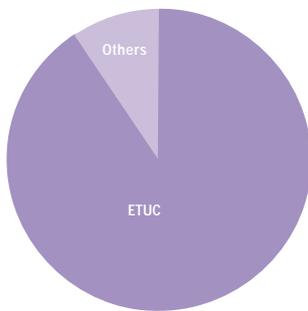
In assessing ETUC's representativeness, account has to be taken of the agreement reached last June between Eurocadres and the CEC, under which the two organisations undertook to work closely together within all of the social dialogue entities.

### Relative importance of the European trade union organisations



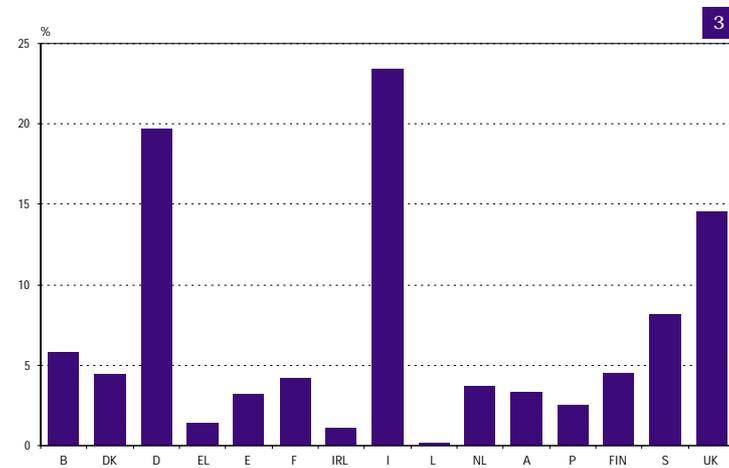
Sources: Report on the representativeness of European social partner organisations, Part 1, European Commission, 1999.

### Members of European trade union organisations in the European Union



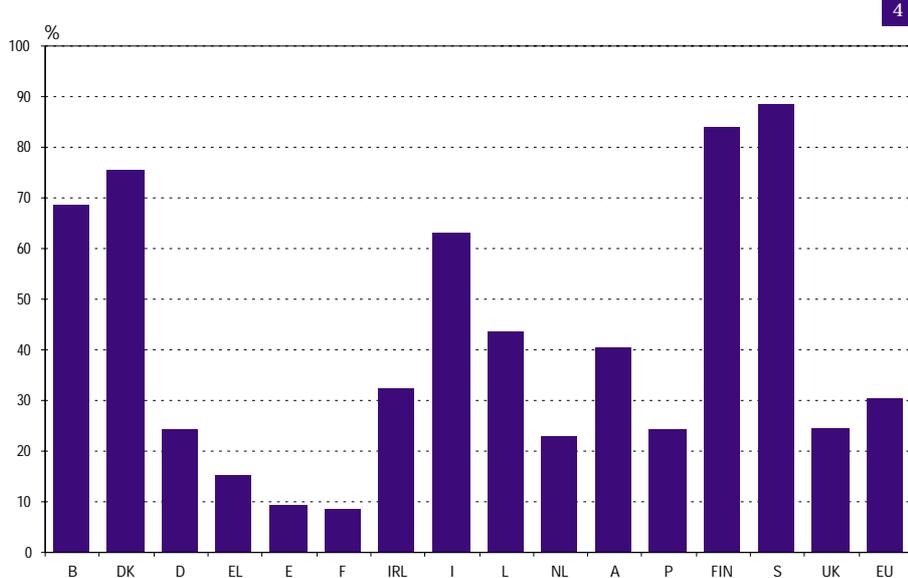
Sources: Report on the representativeness of European social partner organisations, Part 1, European Commission, 1999.

### National breakdown of ETUC affiliates (%)



Sources: Report on the representativeness of European social partner organisations, Part 1, European Commission, 1999.

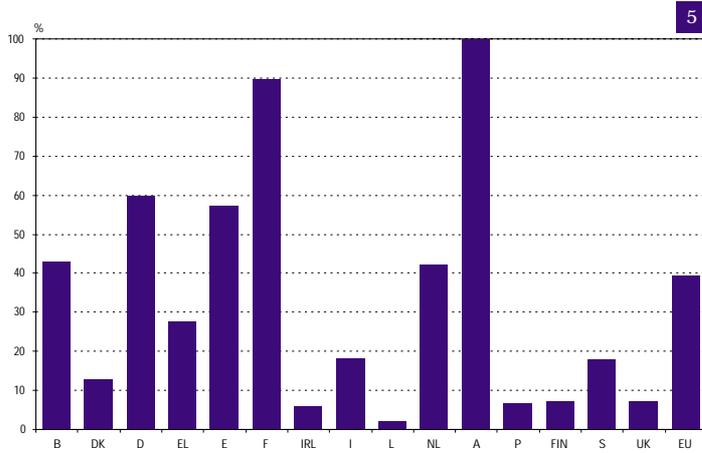
### Rate of Union membership



Sources: Report on the representativeness of European social partner organisations, Part 1, European Commission, 1999; LFS; Eurostat.

## Employers' organisations, cross-industry level

Percentage of firms which belong  
to a European social partners' organisation

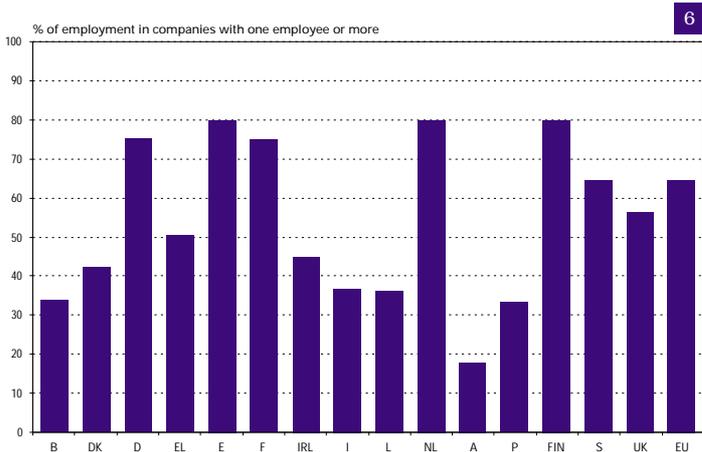


Sources: Report on the representativeness of European social partner organisations, Part 1, European Commission, 1999; Enterprises in Europe, Eurostat, 1998.

In interpreting these data, it has to be borne in mind that half of all firms in Europe have no paid employees. In other words, the clearest picture emerges from looking at the relative weight of organisations in terms of total employment.

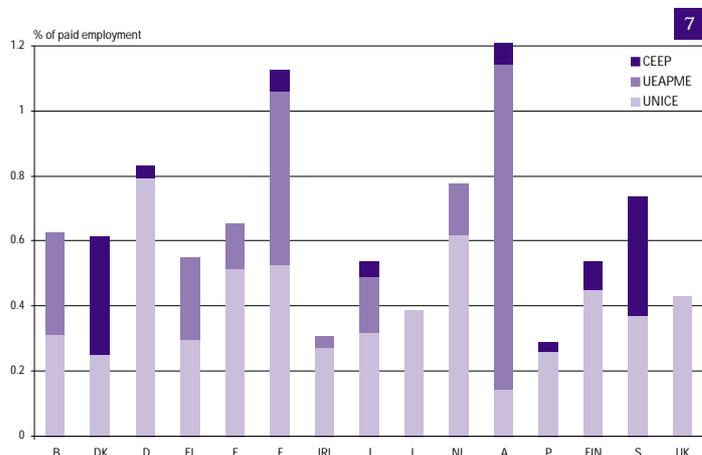
In assessing UNICE's representativeness, account has to be taken of CEEP (for public service jobs) and the UEAPME (for small and medium-sized undertakings and for the craft trades). It has further to be borne in mind that, in Austria, the 100 % business membership rate is because of compulsory membership<sup>3</sup>.

Firms which are members of UNICE,  
expressed as a percentage of the paid labour force



Sources: Report on the representativeness of European social partner organisations, Part 1, European Commission, 1999; ILO, 1997; Enterprises in Europe, Eurostat, 1998.

Weight of European employers' organisations  
(including dual affiliation - limited to organisations with negotiating powers)

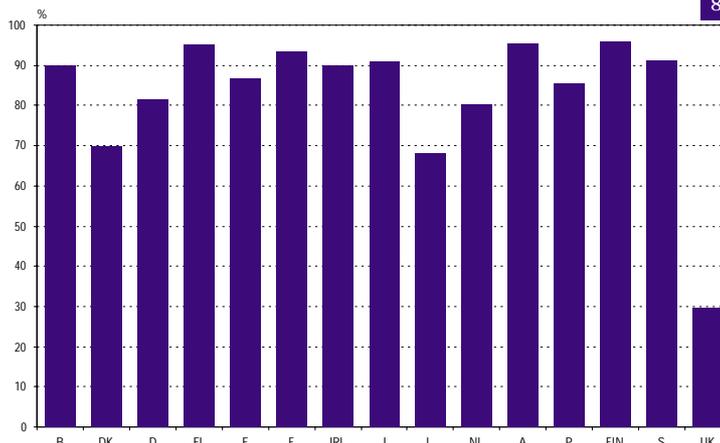


Sources: Report on the representativeness of European social partner organisations, Part 1, European Commission, 1999; ILO, 1997.

## Coverage of existing agreements

Agreements signed by the European organisations cover directly 70 million workers, and close on 6 million businesses in Europe. Because the agreements are automatically incorporated into industry or business-level agreements, and because a number of countries use extension procedures, the rate of coverage of agreements signed by the European cross-industry organisations is, in fact, around 80 %, within a range extending from just less than 30 % in the United Kingdom to approximately 95 % in Austria and Finland.

Rate of coverage



Source: European Commission.

## Links between cross-industry and sectoral organisations

The links between the cross-industry organisations and the sectoral organisations tend to vary. On the trade union side, the federations representing the main sectors are all members of ETUC. On the employers' side, the European employers' network enables the various organisations to exchange information, but does not have any real coordination function.

A number of sectoral employers' organisations do not actually regard themselves as social partners. This imbalanced situation is reflected in the list of organisations consulted under Article 138 of the Treaty, from which it is clear that a number of trade union federations have no counterpart on the employers' side. The growing importance of the sectoral social dialogue, reflected in the number of sectoral committees now being set up (see below), should, however, eventually bring this list back into balance.

The question of linkage between general-coverage organisations and specifically sectoral organisations will be one of the major challenges over the years to come. The social partners at European level will have to cope with the challenge of a growing level

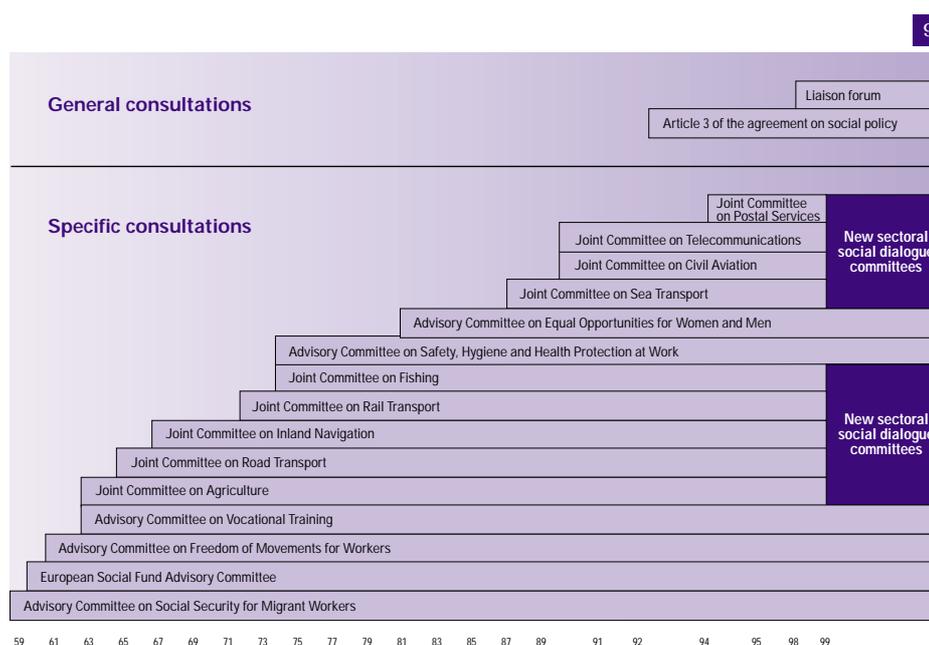
of autonomous representation covering all aspects of industrial relations. As a result, the need for linkage between the various levels — cross-industry, sectoral and company — will become ever more pressing.

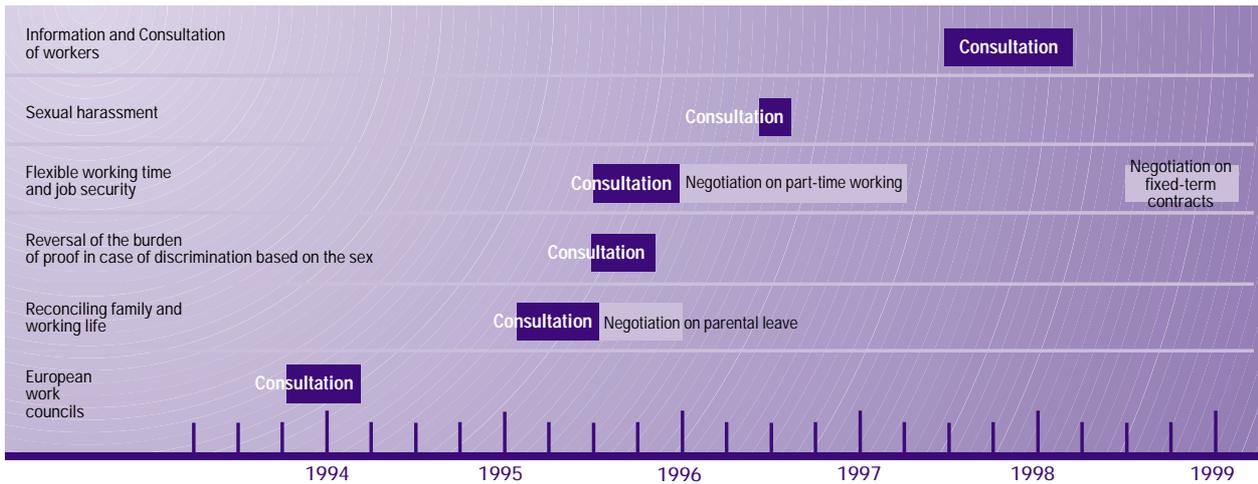
## Consultation of the social partners

Since the Treaty of Rome, a number of mechanisms have been set in place to facilitate the work of the social partners.

The initial need was to enable representatives of the social partners to give their opinions on Community policies. This level of consultation has been fleshed out and become more structured over the course of time.

In its communication of 20 May 1998 entitled 'Adapting and promoting the social dialogue', the Commission suggested rationalising these consultation forums. It undertook to merge the two advisory committees dealing with social security for migrant workers and with freedom of movement for workers. It also decided to replace the joint committees by sectoral social dialogue committees with extended powers, more especially in terms of dialogue and negotiation. Finally, it decided to set up a liaison forum upstream of the trade union and employers' organisations involved in the European social dialogue.





The entry into force of the Maastricht Treaty and its social chapter brought with it an obligation on the Commission to consult the social partners in advance of adopting legislative proposals in the following fields (Article 137):

- improvement, in particular, of the working environment to protect workers' health and safety;
- working conditions;
- information and consultation of workers;
- equality between men and women with regard to labour market opportunities and treatment at work;
- integration of persons excluded from the labour market;
- social security and social protection of workers;
- protection of workers where their employment contract is terminated;
- representation and collective defence of the interests of workers and employers;
- conditions of employment for third-country nationals legally residing in Community territory;
- financial contributions for the promotion of employment and job-creation, without prejudice to the provisions relating to the European Social Fund.

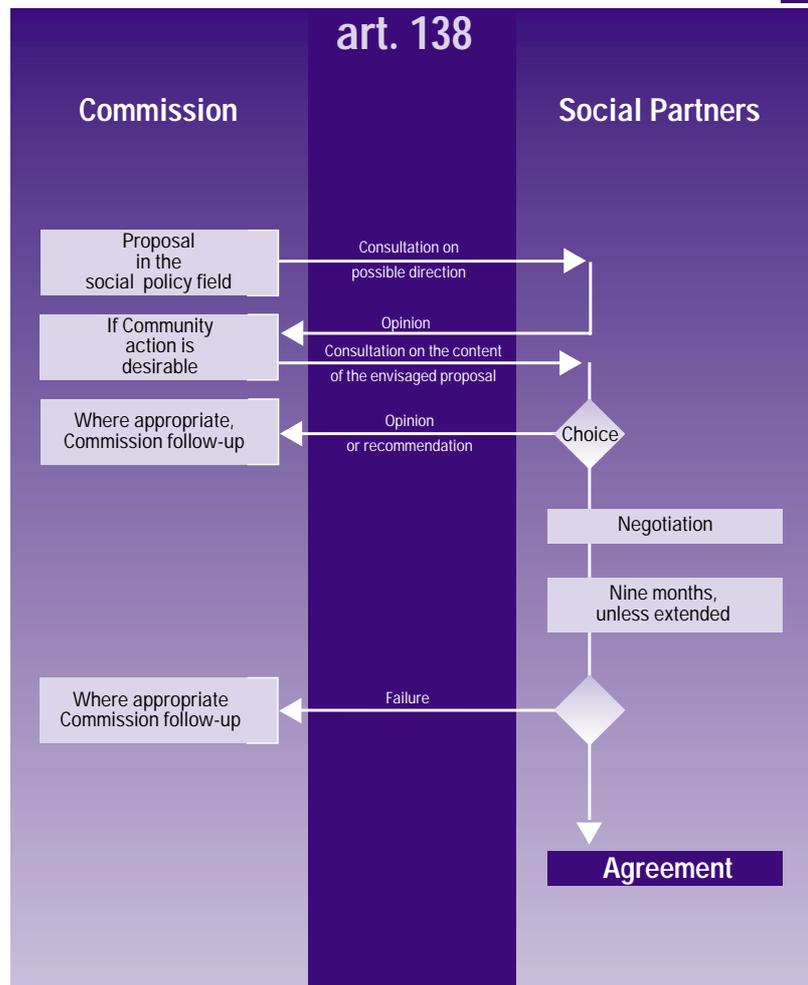
Article 138 of the Treaty entitles the social partners to be consulted in two stages: (a) on the need for and the possible direction of Community action; and (b) on its content. At the end of this consultation process, the organisations can present an opinion or a recommendation to the Commission or inform the Commis-

sion of their intention to open negotiations on the subject covered by the consultation. In this case, the social partners have an initial period of nine months to reach an agreement. Where the social partners do not take the initiative, the Commission resumes its active role.

These provisions have been used six times since 1993.

In the wake of these consultations, the social partners gave the Commission the following replies:

- European works councils: failure to define the terms of reference for



negotiation. Elements arising from the discussions between the social partners were incorporated into the proposal which was adopted by the Commission.

- Reconciling family and working life: agreement of 14 December 1995 on parental leave.
- Reversal of the burden of proof in

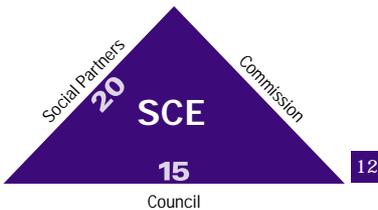
case of discrimination based on the sex: the social partners decided to leave this issue in the legislator's hands.

- Flexible working time and job security: agreements of 6 June 1997 on part-time working and of 18 March 1999 on fixed-term contracts.

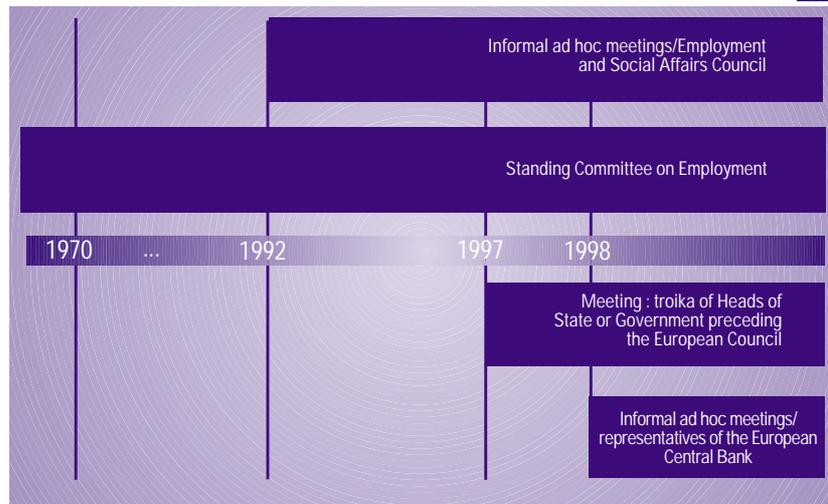
- Sexual harassment: the employers were against adopting a binding instrument on this matter.
- Information and consultation of workers: the employers were opposed to adopting a European instrument.

### Tripartite concertation

The social partners are also involved in preparing the work of the Council. Since 1970, the Standing Committee on Employment (SCE) has met twice a year in the presence of representatives of the Council, the Commission and the social partners to discuss issues linked to industrial change and the employment situation.



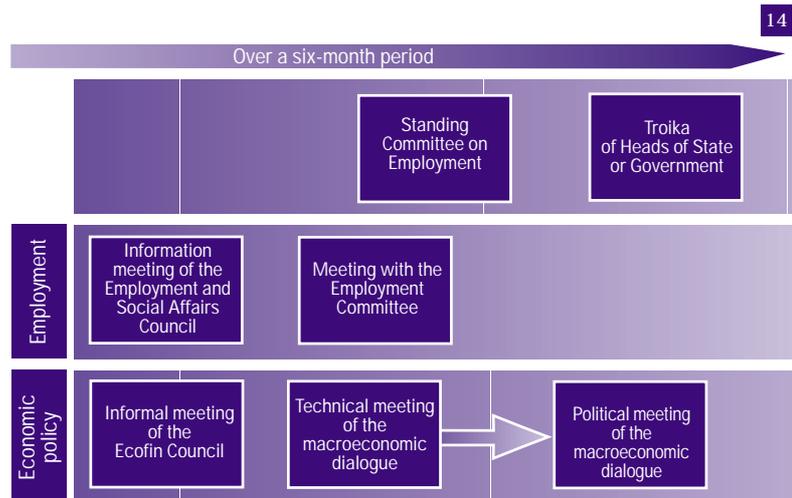
### Settings for tripartite consultation



### Tripartite consultation of the social partners: Current structure

The tripartite concertation system has been greatly strengthened over recent years, with the social partners now being invited to informal and periodic meetings with the 'troika' of Heads of State or Government, in conjunction with successive European Councils, with the Employment and Social Affairs Council, and with representatives of the European Central Bank.

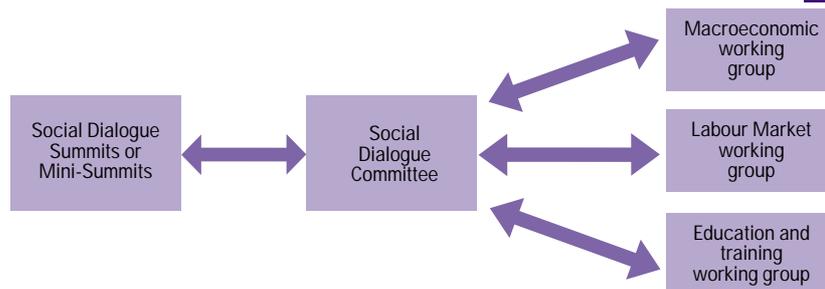
Following the Cologne European Council (1999), a 'macroeconomic' dialogue was set up, bringing in the social partners to coordinate economic policy and improve the interaction between wage trends and monetary, budget and tax policy.



## The bipartite Val Duchesse social dialogue

Since 1985, acting on an initiative from the then President of the Commission, Jacques Delors, the social partners have been engaged in autonomous dialogue, presaging the development of a European contractual area.

The Val Duchesse dialogue is pushed along periodically by plenary meetings (the social dialogue 'summits'), and currently comes under the auspices of the Social Dialogue Committee (the permanent dialogue level) and the subservient technical working groups (on macroeconomics, the labour market and education and training).

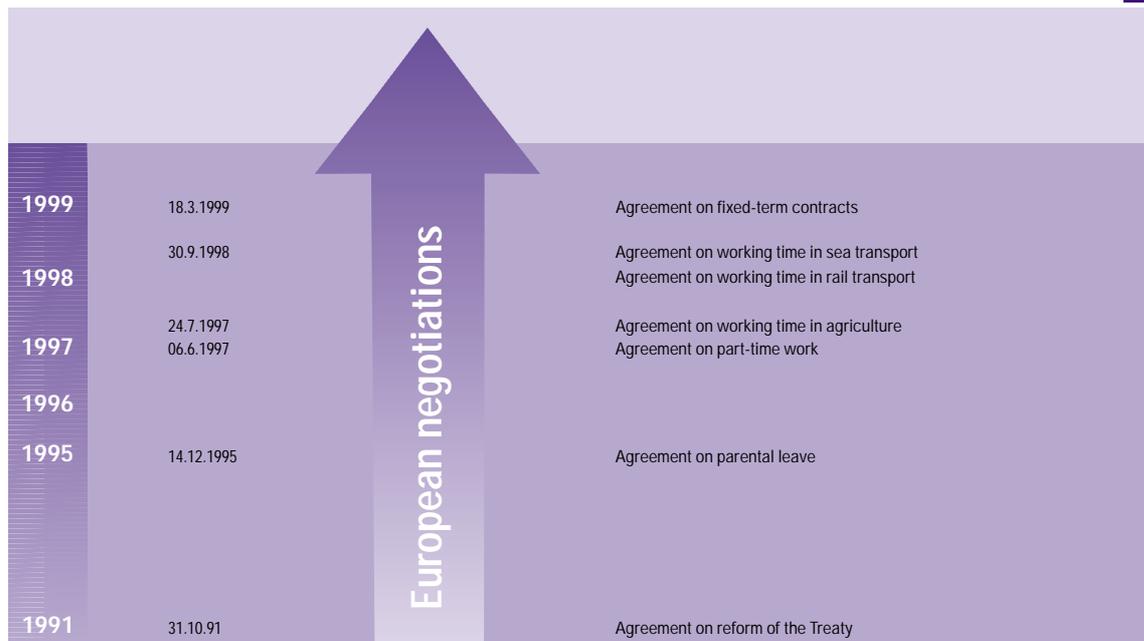


With effect from 1 January 1999, a similar approach has been adopted for the sectoral dialogue, with the creation, in sectors requesting it, of sectoral social dialogue committees. These new committees are set up on a voluntary basis and replace the old

joint committees and informal, advisory working parties. They depend on the willingness of the two sides to develop a social dialogue in all the various aspects in the sectors concerned.

Sectoral social dialogue committees (SSDCs)

Sector	Workers	Employers	Old committee	Old informal group	New SSDC
Agriculture	EFA	GEOPA/COPA	✓		✓
Insurance	UNI-Europa	CEA; BIPAR; AECI		✓	✓
Banking	UNI-Europa	BFEU; ESBG; EACB		✓	✓
Footwear	ETUF-TCL	CEC		✓	✓
Wood	EFBWW	CEI-Bois		✓	✓
Railways	ETF	CER	✓		✓
Commerce	UNI-Europa	Eurocommerce		✓	✓
Construction	EFBWW	FIEC		✓	✓
Culture	EEA	Pearle			✓
Horeca	SETA-UITA	Hotrec		✓	✓
Inland navigation	ETF	IUIN; ESO	✓		✓
Cleaning	UNI-Europa	EFCI		✓	✓
Sea fishing	ETF	Europeche/Cogeca	✓		✓
Postal services	UNI-Europa	Posteurop	✓		✓
Private security	UNI-Europa	COESS		✓	✓
Personal services (hairdressing)	UNI-Europa	CIC Europe			✓
Sugar	ECF-IUF	CEFS		✓	✓
Tanning	ETUF-TCL	Cotance			✓
Textiles	ETUF-TCL	Euratex		✓	✓
Sea transport	ETF	ECSA	✓		✓
Road transport	ETF	IRU	✓		✓
Temporary work	UNI-Europa	CIETT			✓
Telecommunications	UNI-Europa	ETNO	✓		✓
Air transport	ETF; ECA	AEA; ERA; ACI Europe; IACA	✓		✓
Electricity	EPSU; EMCEF	Eurelectric		✓	✓
Media	EFJ	UER; ENPA		✓	
Local public services	EPSU	CEMR		✓	
Graphics	UNI-Europa	Intergraf		✓	
Total			9	15	25



## Negotiations

Since 1991, either on their own initiative or in the wake of consultations based on Article 3 of the agreement on social policy (now Article 138 of the Treaty), the social partners have negotiated a number of agreements within specially constituted negotiating groups.

Since 1994, i.e. since the adoption of Council Directive 94/45/EC on the establishment of a European works council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees, more than 600 agreements have been

negotiated setting up such procedures and anticipating the entry into force of the directive, as provided for in Article 13.

## Representativeness

As the social partners became more and more involved in Community activities, the question arose as to their representativeness at European level.

In response to this question, the Commission adopted the following approach<sup>4</sup>:

- achieving the widest possible dissemination of available information among interested economic and

social parties, making use of electronic networks and widely circulated publications;

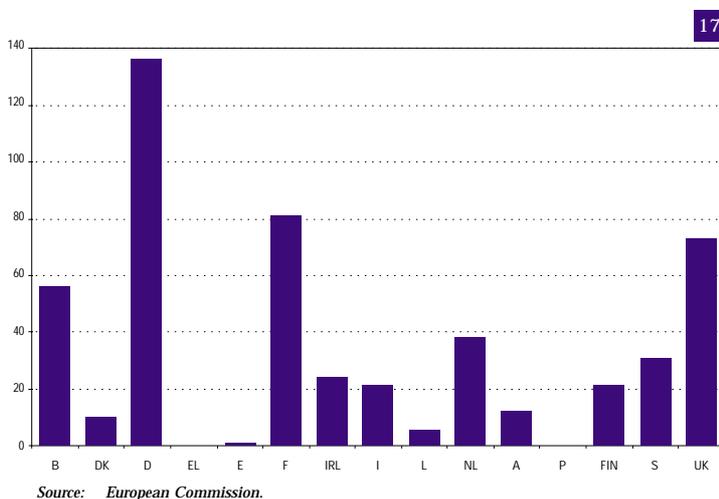
- identifying the social partners within the meaning of Article 3 of the agreement on social policy.

In order to be eligible for consultation and to have the legitimacy to interrupt the legislative process and to opt for an agreement-based approach, the social partner organisations must:

- be cross-industry, or relate to specific sectors or categories and be organised at European level;
- consist of organisations which are themselves an integral and recognised part of Member States' social partner structures and with the capacity to negotiate agreements, and which are representative of all Member States, as far as possible;
- have adequate structures to ensure their effective participation in the consultation process.

To date, some 30 European organisations have met these three criteria. They are systematically consulted on any proposal in the social policy field. The list of such organisations is reviewed regularly in the light of experience and of the results of an ongoing study on representativeness (see next page).

Number of agreements on European works councils, 1994 - 99



Consultation under Article 138		
	Employees	Employers
1. General-purpose cross-industry organisations		
	ETUC	UNICE
		CEEP
2. Cross-industry organisations representing certain categories of workers or businesses		
	CEC	UEAPME
	Eurocadres (ETUC)	
3. Specific organisations		
		Eurochambres
4 and 5. Sectoral organisations and European sectoral federations affiliated to ETUC		
Commerce	UNI-Europa	Eurocommerce
Insurance		AECI
		BIPAR
		CEA
Banking		BFEU
		EACB
		ESBG
Cleaning		EFCI
Postal and telecommunications services		
Graphics		
Catering etc.	ECF-IUF	Hotrec
Construction	EFBWW	FIEC
Wood		CEI-Bois
Agriculture	EFA	COPA/Cogeca
Fishing	ETF	Europeche
Civil aviation		ERA
		ACI Europe
		AEA
Inland navigation		ESO
		IUIN
Sea transport		ECSA
Railways		CER
Road transport		IRU
Metal	EMF	
Culture and media	EEA	
Public services	EPSU	
Teaching	ETUCE	
Textiles, footwear, leather	ETUF-TCL	
Chemicals and energy	EMCEF	
Journalists	EFJ-IFJ	
Diamonds and precious stones	EFDPS	

## The European social dialogue: main developments

### Growth in the number of sectoral organisations

Some 20 sectors have traditionally been involved in dialogue at Community level. This kind of sectoral dialogue enables the social partners to play a dual role: firstly, they fulfil a watchdog function by making their concerns known to the Commission and the Council; secondly, they provide a forum for

the exchange of ideas and dialogue between the social partners.

Currently, there are sectoral social dialogue committees in fields of activity representing a little more than 40 % of total employment. The total number of sectoral social dialogue bodies (25 sectoral social dialogue committees have been created since 1 January 1999) has increased three-fold in the space of 10 years.

The newcomers are mainly from the services sector, more often than not industries which are actively seeking recognition and a higher profile.

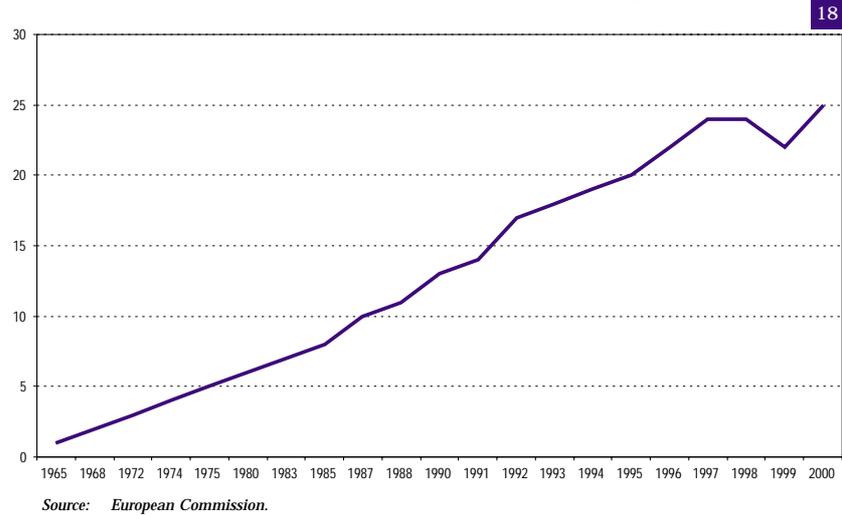
Industrial sectors are comparatively rare in the European social sectoral dialogue system (representing 5 % of the total: wood, construction, textiles, etc.), despite repeated requests from the trade union side. One explanation might be that the employers are involved in sectoral advisory committees which bring together Member States and representatives of industry, and that industry wields a substantial weight in a large number of UNICE's national member organisations. This effectively gives industrialists a convenient way into the social dialogue.

## The results of the sectoral social dialogue

The sectoral social dialogue has generated a large number of joint texts (more than 150), representing the culmination of a cooperation process and, to a limited extent, a process of negotiation between the social partners. They take the form of joint opinions, declarations, resolutions, recommendations, proposals, guidelines, codes of conduct, agreement protocols and agreements proper.

Under the social dialogue system, the social partners can take a wide variety of initiatives. The most current are training schemes (more especially under the FORCE — later the Leonardo da Vinci — programme), joint conferences and studies.

Number of sectors involved in the European social dialogue, 1965 - 2000



18

### Examples of joint texts adopted under the sectoral social dialogue

Agriculture	Framework agreement on employment and working time	1997
Insurance	Comments on the Commission's Green Paper on the organisation of work	1998
Banks	Joint declaration on the Commission's Green Paper on the organisation of work	1998
Wood	Agreement on sustainable forestry	1997
Footwear	Update of the Charter on Child Labour	1997
Railways	Agreement on the organisation of working time	1998
Commerce	Agreement on fundamental rights and principles at work	1999
Construction	Joint agreement on the application of the directive on the posting of workers	1997
Catering etc.	Recommendation on the promotion of employment	1999
Internal navigation	Examination of freer access for operators from outside the EU	1997
Cleaning	Memorandum on new sources of employment	1996
Sea fishing	Opinion on the safety of fishing vessels of less than 15 m	1998
Postal services	Agreement on the promotion of employment	1998
Private security	Handbook on the award of public contracts	1999
Sugar	Teaching instruments for safety in the sugar industry	1999
Telecommunications	Framework agreement on employment	2000
Textiles	Code of conduct on fundamental social rights	1997
Air transport	Recommendation on working time for ground staff	1994
Sea transport	Agreement on the organisation of working time	1998
Road transport	Agreement on the proposal for a directive concerning the minimum health and safety requirements for transport activities and places of work on board means of transport	1993
Media	Undertaking on tolerance and racism	1997
Local public services	Joint declaration on the modernisation of public services	1996

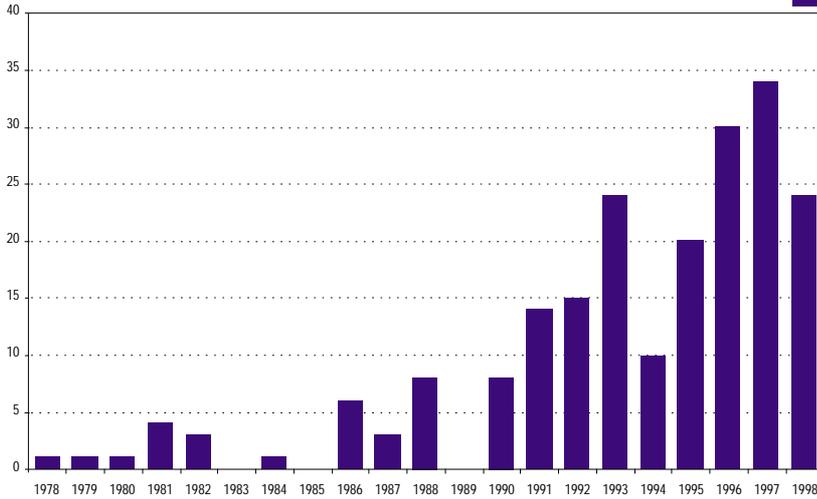
The growth in the number of texts adopted by the social partners can be explained by the number of sectors involved in the social dialogue and

the more intense level of dialogue within the committees. The number of sectors has greatly increased, but 'dialogue productivity' has itself dou-

bled over the past 10 years (from 0.7 agreements per year in 1986 to 1.4 agreements in 1996).

### Number of joint texts per year

19



Source: European Commission.

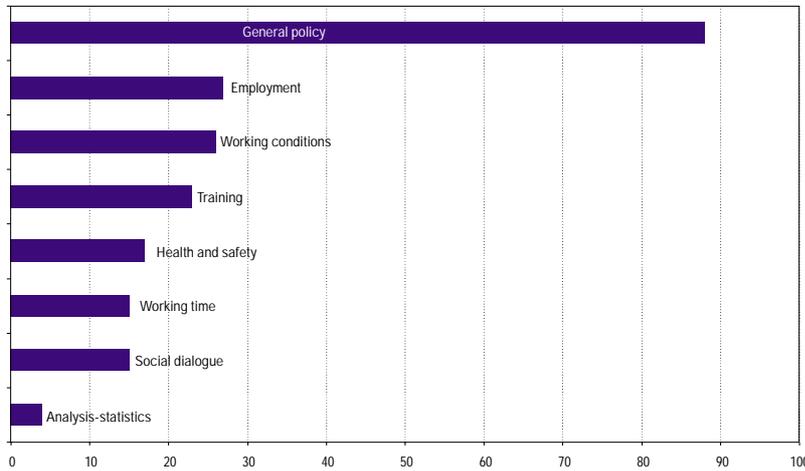
### The fields covered

In all, 50 % of all agreements are concerned with issues involving commercial policy or industrial policy and the economy (e.g. access to markets, privatisation, organisation of markets, etc.). In most cases, the texts result from a joint reaction on the part of the social partners to a European initiative or to a consultation process initiated by the Commission.

