

# Benchmarking Working Europe 2017



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# **Benchmarking Working Europe** **2017**

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# Foreword

After 10 years of stagnating and declining growth rates, the economic forecasts for Europe are looking somewhat more optimistic, albeit with a high degree of uncertainty. Growth is stabilising at around 1.5%, unemployment is declining and employment rates seem to be on the rise. However, while this may be an improvement in relation to the 10 previous years of dire forecasts, the number of unemployed remains unacceptably high, now standing at 20 million, and employment levels are stagnating. Seen in absolute terms, therefore, there seems little reason to be optimistic about the economic and social situation in the European Union. The last seven years of austerity and deregulatory structural reforms have resulted in a lack of GDP growth, a rise in unemployment, damaging low rates of investment (both private and public), stagnating wage growth and cuts in social policy programmes. In other words, the lost potential over the past seven years of misguided policies now means that great efforts are needed to engage with the challenges and paradigm shifts emerging as a result of climate change and the digitalisation of the economy.

The challenges and policy recommendations presented in last year's edition of *Benchmarking working Europe* therefore remain pertinent in 2017; in fact, the need for action is now more urgent than ever, particularly in this climate of crisis that is not just economic in nature but also social and political. This year will see not only the start of the UK's 'Brexit' process, but also elections taking place in some of the bigger EU Member States and Donald Trump's first year as US president leading his 'America first' strategy. It is in this political climate that the European institutions are launching several initiatives on the 'future of Europe', including the White Paper on the deepening of the EMU, the Five Presidents' Report on the Future of Europe, and last but not least the European Pillar of Social Rights. These documents should form the basis for establishing a vision of the future of Europe which, as declared on several occasions, has social concerns at its heart. As the analysis of *Benchmarking working Europe 2017* demonstrates, this concern comes somewhat late, but is still of key importance in order for Europe to lay the foundations for a sustainable and fair society.

In light of the urgent need to construct a sustainable economic and social model, the ETUC has put forward their key priorities for the 'Future of Europe': namely, to create a sustainable economic growth that can support quality jobs and better working conditions, and to initiate a relaunch of the European social model based on stronger labour rights and social protection for all, with more democratic values that put workers and citizens at the heart of Europe.

With this year's chosen focus – 'overcoming cleavages across the EU?' – the new edition of *Benchmarking working Europe* sets out to assess and analyse the state of working Europe with the aid of a multi-level and multi-dimensional set of indicators. This 2017 edition is thus intended as one contribution to an assessment of what the current policy stance has achieved, or above all (as will emerge from a reading of the following chapters) what it has *not* achieved, with particular attention given to the ensuing divergences that we are now seeing across the EU. With this focus, it outlines some of the policies that need to be put in place for Europe to generate higher living standards for all, based on fair integration and upwards convergence.

All four chapters of this report call for a new set of policies that can put the European Union back on a sustainable track. The macroeconomic indicators point to a slight increase in GDP that sets it, in 2016, at just 4.8% above the 2008 peak level. This has largely been the result of export growth, indicating a reorientation of the EU economy towards external demand. Meanwhile, private consumption remains barely above the pre-crisis level and investment is significantly lower. In addition, the pre-crisis trend towards convergence of GDP per capita has not been restored despite the modest economic upswing, and the current policy stance does not promise that this will happen any time soon. The above-mentioned problems, as well as the policies that have led to them, have received verbal recognition, but this has only led to half-hearted and conditional responses: somewhat more flexibility has been allowed in the Stability and Growth Pact, the European Commission has cautiously argued for a modest positive fiscal stance across the euro area, the ECB has pursued its policy of quantitative easing, and Juncker's investment plan that had a slow start in 2015 is now taking off. However, not all Member States adhere to the idea of a modest positive fiscal stance, and are instead stubbornly wedded to the belief that budget surpluses will lead to reduced public debt; this despite the strong evidence from around the world that renewed growth and additional fiscal revenue are needed to reduce debt levels. Quantitative easing does not seem have put an end to deflationary tendencies and, as has been argued by several commentators, the Juncker plan is far from enough to get investment back on track and is, moreover, not able to address the divergence in GDP across the EU. Furthermore, these policy initiatives have little chance of succeeding as they are being held back by euro area rules and fiscal policies.

While real wage developments were more dynamic than productivity growth in 2016 this is largely due to the weakness in productivity growth, as well as low inflation rates. In addition, minimum wage growth outstripped the average real wage growth, indicating that

wages at the bottom of the scale grew faster than the average and, furthermore, grew faster in Member States where the minimum wage level is lower. However, despite this growth, in most countries the minimum wage remains too low for even a full-time worker to sustain a decent standard of living. Furthermore, the deregulatory reforms in industrial relations systems that have been implemented in many countries have created framework conditions that make pursuing a solidaristic wage policy and wage-led economic growth all the more difficult. A solidaristic wage policy has three requirements: appropriate minimum wages, all-encompassing collective bargaining systems and strong trade unions. The European Union appears to be showing divergence on all three indicators, thereby making upwards wage convergence an even more challenging prospect. In order for Europe to get back on to a sustainable growth path that ensures upwards convergence, a shift towards expansionary policies is needed which would raise demand through higher public and private investment, higher public spending and higher pay levels based on a solidaristic wage policy.

The slow and uneven economic recovery is reflected in the labour market indicators. While headline figures will tell us that a higher proportion of the working age population was in employment in 2016 than at the outbreak of the crisis and that unemployment is decreasing, a closer look at more detailed indicators tells us a quite different story. Many of these improvements are driven by demographic processes rather than improved labour market performance. Between 2008 and 2016 the actual number of jobs declined, with 180,000 fewer people in employment in 2016. The picture is even more negative when we look at the data; there appear to be increasing divergences between different groups of workers as well as different countries. Older workers above 65 years of age increased their labour market participation, reflecting either a more sustainable working life or a lack of income from pensions. Young people and those with a low level of educational attainment continue to face a very difficult situation in the labour market, and long-term unemployment remains persistently high and on the rise. Meanwhile, an increasing proportion of those who are in employment find themselves locked into short-hour jobs with low income and therefore at a greater risk of poverty despite working. In general, the risk of in-work poverty has intensified during the past nine years, with workers finding it increasingly difficult to escape temporary work. While social spending has increased, it has not been enough to offset the negative consequences of the austerity policies that have been pursued.

Social dialogue and workers' participation represent a means of regulating and ensuring a democratic process at various levels. The European Social Dialogue has always played an important role in ensuring that social partners have a voice in the European integration process. Recent developments, however, have revealed that this process is not always a smooth one, but rather a bumpy road fraught with obstacles. While the European Union has a long-standing tradition of promoting workers' rights to information and consultation, these rights are in fact more differentiated across the continent than one would expect, with wide geographical divergence and half of the workers in Europe lacking any form of collective interest representation. Likewise, the cross-border or European dimension of worker's participation also displays a patchy and uneven image, both in terms of coverage and rights. An overall assessment reveals a general advancement in terms of rights at the European level, but these advances are being undermined by setbacks or standstill in other areas. A well-functioning and well-articulated system of worker participation contributes to European integration by respecting information and consultation as a basic right for workers, and failure to respect such a right is tantamount to disregard for the fundamental concepts of democracy. Crucially, democratic processes such as social dialogue create the necessary conditions for working towards a sustainable future for Europe.

The findings reported here point to a lack of engagement with some of the fundamental issues that need to be tackled in order to get Europe back on to a sustainable path that will lead to an upward harmonisation of standards and outcomes. The current trend towards ever greater economic as well as social divergence across the European Union cannot form a viable basis for the future of European integration; nor can it build a foundation upon which to engage with the tremendous challenges currently facing the economy, environment, labour market and social protection systems.

This year's *Benchmarking working Europe* calls for a suitable policy mix that should include: developing a fully-fledged investment strategy for the future, with a genuine focus on research and development; promoting a solidaristic upwards wage policy; halting the deregulatory process; allowing fiscal policy to fully come into its own; consolidating and enhancing social protection; and committing to a Europe characterised by high social standards, including in the field of health and safety. This is the agenda to be followed in seeking to engage with the future of Europe.

Benchmarking working Europe first appeared in 2001. By providing a genuine benchmarking exercise, applied to the world of labour and social affairs and grounded in effective labour and social rights, this annual publication represents a contribution to the monitoring of the European Union. It aims at establishing what progress, or lack thereof, has taken place in selected areas of importance to the trade unions and of significance for a social Europe.

We hope you will derive both interest and benefit from your reading of this year's edition of *Benchmarking working Europe*.

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# Faltering recovery under threat again

## Introduction

The European Commission's autumn forecast from November 2016 (European Commission 2016a) predicts GDP growth slowing to 1.5% in 2017, with employment increasing by only 0.9%. These modest forecasts reflect concerns over possible economic uncertainties elsewhere in the world and over the UK's preparations to leave the EU. The European Commission has been worried enough to argue for the benefits of a slightly expansionary fiscal policy across the euro area countries, albeit with no means to ensure its implementation. This, it hopes, will supplement the effects of its investment plan and the 'structural reforms' implemented in recent years in a number of countries. Unfortunately, these measures will bring very few benefits.

The key to sustained recovery should be fiscal policy, both to stimulate internal demand and to create the basis for a more serious investment plan. There is plenty of scope for this approach, as indicated by the comfortable budgetary positions of some countries and the minimal rates of interest at which they can borrow. The need is also there: in the failure of current policies to reduce cleavages across the EU, in the shortfall in research and development spending, in the weakness of the European infrastructure, and in the lack of a vigorous approach to energy conversion. However, the limited flexibility allowed in existing euro area rules means that little is likely to change. In a year's time, the European Commission is likely to report another year of slow growth, possibly once again somewhat below its already modest forecasts.

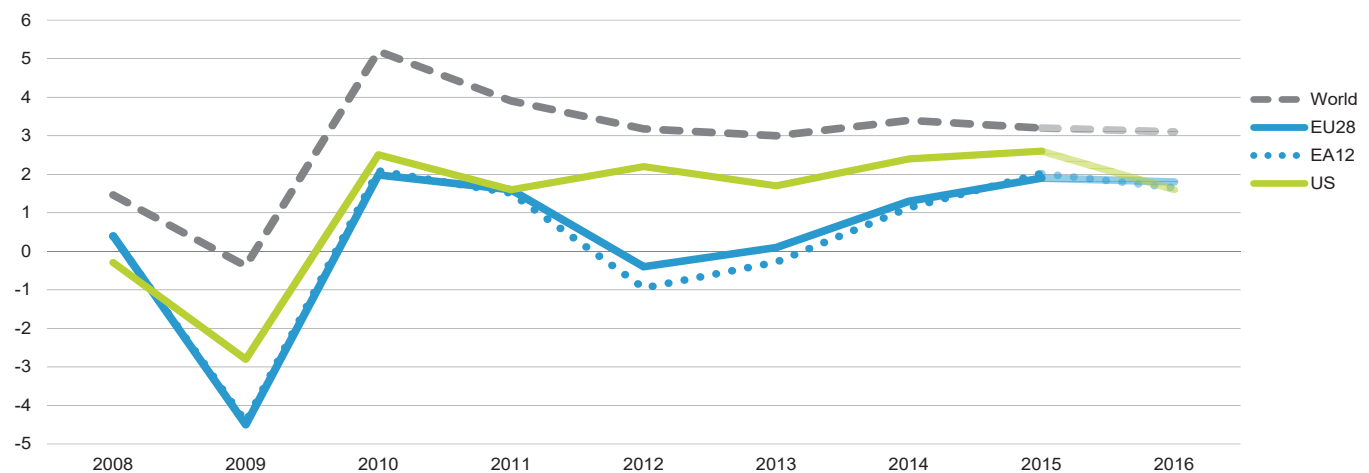
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## Economic developments: recovery remains modest

Figure 1.1. Real GDP growth (EU28, EA12, US, World) (2008-2016)



Source: own calculations using IMF, OECD and Eurostat data.

Note: 2016 are forecasts.

### Recovery slowest in the euro area

Figure 1.1 shows the growth rates for the EU and euro area compared with both the USA and the whole world over the period 2008-2016. A large part of the world weathered the crisis with just a slight drop in growth rates and a secular deceleration in subsequent years. The EU also showed signs of recovery after 2009 but, as Figure 1.1 shows, it diverged from the USA and the rest of the world from 2010, falling back into depression. Recovery from that second dip remains slow, leaving GDP in real terms in 2016 5.2% above its 2007 level. The euro area (when measured as the twelve pre-2007 members) performed worse, with 3.0% growth over 2007, while GDP in the remaining EU members grew by 11.3%.

The European Commission (EC) had confidently asserted in its 2010 autumn forecast that 'the economic recovery ... is making progress' (European Commission 2010: 9), only to see two years of negative growth. Forecasts for 2016 (European Commission 2015a) were still slightly over-optimistic at 2.0%; the reality turned out to be 1.8%. The policies of austerity that were implemented from 2010, and subsequently

only partially relaxed, also contributed to a shift in economic orientation. Domestic demand increased between 2008 and 2016 by only 2.2% in the EU (no change for the euro area), while exports increased by 24.3% (24.4% for the euro area). Thus exports relative to GDP increased from 38.6% to 45.8% between 2008 and 2016 (from 39.0% to 47.3% for the euro area); the EU has become more dependent on economic developments elsewhere in the world.

The EC foresees a slowing of growth in exports, due to probable slower growth in China and a number of other developing countries. This may be counterbalanced by rising commodity prices, especially of oil and gas, which would increase demand in exporting countries but also tend to depress EU growth by reducing real spending power of populations. Exports to the UK from other Member States may also fall.

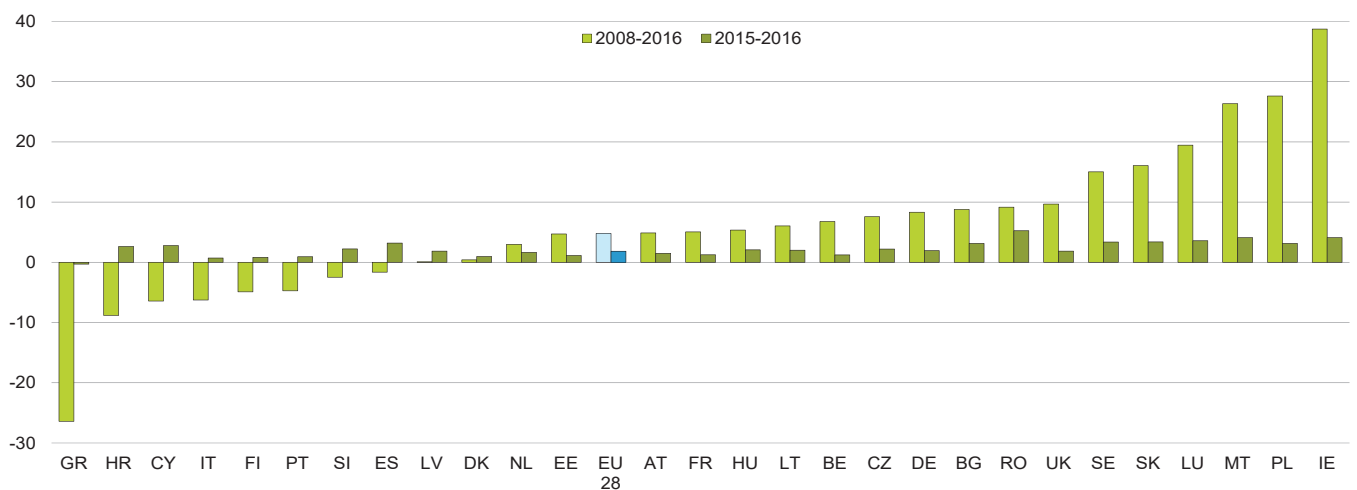
Prospects would be better with a stronger orientation towards domestic markets. In fact, total domestic demand is predicted to grow more slowly than total GDP, which will continue to depend on export growth. Private consumption is slowing down, as is public spending (although temporarily increased in some countries due to spending associated with refugees and asylum seekers). Investment, it is forecast, will grow more rapidly than GDP, as it did in 2016, but, as indicated below (see page 16), hopes of

a stimulus from the EU's investment plan are proving unrealistic.

There is likely to be some growth thanks to higher external demand and a gradual recovery in internal demand. The European Central Bank (ECB) policies discussed below (see page 13) are expected to contribute very little. The investment plan also adds nothing to credit levels already being granted by the European Investment Bank (EIB). Hopes of a very small fiscal stimulus within the euro area (see page 14), should they materialise, will help counter negative pressures, but not provide a basis for renewed sustainable growth. The European Commission (2016a: 1) is predicting GDP growth of 1.5% for 2017 and 1.7% for 2018; by no means impressive figures when set against pre-2008 performance or that of other parts of the world. This is furthermore at the upper end of what can be expected.

## Economic developments: recovery remains modest

Figure 1.2. Change in real GDP (2008 to 2016)



Source: calculated from AMECO database; GDP at 2010 constant prices.

Note: 2016 figures are estimates.

### Low growth leaving some behind

Figure 1.2 shows differing GDP growth performances across countries. All countries, apart from Greece which had negative growth, had returned to some degree of growth by 2016. However, ten countries had still not reached their pre-crisis peak GDP level, and among these were four with growth rates below 1% (Denmark, which reached its peak in 2007, Italy, Portugal and Finland).

There is no easy division between east and west, between north and south, between the euro area and the rest of the EU or even between higher and lower income countries. There have been good and bad performances within all of these categories. Some lower income countries have moved up the scale. Between 2007 and 2016, IMF data show Poland moving from per capita GDP levels (measured by purchasing power parity) of 55% to 70% of the EU average. Portugal and Greece, however, declined in the same period from 78% and 94%, respectively, to 73% and 68% of the EU average. Bulgaria remained the lowest, with per capita GDP increasing from 44% to 47% of the

EU average, at which rate it will catch up with the average in about 166 years (<https://www.imf.org/external/pubs/ft/weo/2016/02/weodata/weoselgr.aspx>).

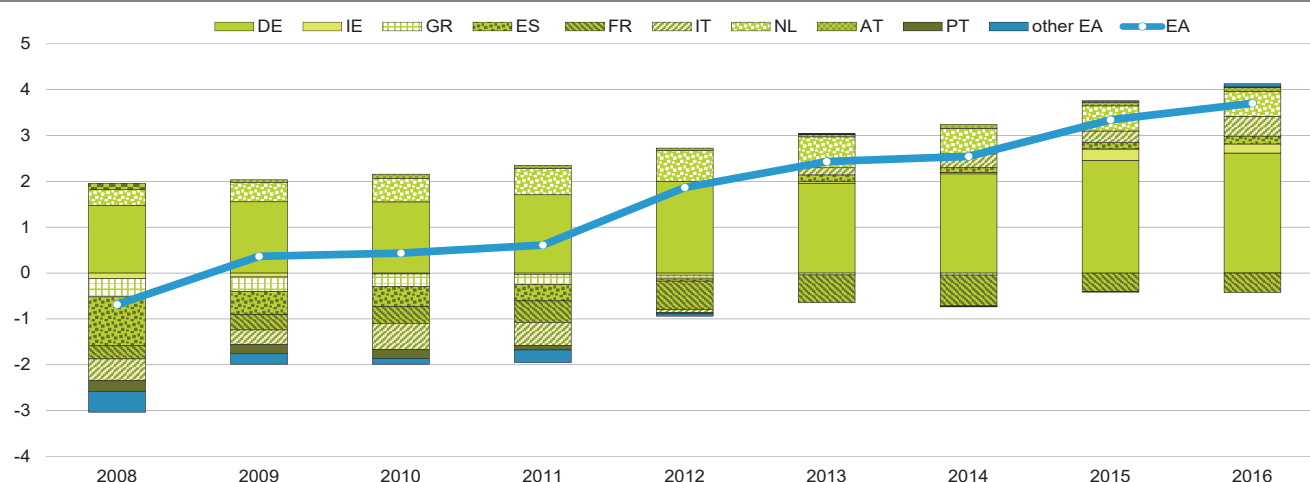
Differences between countries' performances reflected the extent of exposure to the effects of the 2008 financial crisis, the scope for increasing exports, and the policies chosen by, or imposed upon, the country in question. The crisis of 2008 hit hardest those countries that had become dependent on credit to finance construction booms, notably Ireland, Spain and the Baltic states. The downturn after 2010 was most marked in countries that had been pushed into imposing the severest austerity measures after facing sovereign debt problems, mostly following crises in private banking. This applied to several euro area members: Ireland, Portugal, Spain, Italy, Cyprus and Greece, with the latter particularly suffering from the effects of policies that were implemented to meet conditions for maintaining repayments on a level of public debt that continued to escalate. Denmark, not a euro area member, suffered from a collapsed housing boom that resulted in world record levels of private household debt relative to income. The resulting banking crisis was weathered without experiencing the same escalating public debt and extreme austerity measures seen in crisis-hit euro area members, but Danish growth was held back by stagnating private household consumption.