However, the work of the social partners at sectoral level is not limited to the 'reactive' aspect. A great deal of work has been put into developing cooperation on questions which fall within the direct competence of the social partners, such as employment, vocational training, working conditions and working time.

### Number of joint texts per area

20



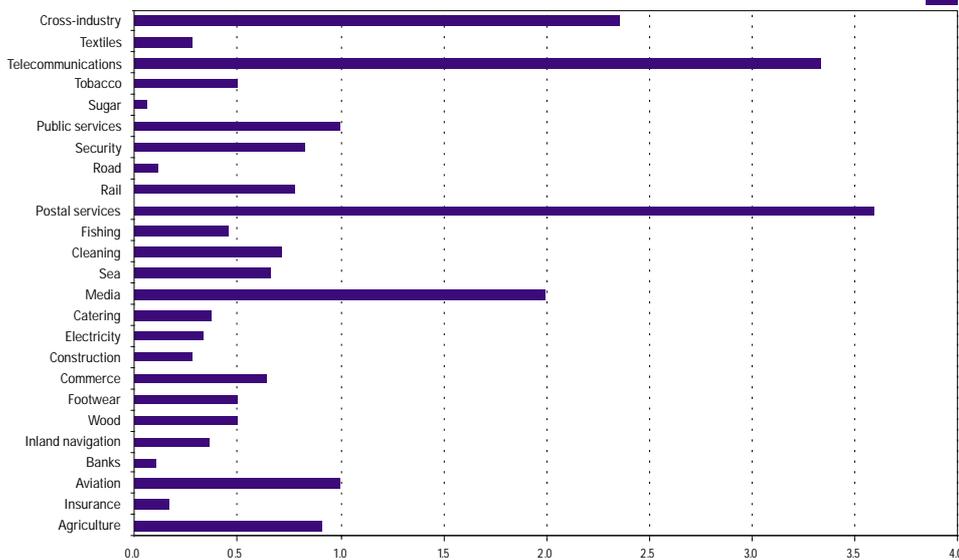
Source: European Commission.

Clearly, the more experience the various sectors have of the social dialogue, the more able they are to produce a substantial number of agreements. Correlating the number of agreements signed to the longevity of the social dialogue, we can see that three very different sectors have a particularly high level of 'production' (i.e. more than one agreement per year): telecommunications, postal services and civil aviation.

In the other sectors, the average number of agreements<sup>5</sup> is around 0.5 per year. In other words, it takes two years on average to conclude a joint text at European level.

### Average number of joint texts per year and per sector

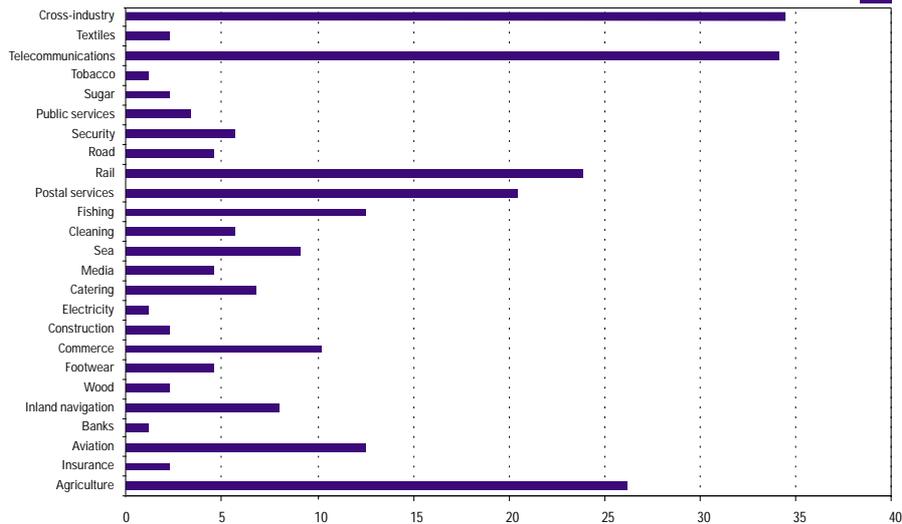
21



Source: European Commission.

## Number of joint texts per sector

22



Source: European Commission.

### The level of commitment

The results of the social dialogue are not always uniform. The social partners find it easier to agree on recommendations targeted at the Community public authorities or the national authorities. The sectoral social dialogue has tended to generate

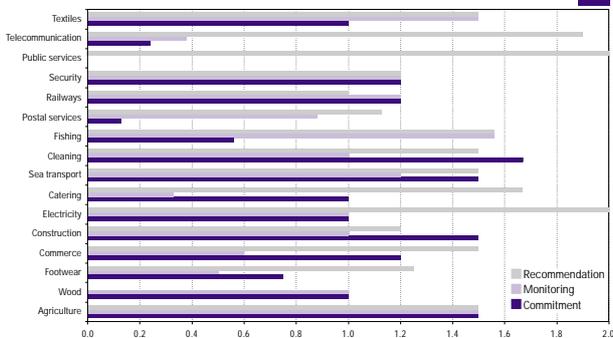
more joint submissions to third parties than reciprocal undertakings.

However, in fields more directly linked to the social partners' spheres of competence, the level of commitment is increasing, even to the point of becoming a priority issue over the question of working time.

The 'recommendation' instrument tends to be used particularly in fields affecting sectoral policies. In more general terms, we can see that sectors which have produced a substantial number of joint texts have tended to use the recommendation formula, for example in telecommunications and postal services.

### Average grading of joint text at sectoral level, by sectors

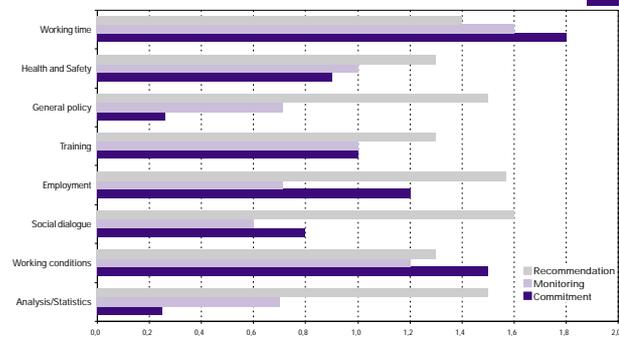
23



Source: European Commission.

### Average grading of joint text at sectoral level, by areas

24



Source: European Commission.

This analysis of the joint texts looks at three characteristics:

- the level of commitment of the social partners;
- the level of recommendation to a third party;
- the level of monitoring.

For each of these three characteristics, there were three possible results:

- no undertaking, recommendation or monitoring;
- undertaking at European level, defensive recommendation, or simple monitoring;
- undertaking the national transposition, constructive recommendation, or more rigorous monitoring.

To make the results more readily visible, each of these results was awarded a grading on a scale of points from 0 to 2.

Although their current spread is unequal within the Community social dialogue, the sectors do at the moment offer the greatest potential for development. It is at sectoral level that the real economic and social issues manifest themselves, whether they be industrial restructuring, the introduction of new technologies, changing occupational profiles, changing Community policies or liberalisation and freer competition. By the same token, the social partners' answers at sectoral level have a real operational dimension.

## The results of the cross-industry social dialogue

The Val Duchesse social dialogue has given the social partners at European level the chance to intervene in areas such as employment, vocational training, freedom of movement, health and safety, equal opportunities and Structural Fund operations.

The social partners have been able to issue opinions on Commission initiatives on the coordination of economic policies, on the implementation of the internal market and on monetary union. But the social dialogue would not occupy such a cen-

tral position in our societies if all it did was to issue opinions. The important thing is that the dialogue is also concerned with influencing the social dimension directly and helping it to develop.

This dimension of the social dialogue is now also beginning to make its presence felt at Community level.

The Val Duchesse social dialogue was an initial tentative attempt to commit the European social partners' organisations to autonomous dialogue. All the ensuing meetings since 1985 have helped forge a European culture of industrial relations, and have enabled the social partners to

test at European level their capacity to negotiate on economic cooperation strategy, vocational training, racism, labour market adaptability, the European employment strategy, and the integration of disabled people into the world of work.

The various joint opinions, recommendations, declarations, and the agreement of 31 October 1991 on the role of the social partners in developing the Community social dimension formed the basis for an approach which was consolidated over the period 1986-93; the natural outcome will be the development of a European contractual area and the first framework agreements.

Date	Cross-industry social dialogue texts
6 November 1986	Joint opinion on the cooperative growth strategy for more employment
6 March 1987	Joint opinion concerning training and motivation, and information and consultation
26 November 1987	Joint opinion on the Annual Economic Report 1987/88
13 February 1990	Joint opinion on the creation of a European occupational and geographical mobility area and improving the operation of the labour market in Europe
19 June 1990	Joint opinion on education and training
10 January 1991	Joint opinion on new technologies, work organisation and adaptability of the labour market
5 April 1991	Joint opinion on the transition from school to adult and working life
31 October 1991	Agreement on the role of the social partners in developing the Community social dimension
20 December 1991	Joint opinion on ways of facilitating the broadest possible effective access to training opportunities
3 July 1992	Joint opinion on a renewed cooperative growth strategy for more employment
3 July 1992	Joint statement on the future of the social dialogue
13 October 1992	Joint opinion on vocational qualifications and certification
June 1993	Joint recommendation on the functioning of interprofessional advisory committees
28 July 1993	Joint opinion on the future role and action of the Community in the field of education and training, including the role of the social partners
29 October 1993	Proposals by the social partners for implementation of the agreement annexed to the protocol on social policy of the Treaty on European Union
3 December 1993	Joint opinion on women and training
5 December 1993	Joint opinion on the framework for the broad economic policy guidelines
8 November 1994	Joint publication: 'Broad lines of the White Paper on growth, competitiveness and employment in the fields of education and training, and responses to the joint opinions'
4 April 1995	Joint opinion on the contribution of vocational training to combating unemployment and reabsorbing the unemployed into the labour market in the light of the new situation created by the White Paper
16 May 1995	Joint opinion on the social partners' guidelines for turning recovery into a sustained and job-creation growth process
21 October 1995	Joint declaration on the prevention of racial discrimination and xenophobia and promotion of equal treatment at the workplace
21 October 1995	Joint declaration of the European social partners to the Madrid European Council on the employment policy arising from the Essen European Council
14 December 1995	Framework agreement on parental leave
29 November 1996	Joint declaration 'Action for employment: a confidence pact'
6 June 1997	Framework agreement on part-time work
13 November 1997	Joint contribution of the social partners to the Luxembourg Employment Summit
17 October 1998	Joint opinion on the draft decision establishing the second phase of the Leonardo da Vinci programme
9 December 1998	1999 employment guidelines — joint declaration of the social partners to the Vienna European Council
9 December 1998	Joint opinion on the reform of the Standing Committee on Employment
9 December 1998	Compendium of good practice on the employment of disabled persons
18 March 1999	Framework agreement on fixed-duration employment contracts
18 March 1999	Joint declaration for the Warsaw Conference on enlargement
19 May 1999	Declaration of the European social partners on the employment of disabled people
2 June 1999	Declaration of the social partners to the Cologne European Council

## Examples of agreements negotiated at European level and how they have been put into practice

Article 139 of the Treaty makes provision for two possible ways of implementing an agreement reached by the social partners at European level.

Either the two sides undertake to incorporate the terms of their agreement into national agreements and texts (this is the voluntary approach chosen by the social partners in the agricultural sector to implement their agreement of July 1997 on working time) or they ask for their agreement to be extended to all the industry or the whole of the economy.

In the latter case, the Commission can decide, having assessed the scope and legality of the agreement, to submit the social partners' agreement to the Council. The Council can decide to give legal force to this agreement by adopting it as a directive, a regulation or a decision. This was the route chosen by the social partners for the framework agreements on parental leave, part-time work contracts, limited-duration employment contracts, and working time in sea transport.

## The agriculture agreement of 24 July 1997

Council Directive 93/104/EC of 23 November 1993 lays down a number of provisions concerning the organisation of working time. It makes provision for a wide range of exceptions, more especially for the agricultural sector, subject to certain conditions concerning daily rest time, breaks, weekly rest periods and night working. On these points, the directive says that 'derogations may be adopted by means of laws, regulations or administrative provisions or by means of collective agreements or agreements between the two sides of industry'.

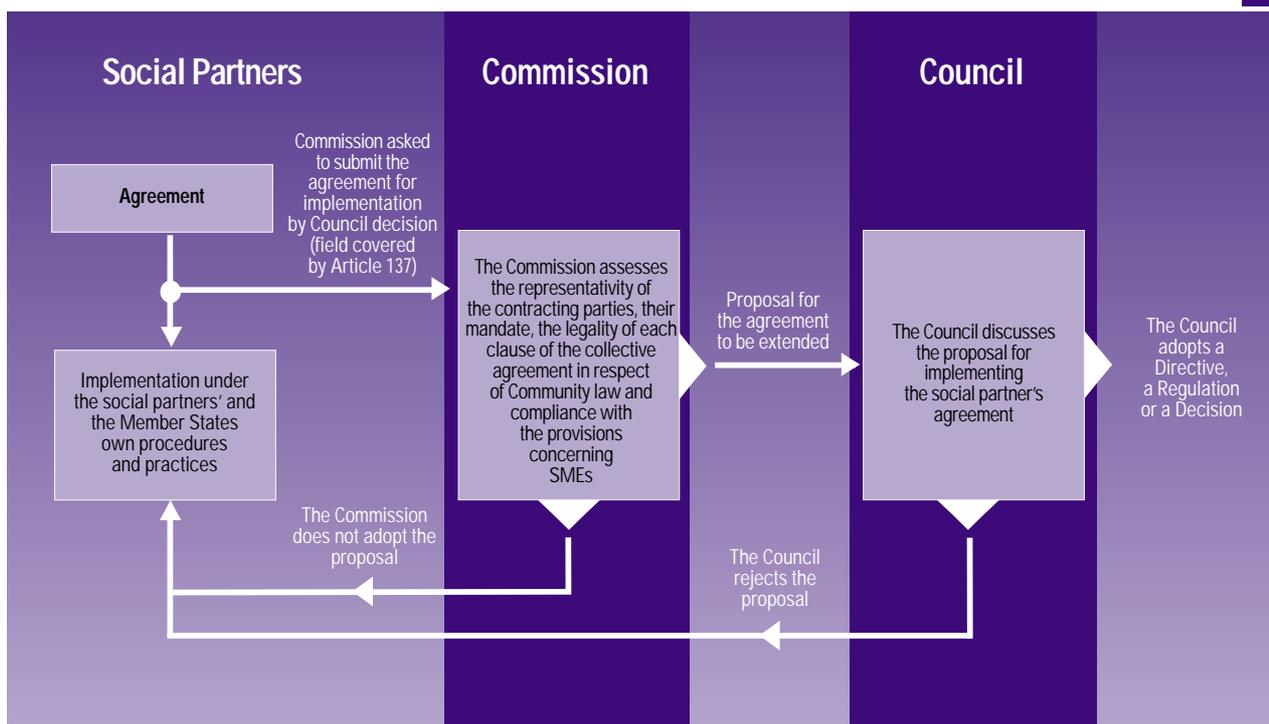
The framework agreement on a recommendation for improving paid employment in agriculture in the Member States of the European Union was signed on 24 July 1997 by the employers (GEOPA/COPA) and the European trade unions (EFA/ETUC), and fleshed out the areas left blank by the directive. It also extends the scope of the directive in laying down the maximum annual working time. It thus reflects a very strongly held commitment on the part of the social partners to help boost employment.

The content of the agricultural agreement of 24 July 1997

1. Maximum limit of annual working time of 1 827 hours (average: 39 hours/week) and fixing of a framework for flexible working time with regard to climatic conditions and nature of production.
2. Recommendation on the adaptation of working time on an individual basis, with a view to training leave, part-time work, parental leave and career breaks.
3. Guarantee of a secure income with respect to the hours worked.
4. Entitlement to a pay supplement and/or time off for overtime and intent of the signatory parties to reduce the use of overtime as much as possible in order to promote employment.
5. Daily rest: generally 12 hours during each 24-hour period, including a period of at least 11 consecutive hours; weekly rest: if possible 48 hours, with a compulsory period of at least 35 consecutive hours.
6. Definition of night work as any work carried out between 21.00 and 6.00 (i.e. a period of 9 hours).
7. Definition of periods to be considered as working time, such as interruptions of work due to atmospheric conditions or for technical reasons, or such as time spent on preparation of work.
8. Entitlement to four weeks' paid annual leave after a full year of employment (in case of shorter period of employment, calculation on a pro rata basis) and to the paid public holidays as determined by national legislation and/or collective agreements.

## Implementation of Article 139(2) of the Treaty

25



## Implementation of the agreement

The agreement signed by the social partners at European level will be implemented by way of a voluntary approach. It is a 'framework agreement on a recommendation', and will have to be incorporated into national collective agreements in the agricultural sector. It will be monitored by the Agriculture Social Dialogue Committee.

This is the first voluntary agreement at European level which has not emerged from prior consultation of the Commission in accordance with Article 138 of the Treaty. It shows that, at European level, the social partners can create and exploit a real autonomous contractual area provided the political will is there. It illustrates the dynamism of the social dialogue in the agricultural sector, based on a long tradition at European level (the first agreements date from 1978).

### The agreement on parental leave

Directive 96/34/EC on the framework agreement on parental leave was adopted under the agreement on social policy on 3 June 1996. This directive constitutes a landmark for European labour law and industrial relations as it is based on the first European-level collective agreement to be concluded under the procedures set out in the agreement on social policy and the first ever agreement to be implemented through Community law. The directive had to be implemented in Member States by 3 June 1998. However, the directive allowed Member States an additional period of up to one year if this was necessary to take account of special difficulties or implementation by collective agreement. Ireland and Austria both took advantage of this possibility to delay implementation by 6 months and 12 months respectively. Following the UK's decision to be bound by the directives adopted under the protocol on social policy, the provisions of the directive were extended to the UK by Directive 97/75/EC of 15 December 1997 and the UK had until 15 December 1999 to implement these provisions.

The directive aims to help working parents to reconcile work and family commitments as well as to encour-

age fathers to play a more active role in the care and upbringing of their children. The directive applies to all workers, men and women, who have an employment contract or employment relationship as defined by Member States and Member States have ensured that the public and private sectors are covered. It provides that workers shall have the right to take at least three months' parental leave on the grounds of the birth or adoption of a child until a given age of up to eight years.

The directive provides that, to promote equal opportunities and equal treatment between men and women, the right to parental leave should, in principle, be granted on a non-transferable basis. Although the directive allows employers to postpone parental leave for justifiable reasons and allows special arrangements to meet the operational and organisational requirements of small firms, few Member States have taken advantage of these provisions.

The directive protects workers against dismissal on the grounds of an application for, or the taking of, parental leave in accordance with national arrangements.

The directive provides for the preservation of rights acquired or in the process of being acquired on the date on which parental leave begins and states that such rights shall apply at the end of parental leave. It is, however, for Member States to define the

status of the employment contract or employment relationship for the period of parental leave and to determine all matters relating to social security.

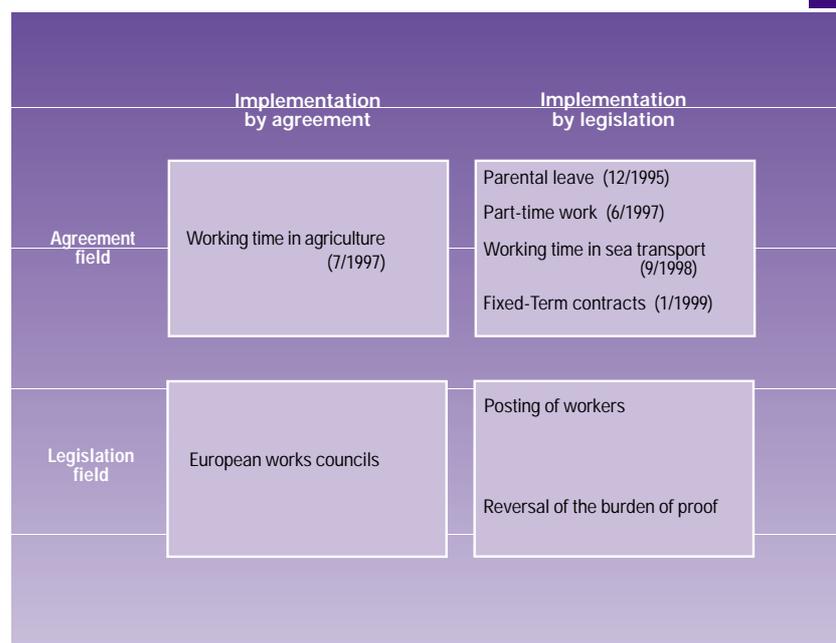
The directive also requires that a worker be allowed to take time off for reasons of force majeure, for urgent family reasons in cases of sickness or accident requiring the immediate presence of the worker. It is left up to Member States to specify the amount of time off and conditions of access.

The provisions of the directive are minimum standards, and some Member States have provided for a system of parental leave which goes well beyond the minimum requirements. This, combined with the discretion left to Member States to determine matters such as conditions of access, payment during parental leave, whether leave should be taken full-time or part-time, notice periods, etc., has led to considerable variation between Member States' parental leave systems.

### Practical arrangements for implementing texts adopted at European level

The way in which texts adopted at Community level are implemented (by legislation or by agreement) varies according to the field in question and the choice made by the social partners as to the monitoring arrangements for their European agreements.

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## Collective bargaining and democracy

This is an aspect which has caused a good deal of discussion, particularly in connection with the implementation of agreements negotiated by the legislative route. In its judgment of 17 June 1998, the Court of Justice of the European Communities addressed this aspect.

The UEAPME appealed against Directive 96/34/EC on parental leave. In its judgment of 17 June 1998, the Court ruled that the appeal was inadmissible. It did, however, take a detailed look at the democratic aspect of the agreement and hence of the representativeness of the social partners that signed the agreement which then turned into the directive.

The Court gave detailed justification of the need to make such an examination. First of all, it emphasised that, where there was a call for implementation at Community level of an agreement concluded between the social partners, the intervention of the Commission and of the Council effectively gave the agreement a Community legislative basis, without having recourse to the conventional procedures for drawing up a legislative text as provided for in the Treaty, i.e. involving the European Parliament. In the Court's view, the involvement of the European Parliament is a reflection at Community level of a fundamental democratic principle, under which the Member States' peoples take part in the exercise of power through a representative assembly.

The lack of European Parliament participation in the procedure provided for by the agreement on social policy therefore requires, according to the Court, that participation on the part of the people in the process of adopting a legislative instrument be assured in some alternative manner, in this case through the social partners.

## European social dialogue and EU enlargement

### *Increasing initiatives from the European social partners*

The European social partners have a key role to play in helping the social

partners from candidate countries to prepare themselves for the enlargement process. Over the last year, the European social partners have multiplied the initiatives in this regard. Under their joint initiative and with the support of the European Commission, the first conference of the social partners on enlargement was organised in Warsaw in March 1999. For the first time, it generated a wide-ranging debate on the role of the social partners in the EU enlargement process between over 200 social partners' representatives from EU Member States and candidate countries<sup>6</sup>. This led to a joint declaration of the social partners, marking the importance to be given by all actors to promoting social dialogue in the applicant countries.

Enlargement of the European Union to the East and South is a process of historic importance. (...) It confronts the candidate countries and the European Union with the double challenge of profound economic and social reform currently taking place in almost all candidate countries, and of taking over the Community acquis. The tasks to be fulfilled require the active participation of the social partners that must fully live up their responsibilities by contributing to the enlargement process, both at the national and the European level. [...] ETUC, UNICE/UEAPME, and CEEP invite the European Union and the governments of candidate countries to involve the social partners, in an appropriate way, in the enlargement process.

Source: Abstract of the joint declaration of the social partners, Warsaw, 19 March 1999; see *Social dialogue for success: the role of social partners in EU enlargement*, European Commission, Brussels, 1999, p. 43.

The social partners have launched a number of initiatives over the past few months to help the social partners from candidate countries to improve progressively their organisational structures and prepare them to play an effective role in the enlargement process.

### *Social dialogue in candidate countries*

As regards the prospect of EU enlargement to central and east European countries (CEECs), it is important to observe how industrial relations are functioning in these countries, and what the main general trends are in this regard.

- Most countries in central and eastern Europe have promoted social dialogue through tripartite structures, for instance, by creating tripartite national councils where formal discussions are held between government representatives and the social partners. In many cases, the social partners have not been able to get involved in a number of policy matters. This situation calls for the complementary development of bilateral channels of social dialogue.
- There are shortcomings in collective bargaining in many of the candidate countries. Entire areas are not covered by collective bargaining such as civil servants and employees in public enterprises. There is also an absence of intermediary levels of collective bargaining, at the branches or regions. Employers' and trade union organisations are often not sufficiently structured and prepared to carry out collective bargaining at intermediary levels.
- There are also rapid changes in labour-management practices at the enterprise level. Adverse developments can be observed in new small private companies that do not always recognise trade unions nor sign collective agreements and, in some cases, even individual labour contracts. At the same time, interesting developments are observed with regard to financial participation. Employees have been allowed to participate in the privatisation programme so that employee-ownership has become one important property form in many CEECs.

The above trends obviously may have effects on the enlargement process, since they may limit the capacity of candidate countries to adopt and implement the different elements of the *acquis communautaire*. They could also reduce the ability of candidate countries to participate effectively in the European social dialogue. For example, it is clear that the lack of sectoral structures for social partners in candidate countries may render difficult their forthcoming participation in the sectoral dialogue committees at the EU level.

# Main developments in labour law

## The major institutional developments - extension of the social field

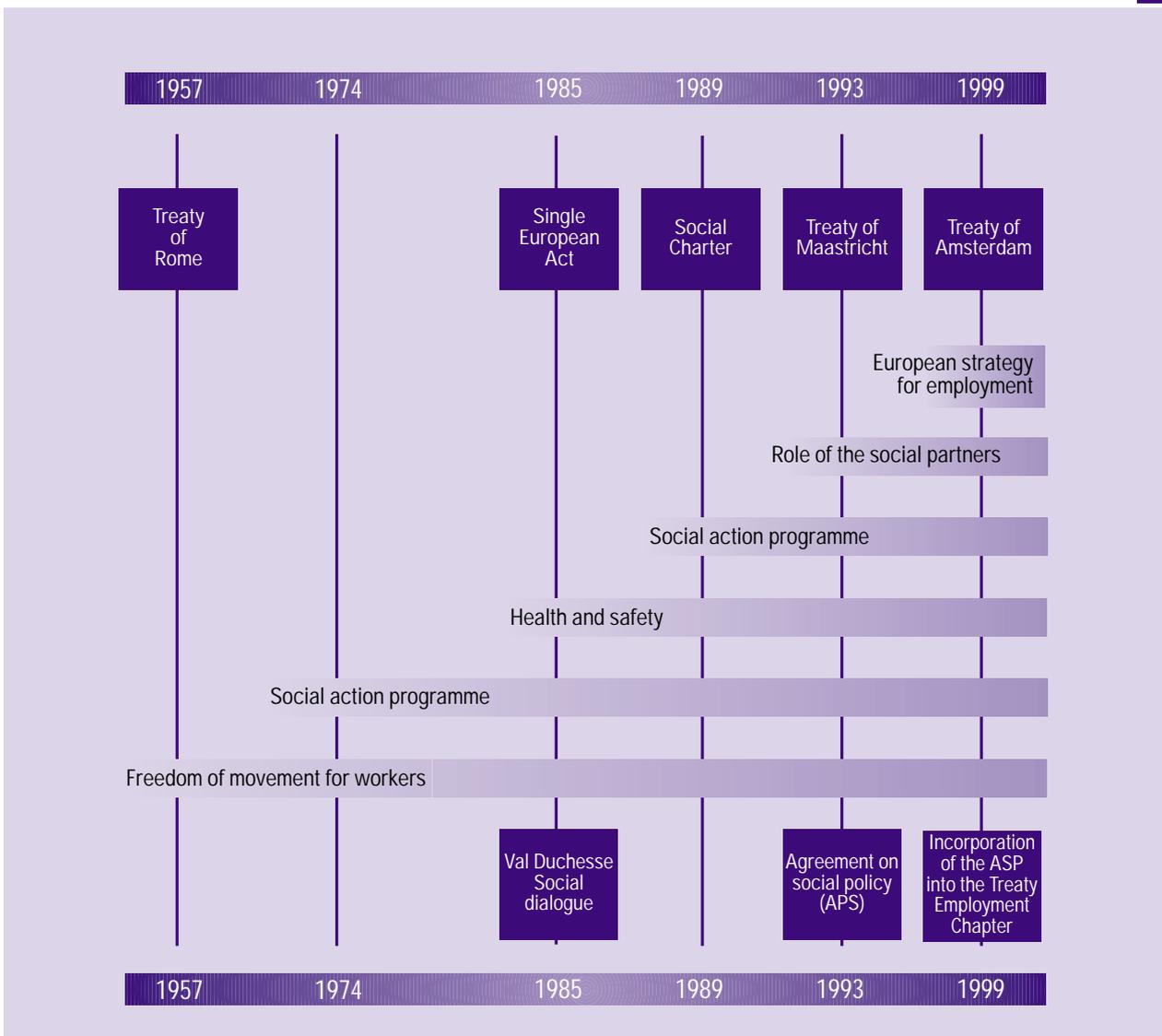
The *acquis communautaire* in terms of social legislation is now considerable, affecting key areas of industrial relations and social protection.

In some cases, the European Union has passed legislation to regulate situations directly linked to European integration (freedom of movement for workers and social security for migrant workers). This was the case recently with directives relating to transnational situations (European works councils and cross-border posting of workers within the framework of the provision of services).

In other cases, the European legislature has intervened to influence the development of national systems in accordance with the aims of the Treaty. This was the case in areas such as labour law, equal opportunities for women and men, and health and safety at work.

There are six main stages.

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**Stage 1:**  
***the 1960s and early 1970s***

The instruments establishing and reinforcing freedom of movement for workers, and the coordination of social security schemes for migrant workers, occupied the attention of the European social legislature until the early 1970s. The Treaty of Rome contained a chapter on freedom of movement for workers, Articles 48 ff. (new article 39 ff) for freedom of movement, and Article 51 (new article 42) for social security for migrant workers). In 1972, the basic legal framework for achieving these aims was in place. It was subsequently to be considerably developed and reinforced by the case-law of the Court of Justice of the European Communities. It also included a social chapter (Articles 119 ff.) which made no provision for legislative interventions.

**Stage 2:**  
***the second half of the 1970s***

This period is characterised by the adoption of the first directives on labour law, equal opportunities for women and men, and health and safety at work. The institutional framework has remained unchanged, but a number of events led the European legislature to act: for example, the oil crisis and the first major industrial restructuring exercises (the first labour law directive deals with collective redundancies) and the discovery, in the mid-1970s, of the carcinogenic effects of vinyl chloride monomer, a substance used in the plastics industry. These provisions were based on Article 100 of the Treaty, which enabled the Council to adopt unanimously directives for the approximation of such national provisions as affect the establishment or functioning of the common market, and on Article 235 for equal opportunities for women and men.

**Stage 3:**  
***the 1980s***

This period enabled the progress achieved in relation to equal opportunities for women and men and health and safety at work to be consolidated. A framework directive adopted in 1980, defining a strategy for dealing with all physical, chemical and biological agents at work, was followed by a series of specific directives. The Single European Act strengthened the legal basis for health and safety provisions. The first indent of Article 137(1) (ex Article 118a of the EC Treaty) enabled the adoption by qualified majority of directives laying down minimum requirements for safety and health at work. The other significant legal innovation in the Single Act in the social field was that the social dialogue was recognised at European level (Article 118b – new Article 139).

**Stage 4:**  
***1990 – 93***

The signing in 1989 of the Community Charter of the Fundamental Social Rights of Workers was a milestone in the development of social policy. A number of initiatives followed, some of them legislative. The action programme based on the charter led to the adoption of 15 health and safety directives, one equal opportunities directive and four labour law directives. However, the experience of this second action programme showed the need for a stronger legal basis for social policy. The entry into force of the Maastricht Treaty and, in particular, its social protocol (currently Articles 136 ff.) extended the use of qualified majority voting beyond health and safety and defined the role of the social partners at Community level.

**Stage 5:**  
***1994 – 99***

The social protocol attached to the Maastricht Treaty provides an active role for collective bargaining. It enables the social partners to make a direct contribution to the production of Community social legislation. On three occasions, (parental leave, part-time work and fixed-term contracts), the directives have implemented agreements between the social partners at European level. The protocol also establishes a more favourable political, institutional and legal context and enables proposals pending for the action programme linked to the Social Charter to be followed up.

**Stage 6:**  
***since 1999***

The Treaty of Amsterdam consolidates and significantly reinforces the institutional framework and instruments of Community social policy. It ends the UK opt-out and moves Europe forward in four areas: employment, combating discrimination, equal opportunities for men and women, and the role of the social partners (Articles 3, 13, employment chapter, 137, 138 and 141). It enables the European Parliament to increase its involvement (co-decision).

HEALTH AND SAFETY		<p><b>Directive 78/610/EEC:</b> vinyl chloride monomer</p> <p><b>Directive 80/1107/EEC:</b> chemical, physical and biological agents</p>	<p><b>Directive 82/130/EEC:</b> explosive atmospheres (firedamp)</p> <p><b>Directive 82/605/EEC:</b> metallic lead</p> <p><b>Directive 83/477/EEC:</b> asbestos</p> <p><b>Directive 86/188/EEC:</b> noise</p> <p><b>Directive 88/35/EEC:</b> explosive atmospheres (firedamp) 2</p> <p><b>Directive 88/364/EEC:</b> banning agents and other activities</p> <p><b>Directive 88/642/EEC:</b> chemical, physical and biological agents 2</p> <p><b>Directive 89/391/EEC:</b> framework</p> <p><b>Directive 89/654/EEC:</b> workplaces</p> <p><b>Directive 89/655/EEC:</b> work equipment</p> <p><b>Directive 89/656/EEC:</b> personal protective equipment</p>
EQUAL TREATMENT		<p><b>Directive 75/117/EEC:</b> equal pay</p> <p><b>Directive 76/207/EEC:</b> equal treatment as regards access to employment</p> <p><b>Directive 79/7/EEC:</b> social security</p>	<p><b>Directive 86/378/EEC:</b> occupational social security schemes</p> <p><b>Directive 86/613/EEC:</b> self-employed women</p>
LABOUR LAW		<p><b>Directive 75/129/EEC:</b> collective redundancies</p> <p><b>Directive 77/187/EEC:</b> transfers of undertakings</p> <p><b>Directive 80/987/EEC:</b> insolvency</p>	
FREE MOVEMENT AND SOCIAL SECURITY FOR MIGRANT WORKERS	<p><b>FREE MOVEMENT</b></p> <p><b>Regulation No 15 (1961):</b> first measures</p> <p><b>Regulation No 38/64/EEC:</b> extension of free movement</p> <p><b>Directive 64/221/EEC:</b> special measures</p> <p><b>Directive 64/240/EEC:</b> public policy, public security and public health</p> <p><b>Directive 68/360/EEC:</b> abolition of restrictions on movement</p> <p><b>Regulation (EEC) No 1612/68:</b> free movement of workers</p> <p><b>Regulation (EEC) No 1251/70 of the Commission:</b> right to remain in the territory of a Member State</p> <p><b>SOCIAL SECURITY</b></p> <p><b>Regulations Nos 3 and 4:</b> social security, workers and self-employed</p> <p><b>Regulation (EEC) No 1408/71:</b> social security, workers and self-employed</p> <p><b>Regulation (EEC) No 574/72:</b> social security, workers and self-employed</p>		<p><b>Regulation (EEC) No 1390/81:</b> self-employed workers</p>
THE MAIN STAGES	1960-74 Freedom of movement for workers	1975-80 First directives on labour law and equal opportunities	1981-89 Health and safety equal opportunities (continued)
INSTITUTIONAL FRAMEWORK	1958 Treaty of Rome (provisions on freedom of movement and social chapter - Article 100)		1985 SEA: Articles 118a (safety/health) and 118b (social dialogue)
	1974 First social action programme		1989 Charter and action programme
LEGAL BASES	Articles 48 ff. Article 51		1986 Article 118a - safety/health - qualified majority

HEALTH AND SAFETY	<p><b>Directive 90/269/EEC:</b> manual handling of loads</p> <p><b>Directive 90/270/EEC:</b> display screen equipment</p> <p><b>Directive 90/394/EEC:</b> carcinogens</p> <p><b>Directive 90/679/EEC:</b> biological agents</p> <p><b>Directive 91/269 /EEC:</b> explosive atmospheres (firedamp) 3</p> <p><b>Directive 91/322/EEC:</b> chemical, physical and biological agents 3</p> <p><b>Directive 91/382/EEC:</b> asbestos 2</p> <p><b>Directive 92/29/EEC:</b> medical assistance on board vessels</p> <p><b>Directive 92/57/EEC:</b> constructions</p> <p><b>Directive 92/58/EEC:</b> health and safety signs</p> <p><b>Directive 92/91/EEC:</b> drilling</p> <p><b>Directive 92/104/EEC:</b> mining</p>	<p><b>Directive 95/30/EC:</b> biological agents 3</p> <p><b>Directive 95/63/EC:</b> work equipment 2</p> <p><b>Directive 96/94/EC:</b> chemical, physical and biological agents 4</p> <p><b>Directive 97/42/EC:</b> carcinogens 2</p> <p><b>Directive 97/59/EC:</b> biological agents 4</p> <p><b>Directive 97/65/EC:</b> biological agents 5</p> <p><b>Directive 98/24/EC:</b> chemical agents 5</p> <p><b>Directive 98/65/EC:</b> explosive atmospheres 5 (Commission directive)</p>
EQUAL TREATMENT	<p><b>Directive 92/85/EEC:</b> pregnant workers</p>	<p><b>Directive 96/34/EC:</b> parental leave</p> <p><b>Directive 96/97/EC:</b> equal treatment in occupational social security schemes</p> <p><b>Directive 97/80/EC:</b> burden of proof</p>
LABOUR LAW	<p><b>Directive 91/383/EEC:</b> temporary employment (H and S)</p> <p><b>Directive 91/533/EEC:</b> written statement (employment contract)</p> <p><b>Directive 92/56/EEC:</b> collective redundancies 2</p> <p><b>Directive 93/104/EC:</b> working time</p> <p><b>Directive 94/33/EC:</b> young people</p> <p><b>Directive 94/45/EC:</b> European works councils</p>	<p><b>Directive 96/71/EC:</b> posting of workers</p> <p><b>Directive 97/74/EC:</b> European works councils — UK</p> <p><b>Directive 97/81/EC:</b> part-time work</p> <p><b>Directive 98/50/EC:</b> transfers of undertakings 2</p> <p><b>Directive 98/59/EC:</b> collective redundancies 3</p>
FREE MOVEMENT AND SOCIAL SECURITY FOR MIGRANT WORKERS	<p><b>Regulation (EEC) No 1247/92:</b> non-contributory benefits</p> <p><b>Regulation (EEC) No 1248/92:</b> pensions</p>	<p><b>Directive 98/49/EC:</b> supplementary pension rights</p>
THE MAIN STAGES	<p>1990–93</p> <p>Beginning implementation of 1989 SAP</p>	<p>1994–99</p> <p>The role of the social partners at European level</p>
INSTITUTIONAL FRAMEWORK	<p><b>1993</b></p> <p>Entry into force of the 1992 social protocol of Maastricht (new powers, qualified majority, social dialogue)</p> <p><b>1993</b></p> <p>Maastricht social agreement: Article 2(1) (qualified majority) and 2(3) (unanimity)</p>	<p><b>1997</b></p> <p>Luxembourg Summit: European employment strategy</p> <p><b>1999</b></p> <p>Entry into force of the Treaty of Amsterdam (incorporation in the Treaty of the social agreement; employment chapter; Article 13)</p>
LEGAL BASES	<p>Article 2 of the social agreement</p>	<p>Articles 136 ff.</p> <p>Article 13</p>

## Community law - national law

The impact of Community law on national law varies depending on the nature of the instrument used and the prior existence of laws at national level in the area in question.

Some areas of Community law have broken completely new ground. This is the case with freedom of movement for workers, social security for migrant workers and directives linked to Europeanisation (European works councils and posting of workers in the context of the cross-border provision of services). These questions could not be dealt with in isolation by each Member State. The influence of Community law is therefore strong. It is exercised either directly and immediately through legislation which is directly and immediately applicable, or through directives establishing new rights and obligations to be transposed into national law.

However, in the majority of cases, the aim of Community social law is to use the directives to approximate national provisions in a given area or to establish minimum requirements. Community law therefore acts through national provisions which must comply with the minimum requirements laid down at European level. The requirements are minimum in the sense that they lay down a level of protection below which the Member States may not fall, while enabling them to retain or adopt stricter or more protective provisions and thus preserve national traditions and practices.

### *Example: the directive on collective redundancies*

The directive on collective redundancies is a good illustration of the way in which Community directives act upon national laws without calling into question any more advanced provisions at national level.

In some Member States, Community law is integrated without difficulty into the mould of a national industrial relations culture which is directly compatible. European law is then regarded as the natural extension of a model applied at national level.

On the other hand, those Member States with a very different industrial relations system, or which joined the Union more recently, must radically change their systems under the influence of Community law. European law, seen as an external influence and no longer as the projection of internal provisions, substantially changes practices and provisions in these countries.

Community social law, for its part, is subject to the influence of national law. Thus, for example, the development of agreement-based law at European level is to a large extent inspired by the experience and practice of the Nordic countries, Belgium and Italy.

Legal arrangements for collective redundancy - some aspects	
Concept (quantitative element)	<p>Collective redundancy within the meaning of the directive must involve at least 10 or 20 redundancies, depending on the size of the company and the period during which the redundancies are carried out.</p> <p>In Germany and Portugal, for example, the number is lower than that laid down in the directive, meaning that national provisions have a wider scope than the directive. On the other hand, in the United Kingdom, which previously had no provisions of this kind, the directive played a role in establishing a system of protection for British workers in the event of collective redundancy.</p>
Obligation to inform and consult	<p>In accordance with the provisions of the directive, all countries have established or maintained obligations to inform and consult in advance in the event of collective redundancy. Some Member States have maintained stricter rules when transposing the directive and subsequently (e.g. Germany, France, the Netherlands).</p>
Obligation to notify the authorities	<p>In the Netherlands, the system of prior administrative authorisation (more restrictive than the simple notification of the authorities) has been maintained.</p>
Justification for redundancy	<p>This is not covered by the directive. Some Member States, however, have a system of administrative or legal examination of the economic justification for collective redundancies.</p>
Compensation/notice	Idem.

## Review of legislation in 1999

Subject	Commission proposal	Legal basis/ procedure	EP opinion	ESC opinion	Council	
<b>Working time</b>	COM(1998) 662 final		April 1999	March 1999		
	(a) Amendment of Directive 93/104/EC	(a) Article 137 Co-decision			(a) Common position of July 1999	
	(b) Agreement at Community level on certain aspects of working time for seafarers	(b) Article 139			(b) Adoption 21 June 1999	
	(c) Organisation of working time for mobile workers in road transport	(c) Articles 71 and 137 Co-decision			(c) Discussions under way	
<b>European company statute</b>	The Commission presented proposals in 1970, 1975, 1989 and 1991. In the light of the conclusions of the Davignon report, the Council began new discussions in July 1997. At the Employment and Social Affairs Council on 25 May 1999, a broad consensus emerged on the basis of a text presented by the German Presidency. However, this compromise did not receive unanimous support (Article 308 of the Treaty).					
<b>Information and consultation of workers</b>	COM(1998) 612 final	Article 137 Co-decision	April 1999	June 1999		
<b>Freedom of movement for workers</b>	COM(1998) 394 final	Articles 40, 42 and 308	May 1999	April 1999		
	(a) Revision of Regulation (EEC) No 1612/68					
	(b) Revision of Directive 68/36/EEC					
	(c) Creation of Advisory Committee on Freedom of Movement and Social Security	Co-decision				
<b>Social security for migrant workers</b>	(a) COM(97) 561 final Extension of Regulation (EEC) No 1408/71 to citizens of non-member countries	Articles 42 and 308 Co-decision	September 1999	March 1998	Under way	
	(b) COM(1998) 779 final Simplification of Regulation (EEC) No 1408/71	Articles 18, 42 and 308 Co-decision	Under way	Under way	Under way	
<b>Health and safety at work</b>	(a) COM(1998) 170 final Amendment of Directive 90/394/EEC — carcinogens	Article 118a cooperation	1 October 1998; 2 April 1999	July 1998	Adoption April 1999 (Directive 1999/38/EC)	
	(b) COM(1999) 152 final Codification of Directive 90/394/EEC — carcinogens	Ex Article 118a (cooperation); current Article 137 (co-decision)	Procedure suspended awaiting amended version	October 1999	Procedure suspended awaiting amended version	
	(c) COM(1999) 432 Codification of Directive 90/679/EEC — biological agents	Article 137				
	(d) COM(1998) 678 final Second amendment of Directive 89/655/EEC — work equipment — temporary work at a height	Ex Article 118a (cooperation); current Article 137 (co-decision)		March 1999		Under way
	(e) COM(92) 560 and COM(94) 284 Proposal for a directive on physical agents	Ex Article 118a (cooperation); current Article 137 (co-decision)		June 1999	April 1994; September 1999 (confirmation of first reading)	Under way
	(f) COM(92) 234 and COM(93) 421 Proposal for a directive on transport	Ex Article 118a (cooperation); current Article 137 (co-decision)		April 1993	July 1993; September 1999 (confirmation of first reading)	
	(g) COM(95) 310 and COM(97) 123 Proposal for a directive on explosive atmospheres	Ex Article 118a (cooperation); current Article 137 (co-decision)		February 1996	June 1996; May 1999	(and Parliament) agreement on common draft 'A' item at Conciliation Committee on 21.10.1999

## Worker information, consultation and participation in Europe

This section reviews the national systems and main Community provisions with regard to the information, consultation and participation of employees in Europe. It sets out in turn:

- systems for informing and consulting employees on economic matters;
- systems for employee participation on the board of directors or supervisory board of an undertaking;
- Community provisions and prospects with regard to employee

information, consultation and participation.

### **National systems for informing and consulting employees on economic matters**

#### *Two models for employee representation in Europe*

In the (contract-based) 'single-channel' system, the unions are the only or priority channel of communication with the employer. Intervention is mainly by negotiation. In Ireland, Finland, Sweden and generally in the United Kingdom (first group), representation is solely through the trade union delegates. There are also single or joint representation bodies supplementing the role of the trade

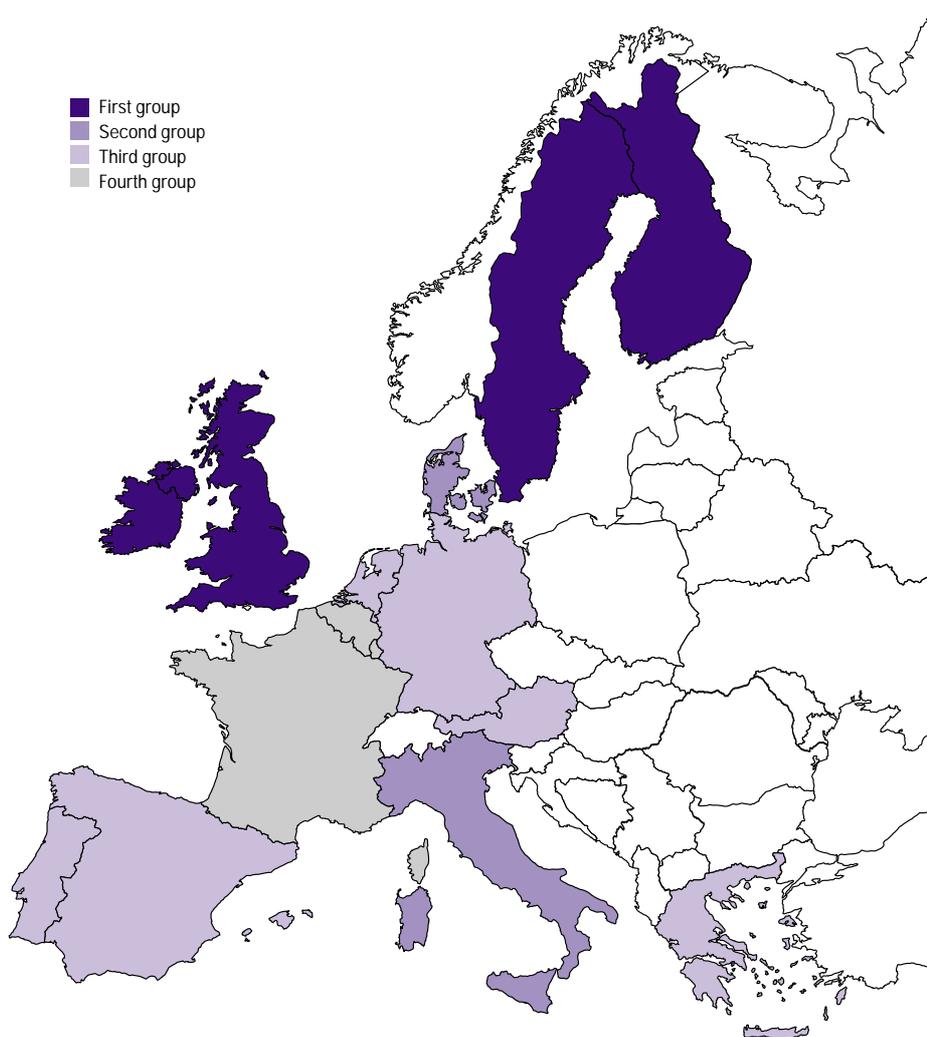
union delegates in Denmark, Italy (second group) and, sometimes, in the United Kingdom.

In the two-tier representation system, based on statutory requirements, representation of all the staff within a company is via an elected body operating alongside the trade unions. It essentially performs an informative and consultative function.

This body is made up solely of employees in Germany, Greece, Spain, the Netherlands, Austria and Portugal (third group). In Denmark and Luxembourg it is a joint council and, in Belgium and France, it is chaired by the employer (fourth group).

### Forms of employee representation

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Source: European Commission.

Basic body		Basic level	Threshold (number of employees)
Belgium	Works council Information and consultation provided by the Committee for Prevention and Protection at Work or by trade union delegation	Establishment undertaking	100
		Establishment	20-100
Denmark	Cooperation committees (Tillidsmanden)	Undertaking Undertaking	35 5-6 according to collective agreement
Germany	Works council (Betriebsrat)	Establishment Undertaking	5 permanent employees 100 permanent employees
Greece	Company trade union organisation Workers' council	Undertaking	20
		Establishment	50
Spain	Staff delegates Works council	Establishment	6-50
		Establishment	50
France	Staff delegates Works committee	Establishment	11
		Undertaking	50
Ireland	Recognised trade union	Establishment	20 employees for information and consultation in the event of collective redundancy
Italy	RSA (establishment trade union representation) RSU (single trade union representation)	Establishment	15
		Establishment	5
Luxembourg	Staff delegation Joint committee	Establishment	15
		Undertaking	150
Netherlands	Works council Information, direct economic and social consultation	Establishment	50
		Establishment	10-50
Austria	Works council (Betriebsrat)	Establishment	5 permanent employees
Portugal	Workers' commission/trade union delegates	Undertaking	No threshold
Finland	Co-determination Act (trade union delegates) Collective redundancy (trade union delegates)	Undertaking	30
		Establishment	20
Sweden	Trade union delegates	Establishment	No threshold
United Kingdom	Recognised trade union or elected representatives	Establishment	20 employees for information and consultation in the event of collective redundancy

With the exception of Portugal and Luxembourg, where representation is at company level, the lowest level of employee representation is the establishment. Where there are several establishments within the same company, there is generally a specific coordination structure for the various forms of representation to be informed and consulted on economic and financial matters, but it is only generally applied in a minority of countries.

At group level, employee information within group committees is advanced in France, Austria and Finland. It is subject to negotiation in Sweden, applicable to varying degrees in Germany, Italy and the

Netherlands and very limited in Greece and the United Kingdom.

#### *Nature and extent of employee information and consultation*

Information and consultation are carried out:

- on a voluntary basis, except for collective redundancies and transfers of undertakings, in Ireland and the United Kingdom;
- on a compulsory and general basis in the other countries.

In economic matters, all representatives have more or less systematic

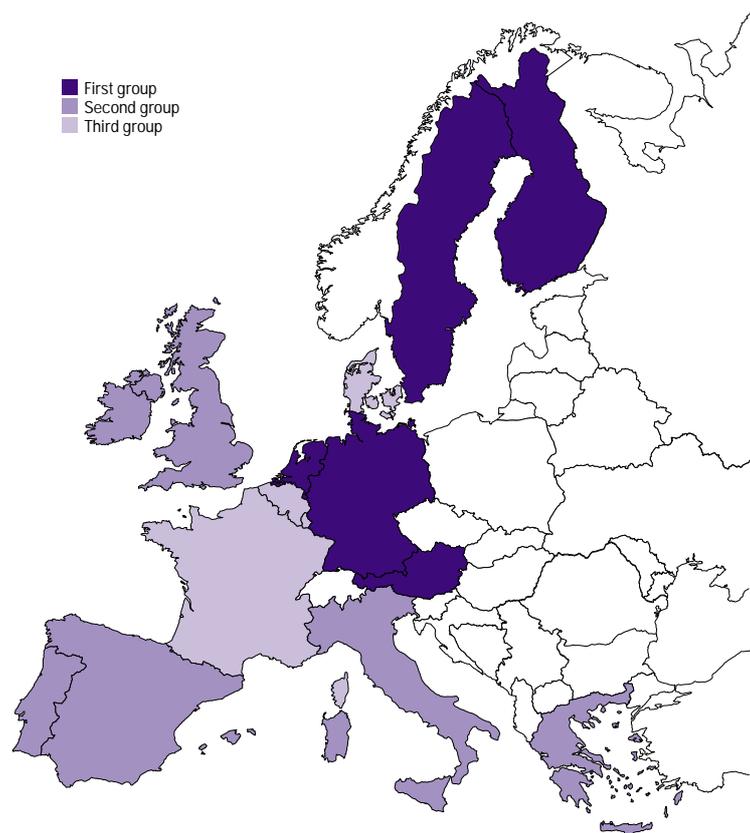
opportunities for information or intervention with regard to:

- the undertaking's economic and financial situation;
- staff movements and work organisation;
- decisions significantly affecting staff.

With regard to collective redundancies and transfers of undertakings, national provisions governing information and consultation of personnel representatives comply with the minimum levels laid down in the Community directives. The situations are very different with regard to

the aspects of the undertaking's strategy and economic situation. Belgium, Denmark and France (third group) have a particularly advanced and systematic system for information on these questions, while the Mediterranean and Anglo-Saxon countries apply it on a voluntary or irregular basis (second group). There are rights of inquiry to reinforce the information and consultation procedures in Belgium (*réviseur*), France (*expert comptable*) and the Netherlands (where *maladministration* is suspected).

This information/consultation is supplemented by co-determination systems in Germany, the Netherlands, Austria, Finland and Sweden (first group). The German and Austrian formulas are based on approval procedures, the right of veto and joint decision-making. Co-determination generally follows economic decisions, for example in the event of a major change or plans for collective redundancies in the establishment. In such cases, there must be an agreement between the management and the works council, in the absence of which a decision may be taken externally by a conciliation body. Other formulas under the heading 'co-determination' used in the event of important changes of activity include the system of notice with suspensory effect and the possibility of appeal in the Netherlands, and the suspensory obligation to negotiate in Finland and Sweden.



Source: European Commission.

## Subjects and methods for information and consultation

		<b>Economic and financial situation Development of activities</b>	<b>Employment Situation, likely trend, anticipatory measures</b>	<b>Changes</b>
Belgium	e 20			Prior to collective redundancies: written report, several meetings, arguments and alternative proposals
	e 50	Basic dossier every four years Information once a year on financial report Information four times a year on likely trends (costs, cost price, budget management) Information four times a year on progress towards production and productivity targets	Information annually or four times a year depending on subject Consultation on staff policy Consultation on training and retraining measures	General information and consultation
Denmark	u 20			Information and consultation in the event of collective redundancies
	u 35	Information six times a year on situation and forecasts		Information and consultation six times a year
	u 150		Information and consultation six times a year	
Germany	e 5	Information: once a year (assembly)	Information in good time. Prior consultation on situation, employment trends and anticipatory measures	Full information immediately. Consultation
	e 20	Information: four times a year	Co-determination on measures to be applied	Co-determination
	u 100	Meeting on annual financial report Meeting of Economic Committee once a month		
Greece	e 50 u 20	Annual information on situation, economic policy, trends in activities, production and sales Prior information on investment projects	Prior information on employment changes Agreement on training measures	Consultation on working time and improving working conditions; prior information in the event of transfer, closure, etc.
	u 20			Prior consultation in the event of collective redundancies
Spain	e 6	Examination of accounts, regular information on economic situation in the sector Information four times a year on trends in activities	Information four times a year on probable trends in employment Information and consultation on evaluation of posts, restructuring and training measures (opinion within 15 days)	Information and consultation and prior negotiation in the event of changes which may affect employees. Opinion within 15 days
France	u 20			Prior information and consultation in the event of changes in economic or legal organisation Information and consultation on collective redundancies (over 10 employees)
	u 50	Annual report (turnover, profits) Annual accounting documents (analysis by expert comptable) Document on trends in activities every two years and consultation on the company's general progress	Annual consultation on trends in employment and skills, annual or multiannual forecasts and training measures Written report 15 days in advance. Information and consultation on accounts and training plan	Information four times a year on changes in production methods Consultation on work organisation
Ireland		Information and consultation voluntary	Information and consultation voluntary	
	e 20			Information and consultation in application of the directives on transfers and collective redundancies

NB: e : establishment - u : undertaking

		<b>Economic and financial situation Development of activities</b>	<b>Employment situation, likely trend, anticipatory measures</b>	<b>Changes</b>
Italy			Provisions in accordance with industry and company collective agreements	Consultation on work organisation and new technologies
	e 15	Provisions in accordance with industry and undertaking agreements		
	e 20			In accordance with collective agreements Information and consultation in the event of collective redundancies
Luxembourg	e 15	Annual report	Opinion and proposals on improving working and employment conditions	Information and consultation on work organisation, new technologies and collective redundancies
	u 150	Information and consultation once a year on accounts Written consultation report twice a year on trends Monthly progress report for undertaking	Information and consultation once a year on current and likely requirements for manpower, training, further training, retraining, etc. Information and consultation on planned social measures Information and prior consultation on training measures	When taking important decisions, prior information and consultation on repercussions for employment
Netherlands	e 50	Annual report on accounts (expert comptable) Information on forecast documents Information twice a year on undertaking's results, forecasts, activities and investments (in establishments with less than 10 workers, the information is given to them directly)	Annual social report Obligation to agree upon rules for recruitment, redundancies, promotion Consultation on recruitment with one-month suspensive opinion Obligation to agree upon rules for training	Information and consultation Consultation with one-month suspensive opinion on transfers, mergers, closures or relocations. Information and consultation in the event of redundancies and transfers (of more than 20 workers)
Austria	e 5	Transmission of annual accounts Information and consultation on economic and financial situation, prospects for development and investment projects Consultation four times a year (monthly on request) on current affairs	Consultation four times a year (monthly on request) on current affairs Information on staff requirements and planned measures; cooperation procedure on training and retraining	Consultation on labour organisation and new technologies Prior consultation and cooperation procedure in the event of changes
Portugal	u-	Information on accounting situation (budget, methods of funding, general plan of activity, draft changes, sales)	Information on personnel management, consultation on social matters, prior opinion on changes to classifications and promotions, recommendation on apprenticeships, retraining and further training	Prior opinion on changes to classifications and hours; recommendations for improving working conditions Prior consultation on measures leading to staff cuts or to a change in working conditions
Finland	e 20			Information on economic and financial changes In the event of staff cuts, six-week negotiation period, unless agreement to the contrary
	u 30	Information on accounts Twice-yearly report on economic situation and prospects Obligation to negotiate prior to change of activities affecting staff or major investments — suspensive for six weeks if reduction of staff	Obligation to negotiate budget and plans for employment and training in the event of staff reductions or changes to contracts	Obligation to negotiate on changes in work organisation, use of subcontracting, transfers and mergers
Sweden	e-	Regular information Opportunity to examine accounting documents Obligation to negotiate is suspensive in the event of important changes	Consultation prior to breaching employment contracts Obligation to negotiate on forward management of employment	Information and right of participation in the event of changes in organisation and working conditions Obligation to negotiate prior to taking decisions on changes to activity
United Kingdom		Information and consultation voluntary	Information and consultation voluntary	
	e 20			Information/consultation in application of the directives on transfers and redundancy

NB: e : establishment - u : undertaking

## National systems for employee participation on the board of directors or supervisory board of undertakings

### *Bodies in undertakings and employee participation*

There are two types of limited company in Europe:

- those in which a management body, the board, coexists with a supervisory board (two-tier structure); this is standard practice in Germany, the Netherlands and Austria;
- those with a single management body in the form of a board of

directors (single-tier structure), with member directors playing a particular role; this is standard practice in the other European countries.

Provision is made in Germany, Luxembourg, Austria and the Nordic countries for staff representation within the supervisory and administrative bodies (i.e. 'participation'), including those in the private sector. These staff representatives usually have the same rights and duties as the shareholders' representatives, except in the matter of industrial disputes. Representation is generally on a minority basis, accounting for a maximum of one third of the seats, except in Germany.

There are also forms of participation midway between information/consultation (including negotiation and co-determination) of workers' representative bodies and participation in decision-making bodies, for example:

- in the Netherlands: recommendation on the appointment of supervisory board members and joint works council/supervisory board meetings;
- in France: works committee delegation on the board of directors.

In the public sector (social sector), there are more far-reaching provisions, with joint or minority representation of staff on the social bodies. This applies particularly in Greece, Spain, France, Luxembourg and Ireland.

Country	Body		Sector		Procedures
	BD	SB	Sector	Sector	
Belgium	X				
Denmark	X		Ltd/plc + 50 employees Groups		1/3 of seats (at least two members) 1/3 of seats for representatives of branches + two members for parent company if + 50 employees; total maximum of 1/2 of seats
Germany		X	+ 500 employees including groups		1/3 of seats if 500-2 000 employees 1/2 of seats if + 2 000 employees, chairman appointed by shareholders with casting vote 1/2 of seats in mining/steel if + 2 000 employees; worker director with agreement of employees
Greece	X		Socialised sector		1/3 of seats on BD and 1/3 of seats on "representative assembly for social control"
Spain	X		+ 1 000 employees		Choice between joint committees and one BD member per union with 25 % of trade union delegates and members of works council
France	X	X	Companies with BD or SB		Two works council members (or four if three colleges) attend meetings in advisory capacity; possibility of making requests which must receive reply giving reasons
			+ 200 employees		Two members if 200-1 000 employees, 1/3 of seats if + 1 000 employees
				Possible under articles of association	Maximum four members (five if quoted company) or 1/4 of seats
Ireland	X		11 bodies		1/3 of seats
Italy	X				
Luxembourg	X		Semi-public	Limited liability company + 1 000 employees	1/3 of seats
Netherlands		X	Ltd/plc + 100 employees K > NLG 22.5 million		Right of recommendation and veto on appointment of members of SB and BD. Joint works council-SB meetings
Austria		X	Including groups		1/3 of seats
Portugal	X				
Finland	X			+ 150 employees in Finland	Depending on agreement Otherwise, one to four members representing 1/4 of seats
	X		Groups + 500 employees in Finland		
Sweden	X	(X)	+ 25 employees At group level		Minority: two members (plus two alternates); Three members (plus three alternates) if + 1 000 employees in Sweden
United Kingdom	X				

NB: BD : board of directors - SB : supervisory board.

### ***Employee involvement in information and supervisory functions and decision-making***

Participation by employees' representatives on the board of directors or supervisory board of a company provides:

- monitoring and approval of major decisions in Germany, which is the only country to make provision in certain cases for equal representation of employees and shareholders;
- information and involvement in decision-making in Austria, the Nordic countries, Denmark and Luxembourg, where representation is minority-based. Employees' representatives in Sweden also participate, within the executive committee, in decision-making or planning structures deriving from the board of directors and, in Austria, within the committees deriving from the supervisory board.

### ***Main Community provisions and perspectives with regard to employee information, consultation and participation***

**D**irectives making provision for informing and consulting employees in the event of collective redundancies and transfers of undertakings

Two directives adopted during the 1970s contain elements linked to the information and consultation of workers in undertakings.

- With regard to collective redundancies<sup>7</sup>: a procedure for the prior consultation of workers' representatives is required 'in good time with a view to reaching an agreement'. These consultations 'shall, at least, cover ways and means of avoiding collective redundancies or reducing the number of workers affected, and of mitigating the consequences'. 'All relevant information' shall be provided 'in good time to enable workers' representatives to make constructive proposals'. Provision is made for calling on the services of experts.

- With regard to transfers of undertakings<sup>8</sup>: representatives of the employees must be informed 'in good time before the transfer is carried out, and in any event before ... employees are directly affected by the transfer as regards their conditions of work and employment'. Where measures in relation to employees are envisaged, consultations are required 'with a view to seeking agreement'. Information must be provided and consultations take place in good time before the change in the business.

### ***Directive on European works councils***

The 1994 directive on European works councils reflected the need to inform and consult employees in a transnational framework<sup>9</sup>.

It lays down that specific procedures for representing, informing and consulting employees shall be established by agreement in every Community-scale undertaking and group of undertakings (undertakings or groups with at least 1 000 employees within the Member States and at least 150 employees in each of at least two Member States).

However, should negotiations break down after three years, a European works council shall be established and shall operate in accordance with the subsidiary provisions laid down in the annex to the directive. Those groups in which there existed on 22 September 1996 'an agreement, covering the entire workforce, providing for the transnational information and consultation of employees' shall not be subject to the obligations under the directive until those agreements expire or are renewed. The vast majority of existing agreements at the end of 1999 (450 out of a total of 650) were in the latter form.

The 'Renault Vilvoorde' affair highlighted the requirements for information and consultation of employees under the directive (Versailles Court of Appeal, judgment No 308, 7 May 1997, *Ste Renault v CGE Renault*, the Public Prosecutor, EMF).

### ***Draft European company statute and employee participation***

The European company would add a new type of limited liability company to those existing in the Member

States: under Community law, establishment by merger, and constitution of a joint subsidiary or holding between companies in different countries or through transformation of a national company. For 30 years, the stumbling block for the project has been the question of employee participation in company bodies. Brought back into the limelight by the current European economic and financial context and by the impetus given by the European works councils, the project was the subject of new discussions and proposals in 1997 on the question of employee participation<sup>10</sup>.

A draft directive on information, consultation and participation of employees in the European company is under discussion within the Council. The draft is based on negotiations between partners in constituent companies, the application of reference provisions in the event of the failure of negotiations and the taking into account of the situation in the constituent companies with regard to participation.

### ***Proposal for a directive on information and consultation***

In November 1998, the European Commission adopted a proposal for a directive on employee information and consultation<sup>11</sup>. This aimed to:

- 'ensure existence of the right to permanent information and consultation of employees on economic and strategic developments in the undertaking and on decisions which affect them in all Member States';
- enable the implementation of provisions by means of negotiated agreements;
- 'assist risk anticipation', particularly with regard to employment trends;
- 'ensure that workers are informed and consulted prior to decisions' where these are likely to result in substantial changes in work organisation and employment contracts;
- 'ensure the effectiveness of these procedures'.

The proposal for a directive establishes a general framework containing, in particular, a definition of information and consultation and a non-exhaustive list of the areas covered. Major importance is given to

adaptation at national level and to negotiation of the framework between the social partners at various levels.

### Implementation of Community directives: by means of legislation/by means of agreement

In most cases, Community directives are transposed into national law by legislative measures. However, the social partners at national level play a role in their implementation, either because they are associa-

ted with the legislative work (now standard practice in the Member States), or because they themselves take on the task of introducing, by collective agreement, the aims set out in the Community directives.

This practice, validated over the years by the Court of Justice of the European Communities and enshrined in Article 137(4) of the EC Treaty, is more frequent in those countries with a strong tradition of agreement-based regulation such as Belgium, Denmark or Italy (in bold in the table). Nevertheless, it raises the question of general coverage, continuity and appropriate publicity for agreement-based transposal mea-

asures. Moreover, action by the social partners does not exempt the Member State from the requirement to 'take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive' (Article quoted, in fine). Such is the case when the Member States, supplementing collective agreements on transposal, pass legislative measures for extension erga omnes or adopt legislative measures supplementing the agreement on those items not dealt with by the social partners (penalties, means of appeal, etc.).

### Monitoring the application of Community law

Monitoring the application of Community law is primarily the responsibility of the European Commission and, in the last instance, of the national courts and the Court of Justice of the European Communities.

In exercising its powers, the European Commission acts in different ways.

- Directives are the subject of implementation reports aimed at evaluating their transposal into national law.

- The Commission investigates complaints from citizens who feel that their rights under Community directives have been violated. The right of petition also enables citizens to alert the European Parliament to incorrect transposal or application of Community directives. The Commission is therefore closely associated with the examination of these petitions.

When the Commission finds that a rule of Community law has been incorrectly transposed or wrongly applied in a Member State, it opens infringement proceedings and, where appropriate, brings an action before the Court of Justice.

As Community law takes precedence over national law, citizens can ensure that the rules of Community law apply in certain cases where national law does not comply with Community law.

Doubts as to the interpretation of Community law are ruled upon by the Court of Justice of the European Communities within the framework of requests for preliminary rulings by the national courts.

# Transposal of European directives

DIRECTIVES	B	DK	D	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK
<b>I. LABOUR LAW</b>															
77/187 transfers of undertakings	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
80/987 insolvency (87/164)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
91/533 written statement	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
93/104 working time	C	C	C	C	C	IC	C	N	IC	C	C	C	C	C	C
94/33 young people	C	C	C	C	C	IC	C	C	IC	C	C	C	C	C	C
94/45 european works councils (97/74 - UK)	C	C	C	C	C	C	C	C	N	C	C	C	C	C	N
96/71 posting of workers (deadline: 16.12.99)	N	N	C	N	C	N	N	N	N	C	C	N	C	C	IC
97/81 part-time work (dea.:20.01.2000) (98/23-UK:7.4.00)	-	-	-	IC	C	-	-	-	-	-	-	-	-	-	-
98/50 transfers of undertakings 2 (deadline:17.07.2001)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
98/59 collective redundancies	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
99/70 fixed-term work (deadline: 10.07.2001)	-														
<b>II. EQUAL TREATMENT</b>															
75/117 equal pay	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
76/207 access to employment	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
79/7 social security	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
86/378 occupational social security schemes	N	C	C	C	C	C	C	C	C	C	C	C	C	C	C
86/613 self-employed women	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
92/85 pregnant workers	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
96/34 parental leave (97/75 - UK)	C	C	C	C	C	C	C	N	C	C	C	C	C	C	N
96/97 occup. so. sec. schemes	C	C	C	N	C	N	C	C	C	C	C	C	C	C	C
97/80 burden of proof(dea:1.1.2001)(UK:98/52;dea: 2001)	-	-	C	-	C	-	-	C	-	-	-	C	C	-	-
<b>III. FREE MOVEMENT OF WORKERS</b>															
64/221 special measures	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
68/360 abolition of restrictions on movement	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
72/194 right to remain in the territory of a MS	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
98/49 supplementary pensions rights (dea: 25.01.2002)	-	-	-	-	C	-	-	-	-	-	-	C	-	-	-
<b>IV. HEALTH AND SAFETY AT WORK</b>															
78/610 vinyl chloride monomer	C	NR	C	C	C	C	NR	C	C	C	C	C	C	C	C
80/1107 chemical, physical and biological agents	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
82/130 explosive atmospheres (firedamp)	C	C	C	C	C	C	NR	C	C	C	C	NR	NR	C	C
82/605 metallic lead	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
83/477 asbestos	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
86/188 noise	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
88/35 explosive atmospheres (firedamp 2)	C	C	C	C	C	C	NR	C	C	C	C	NR	NR	C	C
88/364 banning of agents and other activities	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
88/642 chemical, physical and biological agents 2	C	C	C	C	NR	C	C	C	C	C	C	NR	C	C	C
89/391 framework	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
89/654 workplaces	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
89/655 work equipment	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
89/656 personal protective equipment	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
90/269 manual handling of loads	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
90/270 display screen equipment	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
90/394 carcinogens	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
90/679 biological agents	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
91/269 explosive atmospheres (firedamp) 3	C	C	C	C	C	C	C	C	C	C	C	NR	NR	C	C
91/322 chemical, physical and biological agents 3	C	C	C	N	NR	NR	C	C	N	C	C	NR	C	C	C
91/382 asbestos 2	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
91/383 temporary employment	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
92/29 medical assistance on board of vessels	C	C	C	C	C	C	C	C	N	C	C	C	C	C	C
92/57 construction	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
92/58 health and safety signs	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
92/91 drilling	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
92/104 mining	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
93/88 biological agents 2	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
93/103 work on board fishing vessels	C	C	C	C	C	C	C	NR	C	NR	C	C	C	C	C
94/44 explosive atmospheres 4 (COM directive)	C	C	C	C	C	C	NR	C	C	C	C	NR	NR	C	C
95/30 biological agents 3	C	C	C	C	C	C	C	N	C	C	IC	C	C	C	C
95/63 work equipment 2	C	C	C	C	C	C	N	C	C	C	C	C	C	C	C
96/94 chemi., phys. & bio. agents 4	C	C	C	N	NR	NR	C	N	C	NR	IC	NR	C	C	C
97/42 carcinogens 2 (deadline: 27.06.00)	C	-	-	-	-	-	-	C	-	-	-	-	-	-	-
97/59 biological agents 4	C	C	C	C	C	C	C	N	C	C	IC	C	C	C	C
97/65 biological agents 5	C	C	C	C	C	C	C	N	C	C	IC	C	C	C	C
98/24 chemical agents 5 (deadline: 5.5.2001)	-	-	-	-	-	-	-	-	-	-	IC	-	-	-	-
98/65 explo. atmo. 5 (COM direc.) (dead: 31.12.99)	-	-	-	-	-	C	-	-	-	-	-	-	-	-	-
99/38 carcinogens 3 (deadline: 29.04.2003)															
99/63 working time of seafarers (dead: 30.06.2002)															
% of national legislation communicated 01.01.2000	96,2	98,1	98,1	92,4	100	92,4	96,2	86,7	90,5	96,2	90,5	98,1	98,1	100	94,3
Average% /15 Member States	95,22														
<p>C: Communication of national legislation      N: No communication of national legislation  NR: Directive not relevant to a particular country      IC: Incomplete communication</p>															

# Industrial relations at national level

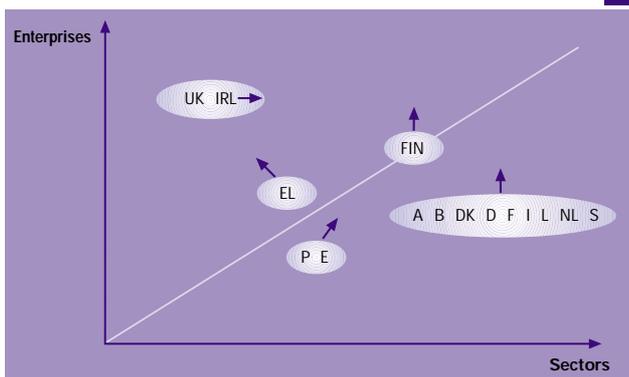
## Structures

### Collective bargaining: levels and organisation

In all Member States, the social dialogue helps to shape industrial relations. Collective bargaining is the preferred tool in this process.

While there is undoubtedly the same recognition throughout Europe of the central role of collective bargaining, methods and levels of use vary significantly.

#### Main level of negotiation



Source: European Commission.

Sectoral negotiation, which is well developed in Germany and Denmark, is thus non-existent in the United Kingdom. Cross-industry agreements are preferred in Belgium, Greece, Spain, France, Italy, Portugal and Finland.

Two trends are generally apparent in the development of collective bargaining.

The first trend is a trend towards releasing the decentralised levels from the standards and guidelines negotiated at the centralised levels. This is done by putting greater emphasis on company-level bargaining, limiting cross-industry agreements to framework guidelines, and introducing exemption clauses to

enable general provisions to be waived.

Agreements drawn up at sectoral level play an important part in the transparency and dissemination of minimum social standards, in particular in small and medium-sized enterprises (SMEs). Increasingly often, however, companies negotiate new agreements, striking a balance between flexibility and job security on a case-by-case basis.

Relations between sectoral collective agreements and company-level agreements vary from one country to another. The principles used to prevent or resolve conflicts between levels vary (hierarchy of collective agreements or legal precedence of the sectoral agreement, to the detriment of the company agreement in Germany and

Italy; application of the principle of the most favourable rule in France; application of the earlier agreement in Spain, etc.).

Sectoral agreements often define the scope of company-level negotiations. However, given the rapid growth of company-level collective bargaining, it is difficult to maintain strong discipline in sectoral agreements. If this discipline is interpreted too strictly, it can prevent a diversification of collective agreement law that would be necessary in the interests of companies. On the other hand, recognition of the autonomy of company-level bargaining should not be used to encourage unfair or anti-union competition.

While it is generally agreed that the role of sectoral agreements in standardising competitive conditions should be safeguarded, company agreements are increasingly moving away from standards issued at this level. These centrifugal forces are apparent in various forms:

- watering down sectoral agreement provisions into mere recommendations;
- providing for exemptions (saving clauses or withdrawal clauses) from rules laid down by the sectoral agreement.

The second trend is a trend towards increasing collective bargaining. From issues directly related to industrial relations, principally working time and wages, collective bargaining issues have gradually broadened. It has been necessary, of course, to integrate both aspects of employment (safeguarding existing jobs and creating new jobs), which means that more general interests outside the company have to be taken into account. Moreover, issues related to employability (vocational training), equal treatment of women and men, and the fight against discrimination are of increasing importance.

### The players

The social partners have therefore incorporated into their negotiations and agreements concerns which are peripheral to industrial relations, concerns which are sometimes communicated by specific pressure groups (trade unions representing the unemployed, associations representing the family, and social non-governmental organisations (NGOs)). This development raises the question of the capacity of trade organisations to represent wider interests.

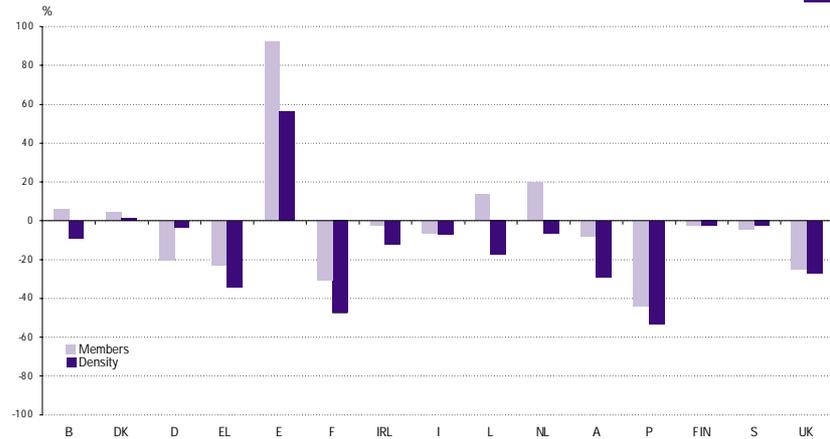
The new forms of organisation of work and the significant level of unemployment and social exclusion have helped to weaken the structures of collective representation.