Ireland's quite exceptional recorded GDP growth was mostly the result of a revision of 2015 figures to include profits of multinational companies declared in Ireland, where the tax regime was very favourable. This added about 20% to recorded GDP in one year. Poland, meanwhile, having avoided the effects of the 2008 banking crisis, was something of a star, with GDP that increased by 27.6% between 2008 and 2016.

The German economy, accounting for 21% of EU and 28% of euro area GDP, is currently growing in line with the EU average. Its post-2008 growth had depended heavily on higher exports. Domestic demand played more of a role in both 2015 and 2016, thanks to slightly higher pay levels and some public spending related to refugees, although the budget surplus remained at 0.8% and 0.6% of GDP respectively. These effects seem to be petering out, leaving German growth once again dependent on exports, which are growing more slowly now. In view of its budget and balance of payments positions, which are discussed in the next section, it could do much more to stimulate demand across the EU.

## Economic developments: current account balance

Figure 1.3. Current account balance of the euro area with the rest of the world and contributions of selected Member States (% of EA GDP at current prices) (2008-2016)



Source: AMECO UBCA, UVGD series, own calculations.

### Weak domestic demand and a current account surplus

In 2016, the euro area saw a further expansion of its current account surplus with the rest of the world to 3.7% of GDP, compared to 3.3% in 2015 (see Figure 1.3).

This growing surplus from a more or less balanced external position in 2008-9 indicates that consumed and invested resources in the euro area as a whole are lower than those produced; or, put more simply, that domestic demand is too low compared to supply.

Figures on domestic demand corroborate this suggestion. According to data from the EC's annual macroeconomic database (AMECO), the value of domestic demand (in 2010 prices, including stocks) in the euro area was in 2016 still below its 2008 level. According to the European Commission's autumn 2016 economic forecasts, euro area domestic demand is only expected to surpass its 2008 level (in constant 2010 prices) in 2018, with the forecast being subject to downside risks.

The same AMECO data series suggests that the level of domestic demand was lower in 2016 than it was in 2008 in more than half of the euro area member countries (ten altogether).

In this section we illustrate the various sources of this domestic demand weakness. As far as current account balances are concerned, Figure 1.3 above shows that the significant divergence in current account balances among Member States with which the EU, but in particular the euro area, entered the crisis in 2008 has been reversed, primarily thanks to the efforts of Member States which had current account deficits. Sudden halts in the financing of these deficits resulted in several cases of sovereign debt and banking crises. Seeking financial support from the EU and the IMF, Member States had to undergo economic adjustment programmes which had fiscal austerity and internal devaluation as their main pillars, with a particular focus on labour cost adjustment.

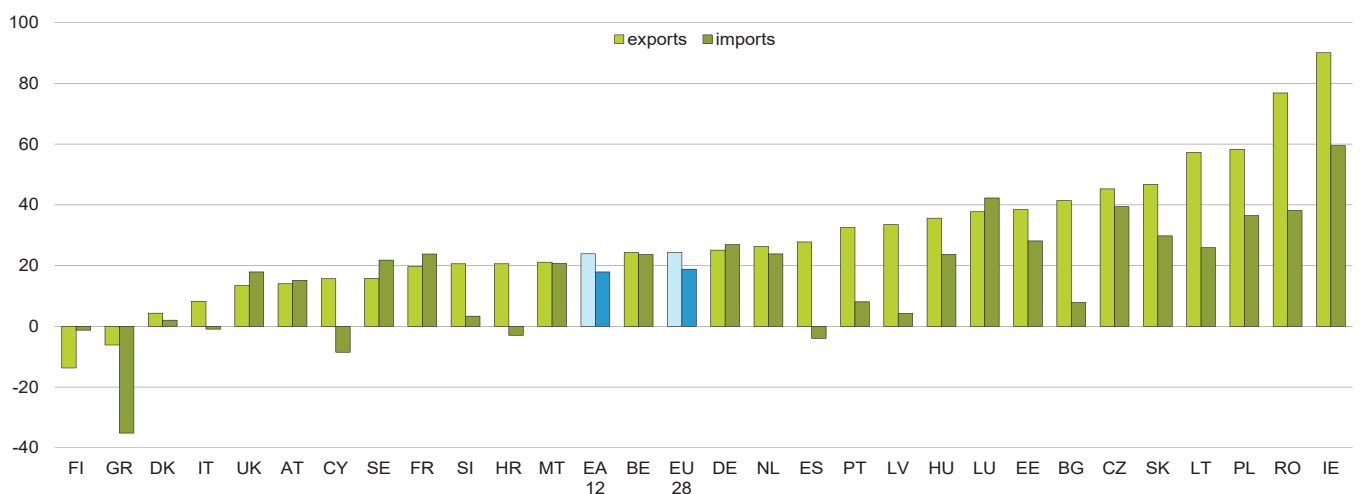
However, as Figure 1.3 suggests, this rebalancing of the current account deficits in some Member States (Greece, Portugal and Spain) through policies that impinged on their domestic demand was not matched by a similar rebalancing in such countries as Germany and the Netherlands with current account surpluses that since 2008 have risen even further, to reach, respectively, 9% and 8.5% of GDP.

While in general there is considered to be a smaller risk of current account surpluses unwinding suddenly and abruptly (as happened in 2008), there are reasons to be concerned about the sustainability of the picture above. A current account surplus is likely to put pressure on the euro to appreciate, especially when the ECB decides to abandon its current expansionary policy stance and make euro area exports to the rest of the world more expensive. With domestic demand as weak as it is now, a slowdown in net exports would risk undermining the current, fragile recovery. Moreover, once the weak domestic demand in Member States that underwent adjustment picks up again, there is a risk that current account imbalances will grow again in the euro area.

The economic governance tools that are currently in place – that is, the EU fiscal rules and the Macroeconomic Imbalances Procedure – do not provide much leverage to enforce measures in national fiscal policies that would deliver the necessary stimulus in aggregate demand. The Macroeconomic Imbalances Procedure tends to treat current account surpluses less strictly than current account deficits, thus placing a greater onus onto deficit countries to adjust.

## Economic developments: varied export performances

Figure 1.4. Percentage changes in exports and imports (2008-2016) (at 2010 prices)



Source: calculated from AMECO database.

### Explaining diverging export performances

Figure 1.4 shows the growth in exports and imports of goods and services from 2008 to 2016 that lies behind the current account changes discussed above (see page 10). Exports increased by 24.3% for the EU as a whole, while imports grew by 19.2%. The European Commission had wanted to see improved current account positions in a number of Member States, so this would seem to be a good result. However, it was only the drop in imports that was a direct result of policy choices. Rising exports had quite different causes and the resulting surplus was linked to depressed demand within the EU.

A key argument was that exports could be increased by holding down labour costs, which resulted in unit labour costs across the whole economy being targeted as a key indicator for judging countries' performances. However, this is of little relevance to international competitiveness, partly because it includes non-traded sectors: labour costs are reduced by cuts in public sector pay which have no direct bearing on export prices. Furthermore, competition is much more a

matter of product quality, which is not adequately taken into account in the unit labour cost measure (as discussed with country examples in Myant *et al.* 2016). In fact, changes in this measure clearly explain very little of the export performances shown in Figure 1.4.

Variation between countries is enormous. Among the fastest growing countries were the relatively new Member States from central and eastern Europe (CEE), benefiting from integration into western European value chains. Unit labour costs increased in some of these countries from 2008 to 2015 (by 5% in Estonia and Slovakia) with no visible effect on export performance. Lower unit labour costs in Greece (down 14%), meanwhile, did not prevent falling exports.

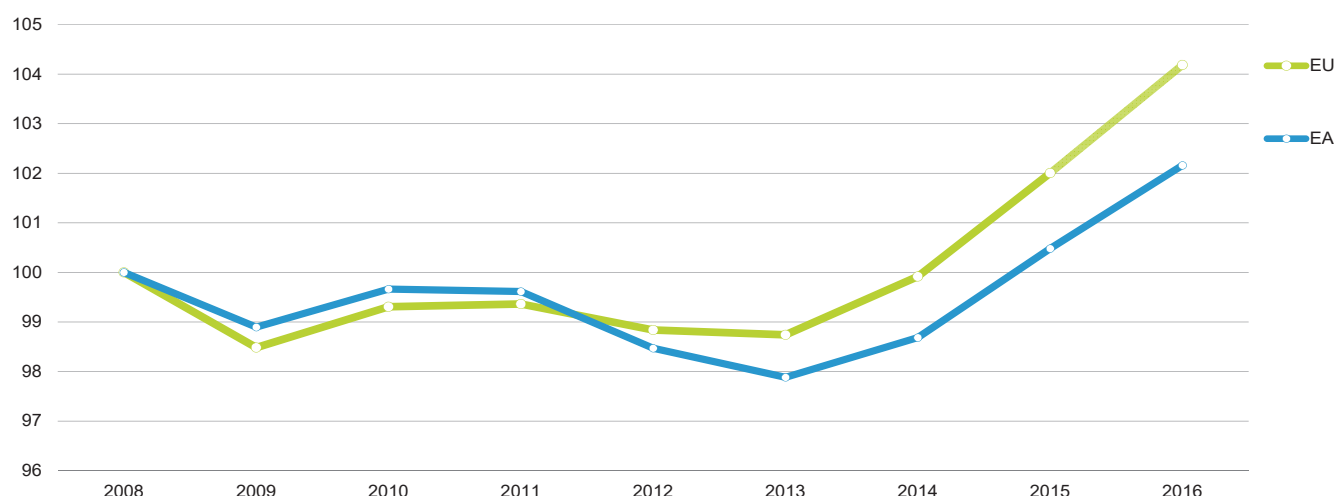
Export prices should be a better guide to export performance, but again there is no relationship. They increased by 11% in Ireland, a country with a 28% fall in unit labour costs which reflected generally lower public sector pay. Export success instead came from higher quality products and supported higher wages. Export prices fell in Greece by 1% and in Finland by 3%, both countries with falling exports. Both lacked the necessary base of modern, export-oriented industries. Exports from Finland peaked in 2013 and then suffered from the failure of Nokia. Reducing wages and imposing economic austerity did nothing to restore

the previous foundation in high-tech exports but instead deepened the depression across the Finnish economy.

Imports followed a more consistent pattern across countries; those undergoing the severest austerity measures suffered lower domestic demand and hence big import reductions. The biggest deficit by 2016, at 5.6% of GDP, was found in the UK, a country which had seen little change in either exports or imports compared with pre-crisis levels. Not being a member of the euro area, the UK had not been required to implement the most vigorous austerity policies which would presumably have restored external balance by cutting domestic demand and therefore imports.

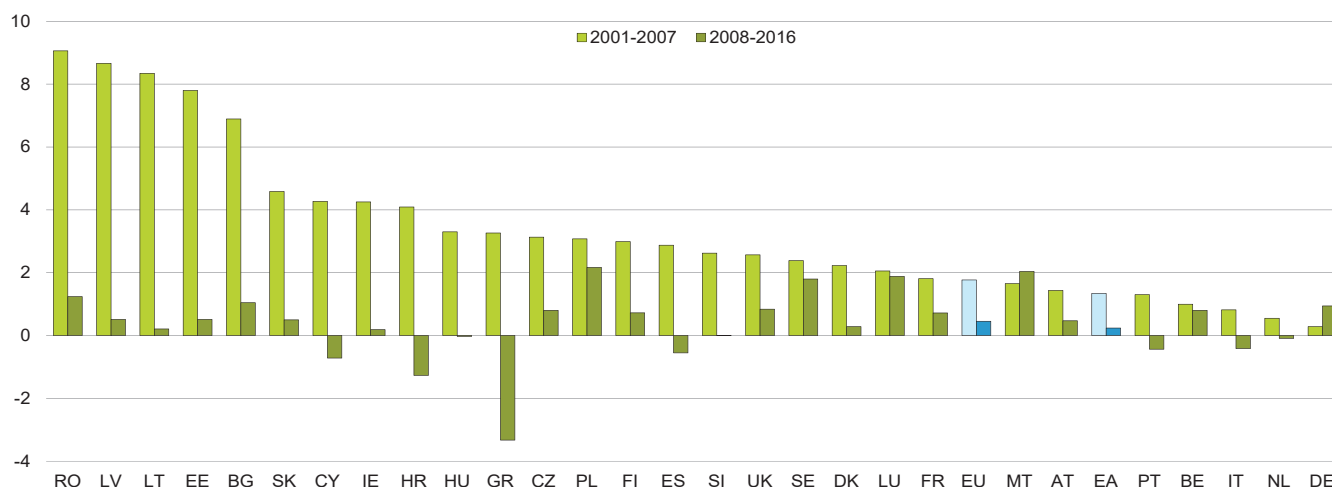
## Economic developments: slow recovery in private demand

Figure 1.5. Private final consumption expenditure at 2010 prices (2008=100) in the EU and the euro area (2008-2016)



Source: AMECO OCPH series, own calculations.

Figure 1.6. Average annual growth (%) in private final consumption expenditure (at 2010 prices) (EU28 Member States)



Source: AMECO OCPH series, own calculations.

### Subdued private consumption demand

Figure 1.5 above shows the evolution of private final consumption expenditure at 2010 prices. Final consumption includes expenditure for consumption, investment and exports by households and

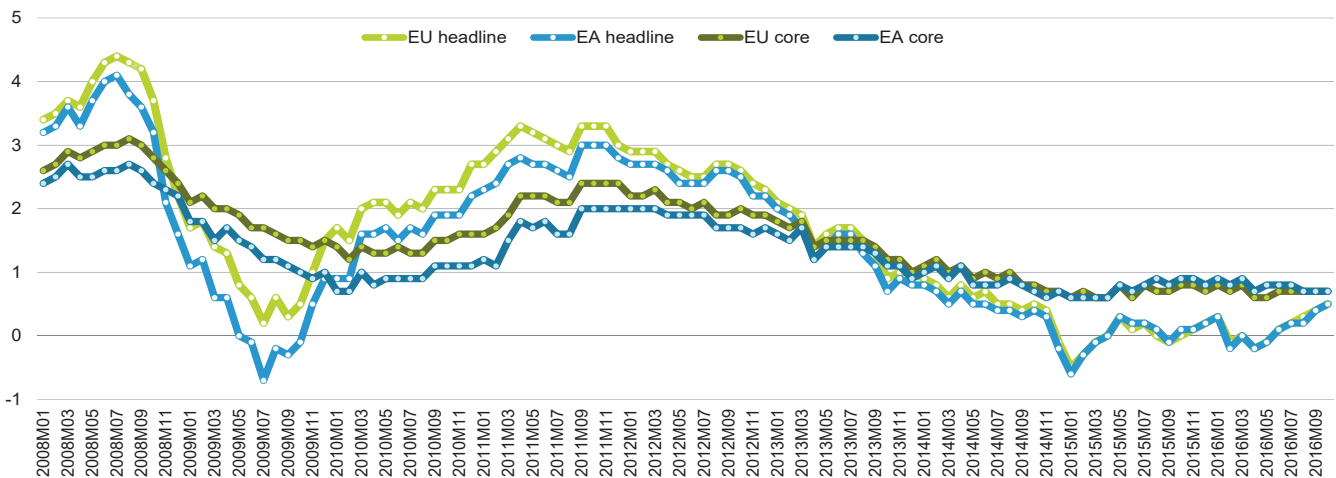
firms. The graph illustrates the weakness of private final consumption after 2008. Notably, real expenditure for private final demand only surpassed its 2008 level in both the EU and the euro area in 2015. What is also remarkable is the contrast between the average annual growth rate in private final consumption expenditure in constant 2010 prices during the 2001-2007 and the 2008-2016 periods. Figure 1.6 illustrates how this collapsed in all but a handful of Member States, most notably Poland, Sweden (both outside the euro area), Belgium and Luxembourg,

while it increased in Malta and Germany, in the latter after having remained at virtually zero (0.3% per annum) during the earlier period. Member States in the southern periphery, as well as Croatia and the Netherlands, experienced average negative annual growth rates in their real private final consumption expenditure. Insofar as private final consumption expenditure is a major driver of demand, its collapse is also remarkable in the newer CEE Member States, where it had grown very fast in the 2001-2007 period.



## Macroeconomic developments and policies: low inflation and monetary policy

Figure 1.7. Monthly headline and core inflation: annual change (%) in the EU and euro area (2008M1-2016M12)



Source: Eurostat prc\_hicp\_manr series.

Note: headline inflation: Harmonised Index at Consumer Prices - all items; core inflation: HICP - excluding energy and seasonal food.

### The perils of low inflation

The headline inflation in the EU and in the euro area again took negative values in early 2016, although they accelerated during the second semester of the year, as Figure 1.7 shows. Both the headline and the average core inflation rates – the overall price index excluding energy and unprocessed food, whose prices tend to be more volatile, and thus reflecting the underlying long-run inflation trend – remained firmly below 1% and therefore well below the 2% target of the European Central Bank and other central banks in the area (for example, the Bank of England). In only a handful of Member States was core inflation near the ECB target, namely Belgium and the Baltic states, while in Austria it edged just above 1%.

These developments suggest that the objective of stable price increases at around 2% per year is not being met for the biggest part of the EU and the euro area. This confirms a weakness in demand. Moreover, low inflation (close to or below zero) leads to a higher real (public and private) debt burden and makes relative price adjustments in the euro area more difficult. Negative inflation may require even more negative

nominal interest rates in order to achieve real interest rates that support growth, which may not be possible without leading to savers holding their savings in cash rather than in bank deposits. Given that high debt places constraints on economic recovery, as both governments and the private sector try to reduce it rather than undertaking expansionary action, low inflation is a problem of high urgency.

In March 2016, the ECB reduced the interest rate on its main refinancing operations to 0%, while it set the interest rate on its deposit facility (that is, the interest rate that banks in the euro area receive for depositing money with the ECB) at -0.4%. The latter meant in practice that banks would have to pay a penalty for keeping reserves with the central bank.

Turning to so-called ‘unconventional’ monetary policy tools, in December 2016 the ECB announced the extension of its quantitative easing programme (which began in March 2015 and was originally due to last until March 2017) to the end of 2017. The amount of bonds the ECB buys every month is due to fall as of March 2017 from €80bn to €60bn, following on from the bank’s predictions that the risk of deflation has been eliminated in the euro area.