## Changes in worker trade union membership between 1985 and 1995

31

The main effect of this weakening of representative structures, which is happening in most European countries, is a fall in membership. This concerns mainly trade unions but also, to a lesser extent, employers' organisations.

This raises the question of the ability of trade unionism to play a part in a wider social area and to forge new alliances with the structures representing these emerging interests.



Source: ILO

### The role of the State

In most countries, the State plays a fundamental role in the organisation and operation of the social dialogue. This includes establishing a basic set of rights recognising an area for negotiation, instruments of collective action and the role of the social partners.

Since 1990, the State has repositioned itself and taken on an increasingly mediatory role, which favours informal coordination methods between the various players rather than rigid interdependency.

### Labour law

With the exception of Sweden and the United Kingdom, systems of collective labour representation generally have not undergone fundamental changes in recent years. The role of trade unions in the organisation of the labour market has not been challenged, and some of their rights have even been extended by new laws.

#### United Kingdom

- Government incentives for tripartite consultation and for negotiation on trade union representation at work.

- Government White Paper entitled 'Fairness at work'.
- Legislative programme comprising a legal procedure recognising the social partners, reform of laws on unfair dismissal, maternity entitlement, parental leave and the introduction of a statutory minimum wage.

### Recognition of the social partners

Mutual recognition is the basic mechanism of collective bargaining in most EU countries, but additional conditions are sometimes required.

Country	Additional conditions to mutual recognition
Belgium	Organisations must be recognised by the government in order to conclude collective agreements
Greece	Organisations must have a minimum number of members required by law
Spain	The 'most representative' organisations must meet minimum membership criteria
France	Representativeness is established by a government decision on the basis of membership, independence, subscriptions and the experience and age of the organisation
Luxembourg	Only trade unions which are representative at national level can be party to a collective agreement
Austria	Statutory organisations with compulsory affiliation to the Federal Chamber of Business and the Federal Chamber of Labour

## Legal application and extension of collective agreements

Extending collective agreements in law allows the general application of

some or all of the provisions negotiated by a number of social partner organisations. An erga omnes extension of this kind may involve one branch of economic activity or all sectors. It is generally provided for in

Member States where unionisation is relatively low, thus ensuring equal treatment of workers and fair competition between companies.

Country	Legal application	Extension mechanism
<b>Belgium</b>	Collective agreements apply only to signatory parties and their members	Collective agreements adopted in the National Labour Council and joint committees are extended to all workers and employers
<b>Denmark</b>	Collective agreements apply only to signatory parties and their members	No extension
<b>Germany</b>	Collective agreements apply only to signatory parties and their members	Collective agreements are extended if 50 % of the workers in the sector concerned are already covered and if extension is in the public interest
<b>Greece</b>	Collective agreements apply only to signatory parties and their members	Agreements are extended where the employers subject to the agreement already employ at least 51 % of the employees in a trade or sector
<b>Spain</b>	Collective agreements apply to all employers and workers in their field of application	Cross-industry agreements are extended if the trade unions represent at least 10 % of the members of the works councils and the employers represent 15 % of the companies Sectoral agreements are extended if legal criteria are met
<b>France</b>	Collective agreements apply only to signatory parties and their members	Agreements negotiated and adopted in joint committees are extended; clauses which do not comply with legislative and statutory provisions are excluded
<b>Ireland</b>	Collective agreements apply only to signatory parties and their members	Possible extension by registering the agreement with the Labour Court
<b>Italy</b>	Collective agreements apply only to signatory parties and their members	No extension
<b>Luxembourg</b>	Collective agreements apply to signatory companies and to all their employees independently of their membership of a signatory trade union	Declaration of a generally binding nature of collective agreements in accordance with the law, for all employers and workers
<b>Netherlands</b>	Collective agreements apply to all employees, whether they are trade union members or not, whose employers are members of the signatory organisation	Agreements are extended to employers who are not affiliated to a signatory organisation, according to general interest and the representativeness of the signatories (55–60 %) of workers covered
<b>Austria</b>	The prescriptive part of collective agreements has force of law; the binding part applies only to signatory parties and their members	Extension declared by the Federal Conciliation Office
<b>Portugal</b>	Collective agreements apply only to signatory parties and their members	Extension of agreements negotiated in joint committees, following verification of the parties' mandate and ensuring that procedures have been followed
<b>Finland</b>	Collective agreements are considered to be 'generally applicable' to employers who are not represented in bargaining, where half or less than half of employees in the sector concerned are in its field of application	No extension
<b>Sweden</b>	Collective agreements apply only to signatory parties and their members	No extension
<b>United Kingdom</b>	Collective agreements are not legally binding on signatory parties or their members, unless otherwise stipulated	No extension

## Strikes and lockouts

In most EU Member States, strikes

and lockouts are not given the same degree of protection. The right to strike is generally recognised and

protected constitutionally (except in the United Kingdom, where legislation is ad hoc).

	Right to strike	Lockout
Belgium	Right to strike recognised	Lockout not recognised
Denmark	Right to strike	Right to lockout
Germany	Right to strike declared by the Constitution	Lockout permitted
Greece	Right to strike declared by the Constitution	Lockout prohibited
Spain	Right to strike recognised by the Constitution	The Constitution limits lockout to specific circumstances
France	Right to strike declared by the Constitution	No formal recognition of lockout
Ireland	Right to strike legally protected by civil law	Right to lockout
Italy	Right to strike declared by the Constitution	Right to lockout
Luxembourg	Right to strike not declared explicitly either by the Constitution or in law	Employer obliged to refrain from threatening or implementing a lockout
Netherlands	No legal rules supporting the right to strike	No rules
Austria	Strike permitted by law	Lockout permitted
Portugal	Right to strike guaranteed by the Constitution	Lockout prohibited
Finland	Right to strike	Right to lockout
Sweden	Right to strike guaranteed by the Constitution	Lockout guaranteed by the Constitution
United Kingdom	Right to strike legally protected by civil law	Lockout legally protected by civil law

## Settling collective disputes

There are generally three stages involved in settling disputes of an economic nature: conciliation, mediation and arbitration. The three

stages are brought into play successively if the parties to the dispute do not find a solution. The third stage provides for the highest degree of outside intervention. This is generally used only as a last resort, and with

great reluctance in countries with strong traditions of dialogue. Arbitration may even be totally excluded where procedures provide for compulsory conciliation and, at most, mediation.

	Conciliation	Mediation and arbitration
<b>Belgium</b>	Conciliation procedures within joint committees	Mediation and arbitration procedures
<b>Denmark</b>	Conciliation procedures	Arbitration procedures
<b>Germany</b>	Voluntary mediation: the parties involved in a collective agreement are free to institute a mediation procedure and to determine its effects Joint conciliation committees in companies	
<b>Greece</b>	Voluntary conciliation procedures by an official from the Ministry of Labour	Mediation by the opposing parties themselves or, in case of disagreement, by the Mediation and Arbitration Service; optional arbitration by this same body
<b>Spain</b>	Prior arbitration procedure compulsory before taking industrial action or bringing the matter before the courts	Interconfederal system of mediation and arbitration
<b>France</b>	Legal conciliation procedures optional	Legal mediation and arbitration procedures optional
<b>Ireland</b>	Conciliation and mediation bodies: Labour Court and Labour Relations Commission	
<b>Italy</b>	Conflict prevention by means of codes of good conduct, particularly in the public sector, and by incentives to negotiate	Informal mediation by public authorities and mediation by a guarantee committee for public service disputes
<b>Luxembourg</b>	Conciliation in collective disputes by the National Conciliation Office, whose rulings may be declared to be of a generally binding nature	Arbitration Council: the arbitration award is equivalent to the conclusion of a collective agreement and may be declared to be of a generally binding nature
<b>Netherlands</b>	Collective agreements sometimes make provision for the procedure to be followed in case of dispute	A compulsory mediation procedure is provided for participation of workers in public enterprises or in public service
<b>Austria</b>	Compulsory conciliation by a conciliation board or optional conciliation by the Federal Conciliation Office	
<b>Portugal</b>	Optional conciliation procedures	Optional mediation and arbitration procedures Arbitration compulsory for disputes relating to public enterprises
<b>Finland</b>		Strikes and lockouts can only be initiated if the conciliator has been notified in writing at least two weeks in advance
<b>Sweden</b>		Mediation by the National Conciliators' Office
<b>United Kingdom</b>	Disputes are settled informally	Settlement of disputes by ACAS (Advisory, Conciliation and Arbitration Service)

## Trends in collective bargaining

## Relations between the social partners

The results of the social dialogue are varied. A major part of the social

partners' task is to sign agreements at company, sector and cross-industry level. For example, the following sectoral or national agreements were signed during 1999<sup>12</sup>.

Country	Agreements Working time	Agreements Wages	Disputes
Belgium	Commerce	Construction	Post
	Construction	National	Transport
	Telecommunications		Financial services
Denmark	Agriculture	Financial services	Public
	Financial services		Education
	Health		Health
Germany	Chemical	Automobile	
	Information technology	Public	
	Automobile	Post and telecommunications	
	Public	Metal	
	Post and telecommunications	Public	
	Public	Metal	
	Metal	Publishing and media	
	Maintenance and cleaning	Maintenance and cleaning	
	Insurance	Insurance	
	Publishing and media	Publishing and media	
Greece	Telecommunications	Public	Construction
	Public	Telecommunications	Pulp and paper
	Telecommunications	Financial services	Transport, public
	Financial services		
Spain	Chemical	Intersectoral	Telecommunications
	Intersectoral	Financial services	Financial services
	Chemical	Publishing and media	Extractive
	Chemical	Chemical	Transport, air
		Chemical	Intersectoral
			Agriculture
France	National		Extractive
	Automobile		Automobile
	Electrical		Agriculture
	Automobile		Education
	Commerce		Transport, air
	Public transport		Education
	Public transport		National
Ireland	Public transport		Energy
	Financial services	Financial services	Public
Italy	Maintenance and cleaning	Commerce	
	Tourism	Construction	Financial services
	Public	Tourism	Automobile
	Metal	Post and telecommunications	
	Metal	Public	
	Food	Metal	
	Public	Automobile	
		Automobile	
		Metal	
		Food	
Luxembourg	Public	Public	
	Financial services	Public	
Netherlands		Telecommunications	
		Financial services	
		Public	Education
		Public	Consultancy and business
Austria		Public	Publishing and media
		Public	Public
		Food	Transport, public
			Transport
Portugal	National	Financial services	
	National	Tourism	
			Health
			Transport, rail
Finland			Intersectoral
			Transport, air
			Transport, sea
			Food
Sweden	Financial services	Transport, air	Transport, air
	Transport, public	Transport, public	Transport, public
	Pulp and paper	Pulp and paper	Automobile
	Transport	Automobile	Health
United Kingdom		Transport	Transport, road
	Automobile	Public	Education
			Health
			Transport, air

Although incomplete, this list clearly highlights national situations, the importance in each country of the conclusion of agreements, the sectors concerned and the frequency with which industrial action is taken where agreement is not reached.

Bargaining on wages and working time is the focus of the social partners' attention. These two factors are absolutely crucial in giving substance to industrial relations. They are analysed in detail in the next Part of the report.

However, the social dialogue is not limited to negotiating agreements. As a result of dialogue, the social partners may promote joint initiatives. Depending on circumstances, these could involve measures pursued under partnership arrangements, in the area of vocational training for example, joint management of funds (retirement or unemployment), campaigns to prevent accidents at work, racism, discrimination or even sexual harassment.

#### *Employability*

Within the European employment strategy, the employment guidelines and Member States' national action plans, vocational training has a very central role. Collective bargaining has become an important factor in the development of training — and especially continuing training — in many countries. In the 1990s, the word employability appears in collective bargaining. It qualifies the ability of an employee to be mobile because of the skills acquired through in-company training.

The position of employability at the bargaining table is very much dependent on the national approach to (vocational) training. It depends on the characteristics of national industrial relations systems and national education and training systems. In some Member States, employability is solely a case of unions and employers' organisations, with sometimes a little push from the authorities. In other Member States, the authorities are much more involved in designing and executing education and training programmes.

Overall, it can be said that whatever the national system is, it is intersectoral and sectoral bargaining that has the greatest impact on continuing

training. Company-level bargaining occurs in a number of countries, but in most cases it is relatively limited in extent. Within the context of these national systems, an intensification of bargaining (and social partner involvement) on training in many EU countries has been seen in recent years, both specifically and as part of general employment pacts and similar initiatives.

#### *Early retirement*

Over the years, consensus has been reached between employers and trade unions that 'hidden unemployment' through early retirement is more acceptable than youth unemployment. However, policy-makers now widely recognise that the policy of encouraging early retirement fell foul of the 'lump of labour fallacy'. Reducing labour supply does not necessarily help to reduce unemployment. Indeed, where such a policy has been pursued, it does not seem to have been effective in tackling youth unemployment.

Furthermore, the evidence of loss of expertise as older workers take early retirement has become increasingly noticeable. Questions have also been raised about the real effects of the compensatory recruitment measures which have accompanied some early retirement schemes. In some countries, attention has now switched to encouraging the recruitment and retention of older workers in employment, through either incentive or disincentive measures. Collective agreements seeking explicitly to turn the tide of early retirement are so far very rare. One notable example is the 1999–2000 agreement for Belgium's construction industry, where early retirement at the age of 58 was introduced in 1997. The new agreement provides for a lump-sum bonus for workers who volunteer to continue to work until the age of 60. The deal is motivated primarily by the fact that the construction industry has witnessed increasing difficulties in finding employees for the vacancies available. However, at the end of the day, early retirement is still persistently reported across the EU as an accompanying measure to company closures and restructuring.

#### *Initiatives to integrate minorities*

Collective bargaining also tried to improve equal opportunities in the labour market. In Denmark, the employers and unions seek active ways to integrate minorities into the labour market. The aim of the agreement is to put ethnic equality on the same footing as gender equality. In a draft proposal, the unions said that they would train and educate their shop stewards to help them absorb people from ethnic minorities into the labour market. In the UK, a joint action was taken at Ford by the managers and unions to fight racism within the company. After threats from the union to hold a ballot to take action against growing racism, Ford's management launched a plan to tackle the problem. The joint statement provides for a 'diversity and equality assessment review' covering policy and planning, selection, development and retention of employees, communication and corporate image, corporate citizenship and a race equality audit. This should lead to an improved working atmosphere and reduce racial discrimination to a minimum.

#### *Industrial disputes*

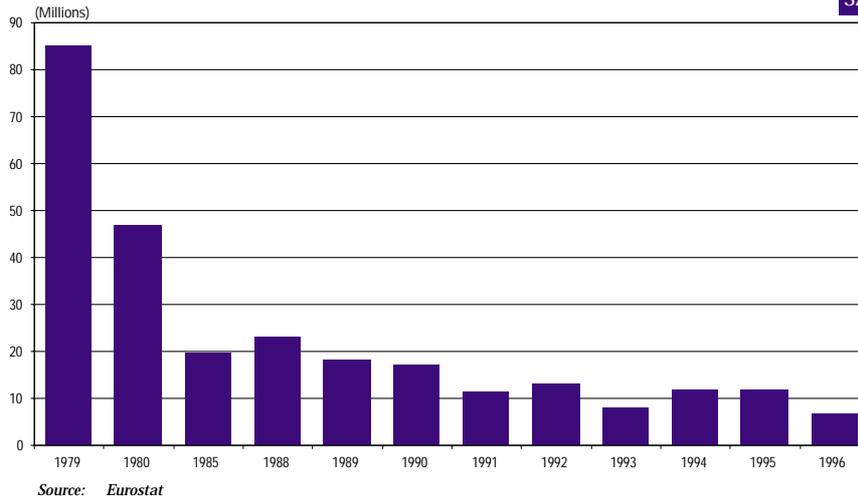
##### *A decrease in industrial disputes?*

Strikes have become a declining method of collective action in recent years. Since 1979, the number of strikes in the EU-15 countries has fallen. This evolution in industrial disputes can be seen as a sign of improved labour relations. It can also be the result of a loss of union influence or, as in the case of the UK, of legislative measures minimising union power. High unemployment and difficulties in finding a job dissuade employees from choosing this type of action. Employers, for their part, are under pressure from fiercer competition, which makes it more important to secure workers' commitments and production continuation.

The industrial disputes identified by the European Industrial Relations Observatory (EIRO), as highlighted in the previous table, show that most of the strikes took place in the public or protected sectors. These sectors were placed under strong pressure because of their restructuring and liberalisation of markets.

## Strikes in the Union - Days

32

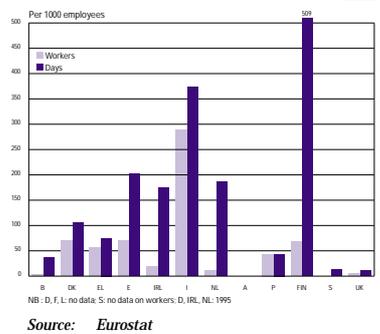


### National differences

The following charts show huge differences between the Member States in the number of days lost due to strikes. These differences can, for instance, be attributed to the different systems of industrial relations. The systems characterised by well-established negotiation or consultation processes between the social partners might decrease the need to express grievances through strikes.

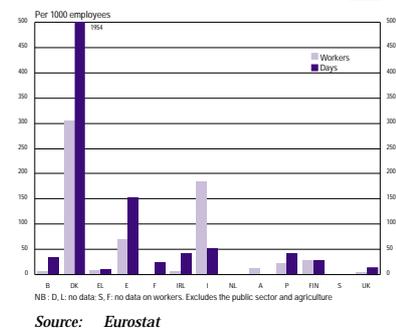
Incidence of strikes in Member States, 1994

33



Incidence of strikes in Member States, 1998

34



### Cycle in conflicts?

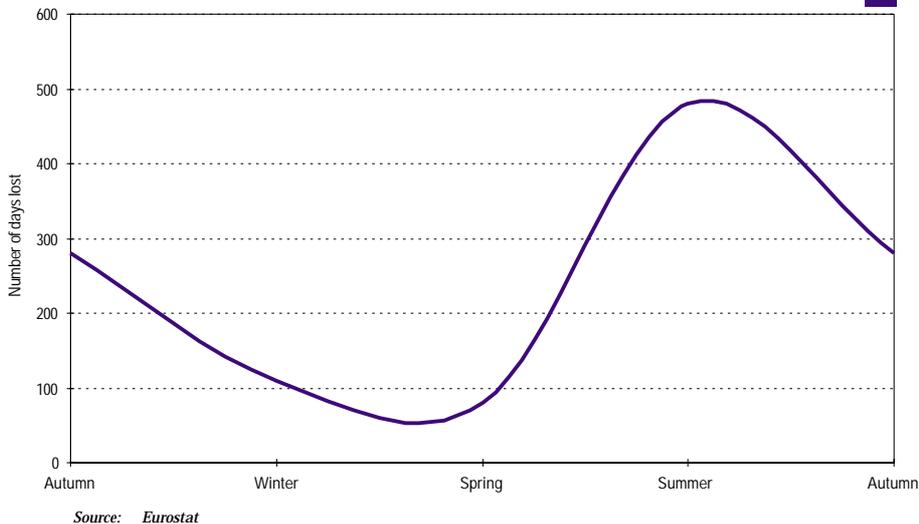
Conflicts between employers and employees or their unions are quite regular with differences in industry among Member States. Based on data collected by Eurostat, the following chart shows the average number of

industrial disputes from 1997 until mid-1999 in working days lost per 1 000 employees. It represents the figures found in nine countries of the European Union: Greece, Spain, Ireland, Italy, the Netherlands, Portugal, Finland, Sweden and the United Kingdom.

The chart below shows that, in the third quarter of the year, disputes seem to concentrate contrary to the agreements cycle.

Number of days per 1 000 employees, 1997 - 99

35



This part of the report takes a closer look at selected topics in the area of industrial relations. In this first edition, the focus is on the traditional key issues of collective bargaining, namely wages and working time. The intention is to gather some key facts and, on this basis, to discuss the strategies and behaviour of the two sides of industry in relation to the major policy objectives of the European Union.

The first section in this part presents information on wage developments in the European Union and then looks at some key issues for the wage bargaining process. The first of these issues is monetary union which changes the environment for economic policy-making and gives greater responsibility to the social partners. The role of wage bargaining in overcoming Europe's employment problem is the topic of another section. This is followed by a discussion of the pay gap between men and women and the contribution of collective bargaining to equal opportunities. Finally, the challenge of the environment is considered. The report examines wage disparities between the current Member States and the applicant countries and tries to highlight some issues that are likely to arise in the enlargement process.

The second section looks at working time. Although working time is not on the collective bargaining agenda with the same regularity as pay, it has become increasingly important over recent years. The main focus of attention tends to be on the link between working time and employment, but it is important to note that the reduction in working time — and the concomitant increase in leisure time — has been one important way in which workers have been able to enjoy the fruits of the productivity growth resulting from technological progress.

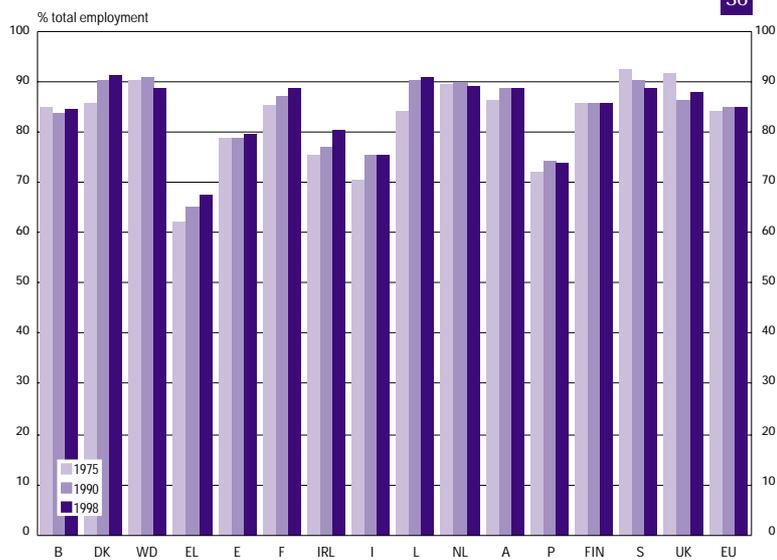
# Wages

## Wage developments in the EU

Industrialised countries are wage earner economies. This group represents around 84 % of the employed population in the EU. This is about the same level as in Japan, but less than in the United States (see Chart 36). The share of wage earners in total employment has risen over the past decades as traditional forms of self-employment in agriculture, the crafts sector and commerce have disappeared. This trend now seems to have stopped, and in some cases a reversal can be observed. The strong political commitment to supporting entrepreneurship might also contribute to an increasing share of self-employment.

Thus, wages are the main source of income for the vast majority of the working population. However, wages also determine the living standards of most people who are not working. In many social security systems, the incomes of pensioners, the unemployed and the incapacitated are linked to their own past wages, and the ability of these systems to pay depends on the amount of social insurance contributions that can be levied on the wages of the current active population.

Share of employees in total employment, 1975, 1990 and 1998



Sources: Eurostat, Labour Force Survey (LFS)

There are different ways in which the reward for a wage earner's labour can be determined. They range from legislation to individual contracts. However, collective bargaining continues to play a key role in setting wage levels and the structure of wages. It therefore also has a major impact on the macroeconomic performance of the European economy.

### Determining the reward for labour

Four methods of pay determination can be distinguished:

1. The most constraining for the employer is a wage laid down by legislation, i.e. a statutory minimum wage. Such a minimum wage currently exists in eight Member States (Belgium, Greece,

Spain, France, Luxembourg, Netherlands, Portugal and the UK — see below). In other Member States, legislation can be used to extend a negotiated minimum wage to all workers in a given sector.

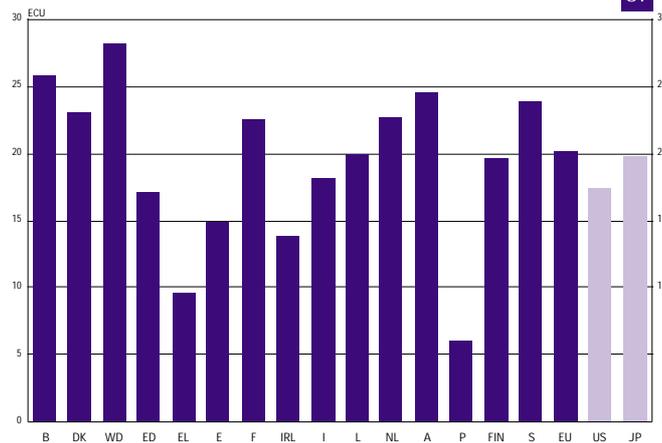
2. Somewhat less constraining for employers is wage determination through collective bargaining. In Europe, the rate of coverage by collective agreements tends to be high — much higher than unionisation rates. This high coverage rate of collective agreements can be explained by the fact that a large proportion of employers are affiliated to an employers' organisation and that employers do not normally discriminate between trade union members and non-members.
3. It is difficult to assess the importance of individual employment contracts in determining incomes from work. Some workers are likely to be covered only by an individual contract, but in many cases individual contracts would build on a collective agreement and secure some additional benefits.
4. The reward for the work of employees does not necessarily have to take the form of wages and salaries only. Workers may also be offered various forms of direct participation in profits and results. These remuneration schemes still only cover a limited proportion of households, but they have multiplied over recent years in most EU Member States.

What an employer has to pay for a worker is not only determined by these four mechanisms. Social insurance contributions and taxes on labour need to be added — the so-called 'tax wedge' which is set by public authorities. There are also payments for days not worked and possibly various benefits in cash and in kind (e.g. a company car).

One indicator that is often used for international comparisons is hourly labour costs in industry. Data for 1996 show that the average for the EU is almost EUR 3 above the level in the United States, but very close to labour costs in Japan. There are much greater differences within the EU: labour costs in western Germany

### Hourly labour costs in Industry, 1996

37



Source: Eurostat, Labour Cost Survey

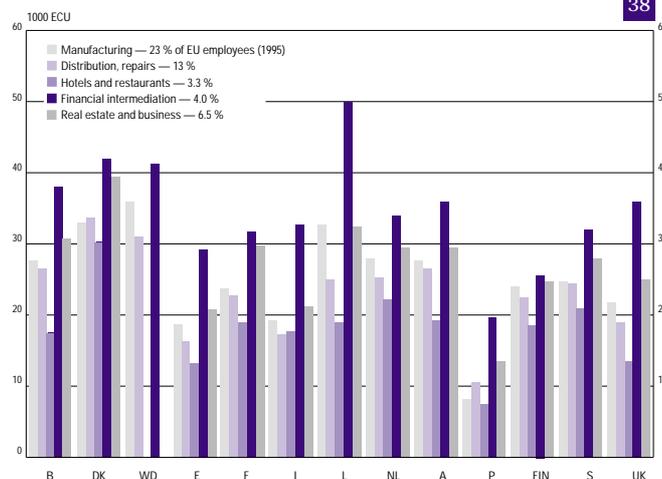
are more than four times higher than in Portugal. It is, however, important to be aware of the limitations of such comparisons. Conclusions about the competitiveness of a particular country can only be drawn once other factors, and in particular productivity, have been taken into account.

According to the European survey on the structure of earnings, annual gross earnings in 1995 ranged from well below EUR 10 000 in some sectors in Portugal to just over EUR 50 000 in the financial intermedia-

tion sector in Luxembourg. The differences among the sectors within a single country can be as striking as the differences between countries. The ranking of sectors may change somewhat from country to country, but two sectors always stand out: financial intermediation with the highest wages and hotels and restaurants with the lowest. It is interesting to note, however, that the relative gap between these two extremes tends to be much smaller in the Nordic countries (Denmark, Finland and Sweden) than in the rest of the EU.

### Annual gross earnings of full-time employees in selected sectors, 1995

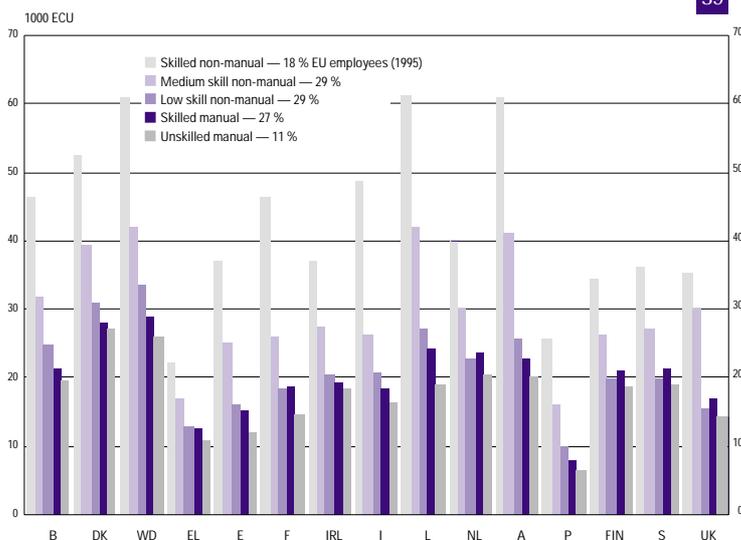
38



Source: Eurostat, structure of earnings survey (SES)

### Annual gross earnings of full-time employees in selected occupations, 1995

39



Source: Eurostat, SES

As far as occupations are concerned, there is a large spread between managerial and professional occupations, on the one hand, and elementary occupations, on the other. This

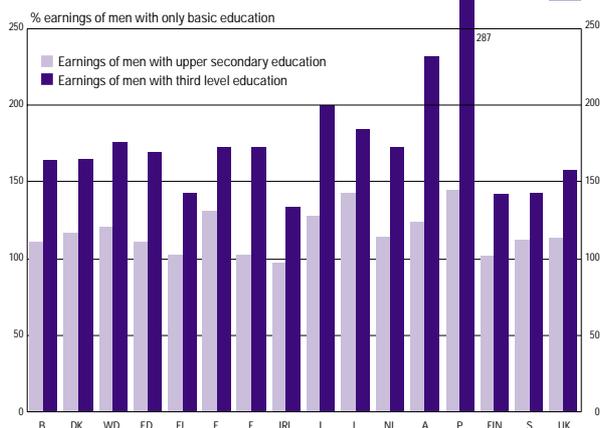
reflects the pay rewards for high skill levels (see also Charts 40 and 41).

As regards the evolution of wages over time, the steepest rises in real

compensation per employee took place in most countries during the 1960s and 1970s. Since then, the rate of increase has slowed down markedly for the EU as a whole.

### Wages by level of education, men, 1995

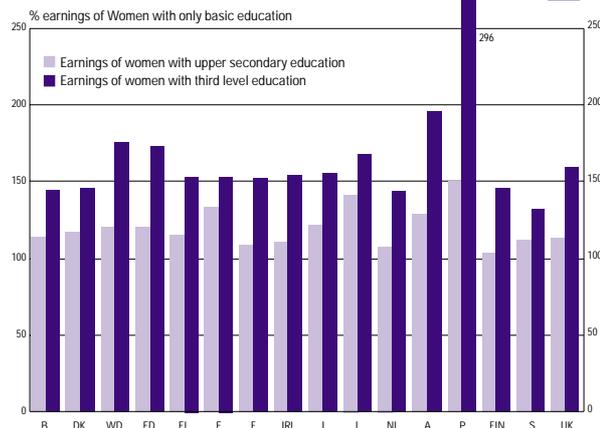
40



Source: Eurostat, SES

### Wages by level of education, women, 1995

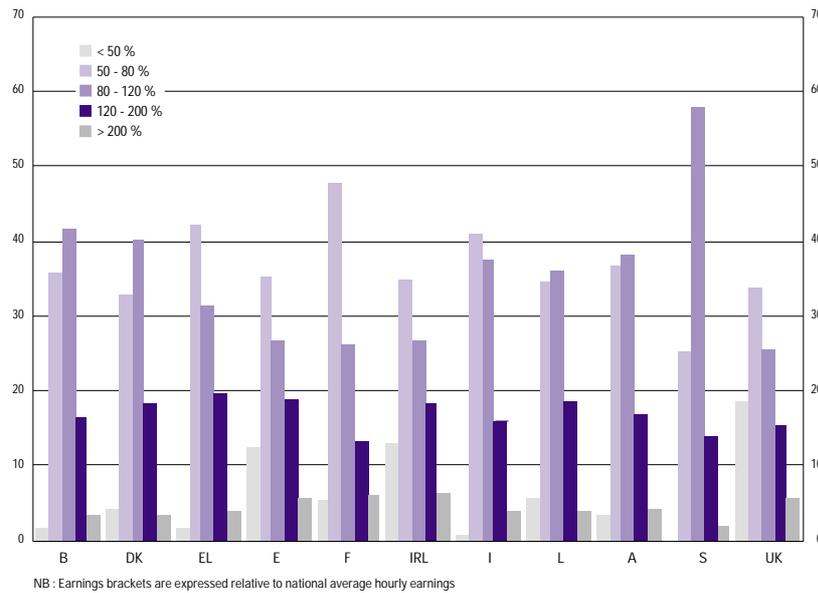
41



Source: Eurostat, SES

### Share of employees by earnings bracket, 1995

42



In order to facilitate graphical presentation, the earnings distribution is divided into five broad earnings brackets, which are narrow enough to highlight the salient features of the distribution.

In most of the 11 Member States for which data are available, 6 % of employees or less have earnings below 50 % of the national average; the exceptions are the UK, where the proportion is almost 19 %, and Spain and Ireland (around 13 % in both). The share of employees earning 50–80 % of average wages exceeds that on 80–120 % in France (by over 20 percentage points), Greece, Spain, Ireland and the UK. In contrast, in Sweden (where the difference exceeds 30 percentage points), Denmark and Belgium, employees are more concentrated in the higher earnings bracket. In the remaining three Member States, the proportion is similar. As is often the case, Sweden's relatively even distribution of income stands out, with almost 60 % of employees earning 80–120 % of the average hourly wage.

Thus the share of employees on 80–120 % of average wages ranges from 26 % in Spain, France, Ireland and the UK, to 58 % in Sweden, and 40 % or more in Belgium and Denmark.

Among the higher earnings brackets, differences are smaller; the 120–200 % bracket accounts for between 16 and 19 % of employees in most, reaching 20 % in Greece, while it is only 14 % in Sweden and France, and those on more than twice the average earnings account for 4 to 6 % in all except Sweden, where the share is 2 %.

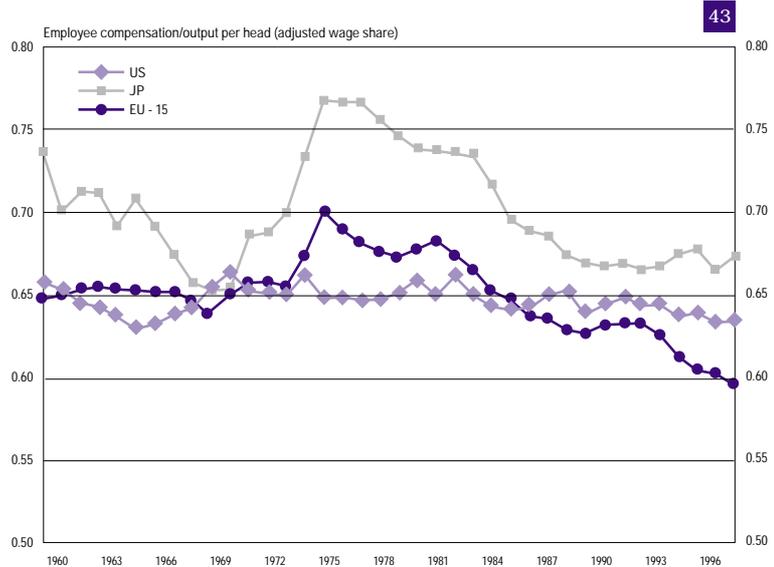
The growth of nominal wages has also slowed down considerably since the 1970s. In most Member States, the rate of increase in nominal compensation per employee has been brought well below the 5 % mark. It

is worth noting that, during the 1990s, there was no clear correlation between the growth rates of nominal and of real compensation. Higher real wages are not automatically achieved by faster nominal wage

growth. Conversely, moderate nominal pay settlements do not imply that wage earners are losing out.

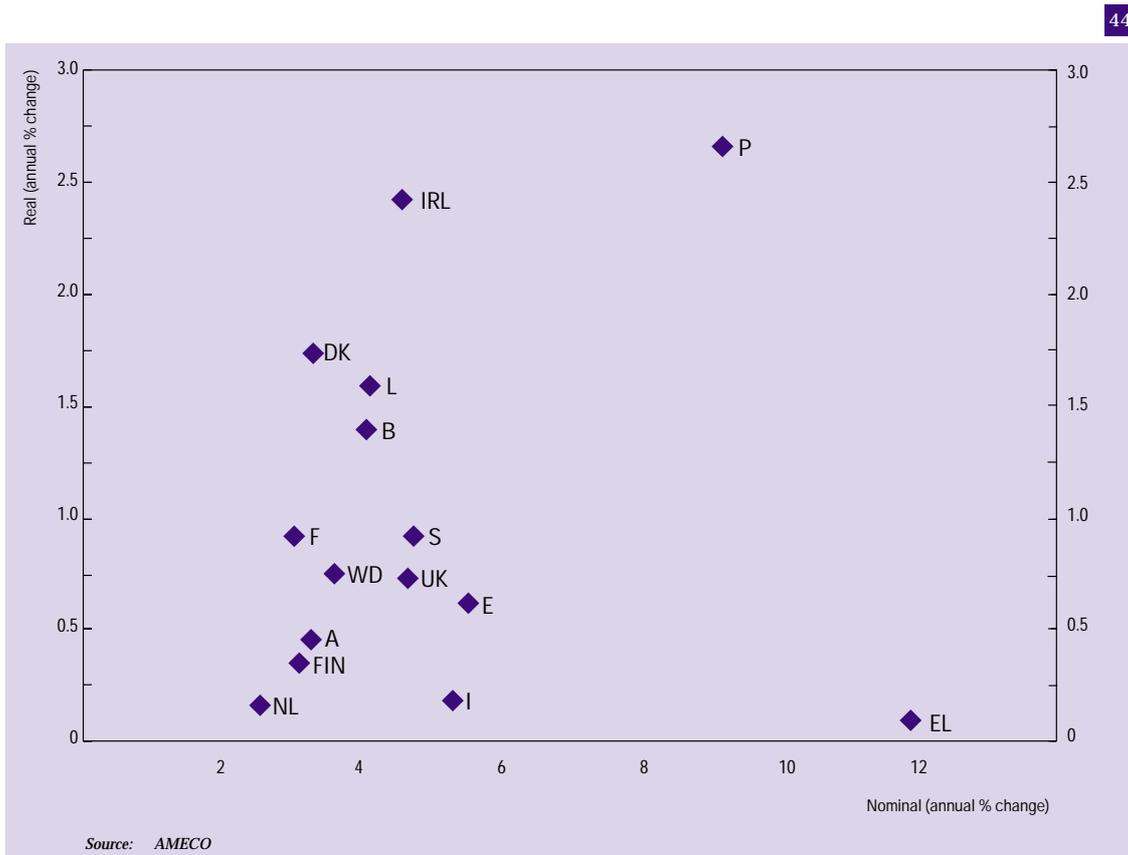
The lower real wage increases are first of all a reflection of reduced productivity growth (see Chart 44). However, a comparison of the rates of increase in real compensation and in labour productivity reveals that in most Member States real wages lagged behind productivity growth during the 1980s and 1990s. As a result, the labour cost of producing one unit of output has been falling in real terms. Already in the 1980s, the adjusted wage share fell below the level of the 1960s, reversing the sharp increase of the early 1970s (see Chart 43). The fall in the wage share — which of course implies a symmetrical rise in the profit share — has continued in the EU, whereas in the United States and Japan the split between aggregate wages and profits seems to have stabilised.

Unit labour costs in the EU, United States and Japan, 1960 - 97



Source: AMECO and LFS

Nominal and real compensation growth, 1991 - 98



Source: AMECO

Why has the wage share in Europe fallen so low?

Low wage settlements do not automatically lead to a falling wage share. Firms may be forced by market conditions to pass on lower labour costs to their customers — and these include workers whose purchasing power (and hence real wages) would benefit as a result.

Thus the question about the falling wage share can be asked in two ways:

- Why are workers unable to capture the full percentage increase in labour productivity (this would be required for a constant wage share)?
- Or why are firms able to charge prices that result in a high profit share?

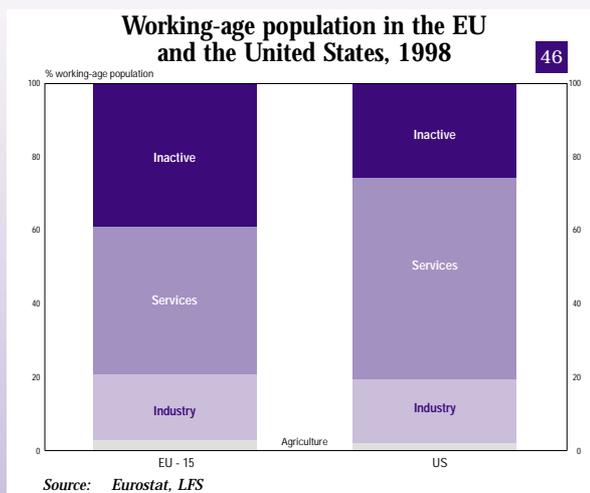
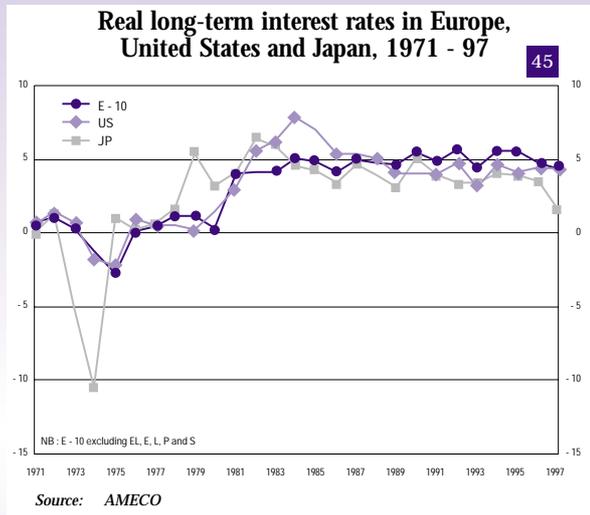
The first question is usually answered by referring to the weakened bargaining position of trade unions. Highly unionised sectors are declining, and mass unemployment makes industrial action more risky. However, the almost constant wage share in the United States remains unexplained.

The second question cannot easily be answered either. Competition on markets for goods and services could be limited, but this is unlikely in view of the completion of the internal market, liberalisation in various markets (e.g. telecommunications, energy, transport) and globalisation. It could also be that capital costs are higher than they used to be and that this is reflected in prices. Real long-term interest rates are indeed much higher today than they were in the 1970s, and, in the EU, they tended to be slightly above the level in the United States during the 1990s.

While the wage share is adjusted for shifts between salary earners and the self-employed, there may be other structural factors that can have an impact on the wage and profit shares. Changes in the composition of the economy, notably in terms of sectors and types of employment, can affect the wage share. If production requires a higher capital input, then the wage share would fall. Since the 1960s, the investment rate (the share of gross fixed capital formation in gross domestic product (GDP)) was consistently higher in Europe than in the United States.

Another structural factor might be Europe's lack of jobs in the services sector (see Chart 46). Some types of services with a significant growth potential (e.g. personal services, maintenance and repair services for households) are unlikely to require a high level of capital investments.

These considerations are highly speculative, but illustrate the difficulty in using the wage and profit shares as a yardstick for collective bargaining. Wage and profit shares are highly aggregate indicators. Thus, it is almost impossible to determine, at the macroeconomic level, whether wage earners are getting a fair share of national output.



The high degree of wage moderation that has characterised industrial relations in Europe since the 1980s made it possible to reduce inflation and to stabilise it at a low level (see Chart 47). Large differences in inflation rates had emerged among European countries following the breakdown of the fixed exchange rate system of Bretton Woods and the oil price shock in the early 1970s. Inflation rates were not only different from one European country to another,

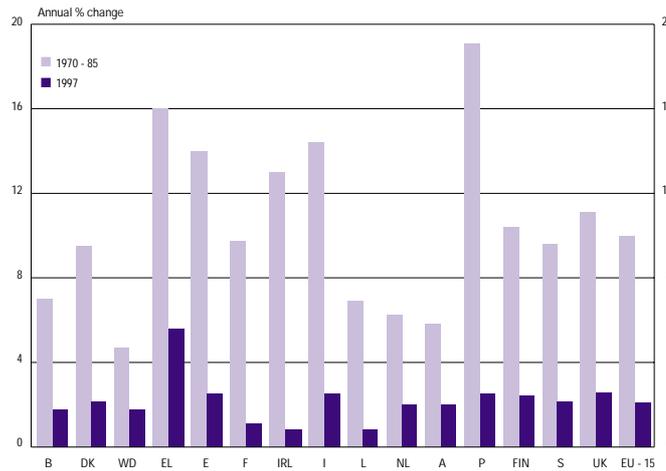
they were also unstable and hence difficult to predict.

The reduction in inflation rates did not happen smoothly, though, and there was strong public policy intervention at certain moments. In a number of countries, governments introduced wage and price controls in the 1970s. Monetary policy, which since then in all Member States has become the main policy tool for keeping inflation under con-

trol, became very tight following the first and second oil price shocks and during the German unification boom. The ensuing recessions each time caused unemployment to rise sharply to a new plateau and weakened trade unions. Only during the second half of the 1980s, a period characterised by a relaxation of monetary policy, did Europe as a whole once again see a rapid rise in employment and a rapid decline in unemployment.

## Annual consumer price inflation 1970 - 85 and 1997

47



Source: AMECO

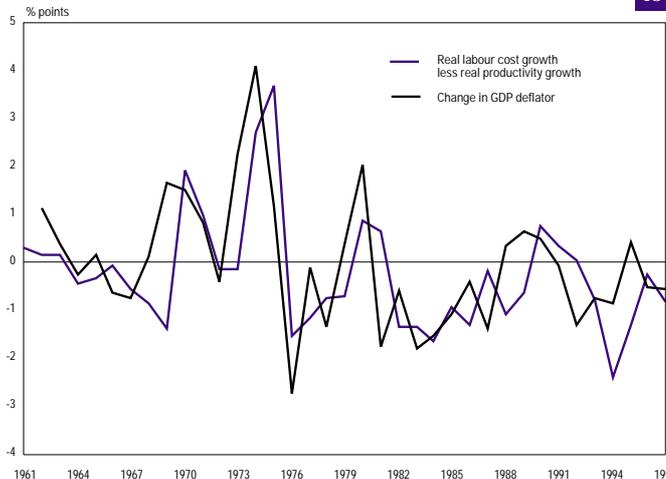
### Wage pressure and the inflation rate

Pressure for higher wages can be measured by the difference between the year-on-year change in labour compensation and the annual productivity growth. If the increase in compensation exceeds productivity growth, then workers are increasing their share of national income. Conversely, if productivity growth exceeds pay rises, then we observe wage moderation.

There is a close link between wage pressure or moderation and changes in the inflation rate. Chart 48 shows both the indicator for wage pressure/moderation and the change in the inflation rate (GDP deflator). It is interesting to note that the rise in inflation usually preceded the increase in wage pressure.

### Wage pressure and changes in the inflation rate in the EU, 1961 - 97

48



Source: AMECO and LFS

### Wage bargaining in the monetary union

The introduction of the single currency on 1 January 1999 has changed the macroeconomic policy environment and has also forced the social partners to adapt. Monetary policy is now conducted for the entire euro zone by the European

Institutions, in particular the Central Bank. Fiscal policy remains national, but has to be implemented in accordance with the Stability Pact. By contrast, there is hardly any European coordination of wage policy, the third element of the macroeconomic policy mix. Depending on the Member State, wages are negotiated by the social partners at the level of companies, sectors, regions or national.

Within the monetary union, wage bargaining has to meet two challenges. First, at the aggregate level, it is necessary to avoid 'stability conflicts' between the three components of the macroeconomic policy mix. It is crucial that the social partners avoid wage settlements that could jeopardise price stability in the euro zone and hence force the European Central Bank to tighten monetary

policy. In the event of a strong reaction of monetary policy, there is a risk of a stabilisation crisis that could plunge the European economy into a recession.

Second, at the national level, the social partners have to adapt to the fact that exchange rate movements can no longer compensate for divergent wage trends. Different wage developments from those in the other euro-zone members will have an immediate impact on competitiveness and employment. Thus monetary union can have a strong disciplining impact on wage bargaining. This would be helpful in achieving price stability, but it also raises fears among trade unions about 'competitive wage moderation', i.e. the danger that the social partners in one country will try to gain more employment at the expense of other euro-zone members.

### The macroeconomic policy mix in the euro zone

The European social partners took a constructive attitude towards the single currency and accepted the need for achieving the ambitious convergence goals. In their joint declaration 'A renewed cooperative strategy for more employment' of 3 July 1992, they emphasised their

autonomy with regard to wage negotiations but also accepted their responsibilities in the macroeconomic policy process.

*'The conduct of wage negotiations is under the responsibility of the social partners. The more credible and socially acceptable economic policies are, the easier the social partners can anticipate low or decreasing inflation rates in the results of their wage negotiations. This would reduce the strain on monetary policy and contribute to the reduction also of short-term interest rates. Furthermore, wage developments have to take into account the requirements of the profitability of employment-creating investment, the competitiveness of enterprises on the world markets and the implications of full economic and monetary union. The non-inflationary and sustainable growth process, thus generated, would provide the appropriate scope for real wage increases which underlines the interrelation between the European integration process and rising living standards.'*

In their joint contribution to the Luxembourg Employment Summit of November 1997, the European social partners stressed that the single currency is an opportunity for achieving a 'sustainable job-creating growth process':

*'The realisation of EMU can facilitate this task [of reaching progressively a substantially higher employment level within 10 years] by avoiding or alleviating major macroeconomic obstacles to growth that were observed in the past. Indeed, EMU will remove — by definition — the risk of intra-EMU monetary turbulence, and it will also favour a macroeconomic policy mix that, in the coming years, will reduce the risk of a stability conflict between the three major components of the policy mix (budgetary policy and wage developments on the one hand, and monetary policy on the other).'*

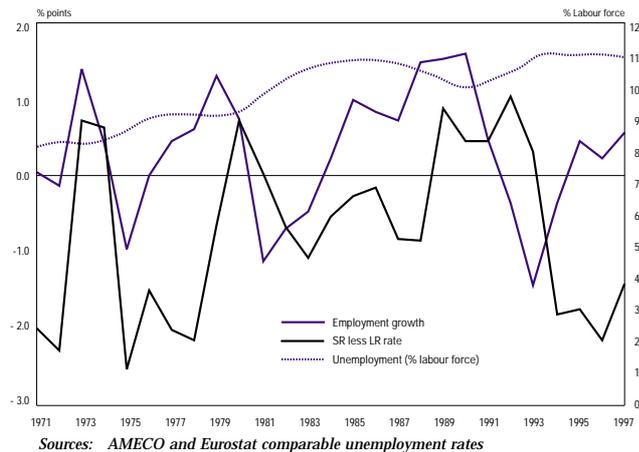
Thus, the European social partners are aware of the strategic interaction between wage bargaining behaviour and monetary policy: if wage developments jeopardise price stability, the European Central Bank will be forced to react by raising interest rates. This restrains inflationary pressures by reducing the demand for investment and consumer goods and can, in the worst case, lead the economy into a recession ('stabilisation crisis', see box below). By giving the right signals to the European Central Bank, the social partners can increase the scope for lowering interest rates and hence contribute to an economic environment that is conducive to growth.

#### Monetary policy and stabilisation crises

The tightness of monetary policy can be measured by the difference between short-term and long-term interest rates. Usually long-term interest rates are higher than short-term interest rates. However, when monetary policy is tightened to avert or to bring down inflation, short-term interest rates (which are set by the Central Bank) go up and may even exceed long-term rates. There have been three periods of very tight monetary policy since the 1970s and each time a drop in employment and a sharp rise in unemployment followed (see Chart 49).

The differential between short and long-term interest rates and employment growth in the EU, 1971 - 97

49



More recently, the recognition of the social partners' responsibility for a balanced macroeconomic policy mix has led to practical consequences. The European Employment Pact launched in June 1999 by the

Cologne European Council (3 and 4 June 1999) recognised the important role of the social partners and established the 'macroeconomic dialogue' where representatives of the Council, the Commission, the

European Central Bank and the social partners participate. The Presidency conclusions stated that

*'... the key to sustainable non-inflationary growth and increased employment*

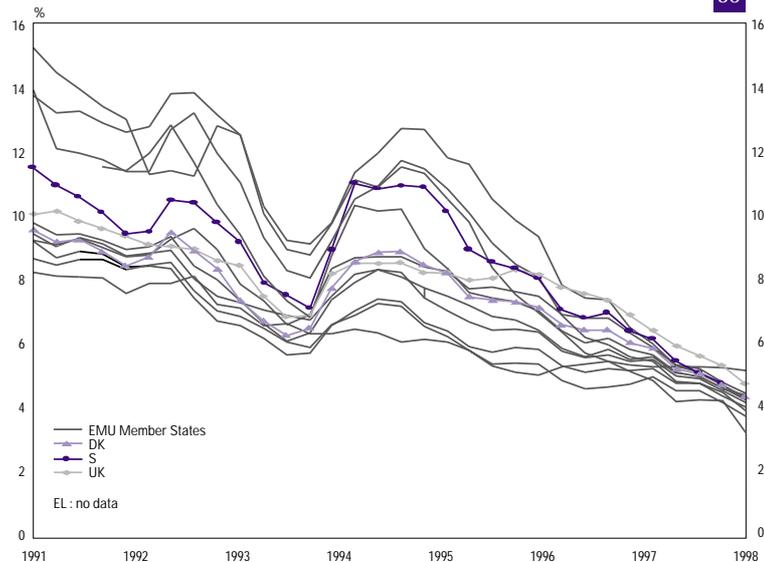
lies in a properly coordinated mix of macroeconomic policies geared towards growth and stability and comprehensive structural reforms at Community and national levels. The European Council takes the view that, to make a lasting success of economic and monetary union, there will need to be enhanced and appropriate policy coordination as well as dialogue with both sides of industry and with the European Central Bank. The European Employment Pact will make a major contribution in this regard.

In the euro area the enhanced dialogue in the EUR-11 group will also contribute to achieving a more balanced policy mix. The European Council calls on governments and both sides of industry to support monetary policy in its priority role of maintaining stability. It will also be important to keep up efforts to achieve budgetary positions which are close to balance or in surplus over the medium term, appropriate wage development and comprehensive structural reforms.'

According to a paper from the Presidency of the Council, 'the aim of the dialogue is to preserve non-inflationary growth dynamics through coordination of economic policy and improving the mutually supportive interaction between wage developments and monetary, budget and fiscal policy.' Discussions are intended to be informal and open. A commitment of participants to ex ante coordination of economic policies is not expected. Consequently, no common conclusions were issued after the first macroeconomic dialogue meeting. Future meetings are to be scheduled in such a way that the macroeconomic dialogue can influence the elaboration of the European economic and employment policy guidelines.

This macroeconomic dialogue cannot be regarded as a European incomes policy, but it may further strengthen the credibility of the euro zone's macroeconomic policy mix. Already, the expectations about macroeconomic stability in the euro zone have been very positive. This is illustrated by the remarkable convergence of long-term interest rates not at an intermediate level between high and low inflation countries, but at the low level of the former German mark zone (see Chart 50). This will be beneficial for growth, employment and living standards

Long-term interest rates in the Member States 1991 - 98



Source: AMECO

and would not have been possible without the expectation of responsible wage bargaining behaviour of the social partners.

### Wage bargaining within the euro-zone countries

The main changes resulting from the single currency for national wage bargaining systems were spelled out in an opinion addressed in September 1997 by the Economic Policy Committee to the Council and the Commission. The key messages of this opinion were taken up in the broad economic policy guidelines adopted by the Council of the European Union on 6 July 1998. The Council stressed that 'in EMU, with the single monetary regime, the link between wages and employment will become more evident and stringent'. It invited the social partners in the Member States to conclude wage agreements in accordance with four general rules:

- 'Aggregate nominal wage increases must be consistent with price stability.' Excessive wage increases in the whole euro area would cause monetary policy to become tighter and this would be harmful to growth and employment. If excessive pay rises are limited to a region, then competitiveness and employment in this region would suffer.
- Real wage increases should safeguard the profitability of capacity-

enhancing and employment-creating investment.

- 'Wage agreements should better take into account differentials in productivity levels according to qualifications, skills and geographical areas.'
- 'Wage imitation effects need to be avoided.'

Following these rules does not imply uniform wage developments across the euro area. The Council stressed instead the increasing importance of wages as a macroeconomic adjustment tool: 'In EMU, wage adjustment will need to play a more important role in the adjustment to changing economic circumstances, especially in the case of country-specific disturbances, thereby requiring a higher degree of adaptability in the wage formation process.'

Many social pacts concluded in the Member States already reflect the new requirements of monetary union and some remarkable achievements can be found regarding the adaptation of national institutions and behaviour patterns.

### Towards a European coordination of wage bargaining?

As the economies of the Member States become more tightly integrated, collective bargaining is also likely to become increasingly 'Europeanised'<sup>137</sup>. Such Europeanisation takes different forms

depending on the objective that is to be achieved.

National wage bargaining processes in a number of countries had to take account of the requirements of economic and monetary union (EMU) in terms of inflation and public finance. A number of tripartite social pacts were concluded in view of becoming eligible for membership in the euro zone. In some cases, guidelines for the evolution of wages were formulated relative to other countries of the euro zone so as to maintain competitiveness. The social partners at sector or company level (especially in multinational companies) are also increasingly looking to other countries in their quest for satisfactory collective agreements.

Another form of Europeanisation is cross-border coordination of, or even cooperation in, bargaining processes. Some important pioneering initiatives were taken not on an EU-wide scale but rather at a regional level. The most prominent example is the 'Doorn initiative' by Belgian, German, Luxembourg and Dutch trade union confederations. In their joint declaration adopted in September 1998, they laid down an 'orientation formula' for national bargaining according to which trade unions should aim for wage increases that are at least equivalent to 'the sum total of the evolution of prices and the increases in labour productivity'. The trade unions also committed themselves to resist national 'beggar-my-neighbour' policies of wage restraint, which would have to be at the expense of employment in neighbouring countries.

At its ninth conference (Helsinki, 29 June to 2 July 1999), the European Trade Union Confederation (ETUC) adopted a resolution in which it proposed to the employers' organisations UNICE and CEEP 'to open discussions with a view to reaching a new agreement, defining the scope, content and rules of this European system of industrial relations, which would complement the national systems'. The resolution also developed the notion of coordinated collective bargaining to counter the danger of social dumping within the European monetary union and growing income inequality. The resolution pointed out the need for compiling and disseminating statistics on collective bargaining and to develop 'a

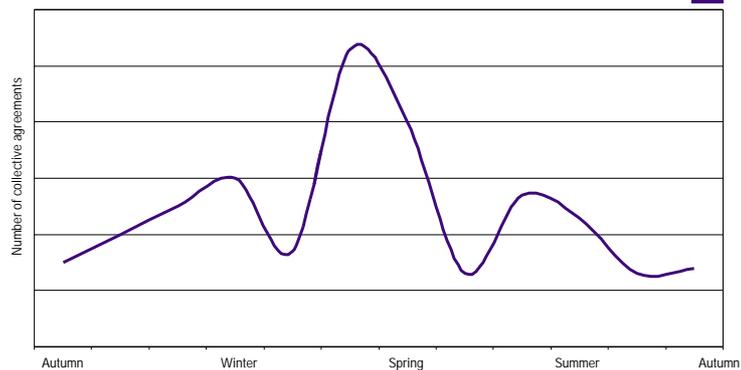
common understanding of central collective bargaining concepts such as compensation for inflation, labour productivity and productivity gains'.

The development of strategies for cross-border coordination of collective bargaining had already begun in certain sectors before the ETUC congress. In December 1998, the European Metalworkers' Federation (EMF) responded to perceived downward pressure on wages and working conditions by adopting a 'European coordination rule' according to which trade unions should achieve compensation for inflation and 'a balanced participation in productivity gains' — a reasonable objective as productivity growth above the national average (as is generally the case in manufacturing industries) should not only be reflected in higher wages but also in lower prices. However, this coordination developed by the EMF does not only cover

The trans-border coordination of wage bargaining might be facilitated by the fact that most bargaining takes place during the same period of the year. The degree of synchronisation is not comparable to that found in Japan with its well-known 'spring offensive'. In Europe, there is nevertheless a marked bargaining peak around March (see Chart 51). It is easier to cooperate and coordinate demands and processes with neighbouring countries if they are going through similar stages of preparation for negotiations. Another condition for greater convergence of the different bargaining processes will be that the interests of the unions in one country coincide with those of the unions in another country.

Employers have so far not announced any major initiatives with regard to cross-border coordination of collective bargaining strategies. However, a precursor of such

Yearly collective bargaining cycle in the EU, 1997 - 99



Source: EIRO

wages but also maximum working times and other employment-related questions such as continuous training, equal opportunities and employment levels. This should allow national wage negotiators to obtain very different results (in terms of the mix of improvements in areas such as pay and benefits, training, working conditions, etc.), while ensuring that workers get a fair share of productivity growth.

Coordination of wage bargaining is also being developed in the services sector by UNI which adopted an action plan for a new euro bargaining network in June 1999. In other sectors, initial steps towards international coordination of collective bargaining are also being undertaken, but with a focus on issues other than pay.

coordination could be the common declaration signed by French and Italian employers' confederations stating their disagreement with the legislative proposals in the two countries to reduce the working week to 35 hours.

Some international coordination also takes place within companies. Many multinational firms hold regular international meetings of their personnel and industrial relations managers to discuss human resources issues in the group. There is, however, little evidence available on the impact of such international meetings on collective bargaining on pay and working conditions.

## Wages and employment

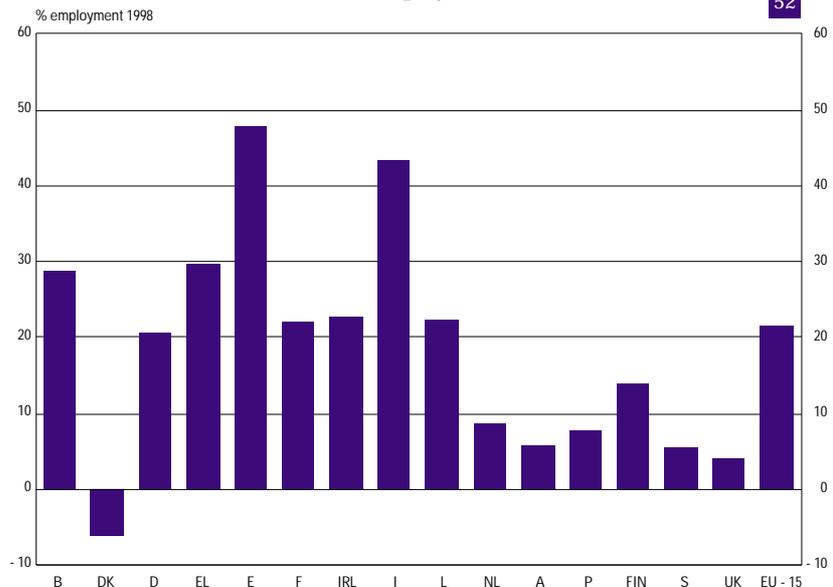
Should and could the social partners in Europe have done more to achieve a reduction in unemployment? Europe's employment performance is unsatisfactory. Only around 61 % of the working age population is actually employed in the EU, as opposed to around 74 % in the United States and Japan. To catch up with the US employment rate, more than 30 million jobs would be needed in Europe. This would present an increase in present employment of 20 % for Europe as a whole, but with significant differences among the Member States (see Chart 52). This poor performance is often blamed on a lack of labour market flexibility, of which wage flexibility is one element. Other elements include employment protection legislation and working time arrangements. This section will only focus on wage flexibility.

### Wage flexibility

There has been much discussion on the question as to whether wages in the EU have been sufficiently responsive to cyclical changes of economic activity. Employment could be stabilised, one argument goes, if wages followed the business cycle more strongly. They should notably fall during cyclical downturns. Clearly, there are situations in which individual companies can be saved by workers accepting a pay cut. Whether stronger procyclical movements of wages are desirable at the macroeconomic level is another matter. There is a risk that this could amplify the business cycle: pay cuts during a recession would further reduce demand and could cause deflation; this could be worsened by the expectation of falling prices which leads to purchases being postponed.

At the aggregate level, real wages appear to be no less flexible than in the United States or Japan. As a result of wages growing by less than productivity over many years, Europe has experienced a falling wage share and falling unit labour costs. In almost all Member States, real compensation per employee fell in certain years during the 1980s and 1990s.

Employment growth needed in Member States to achieve US employment rates, 1998



Sources: Eurostat, LFS and benchmark employment series and Bureau of Labor

This section will not focus on macroeconomic wage flexibility, but on different types of flexibility at the microeconomic level. At the level of firms, the development of financial participation schemes can be important. Another form of flexibility concerns the spread between low and high wages. One form of flexibility that is not considered in the present report is regional labour cost variation.

### The development of financial participation

In the context of the debates on labour cost flexibility, particular attention has been given to the different schemes for the financial participation of workers in their company's profits. This part of income can take many forms and is supplementary to the fixed, basic wage. There are two essential forms of financial participation: profit-sharing and employee share ownership.

These schemes are seen as a way of stimulating employees' collective efforts, gaining increased productivity and easing the adaptation to new technologies. Financial participation also appears to make it possible for wages and employment to be more flexible over the business cycle.

The expansion of financial participation has been clearly influenced by different legal provisions in EU countries and also by the distinct nature

of industrial relations in each country. Encouraged by several legislative steps, financial participation schemes multiplied mainly in France and the UK. In France, profit-sharing schemes have been encouraged since 1959 and have been boosted by recent changes. Voluntary cash-based schemes cover nearly 15 000 companies, and compulsory participation in profits nearly 20 000 companies and more than five million workers.

There have been similar developments in the UK where a series of new laws on shareholding, most of them introduced during the privatisation of State-owned companies, led to a spectacular increase in the number of workers holding shares with nearly 5 000 such schemes.

In Belgium and Italy, financial participation schemes developed without much government intervention and have expanded as a result of the recent decentralisation of wage bargaining. In Belgium, profit-sharing and particularly share-ownership schemes only expanded following the return to free collective bargaining in 1986. Such schemes are also rapidly expanding in other EU countries, such as Greece, Spain, Ireland, the Netherlands and Finland. On the other hand, financial participation schemes are rather marginal in a few EU countries and notably in Germany.

In July 1991, the European Council adopted a recommendation drafted by the European Commission on the basis of a comprehensive report (Pepper) that highlighted the social advantages and the economic potential of these forms of financial participation. The recommendation called on EU Member States to note such potential benefits of making increased use of financial participation schemes, to prepare suitable legislation and to envisage the possibility of granting tax breaks to help the spread of such schemes among companies. This recommendation, further supported by a second report by the European Commission (Pepper II, 1996), was not only designed to encourage financial participation but also to ensure a more harmonised approach to financial participation throughout the European Union.

Financial participation was also referred to in the communication on the modernisation of work organisation (1998), where financial participation is presented as an important tool, and in a communication on risk capital, where financial participation is presented as a tool for allowing the mobilisation of necessary funding of risk-capital ventures. These developments reflect the importance and the extension of financial participation in the organisation of work, management, employment and industrial relations.

If financial participation has known such success in recent years, it is certainly because of the active role played by the social partners. The changing attitudes of trade unions have been a key factor in this regard. Over more recent years, financial participation has been put on the agenda of most EU trade union organisations (especially in Germany, France, Ireland and the UK) and also by ETUC<sup>14</sup>. Employers have usually supported enterprise-level schemes introduced on a voluntary basis, with the design of the scheme being left to the discretion of the enterprise. They have traditionally argued for the introduction of tax incentives and consider financial participation as an important element of human resources management for the purposes of improving employee motivation and commitment.

Most studies on this question, either in Europe or in the United States, have shown the positive effects of such schemes on workers' motivation and productivity. According to a survey carried out in 1999 among 500 top European companies, there is a rising interest: 65 % of respondents had an employee share-ownership plan, while nearly 25 % had also introduced a profit-sharing scheme. In all, 26 % of these large companies had adopted more than one plan.

The results presented in the table below also show that these schemes are generally open to all employees and not only to selected management employees. Only the relatively less used stock option schemes are aimed at a restricted group of managers, and have been under severe criticism in some EU countries, for instance in Spain, France, Finland and the UK. Finally, it is important that a majority of the largest EU companies have a tendency to extend their financial participation schemes in their subsidiaries in other EU countries confirming the international dimension and widespread development of this phenomenon.

### Wage dispersion among individuals

In Europe, wage dispersion among individuals is significantly smaller than in the United States, and, in most Member States, the gap between the top and bottom of the income distribution has not widened as much as in the United States. However, the demand for unskilled workers may be falling relative to that for skilled workers, owing to skill-biased technological progress and possibly competition from low-wage economies. It is therefore frequently argued that the costs of hiring unskilled labour should fall in Europe as they have in the United States.

One would expect that the greater inequality in the United States — and, within the EU, the UK — combined with a less generous social safety net would lead to a higher employment rate for less skilled workers. International comparisons suggest, however, that there is no simple relation between wage disparities and employment rates for less skilled workers.

Economic theory suggests that, where labour market rigidities prevent wages from adjusting to market-clearing levels, low-productivity workers may, in effect, be priced out of the market. Labour market reforms leading to an increase in wage dispersion might, therefore, be expected to lead to a higher employment rate for low-skilled workers. Of course, the relationship between overall wage dispersion in an economy and low-skilled employment is complex and will depend on many other factors and notably the distribution of skills. The gap between the highest and lowest skilled may be smaller in some countries than in others. International comparisons suggest that some countries manage to combine a relatively high employment rate for the low-skilled with relatively low wage dispersion. Thus, flexibility in the form of a more unequal wage distribution may not be a panacea. It may require costly tax and benefit measures to address low in-work incomes, and it is important to consider whether in the long run it is not better to use these resources for upgrading skills. The cross-country differences in employment rates of low-skilled workers will reflect the use of a whole range of active labour market measures that may increase the chances of less skilled workers of finding a reasonably well-paid job.

<b>Financial participation practices in top European companies</b>	
Percentage with a financial participation scheme	80
Types of scheme :	
Share ownership scheme (%)	65
Profit-sharing scheme (%)	24
Other schemes (%)	11
Total (%)	100
Percentage having more than one scheme	26
Average percentage of employees participating	58
Percentage having extended financial participation to EU subsidiaries	40-50
Percentage planning to extend financial participation to EU subsidiaries	70

Source: *Obstacles for the development of European-wide financial participation in the European Union, under the direction of F. Van den Bulcke, with financial support from the European Commission, 1999.*

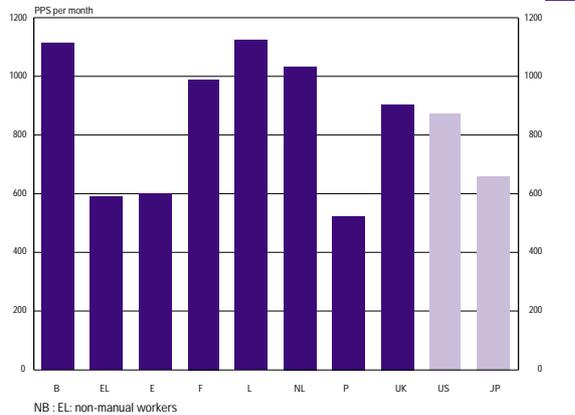
## Minimum wages and guaranteed minimum incomes

Statutory minimum wages at national level exist in eight Member States, including the UK which introduced

one in April 1999. The United States and Japan also have statutory minimum wages (see Chart 53). Two groups of Member States can be distinguished: the northern Member States, Belgium, France, Luxembourg, the Netherlands and the UK,

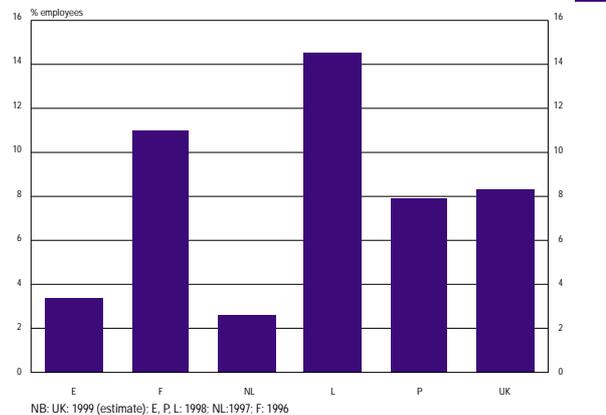
where the level of the minimum wage is in the region of EUR 1 000, and the three southern Member States, Greece, Spain and Portugal, where it remains below EUR 600 (in purchasing power standards).

Minimum wage levels expressed in Purchasing Power Standards, 1999



Source: Eurostat

Share of employees earning the minimum wage



Source: Eurostat

In the other Member States, there may be statutory minimum wages for specific sectors (e.g. Ireland, Austria) or minimums that are laid down in collective agreements. In certain cases, these minimums may be declared legally binding for an entire industry (e.g. Germany, Italy). Thus, wage floors exist in some form in all Member States.

Empirical evidence on the employment impact of minimum wages in a number of Member States suggests that the general wage floor has not been set to a level at which it could have a negative effect on employment. The first signs of this would appear among specific groups such as the unskilled and the young. Minimum wage systems are therefore often adapted in such a way that the labour market integration of these groups is not hampered.

Another mechanism that indirectly prevents wages from falling to extremely low levels is a guaranteed minimum income. Universal mini-

num income systems now exist in all Member States except Greece. These systems are targeted at people in genuine need and aim to facilitate reintegration into the labour market.

A combination of guaranteed minimum income and family and housing benefits would generally remain well below the minimum wage in the case of single people. A couple with two children, by contrast, could well receive benefits that are higher than one minimum wage (see table below). It should, however, be kept in mind that a four-person household with the minimum wage as its only income would normally be entitled to additional social benefits (typically family and housing benefits, but the UK also provides a top-up of low wages). This would restore, to some extent, the financial incentive to work.

## Taxes and social insurance contributions: scope for reducing labour costs

What matters to the employer is not the same as what determines an individual's decision to take up a job. Individuals are interested in take-home pay and employers in the total cost of employing a person with a particular set of skills. Between the two there, is a large gap, comprising direct taxes on income and social insurance contributions paid by employers and employees.

The sum of employers' and employees' social insurance contributions and of taxes on wages represents between 30 and 50 % of total labour costs. Whereas income taxes are progressive (i.e. the tax rate rises with the income level), social insurance contributions tend to be levied at uniform rates up to an income ceiling. As a result, the burden of social insurance contributions is often proportionally higher at lower wage levels than for top earners.

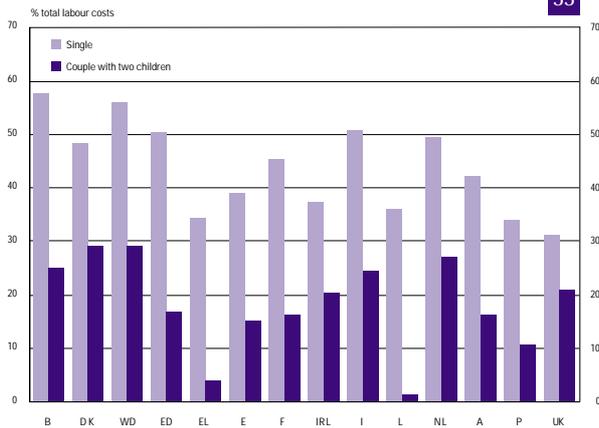
Levels of support provided by minimum incomes and family and housing benefits, 1995, expressed in euro at purchasing power parities

	B	DK	D	E	F	IRL	L	NL	A	P	FIN	S	UK
Single person	499	561	661	304	481	384	808	734	483	221	644	625	661
Couple, two children	926	1 431	1 230	565	858	852	1 519	1 090	1 082	654	1 266	1 207	1 094

Source: Commission report on the implementation of Recommendation 92/441/EEC of 24 June 1992 on common criteria concerning sufficient resources and social assistance in social protection systems.

### Direct taxes and social insurance contributions for a single person and a couple with children on average earnings, 1996

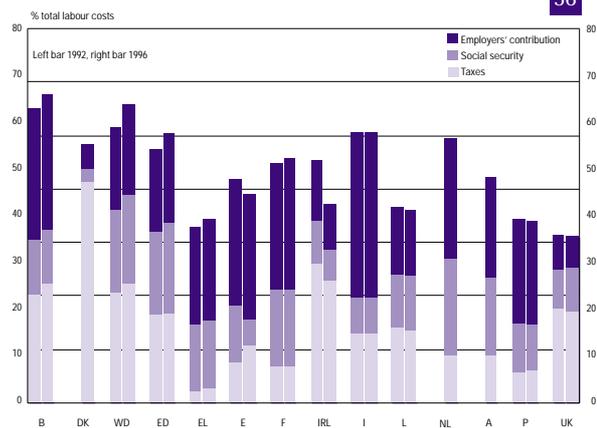
55



Sources: Joint Eurostat – DG 21 report "Structure of the taxation systems in the EU" and AMECO

### Taxes and contributions level on wages, 1992 and 1996

56



Sources: Joint Eurostat – DG 21 report "Structure of the taxation systems in the EU" and AMECO

If high labour costs are indeed an obstacle to higher employment levels for less skilled workers, then the most promising strategy for reducing costs would be a reduction of the tax wedge for low-wage earners. The European employment

guidelines stress this responsibility of governments by calling on the Member States to 'set a target, if necessary and taking account of its present level, for gradually reducing the overall tax burden and, where appropriate, a target for gradually

reducing the fiscal pressure on labour and non-wage labour costs, in particular on relatively unskilled and low-paid labour, without jeopardising the recovery of public finances or the financial equilibrium of social security schemes'.

### Collective bargaining and the gender pay gap

On average, women earn significantly less than men. According to the 1995 structure of earnings survey (see box below), the pay gap amounts to 28 %. This means that the average gross pay of women in full-time employment is only 72 % of that of men. The countries with the largest pay gap were the UK, Greece and the Netherlands. The smallest gaps were observed in the new German Länder (former East Germany), Sweden, Belgium and Luxembourg (see Chart 57).