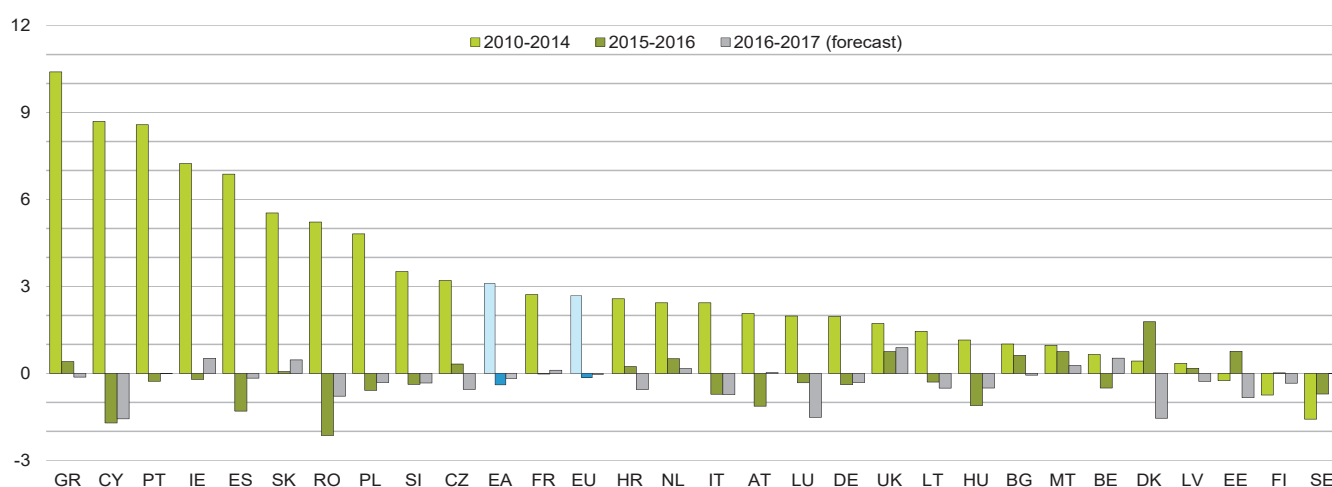
The debate over whether monetary policy in the euro area is on the right track has been a controversial one. One question is whether it works, as recovery

remains weak and investment below par, and another is whether it creates too high risks. According to a recent counterfactual analysis, the investment rate in the euro area in 2015 would have been 5.5 p.p. of GDP lower without the ECB interventions undertaken since 2008 (OFCE *et al.* 2016). The same report found that the risks of financial asset bubbles from the ECB’s quantitative easing programme have been overstated.

The main problem, however, is whether reliance on monetary policy alone is sufficient for relaunching growth in an environment where demand, especially for investment, remains very weak.

## Macroeconomic developments and policies: fiscal policy

Figure 1.8. Cumulative change in the primary structural fiscal government balance (p.p. of potential GDP) in the EU28



Source: AMECO UBLGPBPS, own calculations.

### A positive fiscal stance in the euro area?

Figure 1.8 shows the evolution of the aggregate (EU and euro area) fiscal policy stance as well as those of the Member States. This is calculated as the change in the government budget balance (in percentage points of potential GDP) once the effects of automatic stabilisers and interest payments are excluded. In simple words, it shows the balance between expenditure and revenues that are at the discretion of a government. A positive change is equivalent to contraction (that is, revenues exceeding expenditure) whereas a negative change signals an expansion (that is, expenditure being greater than revenues).

Following a period of fiscal austerity in 2010-2014, the fiscal stance turned more neutral in 2015-2016 in most Member States, with a few exceptions: notably Denmark, Estonia, the Netherlands, the UK, the Czech Republic and Greece. Expansionary stances were seen in Cyprus, Spain, Romania, Poland, Slovenia, Austria, Germany, Belgium, Italy, Hungary and Sweden.

In its latest economic policy recommendations for the euro area (European

Commission 2016h: 2), the European Commission proposed a 'positive' fiscal stance for the area as a whole; 'positive' referring both to the fact that is expansionary (to the tune of 0.5% of GDP, or a fiscal stimulus equivalent to around €50bn) and to the distribution of adjustment between different types of expenditures and taxes. According to the Commission, the motivation behind this long overdue recommendation has been the weakness of the recovery, the persistently high number of jobless people (for more on which see Chapter 2) and the continuously very low inflation; but it is also because the implementation of last year's country-specific recommendations would lead to a neutral fiscal stance in aggregate.

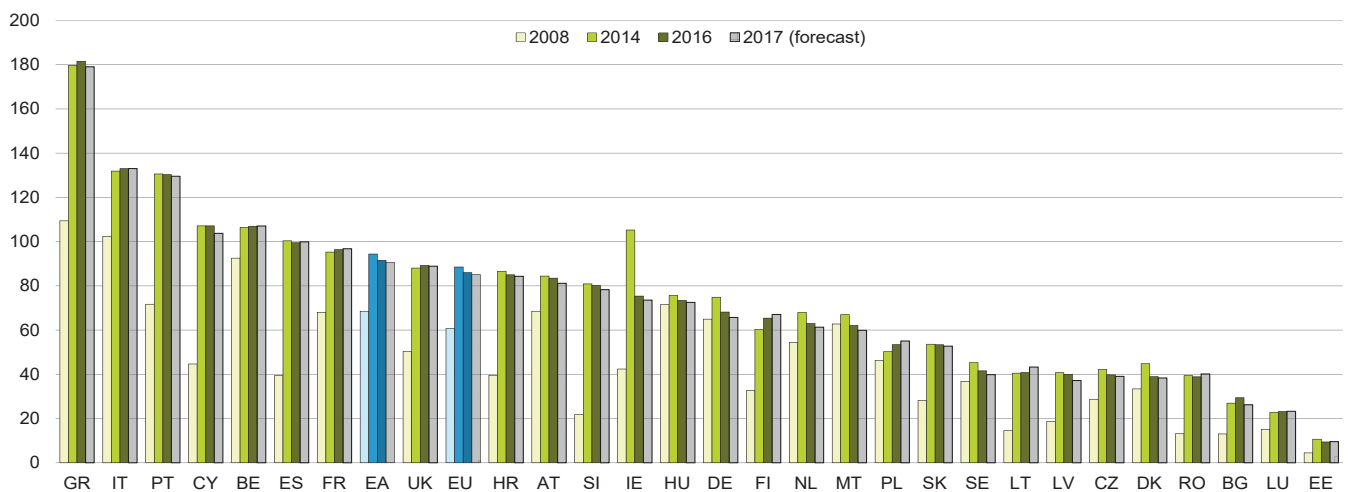
Whether this recommendation will influence the country-specific recommendations and the actual policy stance of the Member States, however, is rather doubtful. The Eurogroup of 5-6 December did not endorse it, stating that only Germany, the Netherlands and Luxembourg had the 'fiscal space' needed to increase expenditure while sticking to the Stability and Growth Pact rules. These rules cannot force Member States' governments to expand their fiscal policy stance.

It is of paramount importance, however, that fiscal policies in the euro area, and the EU more broadly, are expansionary (especially in those Member States hardest hit by the crisis) so

that together with the expansionary policies of central banks they create a policy mix that restarts growth.

## Macroeconomic developments and policies: public debt

Figure 1.9. General government consolidated gross debt (% of GDP) in the EU28



Source: AMECO UDGG series, own calculations.

### The public debt overhang

Figure 1.9 shows the evolution of the gross public debt/GDP ratio since 2008 when the economic crisis began. No Member State escaped an increase in their public debt/GDP ratio. In 2016 the EU average stood at 85%, whereas in the euro area it was 95%; both well above the 60% of GDP stipulated by the EU's fiscal rules. The graph also shows that the reversal of increases in the public debt-to-GDP ratio has been in most cases very slow, especially in those countries (with the exception of Ireland) that saw the most dramatic increases. The fact that recovery has been weak in most Member States explains to a significant extent this sluggish reversal.

High public debt/GDP ratios may reduce the space for governments to deal with future crises by borrowing money (for example, should a bank need to be recapitalised, a pension fund supported to continue paying benefits to recipients, or the victims of a national disaster compensated) (cf. Obstfeld 2013). The environment of economic stagnation (with its effects on the balance sheets of banks) and historically low interest rates, together with an ageing population,

suggest that there is a real risk of such crises occurring in the not so distant future. Also, insofar as high public debt/GDP ratios imply a relatively greater need to 'roll over' debt (that is, borrow to replace government bonds that expire), any sudden increase in interest rates in the financial markets may increase the interest payment burden of a highly indebted government or even result in a liquidity crisis. Still, and unlike what is often considered as popular wisdom (cf. Reinhart and Rogoff 2010), there is no robust evidence of any negative effect of a specific public debt/GDP ratio on output growth (see Panizza and Presbitero 2013 for a review). Instead there seems to be quite a lot of evidence on the adverse effects that pursuing fiscal austerity has on growth, especially when an economy is already weak.

Recent research on the ways in which public debt/GDP ratios were reversed over the period from 1800 to 2014 suggests that economic growth is the most benign way of doing so and was used in just over half of the episodes they studied (Reinhart *et al.* 2015). Therefore, under the current circumstances of prolonged stagnation in many parts of Europe and weak recovery of a by now chronically deficient public investment rate, a route of promoting debt consolidation by fiscal expansion rather than austerity is likely to be more effective. Moreover, global interest rates have been

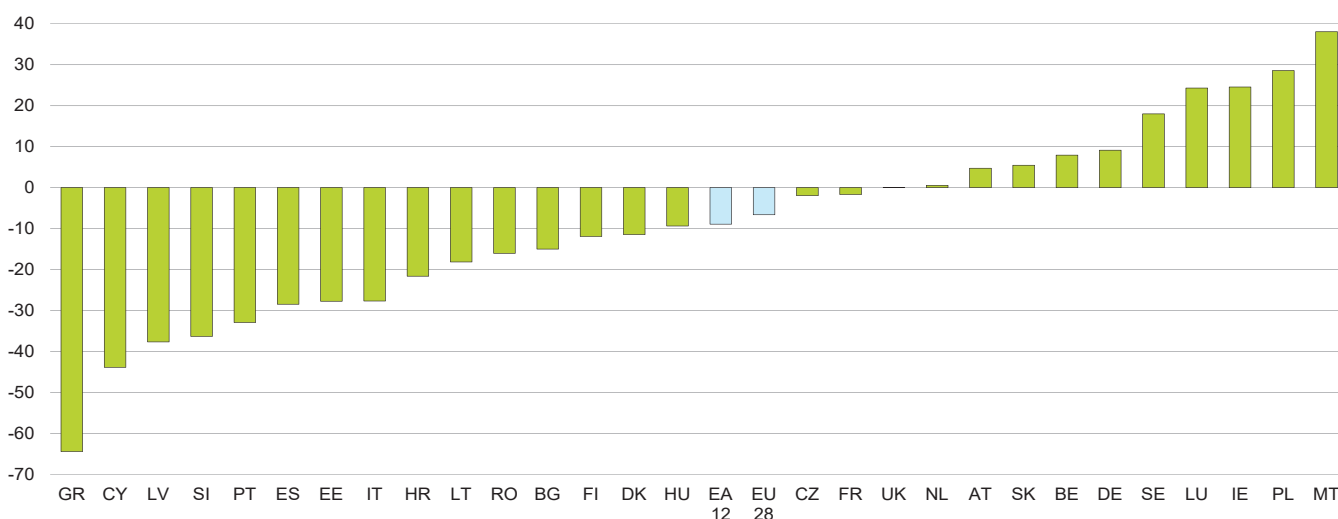
falling for a long time and this trend is likely to prevail, thus reducing the risk of sudden increases in the interest payment burden.

The same research suggested that in 21% of the episodes of debt reversal studied since 1800, debt restructuring was used during peacetime, highlighting the fact that debt forgiveness has not historically been as extraordinary an option as is often presented nowadays in Europe. Of course, such a restructuring measure in the case of the euro area would require careful reforms in economic governance to ensure that the management of public finances could benefit and support growth in the future.



## Reducing cleavages through investment?

Figure 1.10. Gross fixed capital formation (2007-2016) (percentage change, 2010 prices)



Source: calculated from AMECO database.

### An investment plan that does not increase investment

Figure 1.10 shows the dramatic fall in investment in the aftermath of the crisis. Using the broad measure of gross capital formation, its 2016 level was 6.6% below the peak of 2007, in 2010 prices. This included a decline of 8.9% in the twelve pre-2007 euro area countries and no net change in the remainder of the EU. Nine countries experienced falls of over 20%, including a fall of over 60% in Greece. All of these countries had in 2016 per capita GDP levels below the EU average. Only a few countries experienced significant growth in investment, including Malta, Poland and Ireland.

A revival of investment, targeting the continuing and growing divergences across the EU, would seem essential to economic revival. All countries have demonstrable needs for investment in order to cope with the challenges of the future in transport and communications, education and research, climate change, energy, environment, and the ageing of populations.

In 2013 the ETUC presented a proposal for an investment plan (ETUC 2013) that would increase investment by the equivalent of 2% of GDP every year over a ten-year period. A more modest plan from European Commission President Jean-Claude Juncker proposed an investment of 2.4% of EU GDP over three years, now likely to be extended for a further three years. The crucial element in the investment plan was a commitment to contribute to a guarantee of €21bn through the so-called European Fund for Strategic Investment (EFSI), billed as enabling the EIB to raise finance on commercial markets and increase lending to support a total investment of €315bn.

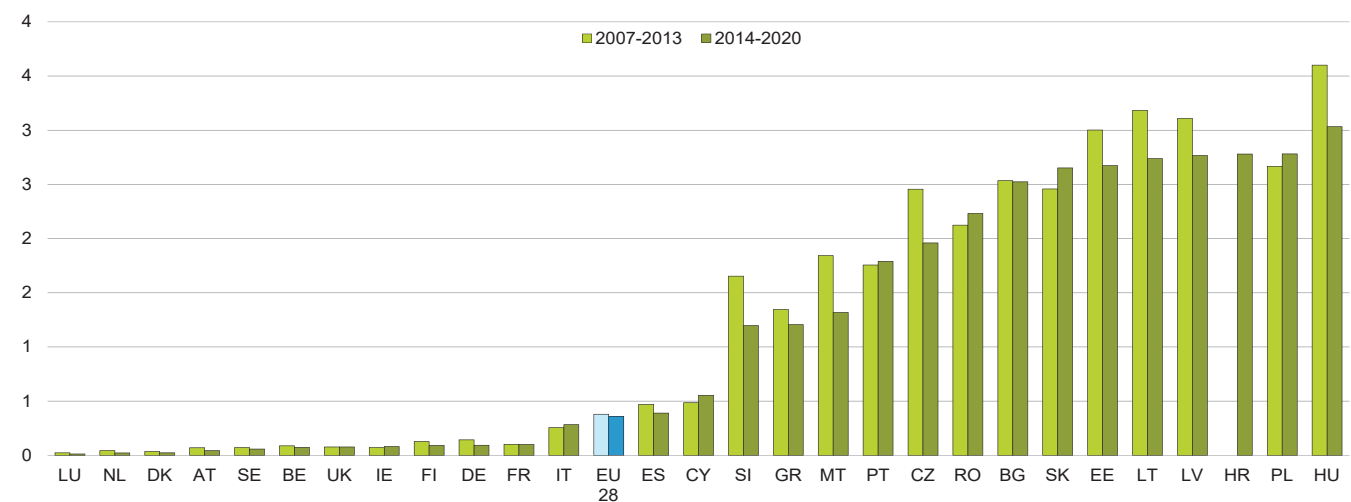
The new investment was intended to be targeted towards riskier projects but, due to the governance structures in place, there is limited transparency regarding the rationale behind decisions. In fact, guarantees have been given to projects that had previously been approved without one, to projects that would have taken place anyway, although maybe on a smaller scale, and to projects previously backed by a Member State government (EIB 2016a; Rubio *et al.* 2016). There is also a bias towards higher income countries. The UK, with 12.8% of the EU population, accounted for 17.3% of EFSI funding in projects signed by the end of 2016. Romania accounted for 0.2% of funding, despite representing 3.9% of the EU population (calculated from data

taken from <http://www.eib.org/efsi/>). Reasons for this bias include the accumulated experience in higher income countries and their greater familiarity with EIB practices, plus the likely perceived risk in lower income countries.

It is quite possible that the investment plan will reach its target in terms of support for investment. However, the EIB has made clear in its Corporate Operational Plan (EIB 2016b: 8) that this will enable it only to maintain the granting of credits at €71bn per annum, slightly below its 2014 and 2015 levels. There will be no increase, but almost 30% of new credits will be classified as risky. The plan will therefore enable the European Commission to claim, with substantial publicity, to be promoting investment while actually only supporting a continuation of existing levels.

## Reducing cleavages through investment?

Figure 1.11. ESIF spending as % of GDP



Source: calculated from AMECO database and [http://ec.europa.eu/regional\\_policy/en/funding/available-budget/](http://ec.europa.eu/regional_policy/en/funding/available-budget/).

### Financial transfers to support public investment

The European Structural and Investment Funds (ESIF) are the main EU instrument for reducing regional disparities and promoting economic, social and territorial cohesion. The spending planned for 2014-2020 will account for about one third of the EU budget, or almost 0.36% of likely total GDP over that period, compared to 0.38% in the 2007-13 period. Co-financing from domestic, mostly public sources, will on average be equivalent to almost 30% of total expenditure. The most important parts, constituting 62% of the total, are the European Regional Development Fund (ERDF) and the European Social Fund (ESF), with the best terms for regions with per capita GDP below 75% of the EU27 average. This applies to the Baltic states and southern Italy, most of Portugal and of the new CEE Member States, much of Greece, and some peripheral parts of Spain and the UK. Less advantageous terms are offered to regions with per capita GDP below 90% of the EU average. Only Sweden, Finland, Ireland and the Netherlands have no region that qualifies.

A recent ex-post evaluation of the ERDF and the related Cohesion Funds (European Commission 2016e) concluded that they had brought benefits to all countries, either through higher investment or through higher demand for exports to support that investment, equivalent in some countries to up to 5% of GDP. This may be optimistic, but the ESIF clearly led to a transfer of funds, as indicated in Figure 1.11, which shows the planned spending relative to GDP for the periods of 2007-2013 and 2014-2020. These show some reduction for most countries, making way for new member Croatia. Declines were most significant in the higher income countries. Unlike the EU's investment plan, the bias towards lower income countries is clear and deliberate, with the largest stimulus likely in Croatia, Hungary and Poland. Romania and Bulgaria, the two lowest income countries, continue to receive slightly less (relative to GDP) than the above-mentioned countries.

The European Commission's evaluation concluded that national and regional divergences decreased up to 2009, but there has been little change since then (European Commission 2016e: 19). Nevertheless, the ESIF presumably countered tendencies, generated by austerity policies, towards widening divergences in the post-crisis period. They have been crucial for supporting continued investment in transport (covering

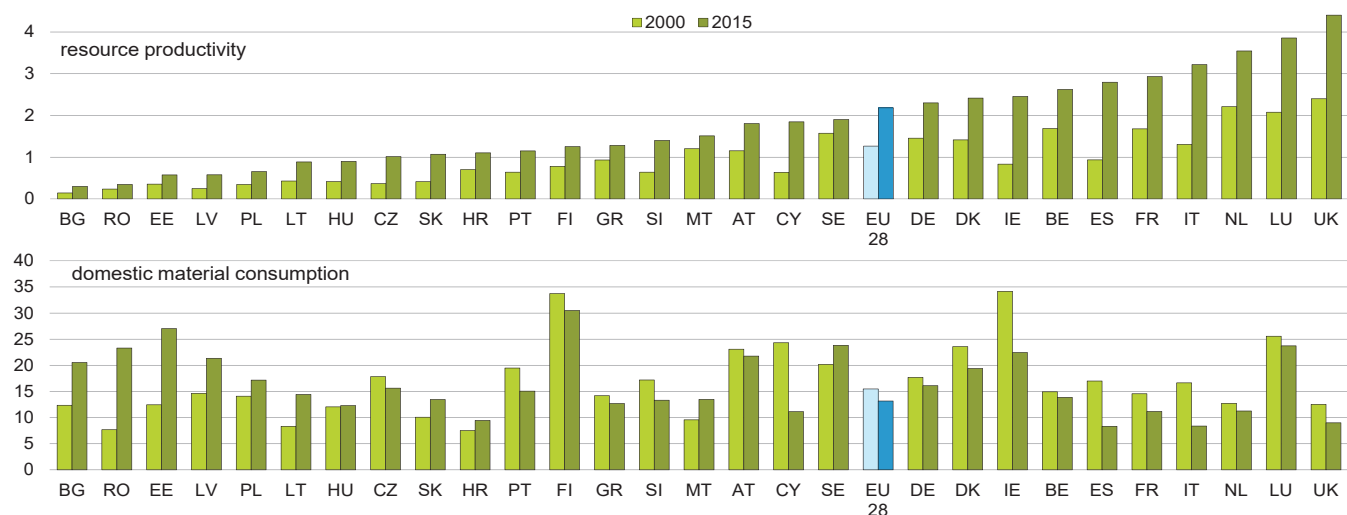
40% of public capital expenditure in the twelve new Member States) and supporting more than half of total government capital investment in Hungary, Lithuania, Slovakia and Latvia (European Commission 2016e: 18).

Evaluations have pointed to weaknesses in lower income countries in terms of proposing good projects or bringing together diverse actors, ensuring implementation and in the poor utilisation of available financial resources. Italy and Romania had still been able to use only 80% of their allocations from the 2007-2013 period by March 2016. As a result, projects tend to be directed from above and justified by spending money rather than achieving changes in business behaviour. Research spending has meant constructing research facilities rather than undertaking research or disseminating innovations.

For the 2014-2020 period, new rules will require a greater emphasis on research and innovation, access to ICT, competitiveness of SMEs, and the low carbon economy. It remains to be seen whether countries will be able to make better use of the resources made available and help to re-establish the tendency towards economic convergence.

## Greening the economy: progress in diversity

Figure 1.12. Resource productivity (EUR/kg) and domestic material consumption per person (tons per capita) in the EU



Source: Eurostat.

### The different shades of green across Member States

By the usual measures the EU appears to have achieved an absolute decoupling of economic growth from resource use and greenhouse gas (GHG) emissions. At the same time, there are marked differences between the experiences of different Member States.

Figure 1.12 illustrates this diversity with data on domestic material consumption (DMC) and resource productivity. The latter, defined as DMC per unit of GDP, is a lead EU indicator for greening, although without a specific EU target. According to the European Energy Agency (EEA 2016), between 2000 and 2014 resource productivity in the EU28 increased by 34% as GDP grew by 18%, while DMC fell by 12%. Figure 1.12 shows resource productivity and its change between 2000 and 2015 in Member States, highlighting the huge differences. Two main trends can be identified: new Member States (NMS) have significantly lower resource productivity than the EU15 (by achieving €4.4 GDP with 1kg material input in 2015, the

UK had 15 times higher resource productivity than Romania). At the same time, resource-intensive NMS economies were achieving significant improvements in resource productivity between 2000 and 2015 that can be seen as a sign of some convergence. For resource productivity gains there is another factor that also played an important role: the highest increases were recorded in the countries where the crisis had a huge negative impact on the material-intensive construction sector, as in Spain and Ireland, where resource productivity increased threefold between 2000 and 2015.

Domestic material consumption per capita and its change between 2000 and 2015 tells a different but related story. Richer countries consume more, and even with their higher resource productivity, their per capita material use is generally higher than that of their poorer counterparts. With improving resource productivity, EU28 per capita material use between 2000 and 2015 shrank from 15.4 tonnes to 13.1 tonnes. Richer countries saw their per capita material use shrinking (for the UK from 12.5 to 8.9 tonnes), even if their GDP grew. For poorer NMSs, resource productivity gains could not compensate for their growing consumption levels, and their per capita material use grew significantly (for Romania from 7.6 to 23.3 tonnes).

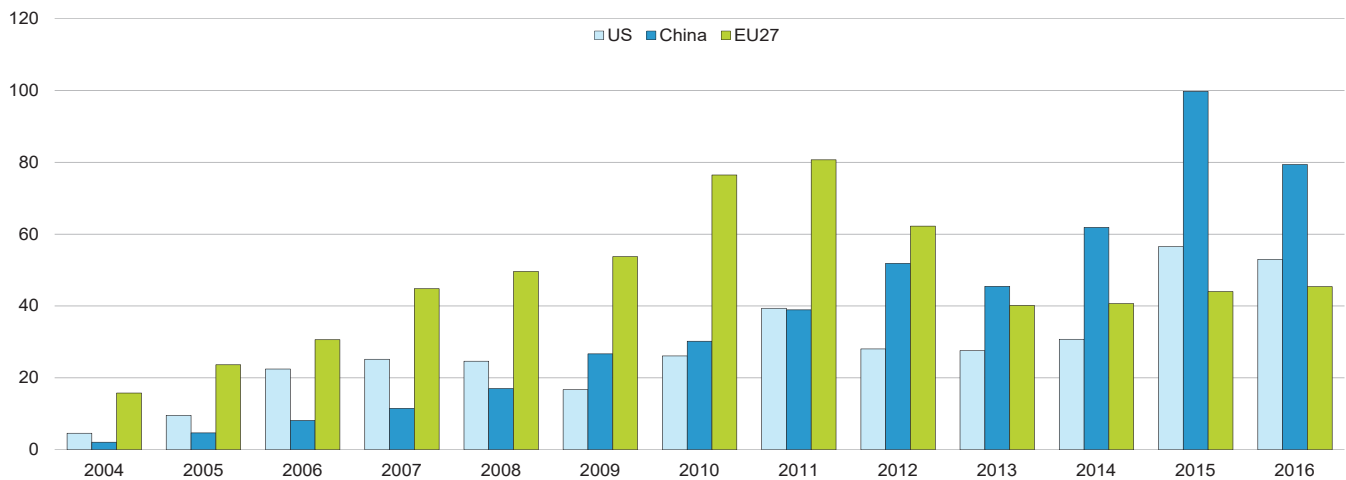
Improved resource productivity has been accompanied by reduced GHG

emissions which declined in the EU28 by 22.9% between 1990 and 2015, surpassing the EU 2020 target of a 20% reduction and making the 40% reduction target by 2030 a realistic prospect (Eurostat 2016). This overall success again masks huge differences between Member States. Lithuania cut its GHG emissions by 59.3%, while in Malta GHG emissions increased by 48.7% (Carbon Brief 2016).

The high diversity in the degrees of greening between Member States was driven mostly by factors other than green policies, notably changes in the economic structures of these countries (the reduced weight for material-intensive activities) and the effects of the crisis. Material use was still growing until 2007 and only in the wake of the crisis did it fall by 20%, leading to a 12% reduction for the period 2000-2014. It is clear that green policies need to be strengthened if 2050 targets are to be achieved.

## Clean energy investment in Europe

Figure 1.13. New investments in renewable energy in the US, China and the EU (2004-2016) (EUR bn)



Source: BNEF (2017).

Note: USD figures were converted at ECB yearly reference rates.

### The EU, the global laggard in renewables investment

2015 was a record year in global investments into renewable energy generation, reaching €315bn (BNEF 2016). In 2016 the world reached a turning point and is now creating more capacity for clean energy than for coal and natural gas combined (Bloomberg 2016).

For Europe, however, 2015 was just another year of falling investment, with its €44bn investment value making up just over half of what the continent had in its own record year in 2011. Figure 1.13 shows investments in renewables made by the US, China and the EU27 between 2004 and 2016. China has been taking the lead since 2013 and with its €99.7bn in 2015 it invested as much into clean energy as Europe and the US put together.

It is even more disturbing for the EU that almost half of its poor investment activity in 2015 came from (its still yet member) the UK, which invested €20bn in clean energy that year (UNEP 2016). In Germany (€7.7bn, its lowest

level in twelve years) and France (€1.8bn, 52% less than in 2014) low levels of clean energy investment in 2015 were mostly related to the uncertainty brought about by the overhaul of the incentive system. In Italy and Spain collapsing investments into renewable energy were the consequence of austerity policies, as in Italy such investments in 2015 (€840mn) were just 4% of its peak in 2011, while in Spain the €520mn investment in 2015 was in sharp contrast to its €16bn record in 2008.

Preliminary data for 2016 (BNEF 2017) show no significant change in this European trend. As Figure 1.13 also shows, clean energy investments in Europe have increased slightly to €45.3bn, still behind the US and miles behind China.

It is no exaggeration to talk about a paralysed clean energy investment landscape in Europe, with investment frozen at around €45bn for the fourth consecutive year. This performance is even more disappointing than the sluggish recovery of total investments that we saw in the last couple of years (see Figure 1.11 and the corresponding section).

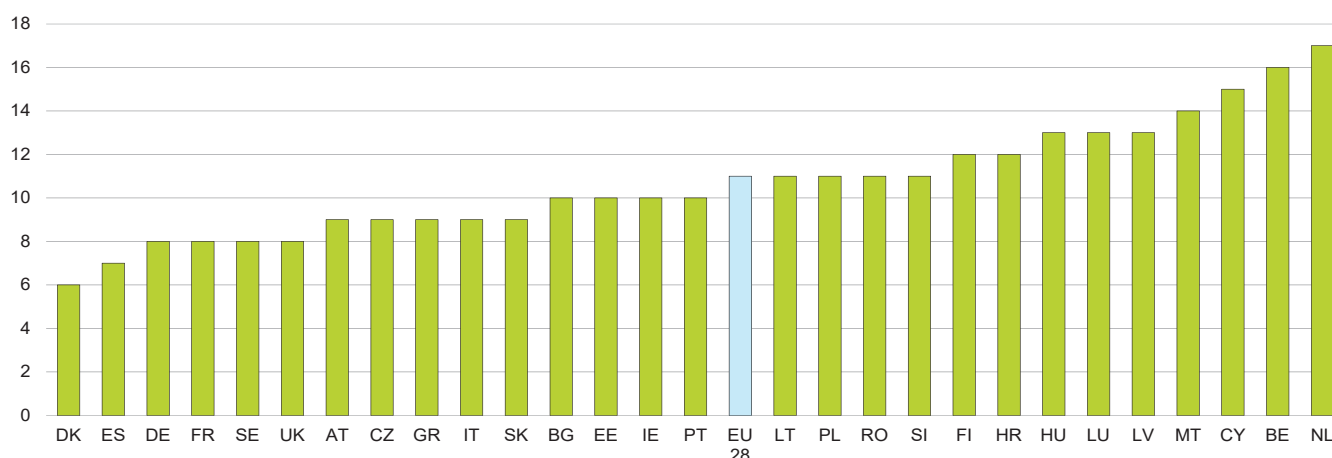
The Investment Plan for Europe currently promises very little (see page 16). According to a factsheet by the European Commission (2016b), 5% of EFSI transactions approved by the EIB by mid-2016 had an environment and resource efficiency objective and 23%

were dedicated to the energy sector. However, a coalition of NGOs claims that 15% of the projects approved by the EFSI for the energy sector support fossil fuel investments (CAN 2016). According to their statement, all energy efficiency investments will be concentrated in three countries only (the UK, France and Finland) and more than half of clean energy investments take place in two sole countries (the UK and Belgium).

The ETUC action programme 2015-2019 (ETUC 2015) stresses the key role of EU-led public investment for developing a green and decarbonised European economy by putting resources into renewable energy and energy efficiency. Strengthening the investment plan and its green priorities is a necessary step towards achieving these ambitions.

## Evading corporation tax

Figure 1.14. Number of aggressive tax planning structures



Source: Ramboll Management Consulting and Corit Advisory (2016).

## Can the EU deliver good structural reform?

The ability to raise taxes is key to sustaining public services and the systems of social protection. Yet EU countries have long faced constraints in collecting taxes from corporations. Taxes on corporate income account for a small share of tax revenue in the EU, averaging 6.3% of all receipts in the EU28 in 2015 (2.5% of GDP) (Eurostat gov\_10a\_taxag). The (implicit) tax rates on corporation profits fell, on average, by 6.3 percentage points in the EU28 between 2000 and 2015 (European Commission 2016g; ETUC and ETUI 2015).

The limited ability to collect revenue through company tax has been highlighted by a number of scandals revealing deals that allowed multinational corporations to pay little tax on profits by declaring the latter in tax havens. Figure 1.14 identifies the EU countries with the largest number of aggressive tax planning structures (meaning legal provisions that can be used by corporations to avoid paying taxes in other EU Member States). The so-called 'LuxLeaks scandal' has exposed how advance pricing

agreements (APAs) relating to the treatment of transfer pricing were used in Luxembourg to give multinationals deals that in some cases involved paying tax rates well below 1%.

The use of APAs has been growing rapidly. The total number in the EU28 grew from 547 in 2013 to 1,444 in 2015, an increase of 78%. In 2015, the highest number of APAs was in Luxembourg (519), Belgium (411) and the Netherlands (236) (European Commission 2014; 2015c; 2016f). In 2016, the European Commission challenged some of these deals as illegal state aid (most notably Apple in Ireland, Starbucks in the Netherlands, Fiat in Luxembourg, and a number of companies in Belgium).

Moreover, as capital enjoys considerable mobility in the EU, states find themselves competing to keep, or attract, investment, and have therefore reduced headline tax rates and introduced various exemptions. There are so-called 'patent boxes' in twelve EU countries. These do not represent an effective way of stimulating research or innovation (European Commission 2015d), but they do give companies generous tax exemptions (amounting to 7.6% of total corporate income receipts in the Netherlands in 2016).

Efforts to combat tax evasion had been blocked by those EU Member States which enable such practices and benefit from them. In 2015, the highest corporate

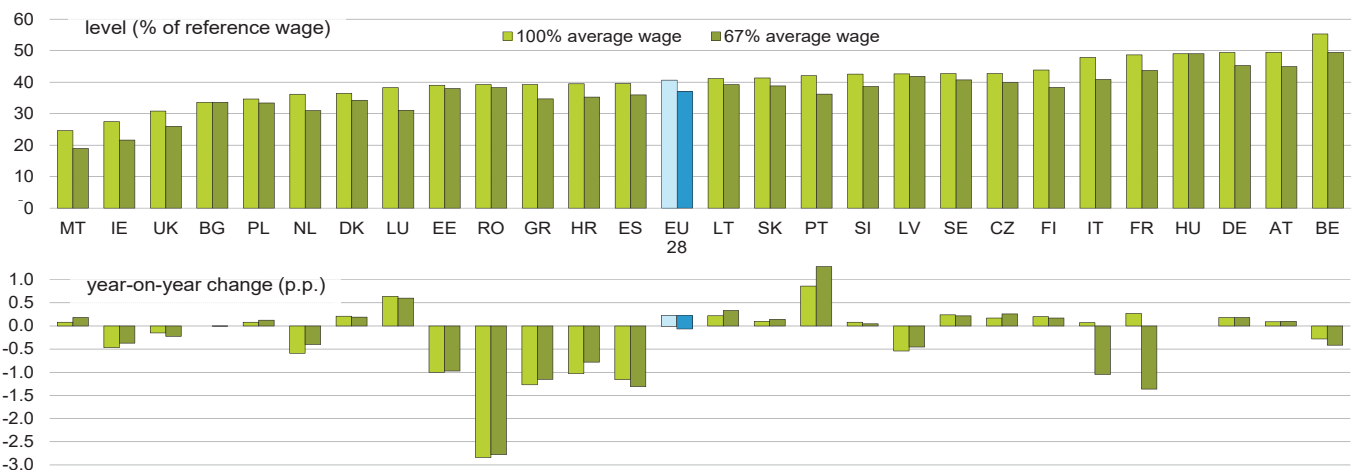
income tax receipts were recorded in Malta (6.7% of GDP), Cyprus (5.9%), and Luxembourg (4.5%), notorious tax-evasion enablers. Another cleavage that characterises the EU is thus that between the countries that engage in tax competition in various ways and countries, such as Denmark, France and Italy, that have to face its negative consequences.

Following a number of high-profile scandals, the European Commission put forward a new proposal for a Common Consolidate Corporate Tax Base (CCCTB) in October 2016. This would prevent the arbitrary declaration of profits made in other countries to favourable jurisdictions by allocating the taxable value based on three equally weighted factors: assets, labour and sales. However, a complete solution to restoring the ability to tax corporations would require a common EU tax rate. Unfortunately, the resistance of countries that benefit from tax competition makes this unlikely.



## The tax shift

Figure 1.15. Tax wedge on labour (level in 2015 and change over 2014/2015)



Source: Tax and benefits database, OECD and European Commission.

Note: data are for single earner households (no children). Tax wedge is defined as the ratio between the amount of taxes paid by an average single worker (a single person at 67% or 100% of average earnings) without children and the corresponding total labour cost for the employer.

## Are 'structural reforms' just a distraction?

In the absence of a stronger fiscal stimulus, 'structural reforms' remain the main instrument through which Member States are expected to pursue economic growth. The European Commission includes 'structural reforms' among the drivers of future growth and actively promotes them through the European Semester. The shift of taxes away from labour represents a major measure that is recommended by the European Commission to boost growth and increase employment. The tax wedge on labour varies significantly across the EU (see Figure 1.15).

Lowering labour costs through lower taxes can increase the demand for workers. Moreover, high labour taxation makes any additional income from employment too low to be an incentive for the unemployed and inactive to take up work. Referring to these two reasons, the European Commission has long advocated a shift in taxation away from labour and towards the 'least distortionary taxes', including taxes on consumption, housing and other property, as well

as environmental taxes (European Commission 2015d: 24).

Such thinking relies on empirical modelling by the OECD, which, however, failed to find any strong evidence of the benefits of labour tax wedge cuts (Bouis *et al.* 2012: 29). The original model (OECD 2010) even cast doubt over the rationale for the tax shift, as it showed that consumption taxes affect employment and hours of work in the same way as income taxation. Recently, the IMF also called for a tax shift, but its model found strong evidence of positive effects of expansionary labour tax cuts, with smaller impact when tax wedge cuts were budget neutral (IMF 2016: 118).

It is difficult to empirically separate the effect of taxes from that of other elements of the policy mix in individual countries. A comparison of employment and tax levels in the EU shows no relationship between the two, as many countries with very high employment levels impose steep labour taxes (ETUC and ETUI 2016).

In any case, the European Commission's recommendations for 2017 start from the assumption that the tax burden on labour in the euro area is 'very high' and represents a 'particular concern' (European Commission 2016d: 11). The Eurogroup has also committed to reducing the tax burden on labour. It adopted the EC's methodology that finds there is a need for countries to reduce taxation

on labour if the levels are above the EU average (European Commission 2015d). The arbitrariness of such a benchmark is striking and it would imply the need for change in many countries. In fact, the EC calls rather for a 'country-specific approach' (European Commission 2016c), which in practice means seeing a high labour tax as a problem only in countries with high unemployment and not in those where good employment outcomes seem perfectly compatible with a high tax burden.

To add insult to injury, the documents supporting the 2017 recommendations include neither reference to studies about the impact of labour taxation, nor information on how their positive examples of reforms impact on employment. In the absence of any evidence, the EC's 2017 recommendations claim that the euro area countries that have shifted taxation away from labour 'are more resilient and demonstrate better employment and social performance' (European Commission 2016c: 5). In particular, the Commission refers to tax shifts in France and Italy (see Figure 1.15); but as discussed in Chapter 2, these countries reported only average employment performance and even below-average youth employment performance.

## Conclusions

### A desperate need for new policies

The European economy has been slowly and hesitantly pulling out of recession. The peak pre-crisis GDP level that the EU as a whole reached in 2008 was surpassed by 4.8% in 2016. This has largely been a result of export growth, meaning a reorientation of the EU economy towards external demand. Private consumption remains barely above its pre-crisis level while the investment level is significantly lower. This leaves the EU more vulnerable to political and economic developments in an increasingly unpredictable world, particularly in the aftermath of the UK's decision to leave the EU and in the face of the USA's possible turn towards protectionism.

Prior to 2008 there had been a prominent trend towards reduced divergences in per capita GDP between Member States, which had incidentally been a major factor ensuring political support for the EU. There has, however, been no restoration of this trend, despite the modest recovery in economic growth. Measures to reduce cleavages, notably the European Structural and Investment Funds, are still given significant funding but are inadequate to counter the negative effects of austerity and other policies. Nor, as will be argued below, do new initiatives promise a return of the trend towards convergence.

The European Commission's rhetoric and accompanying policy measures reflect neither the depth of the problems nor the extent of policy change required to tackle them. There has been a verbal recognition that past policies have failed and that a big change is needed if GDP and employment growth are to be restored and maintained, but this has led only to half-hearted and uncoordinated responses. The key to supporting sustained growth is a switch to expansionary policies, raising demand through higher public spending and higher pay levels. The key obstacles remain continued adherence to the EU's fiscal rules and

mistaken views on the direction that the 'structural reforms' should be taking.