#### Structural differences versus discrimination

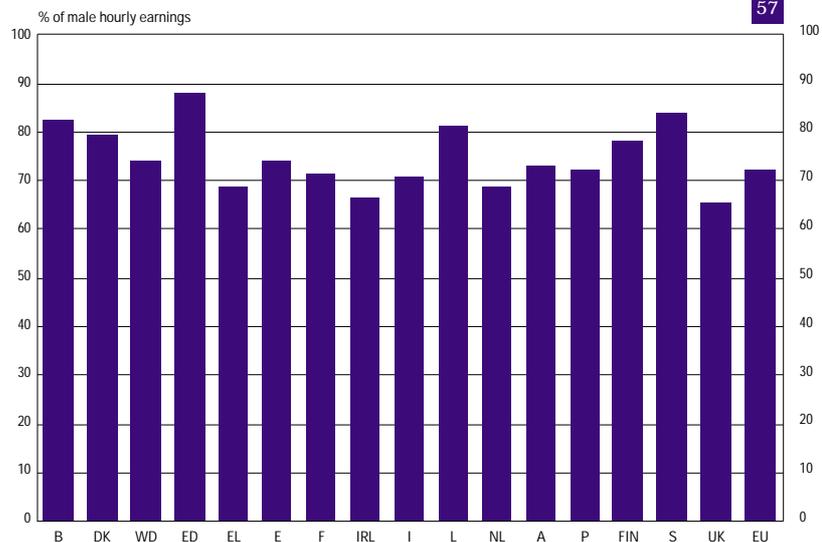
Eurostat calculated that even after correcting for the main structural differences in male and female employment (composition of the two groups in terms of age, occupation and sector) a pay gap of 15 % would still remain for the EU as a whole. Some of this can almost certainly be attributed to other, unobserved structural differences, but it

is also likely to reflect genuine pay discrimination, i.e. the fact that women are not paid the same wage as men for equivalent work. Whether there is discrimination can only be ascertained by a detailed analysis of individual job profiles and the corresponding pay levels.

How do structural differences between men and women on the labour market affect the pay gap? If the aim is to reduce the pay gap and not just to eliminate discrimination, then it is important to know what causes the structural differences and to check whether they can be reduced.

### Hourly earnings of women (excluding overtime payments of women) relative to men, 1995

57



Source: Eurostat, SES

### Calculating the pay gap: the structure of earnings survey

Data on earnings in 1995 were gathered during 1996 in all Member States by way of an employers' survey. Although the sample size was very large (usually between 50 000 and 100 000 per Member State), there were some very important gaps in its coverage. The survey did not include workers in local units of less than 10 employees, nor employees in agriculture and fisheries, the public sector, services such as health-care and education, or social and personal services. Unfortunately, some of these sectors are very important job providers, especially for women.

The structure of earnings survey contains information on individual characteristics such as occupation, level of education and sector of employment. This makes it possible to calculate what the pay gap would be if the composition (in terms of occupation, age, education, etc.) of the male and female sub-samples were the same. However, even within a group of employees with identical characteristics, there can be significant differences among individuals. Thus, a group of male managers is likely to contain more top-level managers with high incomes than a group of women with the same broad structural characteristics. As characteristics such as occupation and education, in particular, are defined in broad terms, many unobserved structural differences can be expected to remain between male and female employees.

The structural differences with a significant impact on the pay gap appear to be the following:

- Age: Women on the labour market are on average younger than men, and younger workers tend to earn less. The age difference is notably caused by the fact that it is mainly women who reduce their labour market participation when small children or elderly or disabled relatives need to be cared for.
- Length of service with current employer: Due to career breaks, women in the same age group as

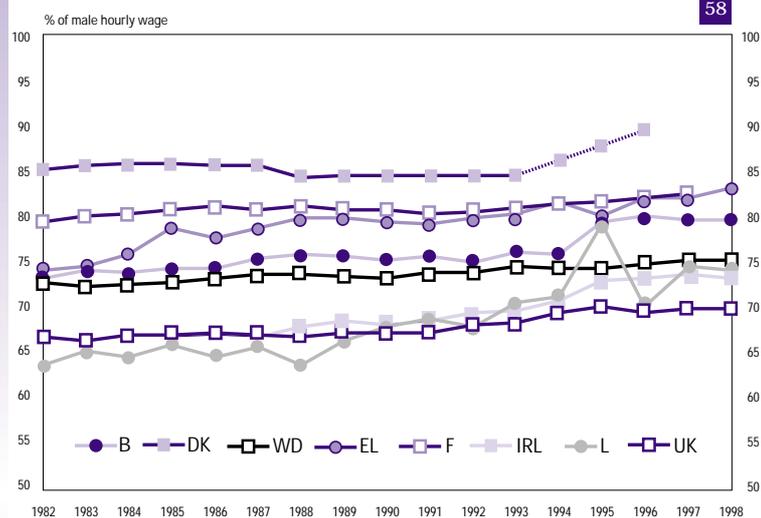
men tend to have shorter lengths of service and hence less seniority pay increases.

- Occupation: Women are less well represented than men in professions where earnings are comparatively high. They are particularly underrepresented in top management positions.
- Education: Although younger generations of women on the labour market have caught up with their male counterparts as far as education is concerned, there is still a significant gap between women and men of all generations that are still active. This reduces

women's likelihood of commanding high wages.

A determining factor for all these structural differences is the way in which family responsibilities are shared between men and women. In practice, the task of caring for children and needy relatives is still mainly left to women. In the past, the expectation that a woman's life would be devoted to this caring role left many women excluded from education opportunities. Today, this caring role forces many women to make difficult choices between their working and family lives — and to forgo career opportunities.

Trend in the differential between the earnings of men and women in manual occupations in industry, 1982 - 98



Sources: Eurostat harmonised earnings statistics

Reliable data for changes over time in the overall wage gap are not available, but Eurostat's harmonised earnings statistics allow comparison of hourly wages of manual workers in industry between 1982 and 1998 (or 1996) for several Member States. Among all of these, the average wages of women increased relative to those of men over the period, most notably in Greece and Luxembourg. In West Germany, the UK and France, the increases were significantly smaller.

The overall wage gap between men and women is partly — but not fully — explained by the concentration of women in occupations and sectors with lower rates of pay. Since the figures presented here address only manual workers in industry, this effectively excludes some of the factors which determine the level and changes in the overall wage gap from the picture.

## What can the social partners do?

What can be done by the social partners to redress the unfavourable situation of women on the labour market and to reduce the pay gap? Legislation outlawing direct and indirect discrimination between men and women, particularly with regard to pay, is already in force. This would invalidate any directly discriminatory wage agreement reached by the social partners. Many forms of discrimination are, however, not immediately obvious. It would be necessary to compare the tasks typically performed by women with predominantly male tasks and to check whether pay differences are justified by objective differences in job requirements.

The European social partners issued a joint opinion on women and training on 3 December 1993, thereby showing their commitment to the goal of equal opportunities for women and men on the labour market. The opinion stressed the importance of women's labour market participation in order to meet the skills and labour force requirements of the economy. The opinion reiterated a proposal from an earlier joint opinion on education and training (19 June 1990) according to which 'the participation of women in all training schemes, especially those linked to the occupations of the future, should be developed and specific measures should be devised as regards training for occupations in which women are underrepresented'.

The Advisory Committee on Equal Opportunities for Women and Men set up a working group on equal pay, chaired by ETUC, which is preparing an opinion on the gender pay gap.

These themes have since been taken up in the European employment strategy in which strengthening equal opportunities for women and men has become one of the four pillars. The 1999 employment guidelines call on Member States to 'initiate positive steps to promote equal pay for equal work or work of equal value and to diminish differentials in incomes between women and men'. Both Member States and the social partners are invited to 'design, implement and promote family-friendly policies, including affor-

dable, accessible and high-quality care services for children and other dependants, as well as parental and other leave schemes'.

There is no doubt that the social partners can indeed play an important role in helping women and men reconcile their work and family lives. The first European agreement reached by the social partners under the agreement on social policy was, in fact, on parental leave. However, a recent study by the European Foundation for the Improvement of Living and Working Conditions<sup>15</sup> gathered a wide range of experiences showing how collective agreements can promote equal opportunities and sometimes even address the pay gap directly. The following sections are based on this study.

### Collective agreements against pay discrimination and improving job access

The 1996 equal opportunities report pointed out that gender pay gaps tend to be greater in the absence of a minimum wage and of centralised wage setting. This problem was taken up by the Danish social partners in an agreement of 1995 covering commercial and clerical employees. The agreement sought to counter the potentially discriminatory effects of decentralised collective or individual pay bargaining. To achieve this, it required that employers carry out systematic job evaluations as a basis for pay determination. Swedish collective agreements foresee a comparison of women's and men's pay and require adjustments when discrepancies are found.

Detailed job descriptions based on objective criteria such as skill requirements, responsibility, initiative, mental and physical effort, and working conditions can reveal unjustified pay differentials between jobs mainly performed by women and those mainly performed by men. Such an exercise was carried out in the UK on the basis of a 1986 agreement covering local authority manual workers. In the Finnish chemical industry, a 1995 agreement led to an exercise of job evaluation and to a new common pay structure for both office and technical workers.

In the Belgium interprofessional agreement (1999–2000), the social

partners committed themselves to review systems of job classification if they cause inequalities between both sexes.

These examples illustrate how the social partners can tackle the gender pay gap directly. Such action should be undertaken on a wider scale. It would be of great help in achieving the aim of Article 141 (ex Article 119) of the EU Treaty which calls for equal pay for work of equal value, instead of 'equal pay for equal work', as was stipulated in the Treaty before the Amsterdam revision.

Collective agreements can also improve women's job access and career chances. This would reduce the pay gap by increasing the proportion of women in better-paid jobs. Examples of measures would be job advertisements that are more appealing to women, targets for the gender balance of recruitments and promotions, positive action, the identification and elimination of obstacles to the recruitment and promotion of women, and better access to training for women or special training for women.

### Facilitate the reconciliation of work and family life

Care facilities, leave arrangements and part-time working are the three main types of action that help employees reconcile work and family life. Leave arrangements will, however, mainly be used by women who will often have to pay a price for prolonged absence from work. Collective agreements can minimise this price, for instance by ensuring that an adequate job is offered after the leave, that employees on leave are not excluded from promotions, training and pay rises, that the leave period counts for seniority and that contact between the employer and the employee on leave is maintained. One, albeit costly, way of encouraging more men to take parental leave might be to offer full pay during the leave.

The provision of care services reduces the need for taking leave and hence the associated career problems for women. Collective agreements can provide for the establishment of care facilities for employees or even for a proportion of the wage bill to be set aside for financing care services.

As far as part-time working is concerned, the social partners at European level have already reached an agreement that seeks to guarantee equal treatment to part-time and full-time workers. At more decentralised levels, the social partners can seek to ensure that part-time work becomes acceptable at all levels of an organisation. An agreement for the German banking sector stated that part-time working should be possible at all occupational levels. In the Dutch building material trade, all vacancies and new posts are checked for their suitability for part-time work.

Clearly, collective bargaining can achieve a lot in terms of reducing the pay gap between men and women. In order to exploit fully the potential of collective bargaining, it is necessary that the issue of equal opportunities be given higher priority by the social partners. A number of measures can help in this respect: it may be useful to involve more women in the collective bargaining process; framework agreements and guidelines on equal opportunities could be adopted; and systems could be put in place to ensure that equal opportunities agreements are properly implemented and monitored. The social partners have demonstrated what they can achieve in the area of equal opportunities. Now these initiatives need to be deployed on a much wider scale.

### Wages, enlargement and trade

The wage levels and collective bargaining systems in applicant countries are obviously factors that may have an influence on wage policies in EU countries. This is why it is important to analyse some of the major trends with regard to wages in central and eastern Europe. Productivity differences are also presented in order to complete the picture of relative competitive strengths and weaknesses<sup>16</sup>. This allows us to analyse and explain to some extent the current trends in trade flows between EU members and applicant countries.

### The gap in wage levels

The differences between central and eastern Europe and EU averages are undoubtedly one distinctive feature of the EU enlargement process to the

East. Average wages in all the central and east European countries (CEECs) continue to be much lower in euro terms than average wages in current EU Member States.

Average monthly wages (in euro), CEECs, end - 1998 (gross wages unless otherwise indicated)

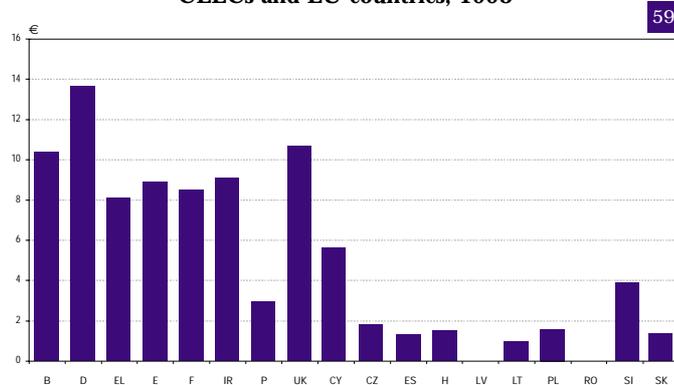
	EUR
Germany (old Länder)	2 701
Germany (new Länder)	1 969
Spain	1 225
Ireland	1 903
Austria	2 083
Portugal	606
United Kingdom	2 376
Bulgaria	105
Czech Republic (average 1998)	325
Estonia	266
Hungary (average 1998)	314
Latvia	213
Lithuania	232
Poland	349
Romania (1)	117
Slovakia	288
Slovenia	854

(1) Net monthly wage.

Sources: National statistics; EU countries: Eurostat, 'Harmonised earnings 1998 of manual and non-manual workers in industry'.

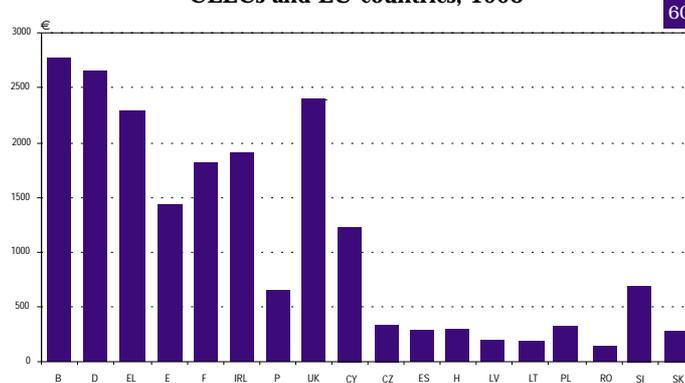
Charts 59 and 60 compare gross average earnings in industry in a few EU countries and CEECs for two main categories of workers: manual and non-manual. They first of all show how far wages for manual workers in the CEECs fall short of wages in the EU. Gross hourly earnings in Hungary, for instance, reach only one quarter of the average earnings of the manual labour force in Belgium, Germany or the UK. These figures are probably underestimating the differences in net earnings, because workers in CEECs do not receive as generous overtime pay as in the EU, and because income taxes are often much higher in CEECs than in EU countries.

Average gross hourly earnings of manual workers in industry (in Euro) CEECs and EU countries, 1998



Sources: Eurostat, Harmonised Statistics of Earnings; and national statistics

Average gross monthly earnings of non-manual workers in industry (in Euro) CEECs and EU countries, 1998



Sources: National statistics; Eurostat, 'Harmonised statistics of earnings'.

Earnings differences were found to be even larger for skilled employees. In most EU countries, non-manual workers are paid more than five times what their colleagues from central and eastern Europe can get. Gross earnings for this category of workers in the CEEC paying the best (Slovenia) remains well below the average earnings in the EU country paying the least (Portugal). Chart 59 shows that manual workers are already better paid in Slovenia (EUR 3.88 per hour) than in Portugal (EUR 2.98).

There are large differences among CEECs themselves, average gross monthly wages (see previous table) varying from EUR 105 in Bulgaria and 117 in Romania up to EUR 325 in the Czech Republic, EUR 349 in Poland and even EUR 854 in Slovenia, which has clearly taken the lead in CEECs in terms of wages and incomes.

These low wages in central and eastern Europe are related to a series of factors. They are first the result of the low-wage policy carried out in the previous regimes where low basic wages were complemented by a series of additional social and welfare benefits and facilities. They are also the result of the first years of transition which were characterised by rapid price liberalisation along with wage controls and restrictive incomes policies. As a result, nominal wages lagged behind consumer prices and overall real wages fell rapidly and substantially in all the countries of the region<sup>17</sup>. In 1996, all workers in central and eastern Europe — with the possible and recent exception of the Czech Republic — were paid in real terms below the wage levels which prevailed before the beginning of the transition: wages had fallen by around 26 % in Hungary, by around 17 to 22 % in Poland, Romania, Slovakia and Slovenia, and by 50 % in Bulgaria. Since then, although the situation improved slightly in Hungary and the Czech Republic in 1997–99, it continued to deteriorate in countries such as Romania and Bulgaria. By mid-1998, wages in Bulgaria had fallen in real terms by more than 70 % since 1991. The Baltic countries have also experienced a fall in real wages: 45 % in Estonia, 46 % in Latvia, and 65 % in Lithuania.

The period since the late 1980s has also been marked by substantial growth in wage differentiation between regions, sectors, and occupational and social groups. A few people have benefited from the changes, while the situation of the majority has rapidly deteriorated. In Hungary in 1993 the average income in the highest taxation bracket was almost 18 times the average income in the lowest taxation bracket: in 1988, the same ratio was only three to four times. Wage differentials in Poland increased by more than one quarter between 1991 and 1995. Workers at the lowest grades have been affected by irregular adjustments of the minimum wage which, in almost all central and east European countries — with the possible exception of the Czech Republic and Slovakia — has been allowed to fall well below the pover-

ty line. Such increasing disparities affect, in particular, the workers in organisations financed out of the government budget (especially in the education and health sectors) because their wages have been closely linked to the minimum wage which was not regularly increased.

Large disparities have also opened up between regions. In Hungary, for instance, three quarters of the rural population belong to the three lowest income quintiles, while 40 % of the population of Budapest is in the highest income quintile.

#### The structure of labour costs

In order to complete the comparison of wage and labour costs between EU countries and the CEECs, it is important to compare the relative weight of direct wage and non-wage costs in both groups of countries. Direct wage costs are relatively low in the CEECs. Most of them have, however, to bear relatively high indirect costs that are generally above the EU average. High employers' charges in Hungary (37.8 % including 31 % for social contributions) are often quoted as a factor that reduces the competitiveness of Hungarian enterprises and, at the same time, weakens the attractiveness of the country for foreign investors.

#### Comparison of labour costs structure (in %), EU and CEECs, 1996

	Direct costs	Indirect costs	Employers' social contributions
Belgium	67.4	32.6	30.7
Germany	74.3	25.7	23.7
Greece	76.0	24.0	22.9
Spain	73.6	26.4	25.0
France	66.9	33.1	29.2
Ireland	82.7	17.3	14.4
Portugal	75.3	24.7	20.8
UK	84.0	16.0	12.8
EU - 15	74.7	25.3	22.7
Hungary	62.2	37.8	31.4
Poland	62.2	37.8	26.9
Romania	73.8	26.2	21.7
Slovakia	71.0	29.0	26.2
Latvia	—	—	—
Estonia	71.7	28.3	—
Lithuania	74.6	25.4	22.6
Bulgaria	—	—	—
Czech Republic	70.8	29.2	25.5
Slovenia	76.4	23.6	11.1

Sources: Eurostat.

## Differences in unit labour costs

The large falls in production that were experienced by the CEECs after the collapse of the Comecon market significantly widened the gap in per capita GDP between these countries and the EU Member States. Most CEECs have a GDP per capita which is about one fifth of the EU-15 average. These low GDP levels reflect a large productivity gap compared with the EU. As a result of this, the CEECs only derive a very small comparative advantage from their low wage levels.

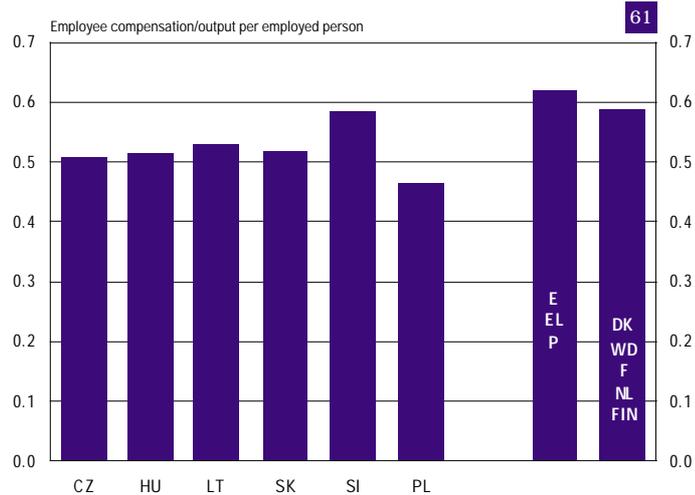
Chart 61 presents a comparison of unit labour costs in the CEECs and in the EU, where significant differences prevail. Unit labour costs are calculated by dividing the compensation paid by employers (including social contributions) by the output per employed person. This ratio takes into account not only wages but also non-wage labour costs and productivity. It therefore represents the most comprehensive indicator of comparative advantage. High wages, for instance, can be more than compensated for by high productivity levels, while poor productivity performance may limit or even cancel the advantage of lower labour costs. Chart 61 illustrates this for the three southern Member States, Greece, Spain and Portugal, although they are much closer to the EU average. Central and east European countries, by contrast, seem to be benefiting from lower unit labour costs.

These differences, however, are marginal compared with the wage gap described above since it is reduced to a few percentage points. This is due to the much lower levels of output per employed person in central and eastern Europe.

These differences warrant an analysis of wage and unit labour costs country by country rather than a comparison of two large regions (EU and central and eastern Europe), each of which comprises countries at very different economic levels.

The small comparative advantage in unit labour costs of most central and east European countries may be rapidly eroded by increases in wages, unless these countries simultaneously achieve rapid productivity growth.

Unit labour costs in the CEECs and EU member states, 1996



Sources: Eurostat and AMECO

## Towards a rapid catching-up process?

It is instructive to analyse what type of catching-up process operated after the previous accession of less developed economies.

Chart 62 presents the catching-up process of real earnings per employee and confirms that this process has been rather slow for Greece, Spain and Portugal, although they are much closer to the EU average.

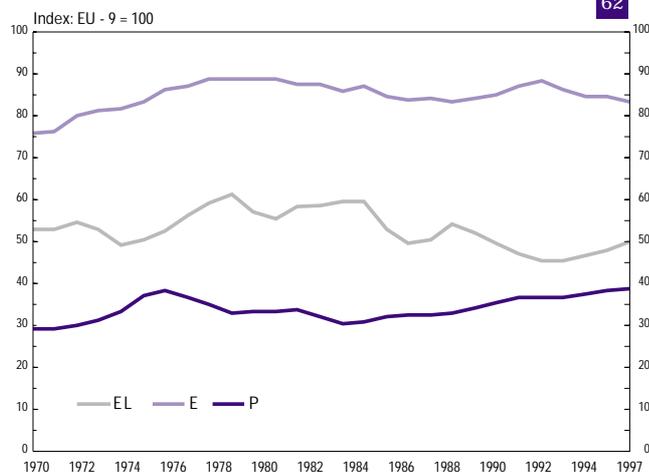
This experience suggests that the catching-up process of earnings may also be rather slow in the CEECs.

However, the low starting level of wages in the CEECs and their now well-advanced market liberalisation,

combined with the massive foreign investment in these countries, can be expected to accelerate the catching-up process. Nevertheless, even if wages do rise much faster in the CEECs than they did for instance in Portugal, it will probably take decades before they reach similar levels to those in the most developed Member States.

The CEECs, in any event, are likely to remain attractive production locations for international companies, thanks to their high levels of education, an improving business environment (as national regulations are adapted to EU rules) and their easy access to markets in the EU.

Real earnings per employee in Greece, Spain, Portugal relative to the EU average, 1970 - 97



NB: EU - 9: B, D, DK, F, IRL, I, L, NL, UK

Sources: AMECO

## Trade and foreign investment

The opening of markets from central and east European countries in accordance with the association agreements has led to rapidly growing trade flows between those countries and the EU Member States. In spite of the apparent competitive advantage of central and eastern Europe in terms of unit labour costs, the trade figures show that EU countries are largely net beneficiaries from trade with their eastern neighbours. Exports from the EU to CEECs largely exceed imports from CEECs. EU exports have increased four times between 1992 and 1998, while EU imports have increased three times. This has led to a significant and rising trade deficit of central and eastern Europe with regard to the EU. This deficit has increased around five

times and reached more than EUR 20 billion.

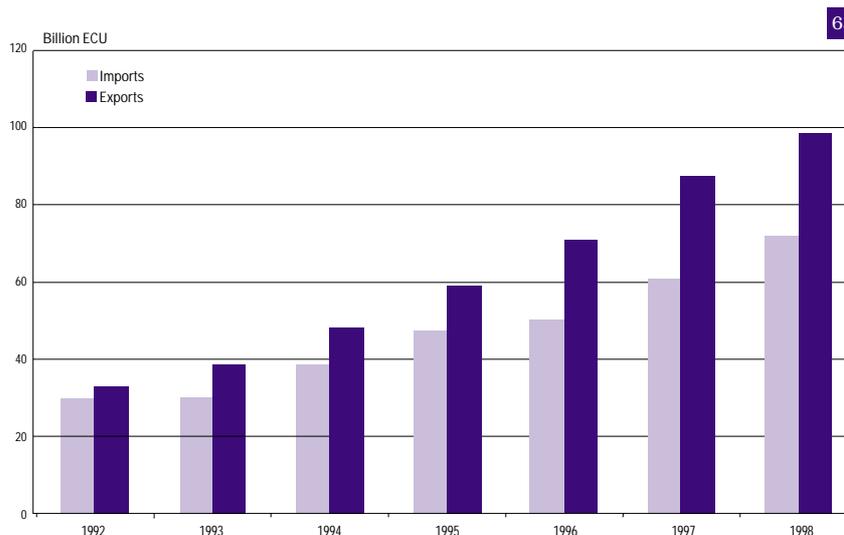
The CEECs' trade deficit demonstrates the success of EU enterprises in penetrating markets in central and eastern Europe and boosts job-creation and growth in the EU. It also illustrates the importance of not exclusively focusing on wage levels but of considering productivity in international comparisons of competitiveness.

At the same time, foreign investment flows from the EU have also massively increased since the beginning of the transition. Such flows are generally seen as an important factor leading to higher productivity, higher wages and better working conditions. Foreign direct investment could therefore play a key role in the catching-up process.

As the date of accession approaches, many companies have already located part of their industrial production in central and east European countries. The total stock of foreign direct investment in the 10 applicant CEECs had reached more than EUR 35 billion by the end of 1996. Two thirds of that originated from EU Member States. The Czech Republic, Hungary and Poland have been the prime beneficiaries. The fact that between 50 and 75 % of foreign investment in central and eastern Europe had been made by EU enterprises is already a clear sign of EU enterprises' eagerness to take the opportunities afforded by these new markets.

In the future, these foreign investment flows are likely to help the CEECs rebalance their trade with EU countries.

Trade flows between the EU and central and eastern Europe, 1992 - 98



Source: Eurostat

63

# Working time

## A changing world

Time is at the heart of industrial relations. Since the Industrial Revolution and the development of payment by wages, time has been used to measure how workers earn their pay. The working hours fixed by individual or collective contracts of employment allow free time to be identified by default. Self-employment has avoided this dichotomy between compartmentalised working time and family time.

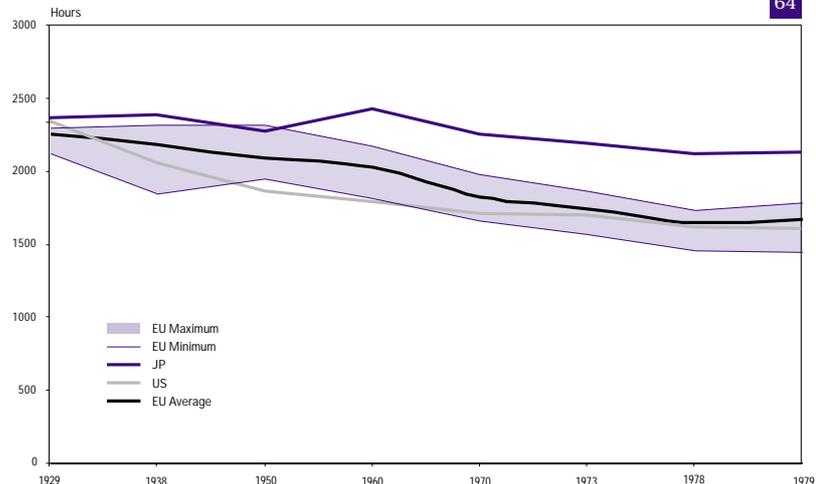
### Long-term trends

Over the last 150 years, the number of hours worked on average has fallen in Europe from around 3 000 hours to below 1 700. Japan and the United States bucked this trend from 1950 to 1990, and 10 years ago, workers there still worked more than 2 000 hours on average. More recently, there have also been pressures towards a reduction in working time in Japan and the United States and some stabilisation in Europe.

Long-term studies undertaken by Maddison<sup>18</sup> show that, in the UK, for example, during the period 1870 – 1913, annual working hours had reduced from around 2 950 to about 2 600.

Between then and 1950, the economies developed in different ways, with the figures showing a range in Europe between 1 960 hours in the UK and 2 310 hours in Germany (with Japan at 2 270 — i.e. below Germany — and the United States at 1 870 hours — i.e. below the whole of Europe). Over the next 30 years, working hours were substantially reduced in most continental west European countries to around 1 700 hours, but they stabilised or even increased in the English-speaking countries, notably the United States, and in Japan.

Annual working time, 1929 - 79<sup>19</sup>



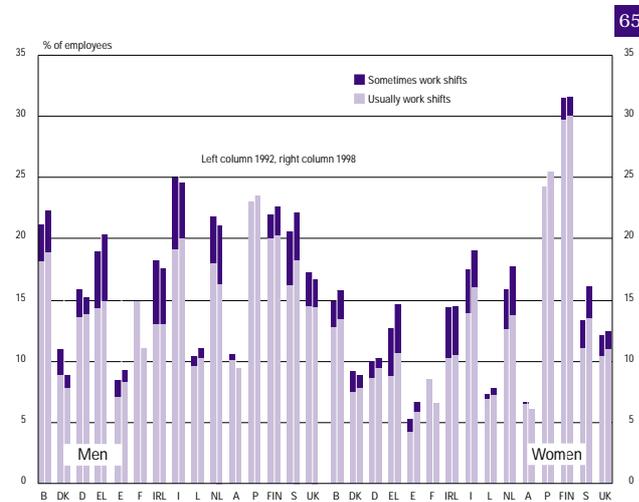
Source: Maddison, A., *Phases of capitalised development*, Oxford University Press, 1982.

### Changing patterns of working time

Patterns of work have changed. At one time, the organisation of work and the organisation of working time were determined by rigid patterns of mass production or service provision. Over the years, the patterns of production and service have become much more responsive to the needs of consumers. Working

patterns have become much more complex, varied and fragmented. This has consequences for workers, which may be beneficial, or may cause problems in the reconciliation of working life and family life. This will depend partly on the extent to which workers are able to choose their own working patterns or at least to negotiate them.

Shift working among men and women, 1992 and 1998



Source: Eurostat LFS

## The changing concept of working time

The concept of working time itself is changing. When the majority of the population worked regular patterns, it was relatively easy to measure working time. The obligation, generally, was to be present rather than to produce results (though piecework systems were the exception to this). It was important to measure it, as it formed the basis for wage calculations. There are many forces in modern European labour markets, which tend, firstly, to make it more difficult to measure working time and, secondly, to relate remuneration to performance rather than presence in the workplace. The category of workers whose working time is difficult to measure includes managers at all levels, except those directly related to the production process. It also includes a long and continuously lengthening list of other workers: research workers, design engineers, journalists, consultants, etc. In future, the majority of workers will no longer be obliged to adhere to the specific constraints of the production line or a sales point which must be open at fixed times. They will be subject to different constraints: having to be where they are needed when they are needed, available to provide a service when the customer requires it; available to provide a product when orders increase; able to adapt to suit requirements<sup>20</sup>.

## Working time/employment/organisation of work (national approaches)

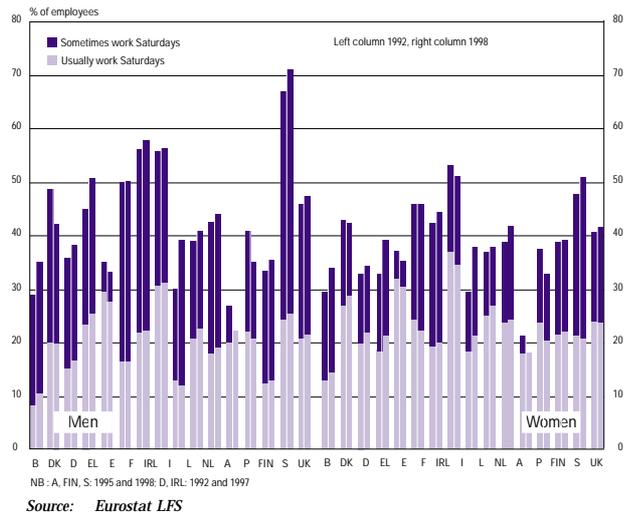
### Implications of changing patterns and concepts of working time

Over the years, working time has been the subject of a number of national laws, which were supplemented by Directive 93/104/EC concerning certain aspects of the organisation of working time. Weekly working hours have thus been fixed in most European countries. Overtime has been the main form of adapting working hours to company needs.

Now, the changing patterns of work organisation and working time described above have important

## Saturday working among men and women, 1992 and 1998

66



'Regular' or 'fixed' working time in the standard work model	'Fragmented' or 'unfixed' working time in the flexible work model
Typical working day (between 8.00 and 17.00, for example) Hours do not vary Clear distinction between working time and free time	Variable or flexible working hours Availability required outside official working hours Growth of teleworking On-call work
Typical working week (more or less 40 hours between Monday and Friday)	Growth of part-time work Growth of weekend work (weekend shifts)
Typical working year (breaks for customary and seasonal holidays).	Annual modulation Periods of training leave
Typical working life (years of education during youth, working years, retirement years (from 60/65 years))	Career breaks (parental leave, sabbatical leave, fixed-term contracts, etc.) Individualisation of age and forms of retirement

implications for the regulation of working time in the Member States.

### Trends

#### Short-term trends

The snapshot figures for 1987, 1992 and 1998 (chart 67) show that, throughout the EU over the period, there was a small decrease in the average hours worked per week, including second jobs, from 39.9 to 38.6. This trend occurs in all the Member States, for which comparable figures are available (i.e. excluding Austria, Finland and Sweden). Much of this reduction is, however, due to changes in the composition of

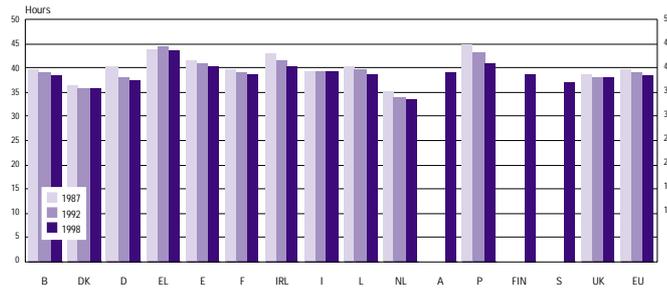
the labour force (i.e. between men and women, full-time and part-time) and the sectoral distribution. Chart 68 shows that, whereas there was a reduction of 0.36 in the average usual hours per week between 1994 and 1998, when account is taken of sectoral and compositional changes, there was an increase of 0.15 in the number of hours worked by individuals. This figure is most remarkable for Belgium, where there is an increase of 1.3 in the average usual hours worked per week by individual workers, after taking sectoral and compositional changes into account.

- Usual hours worked are the weekly hours normally worked by employed persons, excluding time spent on training, meal breaks or travel to and from work; time spent on second jobs is included, as well as normal overtime hours. These are the figures used in the following charts for weekly hours.

- Actual hours worked, in contrast, are the hours worked during the reference week of the survey; these are a less accurate reflection of the standard working hours, because they may include abnormal hours, due to illness or overtime, beyond the usual.

- Annual hours worked are calculated by multiplying usual weekly hours by an estimate of annual weeks worked — a Eurostat estimate of annual weeks worked, based upon standard entitlements and statutory holidays, is adjusted to take account of data on days lost through illness.

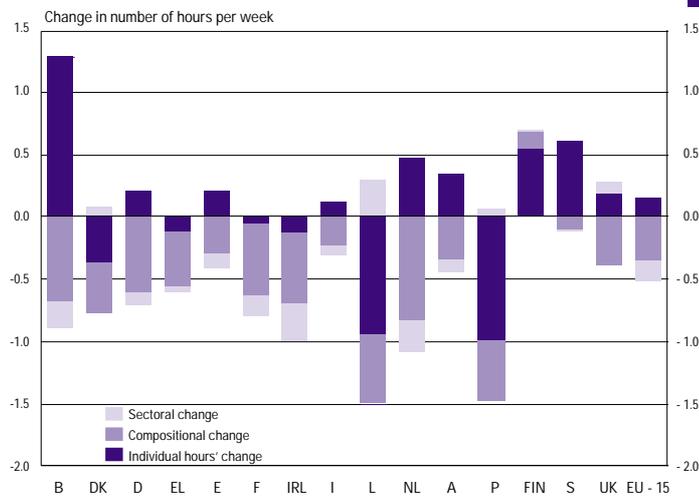
**Average usual hours worked per week, including second job, 1987, 1992 and 1998**



Source: Eurostat LFS

67

**Changes in average usual hours worked per week, 1994 - 98**



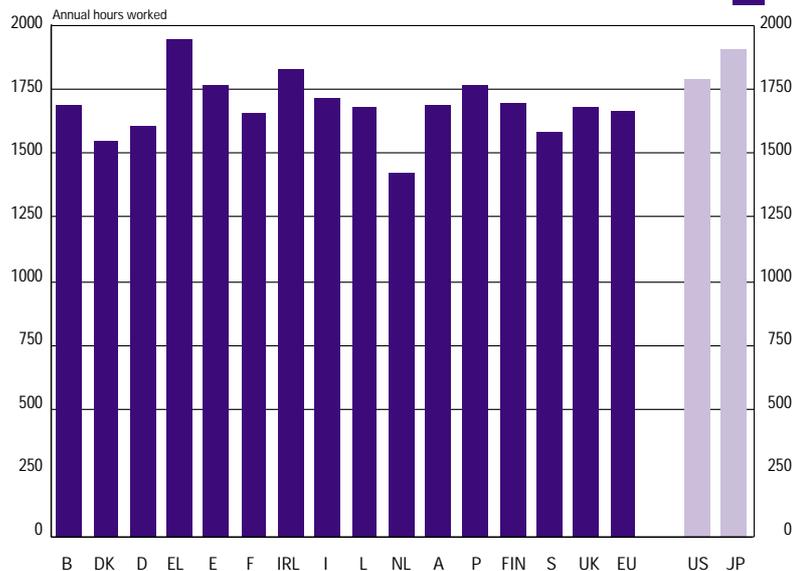
Source: Eurostat LFS

68

**Analysis of current situation**

Analysis of the figures in Chart 69 shows that European workers, including part-time and self-employed workers, worked on average 1 660 hours in 1998. Workers in Greece, Ireland, Portugal and Italy worked the most hours, while those in the Netherlands, Denmark and Sweden worked the fewest. The range is from 1 940 in Greece to 1 425 in the Netherlands. The comparable figure for the United States is 1 790 and for Japan 1 905.

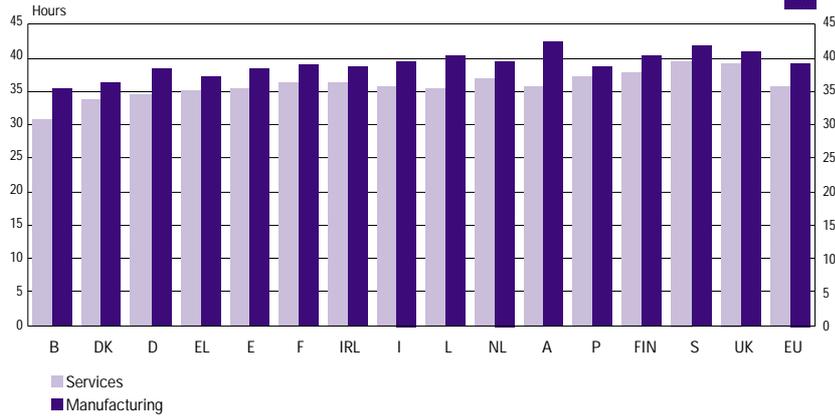
**Estimated average annual hours worked by all workers, 1998**



Source: Eurostat LFS

69

**Average usual weekly hours of employees in manufacturing and services (including second job), 1998**



Sources: Eurostat LFS

Employees work longer on average in manufacturing (39.3 hours) than in services (35.9), though most of this difference may be explained by the distribution between males and females or full-time and part-time work.