There has, however, been a little movement in the right direction. Somewhat more flexibility has been allowed in the Growth and Stability Pact. Moreover, the European Commission, worried by the failure of past policies to bring about adequate recovery, has cautiously argued for a mildly positive fiscal stance across the euro area. However, it faces strong opposition from powerful Member States still wedded to the belief that budget surpluses will lead to lower public debt and subsequently to recovery. In fact, existing policies are doing little to prevent continually increasing public debt levels relative to GDP. Gross debt as a proportion of GDP increased across the EU and, with few exceptions, in every country and every year from 2008 to 2014, after which time it fell from 88.5% of GDP to 86.0% in 2016. That is less than the growth in GDP and would suggest the need for another ten uncertain and painful years to reach the 60% level required by euro area rules. Past experience around the world suggests that reducing debt levels is usually the result of renewed growth which provides higher tax revenues.

Against this background, new elements in EU economic policy came from two directions. The first is the investment plan proposed by European Commission President Jean-Claude Juncker. Set to run for three years from 2015, it was slow in starting and has so far had no visible economic impact. The second new element is the European Central Bank's policy of quantitative easing which injected into the euro area economy the equivalent of 9% of GDP during 2016. Evidence of any impact is sparse.

Quantitative easing has not reversed the trend towards deflation which threatens to become another factor hampering economic recovery. Deflation (meaning a falling price level such as has already occurred in several Member States) would make it more difficult to reduce both public and private debt levels, thus adding to banks' difficulties in lending. Indeed, evidence on private debt levels points to continuing disincentives both for consumers to borrow and for banks to lend, contributing to, and

in a number of countries exacerbated by, increasing proportions of debt that are not being repaid.

These two areas of cautious policy change can make little difference when the key issue, namely fiscal policy and the constraints imposed by euro area rules, has not been addressed. Ongoing tight fiscal policies greatly reduce the already limited effectiveness of Juncker's investment plan. This is under-financed because no new public resources can be made available within existing rules. Member States also have limited means for the necessary co-financing of projects, for current spending to make use of the results of investment, and for repaying credits. This has resulted in a strong bias in the accepted projects towards higher income and safer countries, pointing to a future widening of divergences across the EU. Even more seriously, the investment plan offers only a continuation of past EIBa credit levels and not their expansion. Thus, rather than a means to restore growth across the EU, it has become a vehicle for the European Commission to claim to be taking action, while actually changing nothing.

Other policy areas essential for long-term growth are also hit by fiscal rules. Targets for reducing carbon emissions should be tougher if the aims of the Paris climate change conference of 2015 are to be met. However, recent figures on investment in renewable energy suggest that the EU is becoming a global laggard rather than a leader.

There is a clear need for a shift towards expansion and investment. Resources are available and even more could be found with a more vigorous approach to combating the destructive competition between Member States to minimise company tax rates. Unfortunately, the modest ideas currently being proposed by the European Commission are inadequate to counter the effects of continued cautious fiscal policies and the threatened fall in demand in external markets.

# Labour market and social developments

## Introduction

After several years of recession, which led to rising social and labour market inequality and an unemployment crisis that particularly affected Europe's youth population, there are currently some signs of recovery. Some labour market indicators are showing improvement and resumed job creation. However, this recovery is arguably still too fragile to allow for a quick reversal of the damage inflicted both socially and on the labour market in previous years, and Europe still has some challenges ahead before its scars can properly begin to heal. Some of these challenges are directly related to this 'collateral damage' caused by crisis management policies, but some are also a result of political and geopolitical developments.

This chapter takes a closer look at recent developments in order to shed some light on the variety of experiences among workers and across countries and socio-economic groups. We examine the evolution of public spending in labour market and social protection policies as well as that of various indicators of inequality before and after social transfers. The latest developments in intra-EU labour mobility are also analysed, particularly regarding their concentration in a small number of countries.

We observe many of the old divides reasserting themselves, both among workers and between countries. At the same time, there are clearly new and growing divides related to atypical forms of work and the policy responses to the historical wave of asylum seekers and refugees.

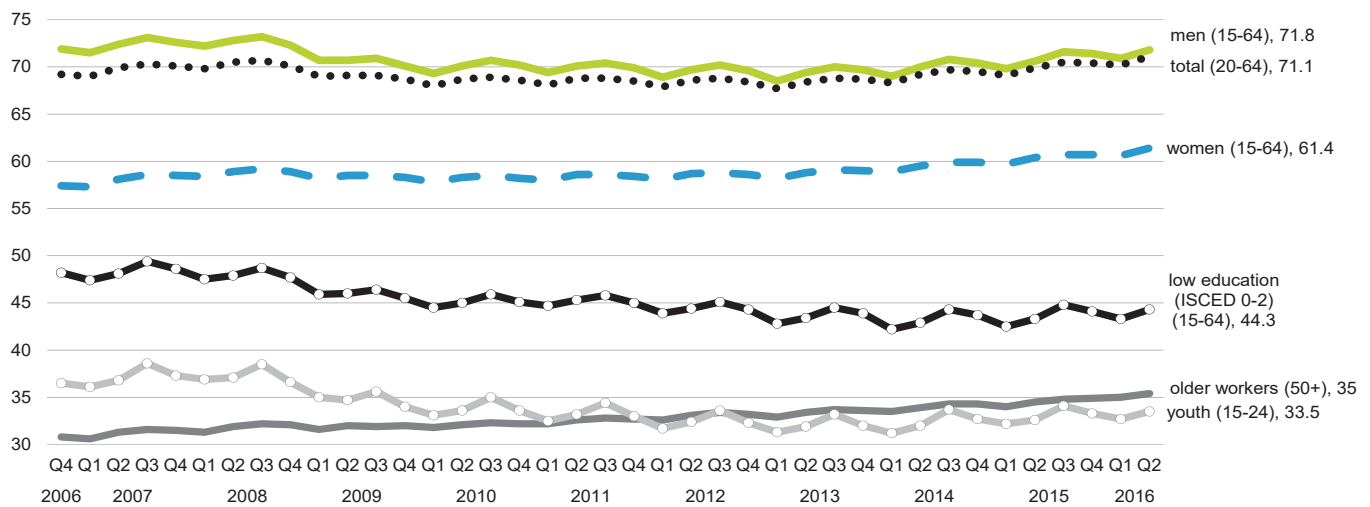
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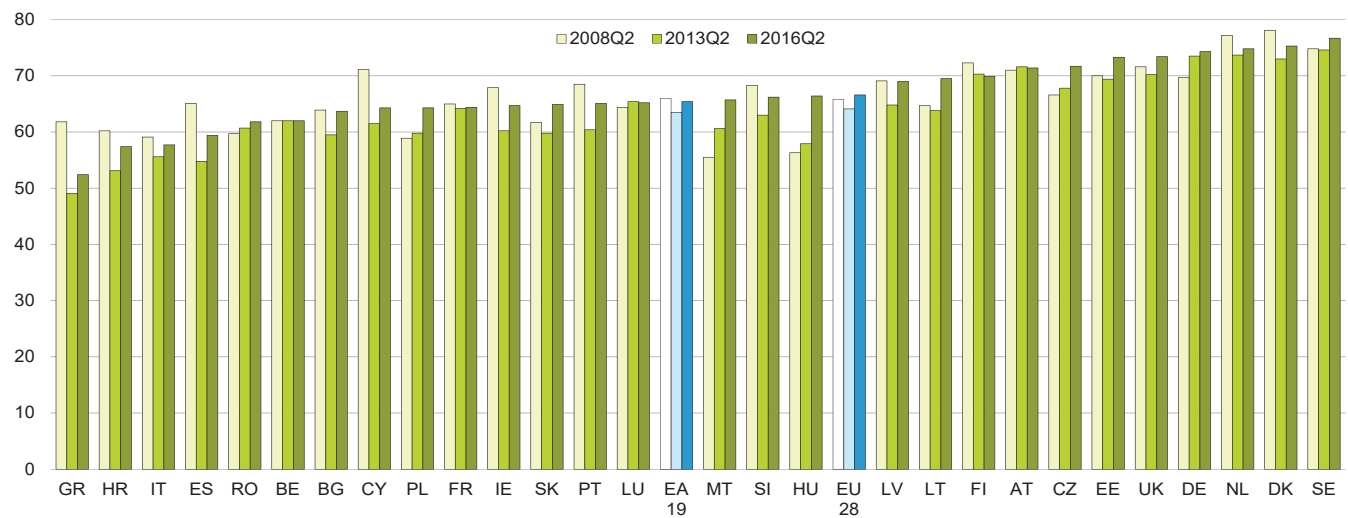
# Overview of labour market developments

Figure 2.1. Employment rates by age, education and gender (EU28)



Source: Eurostat (ELFS), lfsq\_ergaed.

Figure 2.2. Employment rates by country (ages 15-64)



Source: Eurostat (ELFS), lfsq\_ergaed.

## Gains in employment not for all

The proportion of the EU28 population in employment continued to increase and by 2016 (66.6% in q2) had surpassed pre-crisis levels (65.8% in 2008q2) (Figure 2.1), yet the actual number of jobs was

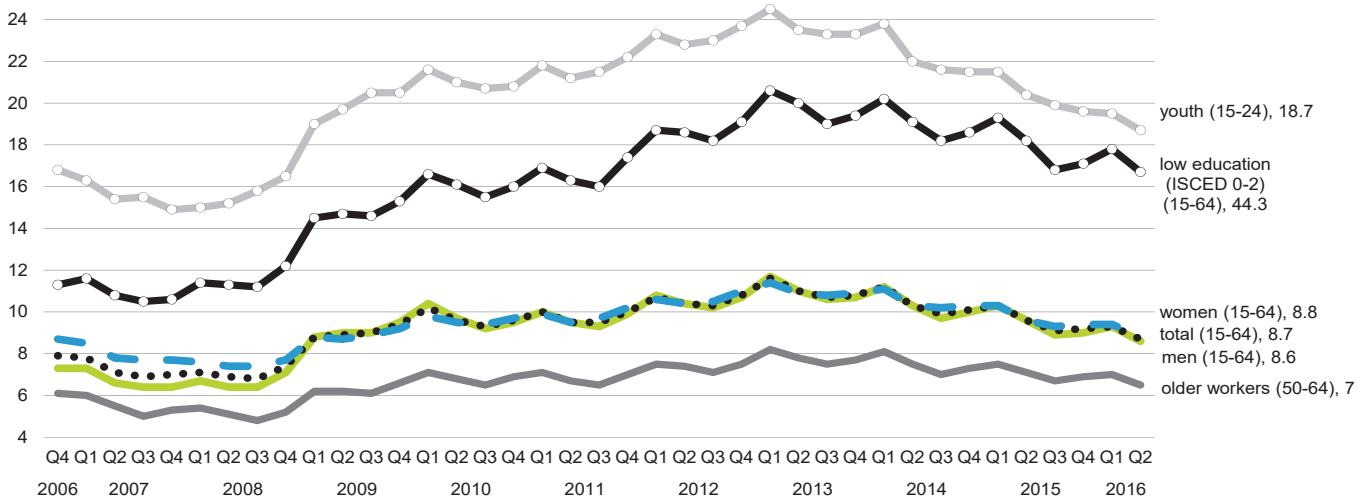
still lower in 2016 (218.9 million in q2) than in 2008 (219.1 million in q2). The employment rate for the age group 20-64 increased from 68.7% in 2010q2 to 71.1% in 2016q2, yet the slow pace of recovery leaves the Europe 2020 target of 75% still beyond reach. The improvement has been weaker for men compared to women, while the employment rates of young people and those with low levels of educational attainment remain very low and show little signs of improvement.

Employment trends reveal a considerable divergence across countries

(Figure 2.2), from a low rate of 52.4% in Greece in 2016 all the way up to 74.3% in Germany and 76.7% in Sweden. Between 2013 and 2016 all EU countries except Austria, Finland, Luxembourg and Belgium noted improvements in their overall employment rates. However, in 14 out of 28 countries the situation in 2016 was still worse than before the crisis. In Greece, Cyprus and Spain not only were the employment rates among the lowest in the EU, but the proportional loss of employment between 2008 and 2016 has also been the greatest.

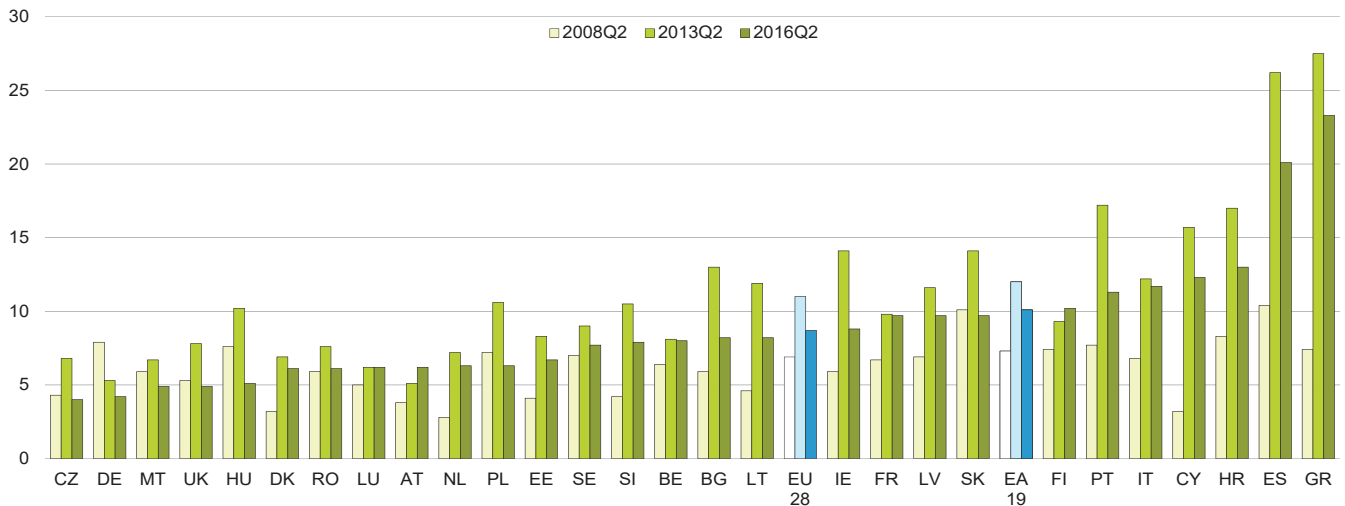
# Overview of labour market developments

Figure 2.3. Unemployment rates by age, education and gender (EU28)



Source: Eurostat (ELFS), lfsq\_urgaed.

Figure 2.4. Unemployment rates by country (ages 15-64)



Source: Eurostat (ELFS), lfsq\_urgaed.

## Joblessness remains high

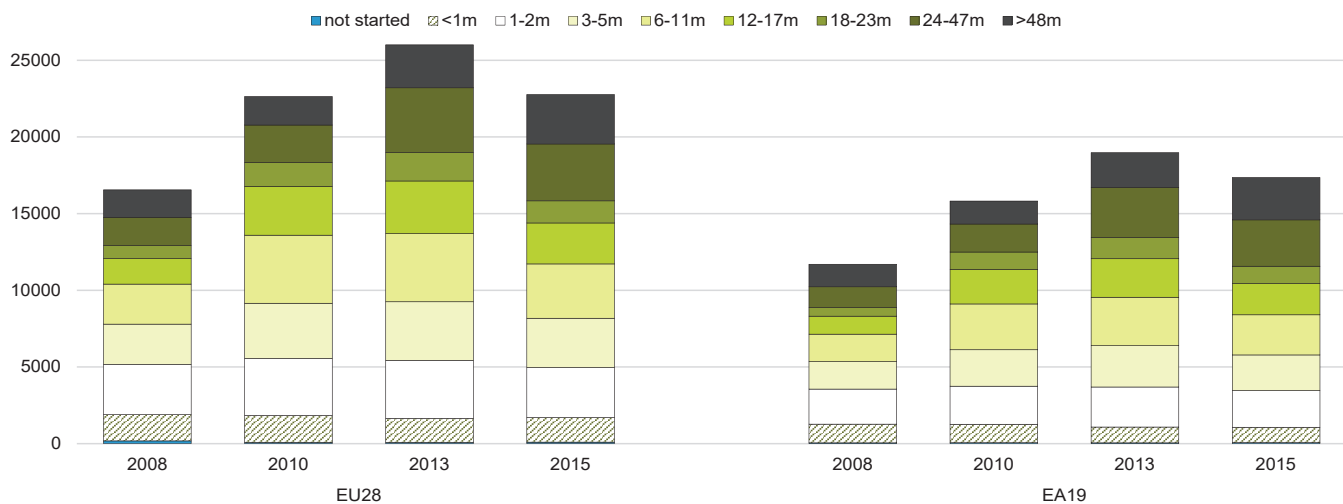
In 2016q2, the unemployment rate was 8.7% in the EU28 and 10.1% in the euro area, which corresponds to a total of 20.8 million unemployed, compared to 16.1 million in 2008q2. It was considerably higher among young people (18.7%) and workers with low levels of education

(16.7%), remaining far above the pre-crisis levels (Figure 2.3). The faster recovery in the employment rates compared to unemployment is partly due to the decline of the EU population size, meaning that the same number of jobs appears as a higher employment rate. Moreover, the inactivity rate dropped significantly (due among other reasons to older workers staying longer in employment) but was not matched by an increased demand for labour, therefore contributing to the sharper increase in unemployment.

In the majority of Member States, unemployment rates did not recover to pre-crisis levels (Figure 2.4), with Greece, Spain and Cyprus suffering particularly high rates of joblessness. In seven countries — Poland, Czechia, Slovakia, Hungary, the UK, Germany and Malta — unemployment rates in 2016 were below 2008 levels.

## Overview of labour market developments

Figure 2.5. Number of unemployed (in thousands) by duration (in months) (EU28, EA19) (2008, 2010, 2013, 2015)



Source: EU (ELFS), ifsa\_ugad series.

### High and persistent long-term unemployment

Figure 2.5 shows the numbers of unemployed people in the EU28 and the euro area by groups categorised according to the duration of their unemployment spell, which is defined as the duration of an unemployed person's job search or the time since they left their last job, whichever is shorter. The height of the bars shows the total numbers of unemployed.

Overall, unemployment started declining after 2013, at a slower rate in the euro area than in the EU28. However, a closer examination of which groups of unemployed people have decreased in size produces a more nuanced picture. In principle, the shorter the spell of unemployment, the easier the return to employment should be; whereas the longer the spell, the more difficult reintegration is, making a transition to inactivity more likely. Large groups of people unemployed for twelve months or more are likely to lead to lower growth potential in an economy as they represent a lower labour input. Moreover, insofar

as long-term unemployment leads to a depreciation of skills, it may result in a waste of previous public expenditure on resources for educating and training the labour force.

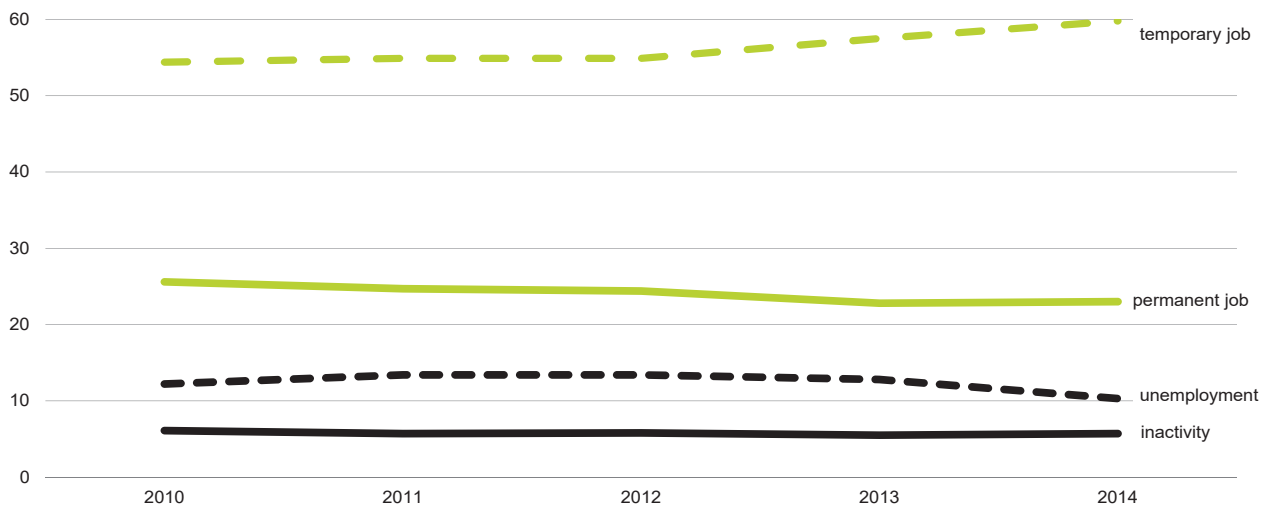
The data in Figure 2.5 show that in both the eurozone and the EU, the total shares of long-term unemployed in total unemployed continued growing from 2013 to 2015. In particular, the group of those unemployed for more than four years grew by 15% and 22% in the EU and the euro area respectively, representing around 15% of total unemployed in 2015 in both areas. While the groups of long-term unemployed for shorter durations (e.g. between 12 and 18 months or between 24 and 47 months) appear to have shrunk in size, it is not clear whether they did so because people found jobs, because they got too discouraged to keep on actively searching for employment (particularly given the widespread unemployment), or because they just moved on to a longer-term duration group.

Nevertheless, two policy-relevant points can be made. First, labour market policies supporting the income of the long-term unemployed and helping them return to employment will be necessary for tackling these growing numbers lest the hysteresis effects on output and unemployment increase further. Secondly, the need for a macroeconomic policy mix that puts recovery on a firm footing cannot be overstated. The longer

the stagnation continues, the more the numbers of long-term unemployed will keep growing.

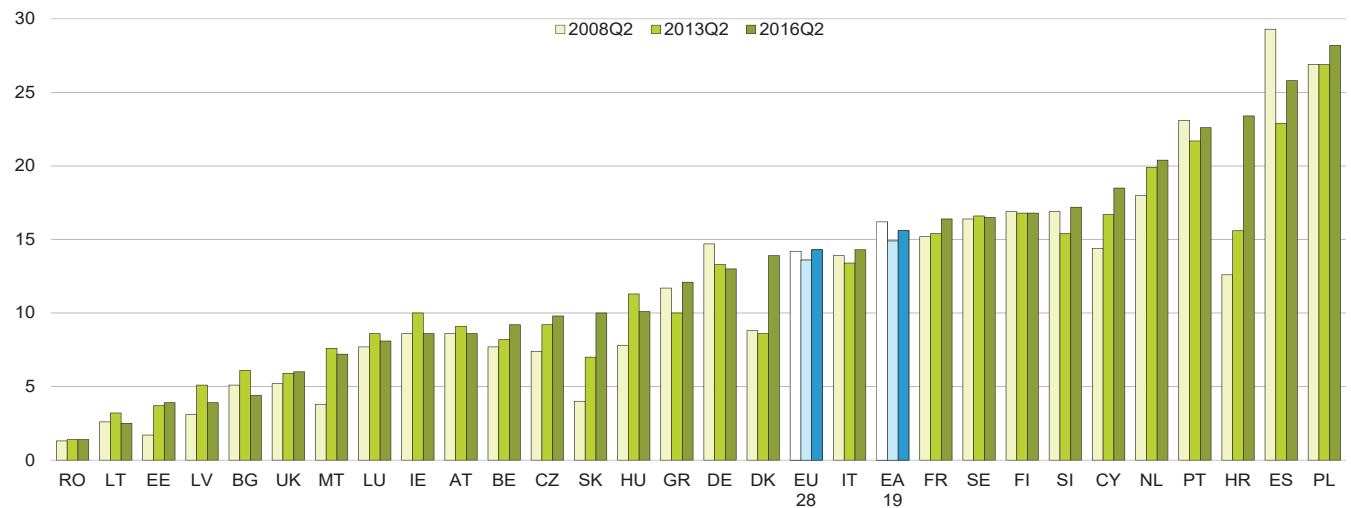
## Patterns of job creation

Figure 2.6. Labour market status of employees who had a temporary job in the previous year (EU28) (2010-2014)



Source: Eurostat (EU-SILC), ilc\_lvhl32; own calculations.

Figure 2.7. Temporary employment rates by country (ages 15-64)



Source: Eurostat (ELFS), lfsq\_etpga.

## Return to temporary employment

The temporary employment rate in the EU28 has increased from 13.6% in 2013q2 to 14.3% in 2016q2 (Figure 2.7), with the share of temporary jobs in total employment increasing in 16 EU countries. In

2016, Poland topped the rankings with 28.2% of its workforce in temporary jobs. The lowest temporary employment rates were noted in the Baltic states, Romania and Bulgaria. Thus, after a decline in temporary jobs during the first wave of the crisis, mostly driven by developments in Spain, newly created positions have again become increasingly temporary.

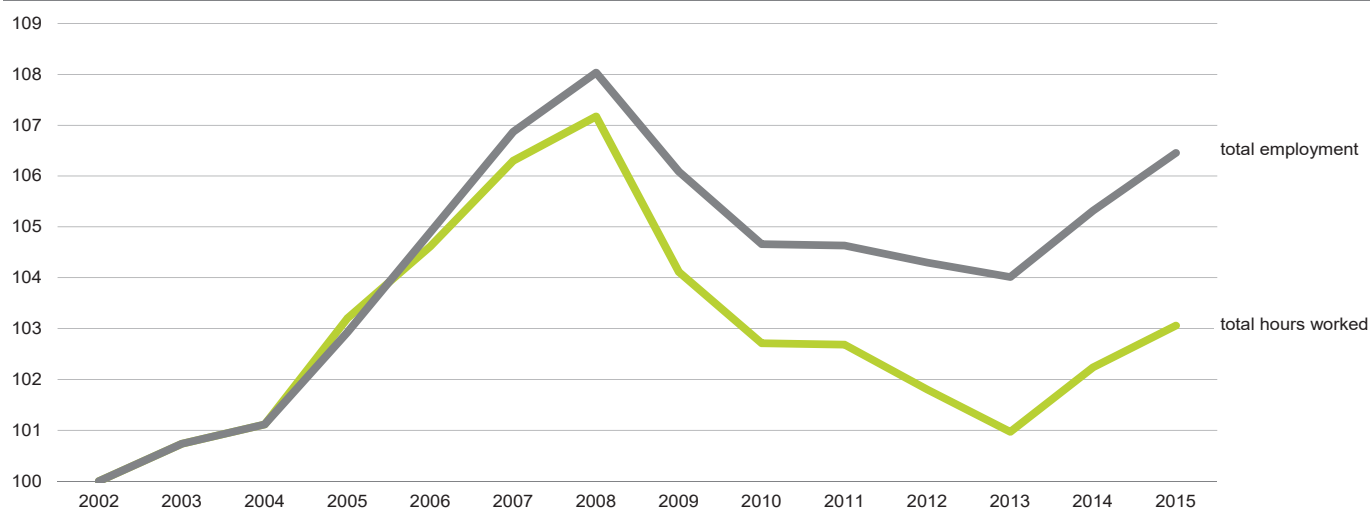
When we look at the labour market prospects of temporary workers, their chances of escaping such employment have worsened noticeably (Figure 2.6). While in 2010 54% of temporary

employees still had a temporary job one year later, this had increased to 60% by 2014. Accordingly, the chances of getting a permanent position dropped from 26% to 23%, while transitions to unemployment decreased from 12% to 10%. Transitions to inactivity remained stable over the analysed period.

These developments are testimony to the ineffectiveness of the policies pursued in recent years which aimed to make permanent employment more 'attractive' to employers through deregulatory measures.

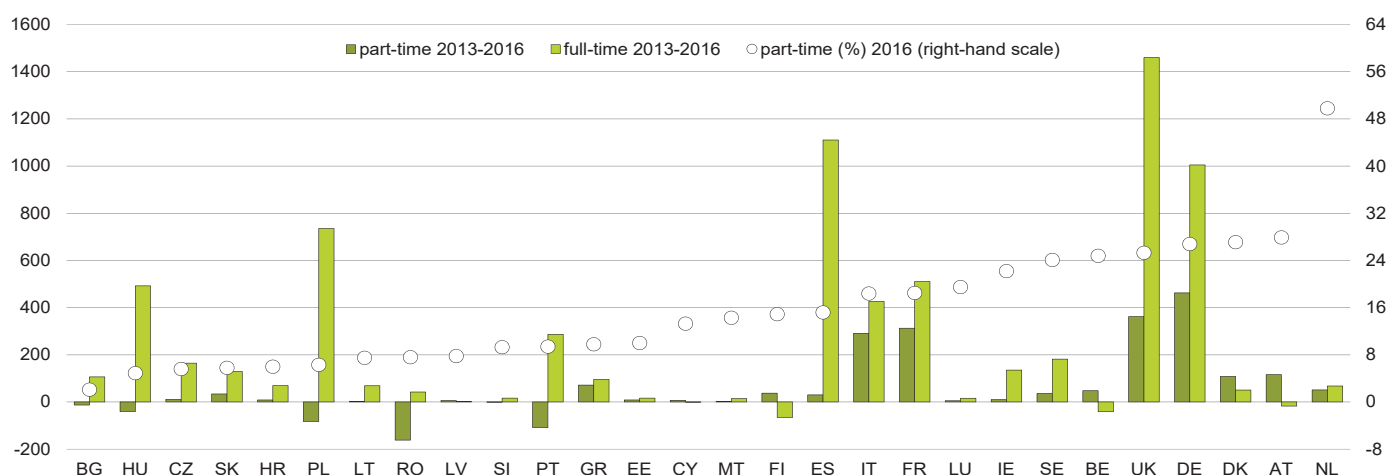
## Patterns of job creation

Figure 2.8. Trends in employment and total hours worked (index 2002=100) (EU28)



Source: Eurostat (ELFS), lfsa\_ewhais; lfsa\_eftpt; own calculations.

Figure 2.9. Changes in part-time and full-time employment (in thousands) between 2013 and 2016, and part-time employment rate in 2016 (ages 15-64) (data for second quarters)



Source: Eurostat (ELFS), lfsq\_epgan2; lfsq\_eppg; own calculations.

## More jobs but not more work

The number of people in employment recovered much faster than the amount of available work (Figure 2.8). Between 2002 and 2006 the growth in employment was proportional to the increase in total hours worked. However, in the post-2008 crisis working hours declined more

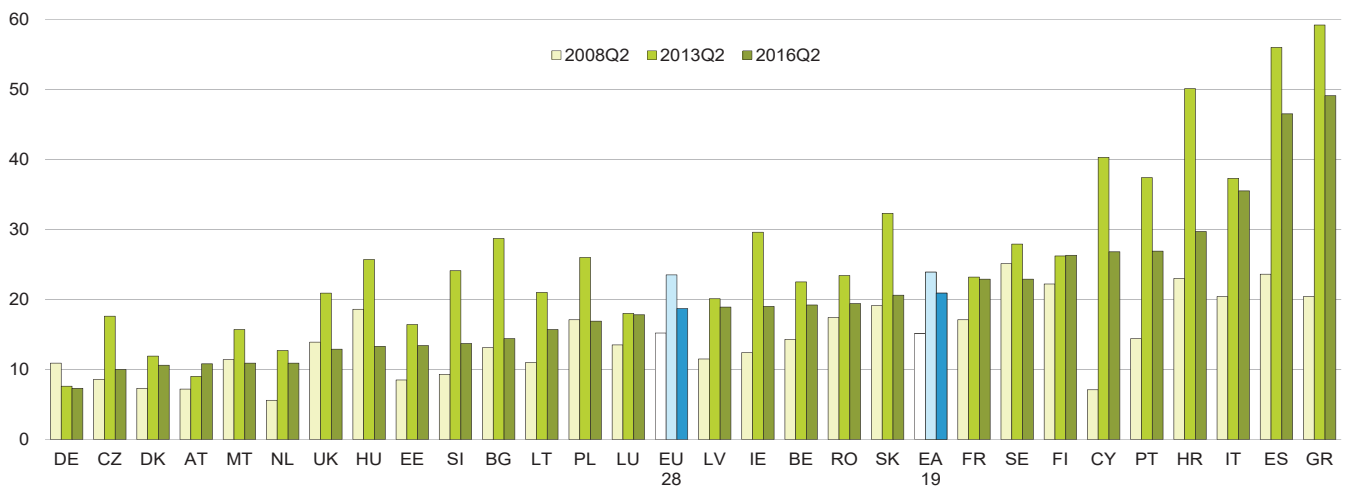
sharply (by 3.8% between 2008 and 2015) than the number of jobs (by 1.5%). In 2013, at the peak of the jobs crisis, employment fell to levels below those of 2006, while total hours worked dropped to levels not seen since 2003.

Part-time work accounted for a substantial share of net job growth after 2013 (Figure 2.9), with the part-time share of total employment at 19.6% in the EU28 in 2016q2 (compared to 17.6% in 2008q2). Between 2013 and 2016, there were more part-time than full-time jobs created in Austria, Denmark, Belgium,

Finland, Cyprus and Latvia, while in the Netherlands, Germany, France, Italy and Greece the rate of growth in part-time employment outpaced the growth in full-time jobs. This is a worrying development given that most of the increases in part-time work concerned low-wage and low-skilled workers (see ETUC and ETUI 2016).

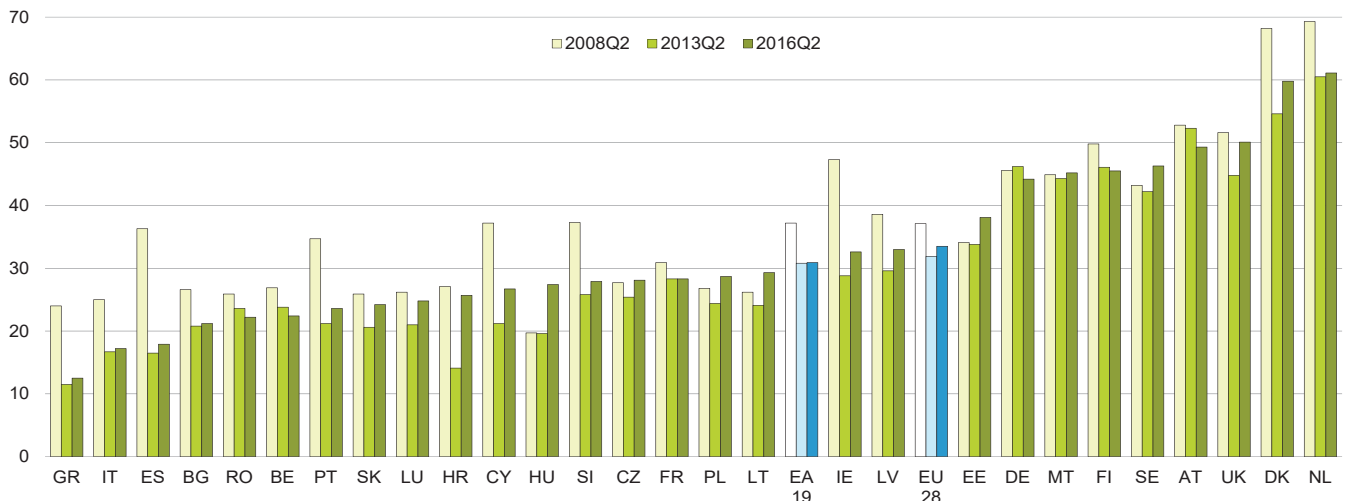
## Youth

Figure 2.10. Unemployment rates for young people (ages 15-24), ordered by unemployment rate in 2016 (data for second quarters)



Source: Eurostat (ELFS), lfsq\_urgan.

Figure 2.11. Employment rates for young people (ages 15-24), ordered by unemployment rate in 2016 (data for second quarters)



Source: Eurostat (ELFS), lfsq\_ergan.

## Big regional disparities in youth employment

Between 2008 and 2013, the unemployment rate for young people (aged 15-24) increased in all EU countries except for Germany, reaching 23.5% in the EU28 (Figure 2.10). By 2016 it had

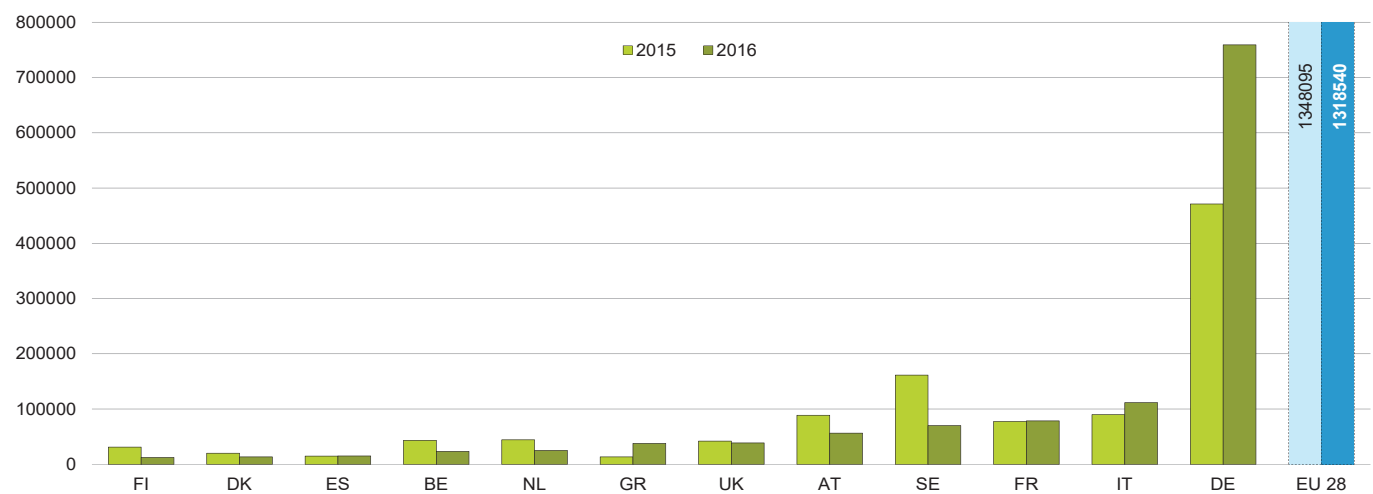
fallen to 18.7% (4.21 million), remaining 3.5p.p. above pre-crisis levels (15.2%, or 4.02 million, in 2008q2). On average, every third young person in the EU was employed in 2016, nearly 10% less than before the crisis (Figure 2.11). There was a considerable variety of experiences across EU Member States, with a re-emergence of some of the traditional regional divides. In particular, in Greece, Spain and Italy, extremely high unemployment rates coincided with the lowest youth employment rates in the EU. In central and eastern Europe, relatively

low unemployment coincided with low employment rates, while in Finland and Sweden similar unemployment rates concurred with employment rates nearly twice as high as those in CEE countries. In 2016, the lowest unemployment rate was in Germany, although it was the only EU country with a drop in the youth employment rate between 2013 and 2016.

A fuller picture of the participation of young people in the labour market, comparing activity rates and unemployment ratios, was provided in *Benchmarking working Europe 2015*.

## New migration fault lines in Europe

Figure 2.12. First-time asylum applications in selected EU Member States



Source: Eurostat.

Note: 2015 and 2016 show the twelve months preceding November of each year.

## Fresh challenges despite refugee flow subsiding

The historical refugee wave that the EU was facing in 2015 abated substantially in 2016, but the cleavages it exacerbated between and within Member States have remained.

Figure 2.12 shows first-time asylum registrations of third-country nationals in selected Member States for the years 2015 and 2016. For the EU28, in the 12 months up to the end of November 2015, 1.34 million first-time registrations were completed. Over the following year, between November 2015 and November 2016, first-time registrations in the EU28 dropped to 1.31 million. However, this apparent lull masks a great amount of change and variation.

While arrivals of asylum seekers had peaked by the end of 2015, there is a time lag for first-time registrations, which therefore reached their highest levels in mid-2016, with variations across Member States.

The distribution of registrations by Member State represented here gives an indication of the actual absorption of asylum seekers by individual countries

and in this respect the 2016 figures are closer to reality than the 2015 figures were. As the numbers of refugees dwindle, registrations in transit countries play a less important role.

The main picture, however, remains the same as it was a year before. Asylum seekers are concentrated in only a handful of Member States: Germany, Italy, Sweden and Austria. In the 12 months leading up to November 2016, Germany had 759,000 first-time asylum applications; Italy had 111,000, Sweden 70,000 and Austria 56,000. With 9,370 registrations per million of the population in 2016, Germany also tops the list in terms of hosting asylum seekers relative to its population. Sweden (7,368) and Austria (6,714) follow, while France (1,189) and the UK (605) are far behind.