Averages do not tell the full story. The statistics (see Charts 71 to 86) on the distribution of working hours show wide differences.

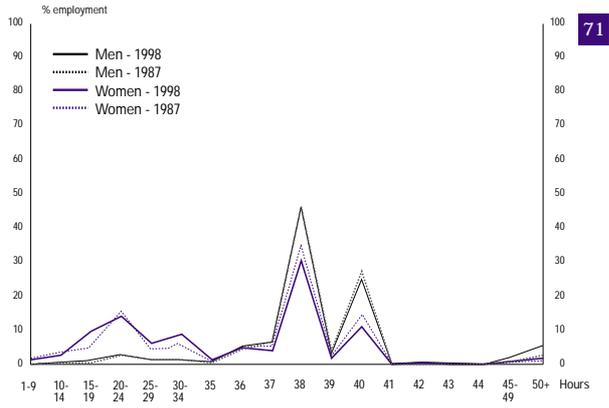
In fact, three broad models can be distinguished, which are as follows:

- A highly regulated model, showing hours concentrated around a single peak or two, or at most three peaks. The figures for Luxembourg best illustrate this type of model. There has also been a significant shortening of the peak figures in a number of countries.
- A contrast is the unregulated model, for which the chart for the

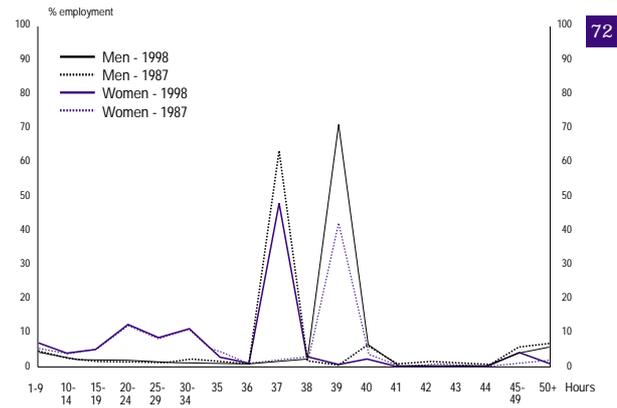
UK is the best illustration. This shows, in particular, a wide spread of hours for women while a high proportion of men work long hours.

- A progressive model. This is best illustrated in the chart for the Netherlands where there is a wide spread of hours worked up to 40 hours, especially by women, but very few workers work longer than that.

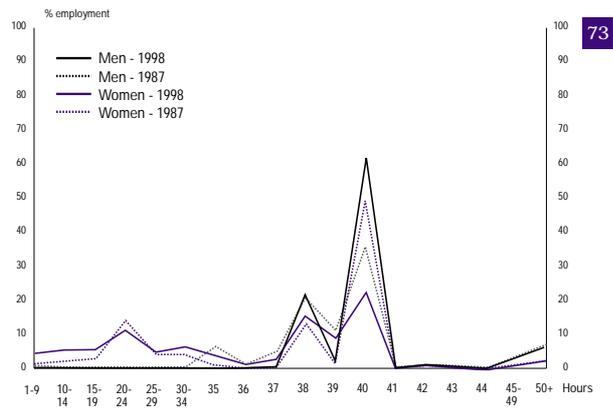
The distribution of employment by usual hours worked - Belgium



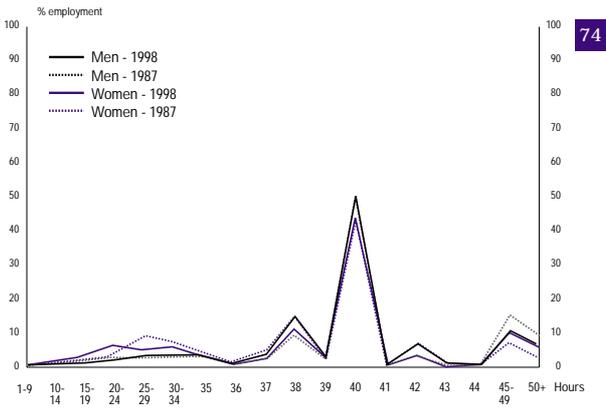
The distribution of employment by usual hours worked - Denmark



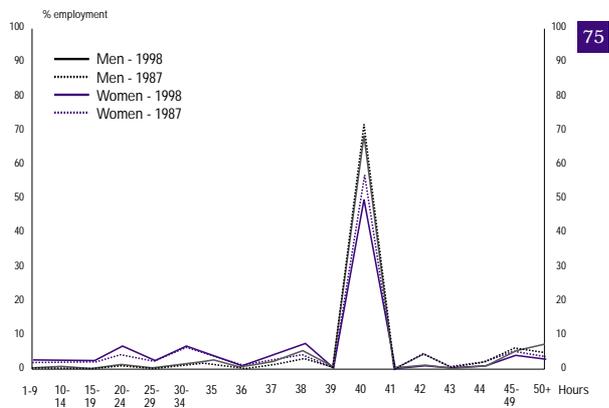
The distribution of employment by usual hours worked - Germany



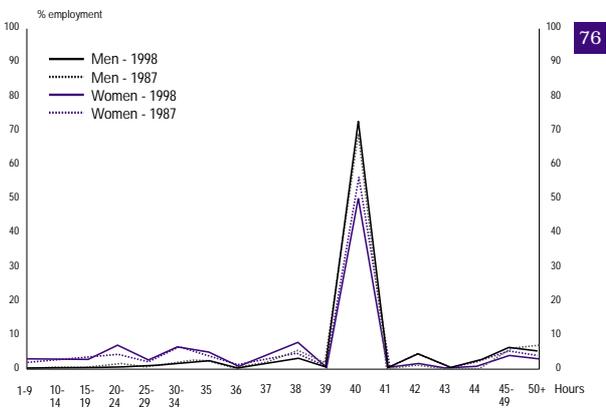
The distribution of employment by usual hours worked - Greece



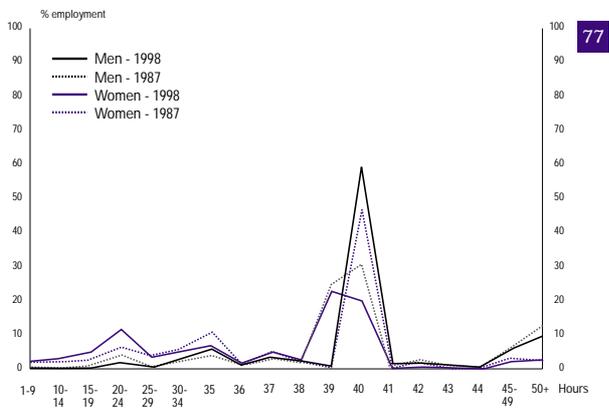
The distribution of employment by usual hours worked - Spain



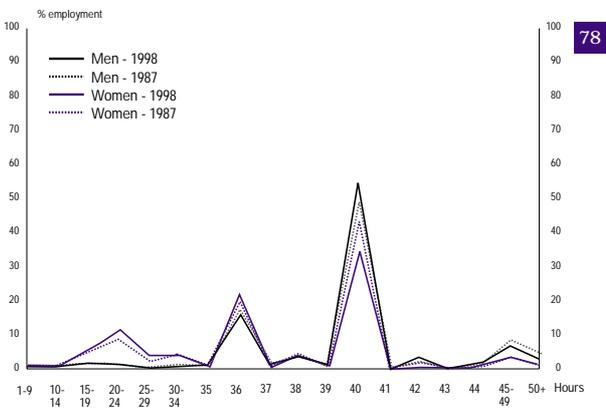
The distribution of employment by usual hours worked - France



The distribution of employment by usual hours worked - Ireland

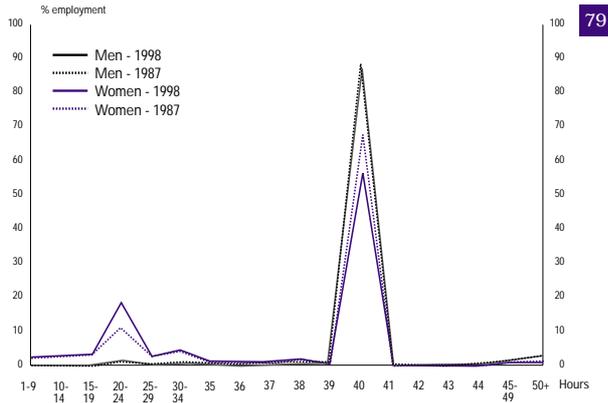


The distribution of employment by usual hours worked - Italy



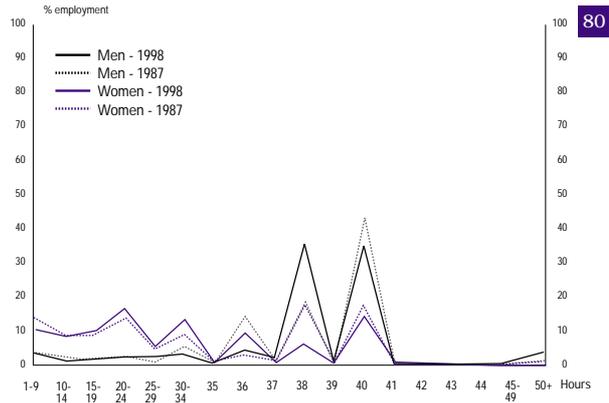
Source: Eurostat LFS

The distribution of employment by usual hours worked - Luxembourg



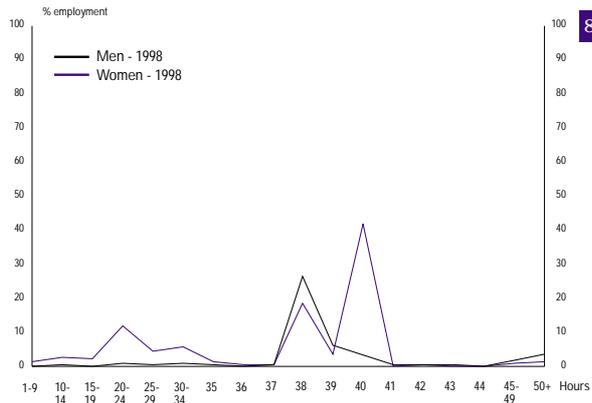
79

The distribution of employment by usual hours worked - The Netherlands



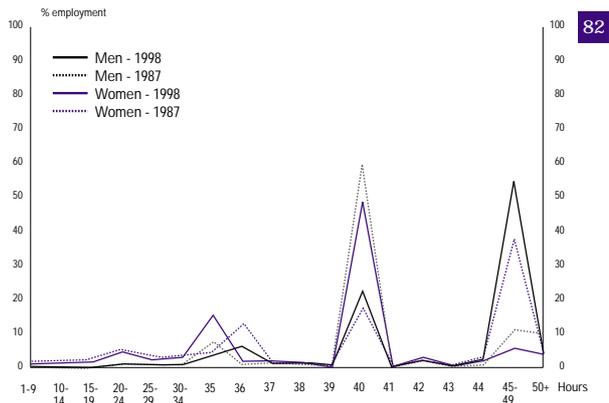
80

The distribution of employment by usual hours worked - Austria



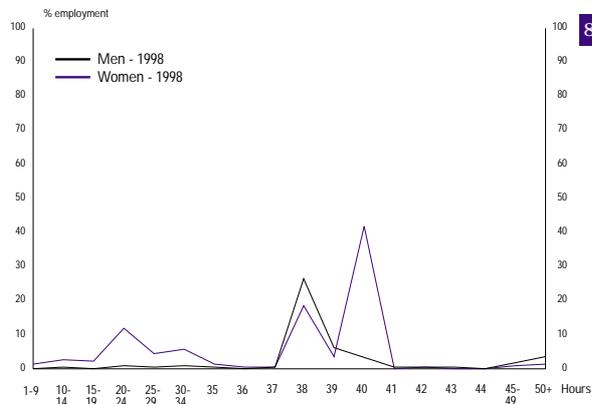
81

The distribution of employment by usual hours worked - Portugal



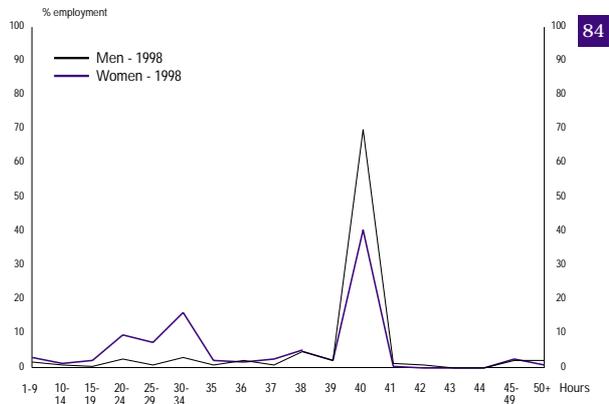
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The distribution of employment by usual hours worked - Finland



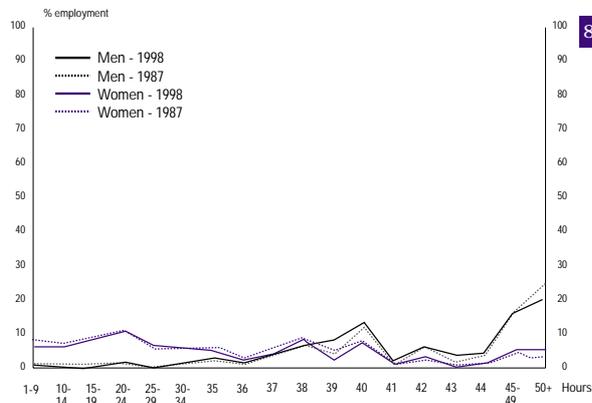
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The distribution of employment by usual hours worked - Sweden



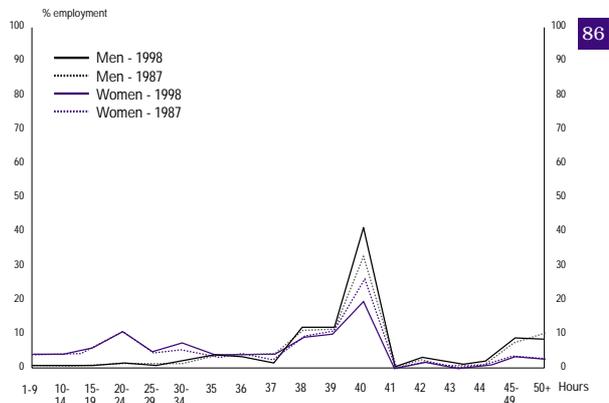
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The distribution of employment by usual hours worked - UK



85

The distribution of employment by usual hours worked - EU - 12



86

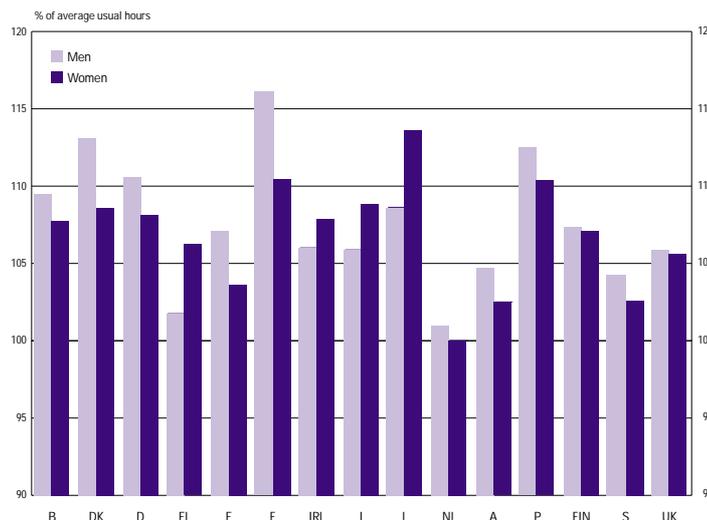
Source: Eurostat LFS

Empirical evidence also shows that, while in most of Europe, the working time of production workers is getting shorter, that of senior staff and unskilled workers is getting longer. For example, Chart 87 shows that managers work longer hours than other full-time employees in most Member States. In France, the difference for men is more than 15 %.

Self-employed workers also tend to work significantly longer than employees, especially in Belgium, where the self-employed work on average 17½ hours a week more than employees.

Usual weekly hours of managers relative to other full-time employees, 1998

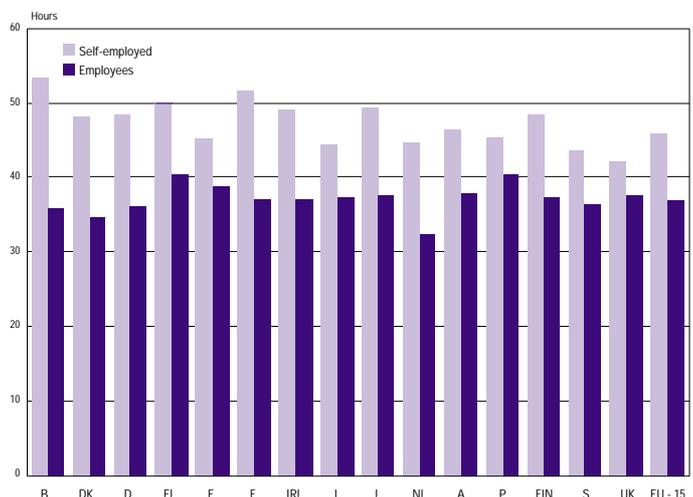
87



Source: Eurostat LFS

Usual weekly hours by the self-employed and employees, 1998

88



NB: Agriculture excluded

Source: Eurostat LFS

## Developments in Member States

### Changes in the length of the working week

Information from the 1999 national action plans for employment reveals that collectively agreed frameworks on working time, within which the social partners at the local/enterprise level negotiate specific implementation provisions, have been established in a number of Member States. In others, legislative initiatives have been taken in respect of working time.

In France, legislation requires weekly working hours to be reduced to 35

hours a week. By spring 1999, more than 4 000 companies had reached agreements on the way to proceed with reduction in working time before enforcement of the law, in addition to which 69 sectoral agreements covering eight million employees had been concluded. Many agreements include other aspects related to the organisation of work: forms of contracts, family responsibilities, company flexibility and distribution of working time throughout the year.

### Workers on less than full-time contracts

In many Member States, the promotion of part-time work has been the

subject of agreements by the social partners or government legislation. This is the case in Spain where the agreement on promoting stable part-time employment, signed by the government and the main trade unions (but not the employers), came into force in 1999.

In recent years, the Netherlands have been pioneers in the development of part-time work, with a consequence that in 1998 two thirds of women and one in six men worked fewer than 35 hours a week. The social partners have been key players in developments in this area. In particular, the Flexibility and Security Act, which came into force on 1 January 1999, followed almost all the propo-

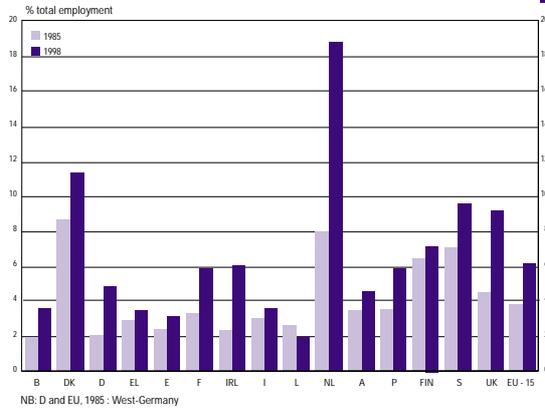
sals contained in a unanimous report by the employers' federations and trade unions. In addition, the Working Hours Bill introduces a right for individuals to change their working hours, either upwards or

downwards, subject to certain conditions. A recent survey showed that 19 % of over 100 agreements analysed by the Labour Inspectorate included provisions for part-time work and changes in working hours.

Many such agreements contain provisions to allow workers to negotiate working time patterns which suit their particular needs.

Men working part-time, 1985 and 1998

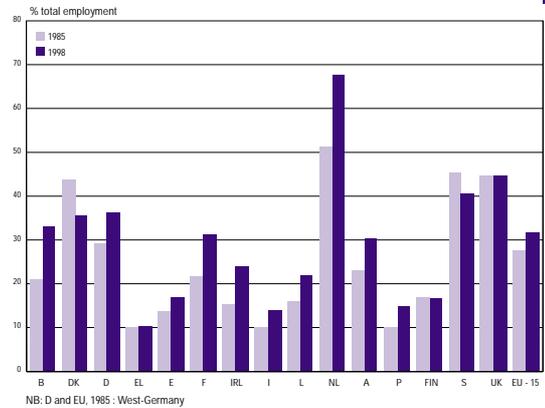
89



Source: Eurostat, LFS

Women working part-time, 1985 and 1998

90



Source: Eurostat, LFS

### The pressure for working time flexibility

#### Improving work organisation

The issue of working time needs to be considered in the wider context of work organisation. The main message of the Green Paper entitled 'Partnership for a new organisation of work'<sup>21</sup> was that better organisation of work, based on skill, trust and quality as well as a high level of involvement of workers, can make a valuable contribution to the competitiveness of European firms, to the improvement of the quality of working life and to the employability of the workforce. Changes can take place in the organisation of a firm, for example in the production process, without there necessarily being a change in the working time of employees. On the other hand, in almost every case, the introduction of new working time arrangements implies a change in the way work is organised.

#### Overtime

The traditional response to changes in demand is to require workers to work overtime during peak periods and to work short time during slack periods. It has the advantage of being the easiest response in terms of work organisation. But it has a num-

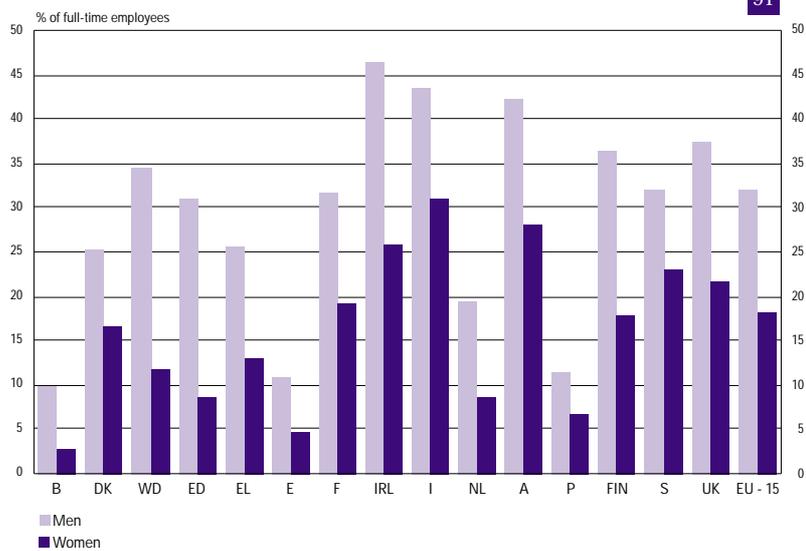
ber of disadvantages. From the workers' point of view, the high wages associated with long hours can be attractive, but disruptive in terms of family life. When there is no overtime, the consequent reduction in 'take-home' pay can be difficult to cope with. From an organisational point of view, it makes it less likely that the company will introduce the root-and-branch organisation of work which may be necessary in order to maintain its competitive position in the global economy. This

can lead to overtime working becoming endemic and masking low pay and low productivity.

Overtime working is still prevalent throughout the EU. Figures for 1995 (the latest available — see Chart 91) show that 32 % of men who are full-time employees and 18 % of full-time women received overtime pay. The figure for men is over 25 % in all countries except Belgium, Spain, the Netherlands and Portugal.

Share of full-time employees who receive overtime pay, 1995

91



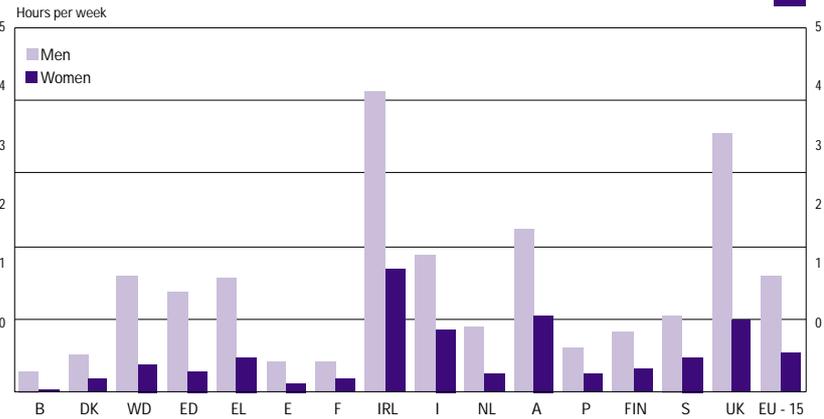
Source: Eurostat, SES

## Estimated weekly hours of overtime, 1995

Throughout the EU, men work on average 1.6 hours a week overtime, compared with 0.5 hours for women. In Ireland and the UK, men work an average of more than 3 hours' overtime a week.

Traditionally, many Member States' legislation provided for standard daily or weekly hours. A limited amount of overtime was permitted, to be worked over and above these standards. Increasingly, the distinction between standard working time and overtime has become blurred.

This follows the working time directive<sup>22</sup>, which provides for a maximum working time, including overtime, of 48 hours a week on average. This average can be calculated over reference periods of 4, 6 or 12 months. The following table sets out



Source: Eurostat, O LFS

the main statutory limits on working time and overtime in the Member States. It should be noted, however, that further derogations are often provided to allow for specific circumstances.

Member State	Statutory limits on working time and overtime
<b>Belgium</b>	40 hours on average over 3 months, absolute limit of 56 hours per week
<b>Denmark</b>	No legislation; limits set by collective agreements
<b>Germany</b>	8 hours per 'working day'; 2 hours overtime per day if, during a reference period of 6 months, 8 hours on average are not exceeded
<b>Greece</b>	48 hours over a reference period of 4 months including overtime (reference period may be extended to 6 or 12 months)
<b>Spain</b>	40 hours per week over a reference period of one year; 80 hours of overtime per year
<b>France</b>	Normal working week of 35 hours from 1 January 2000; there is a limit of 46 hours per week over a reference period of 12 weeks and an absolute limit of 48 hours per week
<b>Ireland</b>	48 hours over a reference period of 4 months including overtime (reference period may be extended to 6 or 12 months)
<b>Italy</b>	40 hours per week (normal working time); overtime limited to 8 hours per day, 12 hours per week, 80 hours per quarter and 250 hours per year
<b>Luxembourg</b>	40 hours per week (normal working time); absolute limit of 48 hours per week
<b>Netherlands</b>	Standard hours: maximum of 45 hours per week and an average of 40 hours per week; these rules can be derogated from by collective agreement within the following limits: 50 hours per week over a 4-week period and a maximum average of 45 hours per week over a 13-week period
<b>Austria</b>	40 hours per week (normal working time); 48 hours on average over a period of 17 weeks (reference period may be extended to 6 or 12 months)
<b>Portugal</b>	48 hours on average over a reference period of 4 months
<b>Finland</b>	40 hours per week (normal working time); overtime limited to 138 hours per 4 months and 250 hours per year
<b>Sweden</b>	40 hours per week (normal working time); overtime limited to 48 hours per 4 weeks and 200 hours per year
<b>United Kingdom</b>	48 hours over a reference period of 4 months including overtime (reference period may be extended to 6 or 12 months); possibility to agree not to apply the limits

Another important influence on the amount of overtime worked concerns tax and social security rules. Governments may encourage firms

to require workers to work longer hours, for reasons which have nothing to do with any policy on working time, for example where the cost of

taking on additional workers is high, or where the marginal cost of overtime in terms of additional social security contributions is low.

## Decoupling working time and operating time

A more innovative way of reorganising working time is to make a distinction between the operating time of plant and equipment, or shop opening time, and the time worked by individual workers. In this way firms can reduce their unit costs, by making more extensive use of expensive plant and equipment, while at the same time offering employees compensation for unsocial hours. If such a trade-off takes place and attractive new shift systems are introduced, both sides may profit. In this way, many workers are being compensated not only financially but also with reductions in working time or extra time off in lieu of bonus payments. All these new shift systems follow a very simple logic: the working time of shift, night or weekend workers is shorter than standard working time. This makes it possible to introduce new shift systems with more shift crews and thus create new jobs. If more shift crews are employed, each individual has to work fewer nights or weekends, which means that the same volume of unsocial hours can be distributed among a greater number of workers. A characteristic example of this logic is the introduction of a fifth crew in continuous production. Workers have to work on average only three Sundays in five instead of three in four in the former system. And if just two crews working two 12-hour shifts do weekend work, then each worker will have to work only two Sundays in five. In some European countries, the easing of restrictions on shift and weekend work has been linked in legislation or collective agreements to reductions in working time.

## Flexible working time arrangements

An alternative solution is to vary the number of hours worked. This might be appropriate where the company's activity is irregular. This could be because of seasonal variations (in the construction, tourism and food-processing industries, for example), daily or weekly fluctuations (shops and certain client services, for example), or due to unpredictable variations in demand, especially with a 'just-in-time' mode of production. Under such arrangements, the actual number of hours worked (per week,

for example) fluctuates between a minimum and a maximum around an average set by collective agreement. This average must be respected over a reference period, which may vary from a few weeks to a year. In short, this is a method of calculation which enables employers not to pay overtime premiums for hours worked above the average in any day, week, month, etc., as long as the average number of hours is respected over the reference period. Similar methods have allowed the payment of overtime to be replaced by the granting of time off in lieu, or by crediting the extra hours to 'individual working time accounts' which workers can use over a period of years.

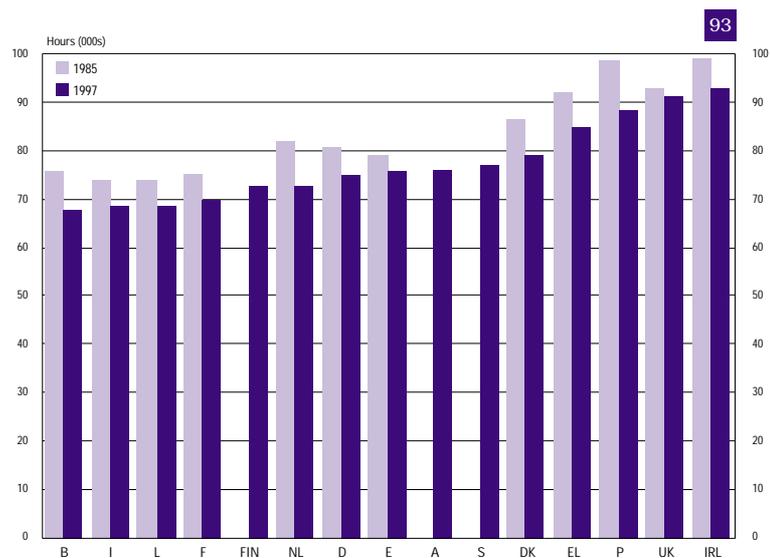
## Zero-hour contracts

An extreme example of flexible working time is to be found in 'zero-hour' or 'on-call' contracts. Under these arrangements, workers have no fixed working hours, but they must, in some cases, be available to respond to requests for their presence when work is available for them. The existence of such contracts, in addition to the implications for policy on working time, raises wider issues relating to employment security.

## Measures modifying the duration of working life

The following table provides estimates of the likely lifetime hours on the basis of employment patterns for men in 1985 and 1997<sup>23</sup>. The 1997 figures show that 'working life expectancy' ranges from under 70 000 hours in Belgium, Italy and Luxembourg to over 90 000 hours in the UK and Ireland. Measures which are being taken in the Member States to change the way in which time is distributed throughout the working life, between education and training, work, family responsibilities, leisure and retirement, are addressed in the following subsections. The table shows that there has been a reduction in working life expectancy between 1985 and 1997 for all Member States for which comparable figures are available.

Estimated lifetime hours worked by men, 1985 and 1997



Sources: Eurostat estimates of annual leave entitlement and LFS

## Flexible leave arrangements throughout working life

A number of interesting experiments are being undertaken in Member States and in individual firms to allow workers to take career breaks for family, training or other reasons. The framework agreement on parental leave concluded by UNICE, CEEP and ETUC<sup>24</sup> is a good example of the progress at Community level.

Such working lifetime policies may reduce unemployment and improve the quality of life by humanising the world of work and, above all, its compatibility with private life.

The working time accounts (also called 'time banks') mentioned above can help to make flexible leave arrangements possible. Workers save up their accumulated hours of extra work performed and take an extended holiday within one or two years.

Similarly, job rotation schemes are being introduced, with support from the European Social Fund, in many Member States. Under such schemes, an unemployed person is trained to replace an employee in a company. The employees in turn receive further training during their leave from their job. The aims are to combat unemployment, increase flexibility and help to reinsert unemployed workers into the labour market.

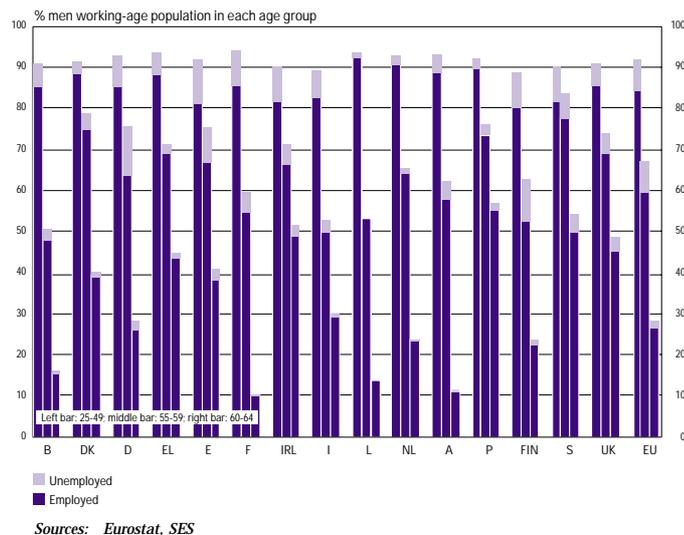
## Flexible/early/progressive retirement

Working time over the working life can also be reduced through early retirement. This is a policy which in the past appealed to employers and governments alike, in order to concentrate redundancies on those in the older age groups who have relatively few years of their working lives remaining, so effectively freeing up jobs for younger workers and reducing the unemployment figures. But it has given rise to a number of problems.

One consequence, combined with the fact that older workers have difficulties in finding jobs, is that in 1998 almost a third of men aged 55 to 59 in the EU were economically inactive. For those aged 60 to 64, the figure for the EU was over 70 % (see Chart 94).

Participation rates of men by age group in Member States, 1998

94



As regards women, under 40 % of those aged 55 to 59 were still in the labour force in 1998 and only just over 10 % of those aged 60 to 64 (see Chart 95).

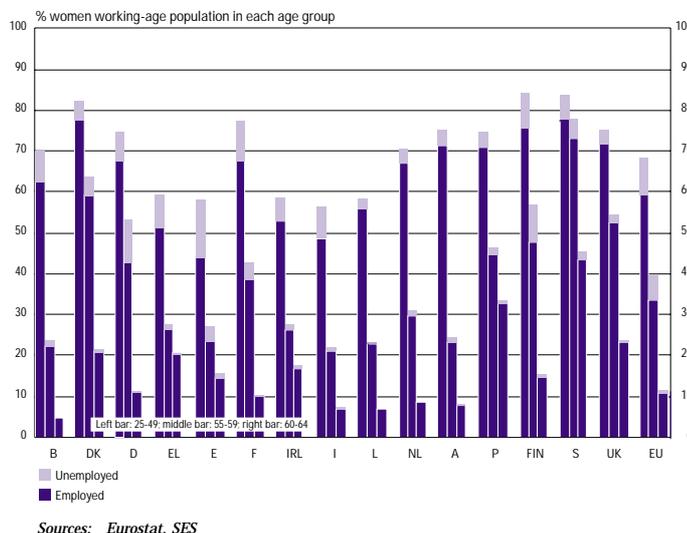
The issue of early retirement is closely related to the demographic changes that are taking place. As the population ages, fewer workers support increasing numbers of inactive people. A solution, which the Community has supported for many years, is the principle of flexible retirement<sup>25</sup>, i.e. the freedom for employees to choose when they will take their retirement. Another solution which has been tried, and which is advocated in the 1982 recommendation, is for employees

to have the opportunity to obtain a gradual reduction in their working hours during the period immediately preceding their retirement.

Although such schemes are fairly widespread, their effect so far in reducing the outflow of older workers from the labour force has been imperceptible in most countries and very few of those eligible have opted for partial retirement.

Participation rates of women by age group in Member States, 1998

95



## Working time and economic performance

### Employment

In 1999, the Directorate-General for Employment published a critical review<sup>26</sup> of 14 studies on working time undertaken for the European Commission and the European Foundation for the Improvement of Living and Working Conditions between 1995 and 1997. The review concentrates on the potential employment effects of changes in working time arrangements. In particular, it examines the conditions which have to be fulfilled in order for the reduction in working time to have an impact on employment and unemployment.

The studies show, however, that while the effects on employment may be positive in theory, these are very restrictive conditions, which are unlikely to be satisfied at sectoral or macroeconomic level.

The studies also confirm that, in order to have a favourable effect on employment, a reduction in working time must take place in a wider context of, or lead to, changes in production and work organisation. Working time is only one factor in this process.

Tax incentive schemes to encourage companies to reduce working hours and to increase the number of employees are of two different types. Under the first type of scheme, subsidies are available for companies taking steps to reduce working time. The award of subsidies is often conditional upon creating or maintaining jobs. Under the second type of scheme, hourly social security rates are modulated as a function of working time. This scheme has yet to be applied in practice.

According to the review, the first type of scheme is accompanied in most cases by fairly major side effects (windfall, substitution, displacement effects, etc.) that substantially reduce the efficiency.

In theory, tax incentive measures to reduce working time (the second type of scheme) may, under certain conditions, prove effective in the

### Conditions which may need to be satisfied for working time reductions to have an impact on employment

Reductions in working hours should take place in the broader context of a better balance between flexibility and security: reducing working hours while maintaining the same pattern of work organisation will be counter-productive.

The way work is distributed has to be planned and working time patterns have to be adapted to the new situation.

The redistribution of working time should be accompanied by an active training policy. Otherwise skill shortages are likely to arise. The speed with which they arise depends on the nature of the work and the quality of the available labour force.

Barriers to recruitment should be low. In this context, there is a need to look, in particular, at the effects of taxation systems on working time and to make the necessary adaptations to social security systems.

Cooperation between the public authorities, trade unions and the various training bodies with interest at plant level is important.

Working time reductions should be incorporated into long-term bargaining packages. Many working time reductions in recent decades, for example in Belgium, Germany and the Netherlands, have been traded against long-term wage moderation. Such long-term packages have the advantage of making it possible to use productivity increases to reduce working time over a period of several years, while at the same time reducing the wage increases needed to offset the reduction in working time.

fight against unemployment, in particular of the less skilled. This type of public measure to promote job-sharing policies should nevertheless be approached with caution. For example, the additional tax revenue provided by additional recruitment may prove to be less than the public expenditure cost of reducing social security contributions.

The review concludes that a generalised and uniform reduction in working time would have a very limited impact on employment and unemployment. The reason for this is that such a concept is not attuned to modern production constraints and employees' preferences. Furthermore, while most opinion surveys show that people are generally in favour of a reduction in working time, they also show a considerable diversity in people's preferences concerning the method of reducing or adapting working time. In addition, while most people are in favour of working shorter hours, they are generally unwilling to reduce their wages. While general and uniform reductions of working time were undoubtedly necessary in the past, diversified ways of adapting or reducing working time throughout working life would nowadays be more in keeping with employees' aspirations and companies' needs to be competitive.