All the other Member States show marginal absorption of asylum seekers and this means that coping with the historical challenge of this refugee wave has remained a national matter. There is still no visible prospect of a European solution, as was most apparent with the failure of the proposed redistribution quotas. The EU-Turkey deal does not function either; according to the International Organization for Migration (IOM), a total of 800 migrants were returned from Greece to Turkey before the end of 2016 as part of the agreement. During the same period, 10,128 individuals were resettled from Turkey to 23 European countries.

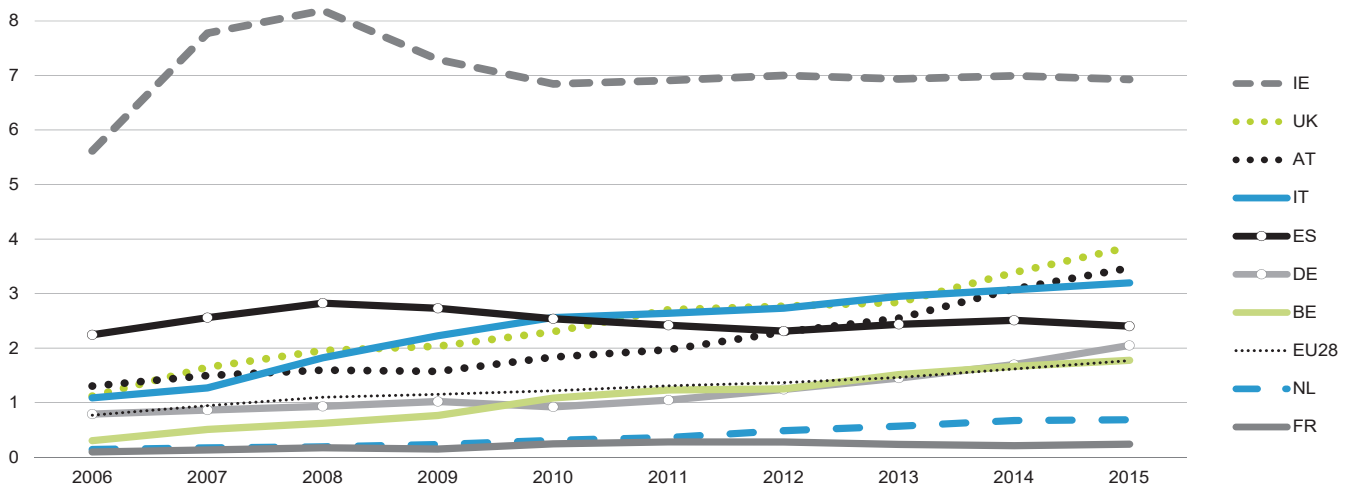
Data by the IOM (2017) shows a sharp reduction in the number of arrivals of non-EU citizens to the EU from 2015 (1,005,504) to 2016 (387,487). However, despite appearances, this is just a temporary phenomenon due to the unilateral closure of the Balkans route (with 75,711 stranded persons in Greece and the Western Balkans by early 2017) and not due to successful European policies. Is Europe waiting for the next refugee crisis to materialise before it will act?

The second major challenge posed by the refugee influx will be labour market integration. By the end of 2015 there had been no sign yet in any of the Member States of a noticeable increase in the share of non-EU nationals in total employment.



## East-west intra-EU labour mobility

Figure 2.13. Share of EU10 employment in total employment for selected EU15 Member States (%) (ages 15-64)



Source: Eurostat.

### Shifting patterns of intra-EU labour mobility

The year 2015 saw further shifts in east-west intra-EU labour mobility, but it was still concentrated in a small number of receiving EU15 Member States.

Figure 2.13 demonstrates the main trends of EU10 (CEE new Member States of the 2004 (EU8) and 2007 (EU2) enlargement rounds) mobility by showing the share of EU10 employment in total employment for the main EU15 countries in the period 2006-2015.

With nearly 7%, Ireland has the highest share of EU10 employment in total employment, followed by the UK (3.85%), Austria (3.45%) and Italy (3.20%). While there has been an increase of EU10 employment in Italy, the share in Spain shows continuing erosion since the crisis. Germany on the other hand shows an upward trend of EU10 employment, even if its share in total employment is rather moderate at 2.05%, not much higher than the EU average of 1.77%.

As regards EU10 population in absolute numbers, 2015 was the year when Germany took over the lead from the UK with a population stock of over

1.4 million EU10 citizens (BAMF 2016). Unlike the UK, Germany applied transitional regulations with regard to the labour market access of EU8 citizens (between 2004 and 2011), as a result of which historical east-west migration patterns were reoriented towards the UK. The current shift in east-west intra-EU labour mobility is driven by labour market opportunities and recent signs seem to indicate a reorientation of EU10 labour flows towards Germany.

In the UK, EU8 migration has been showing a downward trend in the last three years; in fact, it was only due to an increase in EU2 immigration that kept the EU10 inflow at the same level as in previous years (Migration Watch UK 2016). A striking phenomenon for the UK is that EU14 immigration (from the EU15 minus the UK) has been picking up dynamically in the last three years, with EU14 yearly labour flows double those of EU10 immigration. In Germany, over the same period, labour flows from the EU14 have remained at a rather low level.

The divisive effect that the movement of people to and within the EU has had is strongly related to its uneven distribution.

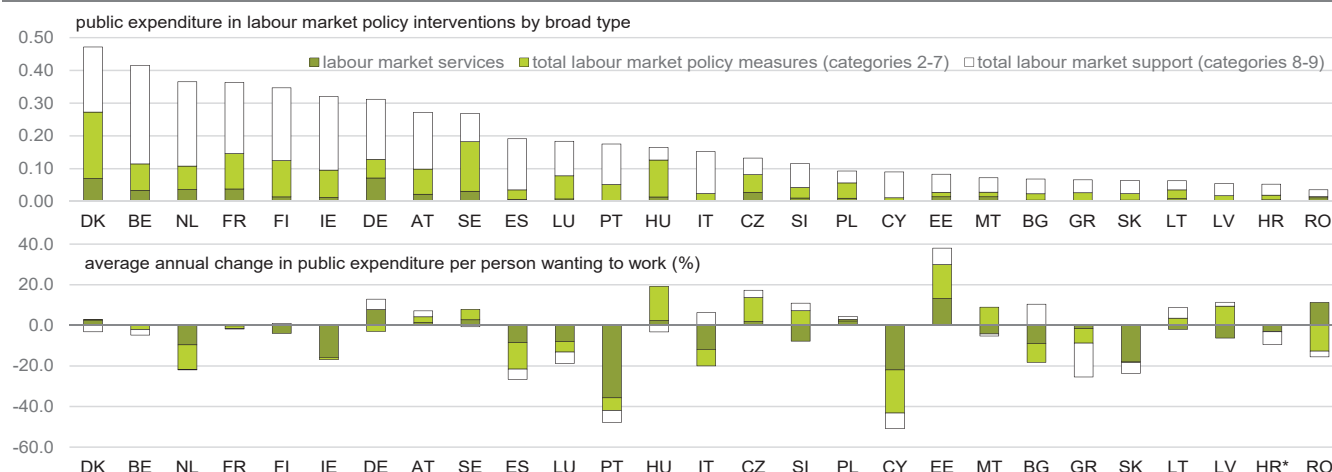
As with the refugee wave, east-west intra-EU labour flows are also concentrated on a small number of Member States. Asylum seekers are concentrated in Germany, Sweden, Italy and Austria, while Ireland, Germany, the UK, Italy and

Austria are the focus for intra-EU labour mobility. France, however, along with the rest of the Member States, has not been affected by either of the two population movements. Challenges posed by the historical refugee wave and the still-lacking European policy framework to handle it have also had an effect on public opinion regarding intra-EU labour mobility. Besides the urgent necessity for such a common European policy approach, it is also vital to address the still-existing shortcomings in the way labour mobility functions in the EU. The recent revision of the Posted Workers Directive, which closed some of the loopholes that could be abused, was a step in the right direction. More attention should also be devoted to tackling the under-utilisation of skills in east-west labour mobility in order to make freedom of movement a real success in the EU.



# Labour market policy developments

**Figure 2.14. Public expenditure in labour market policy interventions by broad type (share of spending per person wanting to work in GDP per head, both in PPS) (2014) and average annual change in public expenditure per person wanting to work (%), EU Member States (2008-2014)**



Source: European Commission (DGEMPL), *Imp\_exp\_ind*; Eurostat *prc\_ppp\_ind*; own calculations. \* Data for 2012-2014.

## Public expenditure: fit for purpose?

Figure 2.14 above shows the public expenditure in labour market policies per person wanting to work as a share of the GDP per head in 2014, the year for which European Commission data are available for all but a couple of countries. Distinction is made between three types of public policy interventions: labour market services, labour market policy measures (that is, active labour market policies, henceforth ALMPs) and labour market supports (income support received when not working).

In 2014, there were large disparities in the level of total expenditure dedicated to each person wanting to work as a share of GDP per head across the EU. Figure 2.14 shows that there was a clear divide between north-west European countries – which, with the exception of Ireland, Denmark and the Netherlands, have not been or have been far less severely affected by the crisis – and southern and central-eastern Europe.

Figure 2.14 (bottom panel) shows the average annual growth rate of public expenditure for labour market policy interventions per person wanting to work in the period 2008-2014. The data

suggest that in 14 Member States the part of spending for ALMPs declined, while spending on out-of-work income support declined in 15 Member States. The average annual growth rate of expenditure on labour market services per person wanting to work was negative in 17 Member States. The total public expenditure on all types of labour market interventions per person wanting to work fell by an (unweighted) average annual rate of 0.6% in the period 2008-2014. Although public expenditure alone cannot provide a complete picture of the effectiveness of policy interventions, this is a remarkable development given the magnitude of the unemployment challenge in Europe since the economic crisis began.

The Member States where annual average public expenditure on ALMPs fell the most were Cyprus, Spain, Romania, the Netherlands, Bulgaria, Italy, Greece and Portugal. The biggest average annual increases in ALMPs for the period 2008-2014 were in Hungary, Estonia, Czechia, Latvia, Malta, Slovenia and Poland.

In the period 2008-2014, public expenditure on income support (per person wanting to work) was reduced the most in Greece by an average annual rate of 16.7%, while it increased the most in Bulgaria, Estonia, Italy, Lithuania, Germany and Slovenia.

Spending (per person wanting to work) on labour market services was actually the category of labour market

interventions that saw on (unweighted) average the largest cuts in the period 2008-2014 (-4.5% each year), a development that is rather remarkable given the recent trend of providing tailor-made services and programmes to unemployed people to help them better reintegrate into the labour market. The fastest average annual reductions in this type of public expenditure were recorded in Portugal, Cyprus, Slovakia, Ireland and Italy. Conversely, Estonia, Romania and Germany saw the biggest average annual increases.

Overall, changes in public expenditure on labour market policy interventions per person wanting to work do not seem to be clearly characterised by any particular divides between regions, economic situations or labour market regimes.

## In-work poverty

Figure 2.15. In-work risk of poverty rates (% of population) and relative change in levels thereof (%) EU28



Source: Eurostat (EU-SILC), ilc\_iw04, ilc\_iw01, ilc\_iw05, ilc\_iw07; own calculations.

## In-work risk of poverty remains high

The in-work risk of poverty measure examines the prevalence of what are commonly called 'the working poor'. The measure is defined as the share of the population in employment whose household income falls below 60% of the median average household income. This indicator combines individual activity characteristics (income from labour) with a measure of income that is calculated at the household level (the poverty line). For this reason, we cannot clearly determine the causes of evolutions over time and across countries, which could be due to developments in the labour market, the structure of households, social and fiscal policies or some combination of these factors (Pontieux 2010: 28). To counter this difficulty, the data presented here refer to the EU28 average for different categories of employment contracts. The implicit assumption is that across the EU and over the course of a relatively short period of six years, household structures did not change substantially and that any changes that did occur cancelled each other out on average. So the question is

whether we can observe any indications of shifts in the in-work poverty rate that may suggest labour market and/or social and fiscal policy changes.

Figure 2.15 shows that in both 2010 and 2015 it was the self-employed (employed persons aged 18-64 excluding employees) that faced the highest risk of in-work poverty, at 21% in 2010 and 23.2% in 2015; this is more than half the average in-work poverty risk for all employed people and more than three times higher than that of employees aged 18-64. The in-work poverty risk for the latter was 19.4% higher in 2015 than in 2010, while the risk for the self-employed increased by 11%.

Among those employed, persons with only lower (that is, pre-primary, primary and lower secondary) education, those on fixed-term contracts, and the part-time employed faced the highest in-work poverty risk.

The share of 'employed at-risk-of-poverty' in part-time workers was in 2015 22% higher than in 2010. The in-work poverty risk for those on fixed-term contracts was 19% higher in 2015 than it was in 2010.

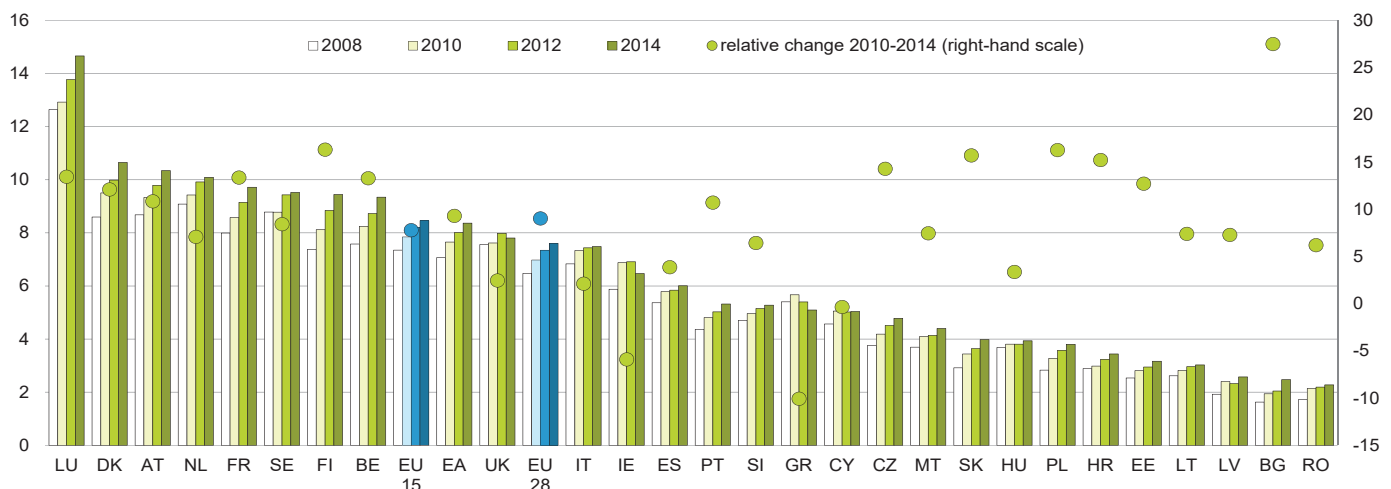
Other things being equal, higher educational attainment has been associated with a lower in-work risk of poverty, though this risk did increase across all groups of educational attainment between 2010 and 2015. However, the risk of in-work poverty for those with the

highest qualifications was in 2015 35.3% higher than in 2010, a relatively greater change than in all other qualification level groups as well as all other categories of employed people.

This development gives much cause for concern. Investment in skills has been central to the EU's strategies for inclusive growth, and for good reason, given the substantial difference in the in-work risk of poverty between those with higher and those with lower educational qualifications. However, in the context of the crisis and its consequences, higher skills no longer seem to be as effective at shielding people from the in-work risk of poverty, most likely because of developments in the labour market.

## Social protection and inequality

Figure 2.16. Social expenditure per inhabitant (PPS per head, EUR thousands) and relative change 2010-2014 (%) (EU28 Member States, 2008-2014)



Source: Eurostat, spr\_exp\_ppsh; own calculations.

### Social protection expenditure disparities

Figure 2.16 shows the evolution of social expenditure per inhabitant, for all types of social protection programmes, measured in purchasing power standards (PPS) for the EU28 Member States in selected years between 2008 and 2014 (latest available data).

The ranking of countries in terms of levels in 2014 is fairly predictable, with richer Member States (especially Scandinavian and western European countries, but also Austria) spending more (in relation to the EU average) than poorer ones in southern and central-eastern Europe. What is more interesting is the evolution of these levels of spending.

The relative difference in the levels of social protection expenditure per inhabitant between 2010 and 2014 was 9% and 9.3% in the EU28 and the euro area respectively. Behind these averages, there was, however, a wide degree of variation. Social expenditure per inhabitant was higher everywhere in 2014 than it was in 2010, except in Ireland, Cyprus and Greece where it was relatively lower – all countries with below average public

social spending per capita and that have been particularly hard hit by the crisis since 2008.

More generally, in most Member States that were badly affected by the crisis, the relative change in levels of public social spending per inhabitant between 2010 and 2014 was lower than the EU average, with the exception of Portugal where the level of spending rose by 10.5%.

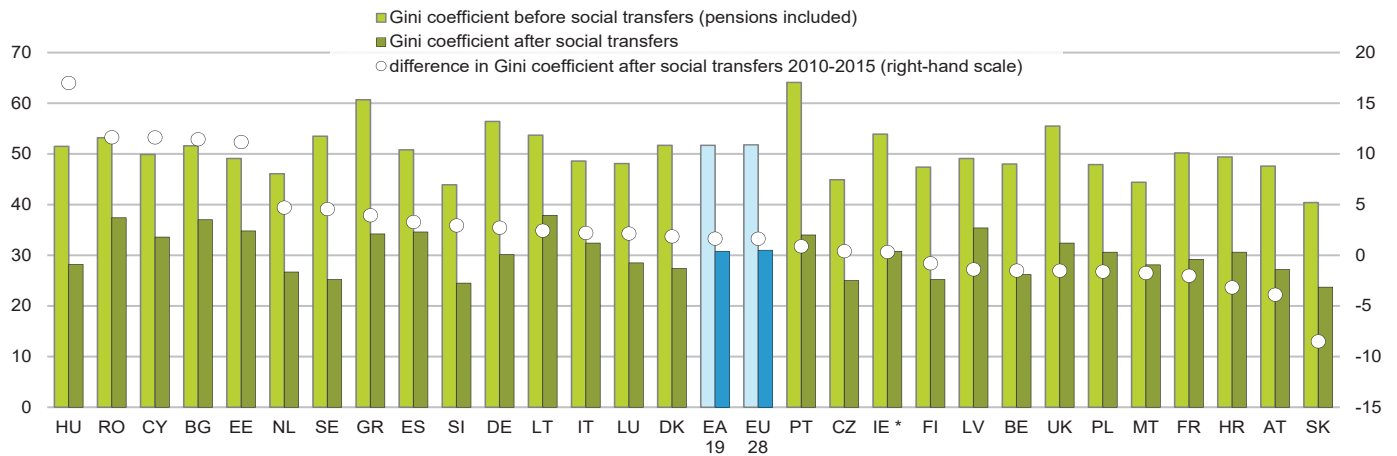
However, when it comes to the evolution of this expenditure per inhabitant, the distinctions between groups of Member States are not as clear as with the levels. Social expenditure per capita experienced some of its higher growth between 2010 and 2014 in several of both the richest and the poorest (and lowest-spending) Member States. Bulgaria for example had the highest average annual growth rate of social expenditure per capita between 2010 and 2014, at 4.9% per year, followed by Finland and Poland (3%), Slovakia (2.9%), Croatia (2.8%) and Czechia (2.7%). At the other end of the scale, in addition to Greece, Ireland and Cyprus, already mentioned above, we find Italy (0.4% per year), the UK (0.5%) and Spain (0.8%), but also Hungary (0.7%).

Overall, however, common statistical indicators of disparities suggest that they have increased between 2010 and 2014. These figures also seem to suggest that there was a divergence between Member States, with those which had to

adopt financial support programmes seeing a reduction in their social protection expenditure, even though these are arguably the countries with the greatest need for a safety net. In Greece, for example, not only was public social expenditure per inhabitant relatively low in 2008 but it continued falling from 2010 to 2014, in spite of the massive contraction in Greek output and the increase in unemployment.