### Working time and productivity

Productivity is one of the key elements, which drives economic well-being, bringing improvements in real wages, welfare and jobs. New forms of (high-performance) work organisation can make an important contribution to improvements in productivity.

Within this context, the reduction in and reorganisation of working time can make important contributions to the improvement of work organisation — and hence to productivity — provided the changes are negotiated. Rigid rules on working time, whether imposed from outside or internal to the company, can have an adverse effect on productivity.

In the case of reductions in working time, the evidence, particularly from France, is that small reductions in working time (e.g. from 40 to 39 hours in 1982) have a significant short-term effect on productivity. Similar results can be discerned from early research into the effects of more recent legislation introduced in 1996<sup>27</sup>.

The dynamic and longer-term effects are much more complicated and can differ, for example, according to the phase of the economic cycle in which changes, and in particular reductions, are introduced. Whether or not employees are compensated for loss of wages when their working hours are reduced is also an important element in the equation. Where individual working time reductions are accompanied by an increase in plant utilisation or shop opening hours, total factor productivity can increase alongside an increase in the numbers employed and the wages of the workers concerned. Whether these increases are sustainable depends, inter alia, on the availability of suitably qualified and trained workers to take up the new jobs created.

Thus, in the longer term, the crucial test is whether or not the reduction in and/or reorganisation of working time makes a positive contribution to the competitiveness of the plant, the company or the economy as a whole.

## Community legislation

### The working time directive

Prior to the 1990s, regulations on working time developed historically in very different ways, or, in the case of the UK, not at all. In December 1989, the European Council adopted the Community Charter of the Fundamental Social Rights of Workers. This recognised that the completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community and declared that every worker should have a right to a weekly rest period and to annual paid leave.

Following a proposal from the Commission, the Council of Ministers adopted the working time directive<sup>28</sup> in November 1993. The directive establishes minimum standards with regard to the health and safety of workers in respect of working time, in particular by prescribing minimum rest periods and limits on working time.

### Main provisions of the working time directive

- A minimum daily rest period of 11 consecutive hours a day.
  - A rest break where the working day is longer than 6 hours.
  - A minimum rest period of one day a week.
  - A maximum working week of 48 hours on average including overtime.
  - Four weeks' annual paid holiday.
  - Night workers must not work more than 8 hours in 24 on average.
- The directive provides for considerable flexibility in the application of these provisions to specific situations.

### Excluded sectors

Certain sectors and activities were excluded from the 1993 directive because of the specific nature of the work concerned. These were air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and the activities of doctors in training. In November 1998, the Commission made a number of proposals to apply appropriate rules to these sectors and activities. On 21 June 1999, the Council adopted a directive<sup>29</sup> putting into effect the agreement on the working time of seafarers concluded by the social partners at European level in the maritime transport sector. In December, the Parliament and Council adopted a directive concerning the enforcement of seafarers' hours of work on board ships using Community ports<sup>30</sup>. The remaining two proposals<sup>31</sup> are still under discussion.

### Part-time work

The Commission put forward its first proposals in the early 1980s on different forms of atypical work relationships, including part-time work. These proposals resulted in one directive on safety and health issues for temporary workers and fixed-term workers, adopted by the Council in 1991. In December 1994, the Council confirmed that adoption of the other Commission proposals could not be expected in the near future. The essential reason for this was that there was a fundamental difference between those who wanted regulation in this area and those who wanted less regulation.

At the end of 1995, the Commission decided to launch a first-stage consultation of the social partners at EU level on the issue of flexibility in working time and security for workers. The consultation covered

a number of forms of atypical work, including part-time work.

The social partners (UNICE, CEEP and ETUC) began negotiations in July 1996 on part-time work. They signed a framework agreement on this issue in June 1997. In December 1997, the Council of Ministers adopted a directive<sup>32</sup> putting into effect the agreement.

The purpose of the framework agreement is:

- to provide for the removal of discrimination against part-time workers and to improve the quality of part-time work;
- to facilitate the development of part-time work on a voluntary basis and to contribute to the flexible organisation of working time in a manner which takes into account the needs of employers and workers.

## Conclusion

Issues relating to working time continue to arouse considerable interest throughout the European Union. The number of hours worked has fallen considerably over time. However, whereas in the past they were central to the employment relationship, changes in working patterns and concepts have led to a much more complex situation. In many cases, changes in working time are subordinate to wider issues relating to the modernisation of work organisation.

Furthermore, while the debate in the past was mainly about reduction in weekly hours of work, increasingly the number of hours worked annually has assumed a greater significance. In the future, the debate can be expected to shift further towards lifetime working

patterns, in particular in relation to flexible leave arrangements and flexible retirement. Issues relating to retirement, in particular, will assume greater significance in the light of changing demographic trends<sup>33</sup>. The social partners will have an important role to play in relation to all these changes.

It is so difficult to isolate a uniform block of working hours in paid employment that it is no longer possible to consider working time issues solely from the point of view of the company or of the organisation of paid work. It is thus crucial that the issue of the organisation of working time is negotiated to the mutual satisfaction of all sides. It affects the operation of public and private services, businesses and all aspects of politics, trade unions and associations<sup>34</sup>.

Management of time (leisure time, training time, time spent as a consumer, time spent in transit, etc.) is no longer conditioned by working time only. It is becoming the subject of collective interest beyond the context of productive activity.

It is becoming necessary for representatives of consumer associations, families, users, public authorities and environmental pressure groups to get involved in collective bargaining on the issue of working time. Increasing the number of players presupposes the development of new forums for dialogue — probably on a territorial basis — following the example of experiments undertaken in a number of European countries.

# The social pacts in Europe

## Introduction<sup>35</sup>

The concept of the 'social pact' is still one which is difficult to define precisely. The most widely accepted view is that these pacts broke new ground and, by institutionalising collective bargaining, allowed the social partners to be involved in the decision-making process.

Since the beginning of the 1990s, increasing efforts have been made in most Member States and at Community level to conclude social pacts. This is not true of all countries; France and the United Kingdom, for example, have not followed this trend for very different political, economic and social reasons. It is, none the less, a widespread phenomenon, reflecting far-reaching changes.

Although each country's approach has been shaped by its own specific situation and social history, there are a number of common denominators. The agreements concluded in recent years differ in terms of the way in which they were negotiated and their content from those drawn up in the 1960s. The economic and social climate has changed dramatically, now being dominated by glob-

alisation, European monetary unification and an ageing population. The new conditions have altered the negotiating framework: full employment has now given way to high unemployment, wage restraint replaces the redistribution of productivity gains and instead of increasing social protection we are now seeking ways to adapt it to the new conditions.

The new social agreements cover new issues: competitiveness, combating unemployment, the labour market, vocational training and social protection.

However, it is worth drawing attention to the following:

- The variety of formulas: A 'social pact' does not necessarily involve the formal signature of a document. It is an altogether more complex process. It presupposes that an adequate consultation mechanism is in place and that there has been a sufficient testing period. For example, the Wassenaar Agreement, signed in the Netherlands in 1982, was not recognised as marking a new era by the Dutch social players until several years after it was signed. What

makes a pact is not what it is called but, above all, its content and the way it is implemented. Formal social pacts can prove disappointing when put into practice. Nor should the achievements of institutional tripartism be forgotten. This is the form which the social dialogue takes in Austria, for example, without the conclusion of formal agreements. Another example is Belgium, where the 1998 intersectoral agreement was preceded, in 1996, by a new law on competitiveness which laid down new formal consultation rules.

- Differences in timing: Most of the agreements were worked out in the 1990s, but two fundamental agreements date back to the 1980s: the Wassenaar Agreement in the Netherlands (1982) and the 'National recovery programme' in Ireland (1986).

The table below shows the main stages in the development of a new tripartite approach involving the State and the social partners in each Member State. Most Member States are moving towards tripartism, even those with no particular tradition in this field.

Social pacts in the Member States: the key stages in the 1990s											
Country	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	
<b>Belgium</b>				Global plan			Pact for the future		Intersectoral agreement		
	New law on competitiveness										
<b>Denmark</b>	No pact									Ongoing debate on social security	
<b>Germany</b>						Alliance for jobs			Reopening of discussions on a pact for employment		
<b>Greece</b>								Towards the year 2000 (dropped)			
<b>Spain</b>				Social pact			Toledo pact on the future of social security		Agreement on part-time contracts		
<b>France</b>	No pact; no institutional consultation; importance of social partners in social security reform										
<b>Ireland<sup>36</sup></b>	Programme for economic and social progress				Programme for competitiveness and work			'Partnership 2000' for inclusion, employment and competitiveness Debate on renewal of the pact			
<b>Italy</b>			Agreement on abolition of the scala mobile	Ciampi Protocol		Agreement on pension reform	Pact for employment		Social pact for growth and employment		
<b>Luxembourg</b>									Tripartite agreement based on the NAP	Amendment of 26 laws following the 1998 agreement	
<b>Netherlands<sup>37</sup></b>				A new course: agenda for collective bargaining in 1994				Agenda 2002			
<b>Austria</b>	No pact; institutional tripartism										
<b>Portugal</b>						Short-term agreement not signed by the CGTP	Agreement on strategic consultation		Europact (failed)		
<b>Finland</b>						Social pact		Social contract Renegotiations in progress			
<b>Sweden<sup>38</sup></b>								Attempt to achieve wage standard (failed)		Pact for growth (failed)	
<b>United Kingdom</b>	No pact; abandonment of centralised collective bargaining										

## The Dutch precedent

Concluded in 1982, the Wassenaar Agreement was the first of the major European social pacts of the 1980s and 1990s. With this agreement, concluded after 10 years of discussions which failed to reach any conclusions, the Netherlands returned to a coordinated bipartite wage negotiation system.

The agreement marks the beginning of the trade unions' acceptance of a long-term strategy to revive growth and combat unemployment through wage restraint and work-sharing. To match the unions acceptance of the principle of business profitability, the employers gradually dropped their objections to reducing the working week.

The agreement also marks the end of restrictive central bargaining. The text signed by the social partners takes the form of a recommendation to the branch organisations and launches a form of decentralised coordinated social dialogue, allowing for sectoral or local flexibility.

This approach has made extensions easier through numerous agreements, recommendations, opinions and reports on issues such as vocational training, the rights of part-time workers, youth unemployment and sick leave.

The signature of a new agreement in 1993 'A new course: agenda for collective bargaining in 1994' helped to increase the decentralisation of collective bargaining.

## The causes

The new generation of agreements emerged at a time of far-reaching changes whose influence is in some cases expressly referred to in the agreements. The most recent, 'Partnership 2000' concluded in Ireland, raises the question clearly in its introduction: 'how to promote competitiveness in the face of the challenges ahead for Ireland, including global competition, the information society, technology advances, world trade negotiations, ongoing reform in the agriculture area, EMU and enlargement of the European Union?'. The globalisation of the markets and the economic and monetary union are also mentioned expressly in the Italian, Portuguese and Belgian agreements.

Economic globalisation, the development of new forms of production and the information technology revolution are transforming the labour market, the emphasis now being on competitiveness, labour force skills and changing the balance between flexibility and security. Funding social protection is also a key issue.

The economic and monetary union, by forcing the Member States to seek ways of achieving non-inflationary growth, has changed the wage-setting rules.

In the light of the ageing of the

Main differences between the agreements signed in the 1960s and those signed in the 1990s

	Social agreements, 1960s	Social agreements, 1990s
Context	National regulated economy Baby boom Accommodating monetary regime Fordism	Globalisation Population ageing Economic and monetary union Information society
Labour market	Full employment Labour market regulation	Unemployment Security and flexibility
Wage policy	Productivity redistribution	Wage restraint
Social protection	Welfare expenditure	Welfare modernisation
Institutional and bargaining framework	Centralisation Social-partners-oriented	Coordinated decentralisation State-oriented

population, the question of the future of social protection systems has to be examined.

In contrast to the agreements concluded in the 1960s, in a stable economic climate marked by sustained growth and full employment, the new pacts are designed to manage the uncertainties. Employment is the key issue in this new era and this is reflected in the change in priorities: wage discipline and work-sharing as opposed to the redistribution of productivity gains.

In Ireland, the four pacts concluded between 1986 and 1997 are aimed expressly at channelling and supporting the opening-up of the national economy and its modernisation and development. Their

scope is vast, ranging from support for macroeconomic policies to regional development, including social back-up or aid for marginalised or vulnerable groups. It was this approach which inspired Portugal's efforts to conclude 'global' pacts in 1996 and 1998.

The advantages of social consultation are thus self-evident:

- institutional stability;
- broader scope;
- pacta sunt servanda; the parties are bound by the end result;
- mutual understanding of the facts;
- change in the way of adopting common decisions, the focus being on problem-solving.

### The Irish case

In Ireland, the conclusion of four global social pacts, the first in 1987, show what can be achieved by a concerted strategy of modernisation, diversification and internationalisation.

The first of these pacts, the 'National recovery programme' (NRP), 1987–90, was negotiated at a time of far-reaching economic and social change resulting from the opening-up of the economy to Europe. The unemployment rate had risen from 7.1 % in 1979 to nearly 18 % in 1987. The recession created a serious imbalance in the public finances: by 1987, the central government deficit had reached 9 % and the debt/GDP ratio 117 %. This brought all parties to the realisation that domestic policies had to change.

In order to maintain a high level of competitiveness, the pact provided for wage restraint in all sectors, tax reforms, the curbing of social benefits and healthcare expenditure, structural reforms and an agreement on monetary policy. The trade unions' support for the curbing of spending was matched by a commitment on the part of the public authorities to maintain the level of social benefits, reform labour law, introduce a minimum wage and implement a tax reform favourable to wage earners.

The three subsequent pacts, the 'Programme for economic and social progress' (PESP), 1990–93, the 'Programme for competitiveness and work' (PCW), 1994–96, and 'Partnership 2000' (1997–2000) follow the general lines of the 1987–90 pact. Each of the agreements also introduced further innovations. The PESP, for example, introduced a decentralised approach to the problem of long-term unemployment.

The most recent programme, 'Partnership 2000', extended the scope of the agreement to new partners. In addition to the traditional social partners, representatives of the non-profit-making sector and organisations representing the unemployed, women or the socially excluded were involved in the negotiations and in drawing up the pact. This was because new areas were included in the agreement: modernisation of the public services, encouraging the development of partnership at enterprise level, education, poverty, equal opportunities, rehabilitation of the disabled, nomadism, etc.

## The content

Generally speaking, the recent social pacts have been dominated by three issues.

### Wage policy

The Amsterdam resolution on growth and employment highlighted the responsibility of the social partners to curb wage growth and

the need to maintain a link between wage structure and employment. In most Member States, wages are no longer based on productivity but on competitiveness. The aim of sharing productivity gains has been incorporated, to a greater or lesser extent, in all the agreements concluded in the 1990s (in Belgium, Denmark, Ireland, Italy, Portugal, Finland and Sweden).

### Examples of wage increase formulas

<b>Belgium</b>	Comparison with the three main exporters (Germany, France, the Netherlands); law on competitiveness
<b>Greece</b>	Inflation plus increase in national productivity
<b>Ireland</b>	Inflation plus moderate wage increase
<b>Italy</b>	Expected inflation plus negotiation of share of productivity gains at enterprise level
<b>Portugal</b>	Inflation plus part of productivity gains
<b>Finland</b>	Wage restraint in return for the creation of 'stabilisation funds'

### Organisation of the labour market

All Member States have tried to improve flexibility by launching active employment and vocational training policies. Modernising the way in which the labour market operates means finding a new bal-

ance between flexibility and security. This is reflected at Community level in the framework agreement on part-time working, concluded by the social partners. The overriding trend is to transform and adapt the labour market as new forms of work emerge and information technologies continue to develop.

### Examples of approaches to adapting the labour market

<b>Germany</b>	Protection against redundancies has been relaxed in the services sector (1991) and for SMEs (1996), but increased in industry. The question of fixed-term contracts is regulated by a series of laws, with a fixed period of validity.
<b>Spain</b>	The considerable flexibility which the introduction of the fixed-term contract has allowed since 1984 has been gradually reduced since 1992 to counter a relaxing of redundancy procedures. The 1997 agreement and law ratified this increased flexibility for young employees.
<b>Ireland</b>	The flexibility of the labour market in Ireland is the subject of broad consensus and has been endorsed by the tripartite mechanisms.
<b>Italy</b>	Recruitment (apprenticeship contracts, 1984; temporary work, 1997) and dismissal (liberalisation of collective redundancies, 1991) have been made more flexible, but in a closely regulated framework. The measures adopted target the more vulnerable groups or regions (young people, Mezzogiorno).
<b>Netherlands</b>	There has been a sharp increase in flexibility particularly in the area of part-time work and temporary work, with no time limit for the latter.

Source: M. Regini, 'Between deregulation and the social pacts, the responses of European economies to globalisation'. Estudio working paper n° 1999/133

## Social security

The emphasis here has been on keeping costs down. Italy, for example, is trying to define the arrangements for a reform of the pension scheme. Initiatives to reduce non-wage labour costs also have to take this aspect into account.

The Finnish example shows that tripartite consultation can also result in inventive solutions to specific new problems. The 'buffer funds', set up following the 1997 agreement in return for wage restraint, provide an answer to the problems of budgetary instability and crisis in the social systems which can occur because of the structural sensitivity of the national economy to asymmetric economic shocks.

The emphasis on the above three issues does not mean that other associated issues have to be excluded. The introduction of specific measures for regions whose development is lagging behind is an important aspect of the Italian compromise; these aspects are also covered in the decentralised negotiation process in the Netherlands and Ireland. In Ireland, extension of the scope of the agreement to issues such as combating social exclusion has been accompanied by the extension of the social dialogue to new partners from the non-profit-making sector.

### Italy, a series of agreements

The series of agreements concluded in Italy from 1992 are set against a backdrop of unprecedented change: an inflation rate reduced from 4.5 % in 1995 to 1.7 % in 1997 and a budget deficit brought down from 7.7 to 2.7 % of GDP. The desire to participate in the first wave of the euro was a powerful stimulus for restructuring public finances, reforming the wage bargaining system and revamping social security.

The waiving of the *scala mobile*, following the tripartite agreement of July 1992, was ratified by the agreement concluded 12 months later on a new wage-setting method. This agreement, signed on 23 July 1993, provides for the adoption of a generalised cooperative approach.

A similar approach was adopted for the second major wave of social reform. The 1995 agreement on

social security, concluded between the trade unions and public authorities, resulted in a negotiated reform of the pension system and a considerable reduction in pension costs to help rebalance public spending.

The dual system of collective bargaining enshrined in the 1993 agreement was reinforced, in spite of some reluctance on the part of employers, by the so-called 'Christmas agreement' concluded in December 1998. This social pact for development and employment whose objective was to boost investment and household consumption provides for a 3 % reduction in employers' costs by 2003, State-funding of some family benefits (maternity leave and family allowances) and a considerable reduction in income tax.

Most of those involved in processes of this kind which are now well-established, as in the Netherlands, stress the importance of the two-pronged approach: not only seeking the solution to the problem but also learning together through the process of negotiating the social pact. In most cases, the conclusion of an agreement on wage policy has preceded and contributed to the subsequent adoption of a compromise on more difficult aspects such as social security. Italy's achievements are an example of this sequence of events and the process of building a climate favourable to global dialogue.

## The players

Establishing a climate of confidence is all the more important given the diverse, not to say divergent, nature of the strategies and motivations of the different parties involved. Fundamental to the process of drawing up a pact, and, to a large extent, to its success, is that those involved share a common diagnosis of the issues.

## The public authorities

The 1990s saw an increase in tripartism which meant greater involvement on the part of the State in a consultation process which had previously been the preserve of the social partners. It should be stressed that technical bodies played an often

crucial role in determining the agenda and guiding the discussions:

- in the Netherlands, the Labour Foundation, involving employers and trade unions, has been the main forum for the preliminary discussions, the main inspiration being the Council for the National Economy which set itself up as an indispensable think tank and technical consultancy;
- similar bodies have been involved in Finland, such as the Incomes Policy Commission which contributed to the success of negotiations whose conclusion led to a voluntary approach to the reform of the national economy;
- the Central Council for the Economy and the National Labour Council in Belgium played a vital role in discussions on the law on competitiveness;
- the discussions in Italy on the estimated inflation rate allowed a joint statement to be drawn up on the main macroeconomic variables.

The government's role was even more evident in Portugal, where efforts to conclude a global pact stemmed from the desire to achieve a general long-term agreement on modernisation of the economy and social relations.

### Finland: a social compromise to manage change

The development of the social dialogue in Finland has been closely linked to the rapid adjustment of the economy under the dual influence of its modernisation (decline of the timber industry countered by rapid growth in the communication technology sector) and its Europeanisation, marked by joining the EMU.

The social security system in Finland was unusual in that it linked contributions to the Unemployment Benefit Fund to the number of job-seekers, thereby increasing labour costs in times of crisis.

The wage agreement of November 1997 marks a new stage in the handling of the question of labour costs in so far as, with the buffer funds, it goes beyond mere wage

restraint and can be regarded as an implicit social pact. Although it takes the form of a bipartite framework agreement establishing recommendations for the sectoral social partners for the conclusion of specific agreements, it also commits the government to reducing income tax. The buffer funds are intended to allow some room for manoeuvre during economic downturns. The funds are financed by special contributions which accumulate during periods of growth. They are now being built up. The maximum level of EUR 2 000 million should be reached in 2004.

There are many reasons for the increase in the public authorities' power in the social sphere. It was important to ensure that wage trends were compatible with competitiveness and monetary stability and to guarantee support for the reforms planned in the fields of social security and the labour market. The decisions taken at European level, such as the process of setting up the EMU or the guidelines for employment, have sometimes accentuated this. The Belgian case is a good example. The EMU provided the framework for implementing the law on competitiveness. The adoption of the guidelines for employment led to an extension of the intersectoral agreement in 1998 and the introduction of an important chapter on vocational training.

The tripartite negotiations for the Luxembourg National Action Plan led to an agreement on labour market reform. Following the signature of this document, 26 laws were amended on a variety of subjects: collective agreements, parental leave, labour administration, vocational training, apprenticeship contracts, early retirement scheme, unemployment benefit.

### The social partners

The new agreements mark the end of the demands of the past, the new spirit being one of wage restraint, increased labour market flexibility and social security reform, presupposing a change in attitude on the part of the trade unions. In many

cases, prior consensus on what the negotiations should aim to achieve (as in the Netherlands and Finland) has proved to be a determining factor in the rest of the process, on the understanding that sharing a common diagnosis in no way prejudices the solutions put forward by the different parties. In fact, the absence of a common diagnosis was one of the reasons why the Greek and Portuguese pacts failed.

The employers' reasons for signing the central social pacts was that a framework was needed to foster negotiation. The central agreements guaranteed flexibility, leaving increasing scope for interpreting the text at sectoral or regional level. It is thus not so much centralisation as coordinated decentralisation.

## Results and outlook

**H**ow have the countries which signed social pacts performed? How can we distinguish between countries where explicit agreements were concluded and those, such as Denmark or Austria, where social consultation has remained a permanent feature of industrial relations?

It is difficult to identify a link between the signing of an agreement and economic and social performance. What is striking, though, is how the macroeconomic climate has changed in some cases (reduction of public debt, favourable economic outlook, inflation in check, falling unemployment). The reform of social security, and particularly the way it is funded, seems to be an increasingly crucial issue.

The Belgian intersectoral agreement reflects these new trends. Wage increases are based on those of its neighbouring countries (Germany, France and the Netherlands), but there is scope for sectoral bargaining provided that it is linked to job growth. Social costs will be reduced within six years to the level of the partner countries. Vocational training is also being encouraged and its share of GDP is to rise from 1.2 to 1.4%. The net minimum wage has been increased to create a positive difference between it and the social minimums.

New balances will have to be found if the formula of the social pact is to continue. Social security reform is a

major concern of most Member States and a cooperative solution with the social partners is generally being sought.

The success of some pacts has also brought to light new issues such as mobility and accommodation costs, which are considered by workers to be important aspects of the improvement of their working and living conditions.

The European strategy for employment has also enhanced consultation between the social partners at national level. Although not to the same extent in all countries, it has none the less helped to improve dialogue between the public authorities and social partners.

## MAIN SOCIAL PROVISIONS OF THE TREATY (POST-AMSTERDAM CONSOLIDATED VERSION)

### • THE PRINCIPLES •

#### *Article 2 (ex Article 2)*

The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing common policies or activities referred to in Articles 3 and 4, to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.

#### *Article 3 (ex Article 3)*

1. For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein:

- (a) the prohibition, as between Member States, of customs duties and quantitative restrictions on the import and export of goods, and of all other measures having equivalent effect;
- (b) a common commercial policy;
- (c) an internal market characterised by the abolition, as between Member States, of obstacles to the free movement of goods, persons, services and capital;
- (d) measures concerning the entry and movement of persons as provided for in Title IV;

- (e) a common policy in the sphere of agriculture and fisheries;
- (f) a common policy in the sphere of transport;
- (g) a system ensuring that competition in the internal market is not distorted;
- (h) the approximation of the laws of Member States to the extent required for the functioning of the common market;
- (i) the promotion of coordination between employment policies of the Member States with a view to enhancing their effectiveness by developing a coordinated strategy for employment;
- (j) a policy in the social sphere comprising a European Social Fund;
- (k) the strengthening of economic and social cohesion;
- (l) a policy in the sphere of the environment;
- (m) the strengthening of the competitiveness of Community industry;
- (n) the promotion of research and technological development;
- (o) encouragement for the establishment and development of trans-European networks;
- (p) a contribution to the attainment of a high level of health protection;
- (q) a contribution to education and training of quality and to the flowering of the cultures of the Member States;
- (r) a policy in the sphere of development cooperation;
- (s) the association of the overseas countries and territories in order to increase trade and promote jointly economic and social development;
- (t) a contribution to the strengthening of consumer protection;
- (u) measures in the spheres of energy, civil protection and tourism.

2. In all the activities referred to in this Article, the Community shall aim to eliminate inequalities, and to promote equality, between men and women.

### • ANTI-DISCRIMINATION •

#### *Article 13 (ex Article 6a)*

Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

### • FREE MOVEMENT OF WORKERS AND SOCIAL SECURITY OF MIGRANT WORKERS •

#### *Article 39 (ex Article 48)*

1. Freedom of movement for workers shall be secured within the Community.
2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.
3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:
  - (a) to accept offers of employment actually made;
  - (b) to move freely within the territory of Member States for this purpose;
  - (c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
  - (d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in implementing regulations to be drawn up by the Commission.

4. The provisions of this Article shall not apply to employment in the public service.

*Article 40 (ex Article 49)*

The Council shall, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, issue directives or make regulations setting out the measures required to bring about freedom of movement for workers, as defined in Article 39, in particular:

(a) by ensuring close cooperation between national employment services;

(b) by abolishing those administrative procedures and practices and those qualifying periods in respect of eligibility for available employment, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to liberalisation of the movement of workers;

(c) by abolishing all such qualifying periods and other restrictions provided for either under national legislation or under agreements previously concluded between Member States as imposed on workers of other Member States conditions regarding the free choice of employment other than those imposed on workers of the State concerned;

(d) by setting up appropriate machinery to bring offers of employment into touch with applications for employment and to facilitate the achievement of a balance between supply and demand in the employment market in such a way as to avoid serious threats to the standard of living and level of employment in the various regions and industries.

*Article 41 (ex Article 50)*

Member States shall, within the framework of a joint programme, encourage the exchange of young workers.

*Article 42 (ex Article 51)*

The Council shall, acting in accordance with the procedure referred to in Article 251, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; to this end, it shall make arrangements to secure for migrant workers and their dependants:

(a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries;

(b) payment of benefits to persons resident in the territories of Member States.

The Council shall act unanimously throughout the procedure referred to in Article 251.

• EMPLOYMENT •

*Article 125 (ex Article 109n)*

Member States and the Community shall, in accordance with this Title, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives defined in Article 2 of the Treaty on European Union and in Article 2 of this Treaty.

*Article 126 (ex Article 109o)*

1. Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article 125 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Community adopted pursuant to Article 99(2).

2. Member States, having regard to national practices related to the responsibilities of management and labour, shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council, in accordance with the provisions of Article 128.

*Article 127 (ex Article 109p)*

1. The Community shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the competences of the Member States shall be respected.

2. The objective of a high level of employment shall be taken into consideration in the formulation and implementation of Community policies and activities.

*Article 128 (ex Article 109q)*

1. The European Council shall each

year consider the employment situation in the Community and adopt conclusions thereon, on the basis of a joint annual report by the Council and the Commission.

2. On the basis of the conclusions of the European Council, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee, the Committee of the Regions and the Employment Committee referred to in Article 130, shall each year draw up guidelines which the Member States shall take into account in their employment policies. These guidelines shall be consistent with the broad guidelines adopted pursuant to Article 99(2).

3. Each Member State shall provide the Council and the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.

4. The Council, on the basis of the reports referred to in paragraph 3 and having received the views of the Employment Committee, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. The Council, acting by a qualified majority on a recommendation from the Commission, may, if it considers it appropriate in the light of that examination, make recommendations to Member States.

5. On the basis of the results of that examination, the Council and the Commission shall make a joint annual report to the European Council on the employment situation in the Community and on the implementation of the guidelines for employment.

*Article 129 (ex Article 109r)*

The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, may adopt incentive measures designed to encourage cooperation between Member States and to support their

action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects. Those measures shall not include harmonisation of the laws and regulations of the Member States.

*Article 130 (ex Article 109s)*

The Council, after consulting the European Parliament, shall establish an Employment Committee with advisory status to promote coordination between Member States on employment and labour market policies. The tasks of the Committee shall be:

- to monitor the employment situation and employment policies in the Member States and the Community;
- without prejudice to Article 207, to formulate opinions at the request of either the Council or the Commission or on its own initiative, and to contribute to the preparation of the Council proceedings referred to in Article 128.

In fulfilling its mandate, the Committee shall consult management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

• SOCIAL PROVISIONS •

*Article 136 (ex Article 117)*

The Community and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

To this end the Community and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to main-

tain the competitiveness of the Community economy.

They believe that such a development will ensue not only from the functioning of the common market, which will favour the harmonisation of social systems but also from the procedures provided for in this Treaty and from the approximation of provisions laid down by law, regulation or administrative action.

*Article 137 (ex Article 118)*

1. With a view to achieving the objectives of Article 136, the Community shall support and complement the activities of the Member States in the following fields:

- improvement in particular of the working environment to protect workers' health and safety;
- working conditions;
- the information and consultation of workers;
- the integration of persons excluded from the labour market, without prejudice to Article 150;
- equality between men and women with regard to labour market opportunities and treatment at work.

2. To this end, the Council may adopt, by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

The Council shall act in accordance with the procedure referred to in Article 251 after consulting the Economic and Social Committee and the Committee of the Regions.

The Council, acting in accordance with the same procedure, may adopt measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences in order to combat social exclusion.

3. However, the Council shall act unanimously on a proposal from the Commission, after consulting

the European Parliament, the Economic and Social Committee and the Committee of the Regions in the following areas:

- social security and social protection of workers;
- protection of workers where their employment contract is terminated;
- representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 6;
- conditions of employment for third-country nationals legally residing in Community territory;
- financial contributions for promotion of employment and job-creation, without prejudice to the provisions relating to the Social Fund.

4. A Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to paragraphs 2 and 3.

In this case, it shall ensure that, no later than the date on which a directive must be transposed in accordance with Article 249, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive.

5. The provisions adopted pursuant to this Article shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with this Treaty.

6. The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lockouts.

*Article 138 (ex Article 118a)*

1. The Commission shall have the task of promoting the consultation of management and labour at Community level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.

2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Community action.

3. If, after such consultation, the Commission considers Community action advisable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.

4. On the occasion of such consultation, management and labour may inform the Commission of their wish to initiate the process provided for in Article 139. The duration of the procedure shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.

#### *Article 139 (ex Article 118b)*

1. Should management and labour so desire, the dialogue between them at Community level may lead to contractual relations, including agreements.

2. Agreements concluded at Community level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 137, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission.

The Council shall act by qualified majority, except where the agreement in question contains one or more provisions relating to one of the areas referred to in Article 137(3), in which case it shall act unanimously.

#### *Article 140 (ex Article 118c)*

With a view to achieving the objectives of Article 136 and without prejudice to the other provisions of this Treaty, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this chapter, particularly in matters relating to:

- employment;
- labour law and working conditions;
- basic and advanced vocational training;
- social security;
- prevention of occupational accidents and diseases;

- occupational hygiene;
- the right of association and collective bargaining between employers and workers.

To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organisations. Before delivering the opinions provided for in this Article, the Commission shall consult the Economic and Social Committee.

#### *Article 141 (ex Article 119)*

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

- (a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;
- (b) that pay for work at time rates shall be the same for the same job.

3. The Council, acting in accordance with the procedure referred to in Article 251, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

#### *Article 142 (ex Article 119a)*

Member States shall endeavour to maintain the existing equivalence between paid holiday schemes.

#### *Article 143 (ex Article 120)*

The Commission shall draw up a report each year on progress in achieving the objectives of Article 136, including the demographic situation in the Community. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee.

The European Parliament may invite the Commission to draw up reports on particular problems concerning the social situation.

#### *Article 144 (ex Article 121)*

The Council may, acting unanimously and after consulting the Economic and Social Committee, assign to the Commission tasks in connection with the implementation of common measures, particularly as regards social security for the migrant workers referred to in Articles 39 to 42.

#### *Article 145 (ex Article 122)*

The Commission shall include a separate chapter on social developments within the Community in its annual report to the European Parliament. The European Parliament may invite the Commission to draw up reports on any particular problems concerning social conditions.

## Notes

- <sup>1</sup> Much of the information set out in this document comes from a report by the Institute for Labour Sciences at the Catholic University of Louvain; this survey was conducted under the auspices of the Commission. The data set out in the report on the absolute number of members have to be treated with caution. Some of the organisations have not counted their membership properly, while some of the national organisations are affiliated to more than one European organisation. In some cases, information supplied by the employers includes firms without any payroll employees. As far as the workers' organisations are concerned, it has to be borne in mind that some of their figures still include pensioners, the unemployed and the self-employed. In other words, there may be discrepancies depending on the method of calculation used. In some cases, data have been supplemented by information taken from the 1997–98 International Labour Organisation (ILO) report entitled *Work in the world*.
- <sup>2</sup> Organisations with European affiliation.
- <sup>3</sup> In some countries (e.g. Germany, France, Ireland and Austria), a significant proportion of undertakings or federations are directly or indirectly members of both UNICE and the UEAPME. These data should therefore be looked at relatively, taking into account the mandates for each organisation.
- <sup>4</sup> Communication from the Commission entitled 'Adapting and promoting the social dialogue at Community level', (COM(1998) 322 final, 20.5.1998).
- <sup>5</sup> The phase 'joint texts' covers agreements, recommendations, declarations, opinions and of conduct adopted by the social partners.
- <sup>6</sup> The debates and conclusions of this conference are summarised in *Social dialogue for success: the role of social partners in EU enlargement*, Warsaw Conference, 18 and 19 March 1999, European Commission, Directorate-General for Employment and Social Affairs, Brussels, 1999, 43 pp.
- <sup>7</sup> Council Directive 75/129/EEC of 17 February 1975 on 'The approximation of the laws of the Member States relating to collective redundancies', as amended by Council Directive 92/56/EEC of 24 June 1992, consolidated by Council Directive 98/59/EC of 20 July 1998.
- <sup>8</sup> Council Directive 77/187/EEC of 14 February 1977 on 'The approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses', as amended by Council Directive 98/50/EC of 29 June 1998.
- <sup>9</sup> Council Directive 94/45/EC of 22 September 1994 on 'The establishment of a European works council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees'.
- <sup>10</sup> *European systems of worker involvement*, report by the group of experts chaired by E. Davignon, May 1997.
- <sup>11</sup> Proposal for a Council directive establishing a 'General framework for employee information and consultation in the European Community', adopted by the European Commission on 11 November 1998.
- <sup>12</sup> Data produced by the Foundation for the Improvement of Living and Working Conditions on the basis of EIRO data.
- <sup>13</sup> Source: European Foundation for the Improvement of Living and Working Conditions — European Industrial Relations Observatory (eironline).
- <sup>14</sup> See 'Financial participation', Working Paper No 1, February 1998. In this paper, ETUC calls European employers' organisations to conclude a framework agreement on financial participation and also invites the EC to strengthen the necessary framework for promoting such schemes.
- <sup>15</sup> Bleijenbergh, I., de Bruijn, J. and Dickens, L., 'Strengthening and mainstreaming equal opportunities through collective bargaining', European Foundation for the Improvement of Living and Working Conditions, 1999.
- <sup>16</sup> Vaughan-Whitehead, D., 'Enlargement to the East: Europe economic and social remodelling', prepared for the European Commission's Forward Studies Unit, September 1999.
- <sup>17</sup> See Vaughan-Whitehead, D. (ed.), *Paying the price: the wage crisis in central and eastern Europe*, prepared for the ILO and European Commission, Macmillan, 1998.
- <sup>18</sup> Maddison, A., *Phases of capitalist development*, Oxford University Press, 1982.
- <sup>19</sup> These figures are presented for illustrative purposes only. The author (Maddison) acknowledges the difficulties of producing comparable statistics.
- <sup>20</sup> *Le temps de travail de ceux qui ne le comptent pas*, Bernard Brunhes Consultants, Paris, 1999.
- <sup>21</sup> COM(97) 128 final, 16.4.1997.
- <sup>22</sup> Council Directive 93/104/EC.
- <sup>23</sup> Estimates of lifetime working hours are notoriously difficult to make; the approach here is to estimate average age of entry into, and exit from, employment (for men only), using data on employment rates by detailed age group (from the LFS). Comparing these two ages allows some estimation of how many years an individual is likely to work over a lifetime (or, at least, the trend in this figure, by using two separate years). Assuming that all intervening years are worked — i.e. ignoring possible labour market absences in any year, see subsection 2.2.2.4.1 — an estimate of lifetime hours can be made by multiplying the number of years by the annual hours worked. These figures should be treated as estimates at best, since they combine data on entry and exit for separate groups, rather than observing age at entry and exit for the same individuals — which is impossible with existing data. Estimates of entry and exit ages are made by identifying a 'standard' employment rate, based on the 30 to 54 age group, when there will be little distortion due to education or retirement; average age at both entry and exit is the age at which the employment rate is half the standard rate.
- <sup>24</sup> Annex to Council Directive 96/34/EC of 3 June 1997 (OJ L 145, 19.6.1996, p. 4).
- <sup>25</sup> Council Recommendation 82/857/EEC on 'The principles of a Community policy with regard to retirement age'.
- <sup>26</sup> Anxo, D., *Working time: research and development 1995 - 97*, EC.
- <sup>27</sup> Loi Robien.
- <sup>28</sup> Council Directive 93/104/EC concerning certain aspects of the organisation of working time (OJ L 307, 13.12.1993, p. 18).
- <sup>29</sup> OJ L 167, 2.7.1999, p. 33.
- <sup>30</sup> OJ L 14, 20.1.2000, p. 29.
- <sup>31</sup> Proposals for Council directives: amending Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that directive; and concerning the organisation of working time for mobile workers performing road transport activities and for self-employed drivers.
- <sup>32</sup> OJ L 14, 20.1.1998, p. 9.
- <sup>33</sup> For further analysis of these issues, see Part II, Section 3, of the 1999 employment report.
- <sup>34</sup> See 'Transformation of labour law in Europe', final report, Directorate-General for Employment and Social Affairs, 1999.
- <sup>35</sup> This section is based on a study carried out by the European Social Observatory.
- <sup>36</sup> 'National recovery programme' signed in 1987.
- <sup>37</sup> Wassenaar Agreement signed in 1982.
- <sup>38</sup> No pact; institutional tripartism.