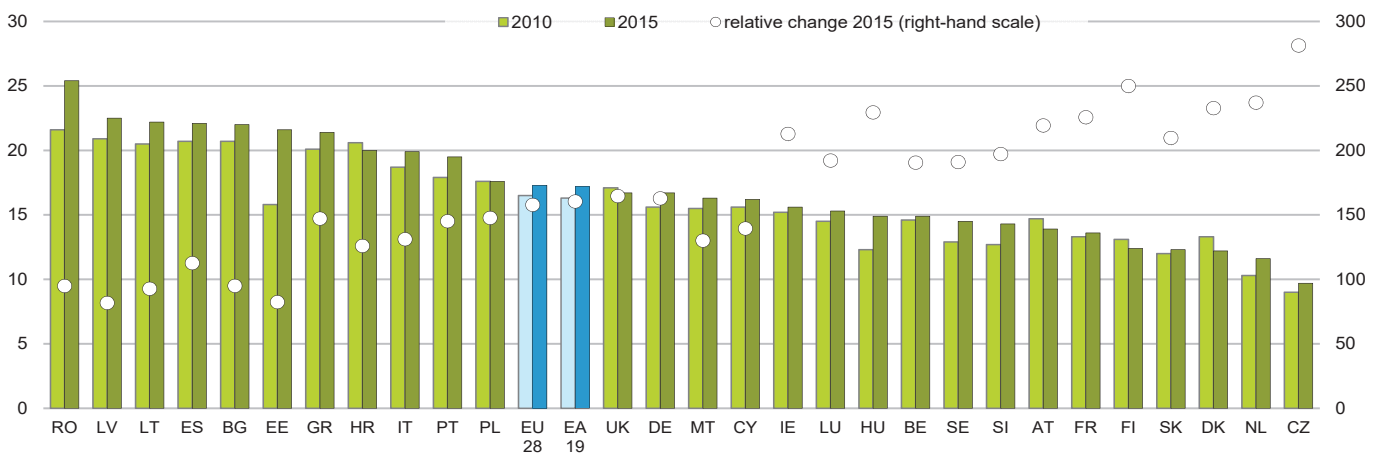
## Social protection and inequality

Figure 2.17. Income dispersion: Gini coefficient in 2015 (0-100) before and after social transfers, and relative change between 2010 and 2015 (%) after social transfers (EU28, 2010, 2015)



Source: Eurostat (EU-SILC), ilc\_di12, ilc\_di12b; own calculations. \* Data for 2014 instead of 2015.

Figure 2.18. At-risk-of-poverty rate (monetary poverty, at 60% of equivalised income) in 2010 and 2015, and relative change before and after social transfers in 2015 (%)



Source: Eurostat (EU-SILC), ilc\_li02; own calculations.

### Persistent income inequalities

Figures 2.17 and 2.18 illustrate two aspects of income inequality, whose alleviation is one of the objectives of social protection. The first graph shows the Gini coefficient, a measure of income dispersion (before and after social transfers) as well as its evolution (after social transfers)

between 2010 and 2015. The higher the Gini coefficient is, the higher the income dispersion. Between 2010 and 2015, on average, the Gini coefficient increased in the EU28. Income dispersion was reduced in only ten of the twenty-eight Member States, only two of which (Ireland and the UK) are among those with relatively high income dispersion. There is a non-negligible disparity between different countries in the effectiveness of social transfers to reduce income disparities. Northern European countries such as the Scandinavian states, Benelux, Ireland, and the

UK perform the best, while at the bottom of the scale we find southern European countries and the Baltic states.

Figure 2.18 shows the risk of monetary poverty in 2010 and 2015, and its change before and after social transfers in 2015. On average the risk of monetary poverty rose in the EU, while the Member States with the highest poverty risk are also the ones whose social transfers provide the weakest safety nets. Among them we find the countries that have made cuts or show the weakest increases in or lowest levels of social expenditure per inhabitant.

## Conclusions

### Divisions old and new

Several of the labour market indicators showed improvement after hitting rock bottom around 2012-2013. An undoubtedly positive development is that a higher proportion of the working age population was in employment in 2016 than at the outbreak of the crisis in 2008. This, together with steadily falling unemployment rates across the EU, sparked enthusiasm among policymakers who took it as evidence that their 'efforts of the last years are bearing fruit' (European Commission 2016). Nevertheless, the analysis presented in this chapter shows a more nuanced picture, with growing divides between countries and groups of workers along multiple dimensions, and with many of the improvements in indicators driven by demographic processes and not labour market recovery. In fact, numerous negative socio-economic developments cast quite a different light onto the reform effort of recent years.

Increasing employment rates need to be considered in conjunction with a decline in the overall population size in the EU over the crisis period. Between 2008q2 and 2016q2, the number of people aged 15-64 shrank by nearly four million (1.2%) in the EU28. Therefore, an unchanged number of jobs would result in an increase in the employment rate. In fact, while such an increase did occur, the number of jobs actually declined between 2008 and 2016. According to Eurostat data (accessed 17/01/2017), there were 850,000 fewer people in employment among the working age population (15-64) in 2016q1 compared to 2008q1, and 180,000 fewer when comparing the second quarters. We witnessed an increasing proportion of older workers staying in employment beyond the standard retirement age of 65, which might show an increasing sustainability of employment over the life course, but may also reflect low pension levels, their scaled-back coverage and a crisis in

pension financing. Moreover, the long-standing divides between labour market groups have begun to re-emerge; there seems to have been little improvement over the recent period in the difficult situation facing young people and those with low educational attainment, while the numbers of long-term unemployed seem to remain persistently high and on the rise.

The amount of work (as measured by the number of working hours) has been increasing at a slower pace than the number of jobs, which resulted in a growing proportion of involuntary part-time or short-hour jobs with low incomes. This puts workers and their families at risk of poverty and social exclusion; a risk that has substantially intensified among atypical workers since the onset of the crisis. The lock-in effect of temporary employment is further aggravating the situation, as workers find it increasingly difficult to escape insecure employment and move on to a permanent job.

Against this background, public expenditure on labour market policy interventions has in most cases not been increasing at a sufficient rate to deal with the numbers of those wanting to work, with cuts affecting labour market services in particular but also activation and income support policies. Given the high rate of unemployment and the persistently high numbers of long-term unemployed mentioned above, these developments are undoubtedly cause for concern. Developments in labour market policies do not seem to follow a consistent pattern of 'catching up' between high- and low-spending Member States.

Expenditure per inhabitant in social protection policies has on average been increasing across the EU and at an accelerating rate; in itself not an unexpected development given the increasing levels of need generated by the recent economic crisis but also by demographic changes. However, large disparities remain and are even increasing across Member States. Income inequalities have risen since the onset of the crisis and remain high, whether we look at income distribution or the risk of monetary poverty. With regards to the Europe 2020 growth strategy, the

latest data suggest an outright failure in meeting the headline target of lifting 20 million people out of the risk of poverty and social exclusion. According to Eurostat (EU-SILC) data, in 2015 there were slightly over 1 million more people facing the risk of poverty and social exclusion than in 2010 when the target was set, while in the euro area there were almost 3.8 million more people facing that risk. The only broad group of countries where some improvement was made in this respect were the 12 new Member States that joined between 2004 and 2008.

The refugee crisis may have subsided in 2016, but the cleavages it exacerbated between and within Member States remained and we are still missing a European policy framework. The labour market integration of refugees is in its initial phase and will be the next big challenge for the countries involved. However, the aforementioned developments in public expenditure in labour market and social protection policies do not provide much cause for optimism that these policies are gearing up to deal with such challenges.

# Wages and collective bargaining: high time for a new approach to wage policy

## Introduction

Since the onset of the financial crisis in 2008, the European Commission's approach to the issue of wages and collective bargaining has been based on a strategy of internal devaluation which primarily aims at the improvement of price competitiveness by lowering the relative prices of goods and services produced in a country vis-à-vis its trading partners. As such, internal devaluation has been a euphemism for driving down wages, decentralising collective bargaining systems and restricting trade union and workers' rights. The result of this strategy has been a systematic depression of internal demand, increasing wage inequality and a sluggish economic recovery. More recently however, in its 2016 economic forecasts, the European Commission acknowledged the central role of internal demand for achieving economic growth in EU countries. Furthermore, the fact that the European Commission promised to focus more on social issues in its country-specific recommendations has raised hopes of a re-orientation in its approach towards the issues of wages, collective bargaining and trade union and workers' rights. Against this background, one objective of this chapter is to assess whether this change in rhetoric has actually translated into a change of policies.

The focus of analysis will therefore be on the country-specific recommendations in the field of wages and collective bargaining and on the development of real and minimum wages. In addition to the analysis of wage developments, this chapter will provide an overview of trends in collective bargaining systems and strike activities. It will conclude with a review of the most recent judicial developments at international and national level and the implications for trade union and workers' rights.

## Topics

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## Wage developments

Figure 3.1. Country-specific recommendations in the field of wages and collective bargaining (2016-2017)

	Formal recommendations	Justification
BE	Align wages with productivity	Keeping unit labour costs under control; improvement of competitiveness and export performance
BG	More transparency in minimum wage-setting	Lack of transparency and objective criteria creates uncertainty
FI	Reform of wage-setting system	In order to improve competitiveness and export performance, the wage-setting system should allow more local wage bargaining
FR	Ensure sustained labour cost reductions through moderate minimum wage development	Minimum wage increases induce overall wage increases; indexation of minimum wage hampers wage adjustment and employment of low-qualified people
HR	Reform public sector wage-setting	Lack of coherent criteria for wage-setting in public sector limits government control over wage developments
PT	Align minimum wage development with objective of promoting employment and competitiveness	High minimum wage increases create upward pressure on overall wages, harming employment and competitiveness
RO	More transparency in minimum wage-setting	Lack of transparency and objective criteria creates uncertainty
	Implicit recommendations	Justification
BE	Reform of wage-setting system	Wage norm of social partners should ensure closer link between wages and productivity
EE	Address gender pay gap	Making full use of the potential of women
FR	Reform of wage-setting system	Increased possibilities to derogate from branch-level agreements and legal provisions increases employers' flexibility for company- and firm-specific solutions
IT	Reform of wage-setting system	Insufficient development of second-level bargaining hampers innovative solutions at firm level
LV	Align wages with productivity	Wages in excess of productivity poses threat to cost competitiveness
LU	Reform of wage-setting system	Wage indexation limits the possibility of wage variation across sectors and economic diversification more generally

Source: author's own compilation.

## CSRs 2016/2017: yet another disappointment

The objective of this year's country-specific recommendations (CSRs) was to place a stronger focus on social and employment issues and to have 'more focused recommendations setting the policy objectives for the next 18 months' (European Commission 2016a).

Concerning wages and collective bargaining, the announcement of this stronger focus raised hopes for a re-orientation of the European Commission's approach from the usual supply-side view of wages as a cost factor towards a more demand-side oriented approach that recognises domestic demand as a key driver of economic growth and the important role of wages for fostering social cohesion. More concretely, the greater focus on social aspects should be reflected in CSRs that not only support increases in real and minimum wages but also strengthen multi-employer collective bargaining institutions.

As Figure 3.1 illustrates, the number of countries that received CSRs in the field of wages and collective bargaining decreased from eleven in 2015 to seven

in 2016. However, as Clauwaert (2016a) points out, this reduction was achieved by moving some recommendations to the explanatory part that precedes the actual CSRs. Since this type of 'implicit recommendation' was addressed to an additional four countries, the number of countries which were subjected to EU-level recommendations remained the same. The CSRs – both formal and implicit – can be divided into three standard recommendations concerning (1) the alignment of wages with productivity, (2) the reform of wage-setting systems, and (3) the review of minimum wage-setting. The only exception is Estonia which received an 'implicit' recommendation to reduce the gender pay gap in order to make full use of the potential of women.

This overview of the broad issues addressed in the CSRs already illustrates that the underlying rationale remains the same: internal devaluation is still the order of the day even though it is by now abundantly clear that it did not deliver the intended results (Müller *et al.* 2015; Myant *et al.* 2016).

The European Commission's main concern in recommending that wages should align with productivity is to keep unit labour costs under control in order to improve cost competitiveness. The key tool for achieving this is making wage-setting systems more flexible in order to facilitate adaptations to changes in the economic framework conditions. Against

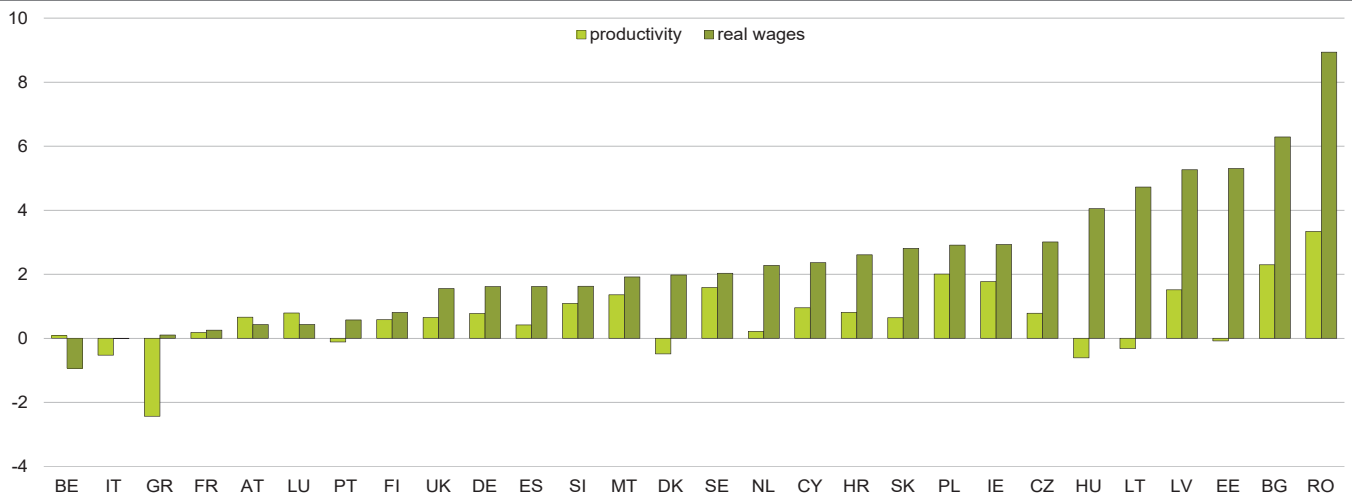
this background it is not surprising that the recommendations concerning the reform of wage-setting systems are aimed at further decentralisation of collective bargaining. It is noteworthy however that this very often controversial aspect is mainly dealt with in 'implicit' recommendations. That these 'implicit' recommendations carry some weight (as one element of the wider EU machinery of wage policy interventionism) can be seen in the case of France (Corporate Europe Observatory 2016). Here, the labour law reforms adopted in July 2016 are entirely in line with the recommendation to facilitate derogations from branch-level agreements and legal provisions.

Perhaps the most disappointing aspect is the treatment of minimum wages in the CSRs. Rather than emphasising the important role of minimum wages in combating inequality, the recommendations are concerned with ensuring moderate minimum wage developments in order to avoid upward pressure on overall wage developments.

Overall, a review of the CSRs in the field of wages and collective bargaining is sobering. Despite all the lip service paid to the importance of social issues, this does not show in the practical policy recommendations, representing yet another wasted opportunity for a re-orientation towards a more demand-side oriented wage policy.

## Wage developments

Figure 3.2. Development of real wages and productivity in 2016 (changes in %)



Source: author's calculation based on AMECO (version January 2017).

### Real wages picking up again

According to the AMECO database, real wages grew dynamically in 2016. Against the background of a fairly modest development of nominal wages, this increase can in large part be attributed to very low inflation rates. Figure 3.2, which compares the development of real compensation per employee to the development of productivity (defined as changes in gross domestic product per person employed), illustrates the great diversity in real wage developments in 2016. Overall, three different groups can be identified.

The first group, which includes countries with real wage increases of over 3%, ranges from 3.01% in Czechia to 8.94% in Romania. The fact that this group exclusively comprises central and eastern European countries shows that countries like Czechia, Hungary, the Baltic states, Bulgaria and Romania continued their catching-up process in the area of real wages. The second group consists of the 13 countries with real wage increases between 1% and 3%. This group ranges from the UK (1.55%) and Germany (1.61%) at the bottom of the scale to Poland (2.91%) and Ireland (2.93%) at the top. The third group comprises the

eight countries with stagnating or very modest real wage developments of 1% or less. More or less stagnating real wages are reported in Italy (0%), Greece (0.1%) and France (0.25%), while the countries with an extremely modest real wage increase range from Austria (0.43%) to Finland (0.81%). This group also includes Belgium, which is the only country where real wages actually decreased, by 0.94%.

The reasons for the weak development of real wages in this last group are manifold and highly country-specific. However, one overarching phenomenon that applies to all countries in this group is weak economic growth and productivity. In Greece (-2.44%) and Italy (-0.53%) productivity even decreased. In other countries such as Finland, France and Belgium there was considerable political pressure to ensure moderate wage developments which put the trade unions in a less powerful negotiation position and reduced their scope for negotiating higher wage increases.

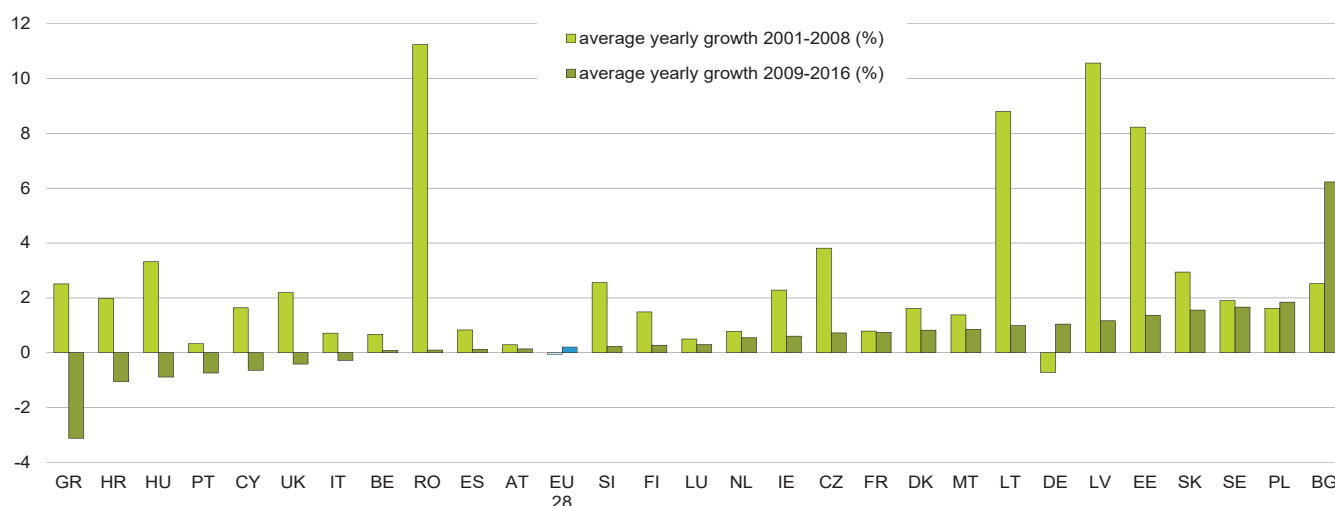
Figure 3.2 also illustrates the general weak development of productivity in the EU Member States. In addition to the already mentioned cases of Italy and Greece, productivity decreased in Estonia (-0.08%), Portugal (-0.12%), Lithuania (-0.32%), Denmark (-0.49%) and Hungary (-0.61%). Only three countries reported productivity increases of more than 2%: Poland (2.01%), Bulgaria (2.3%) and Romania (3.34%).

The good news for employees and the economy as a whole is that only in Austria, Luxembourg and Belgium did real wage growth lag behind productivity growth. In all the other Member States the trend of real wages outstripping productivity, which on a broader scale started in 2015 (ETUC and ETUI 2016: 41), gathered momentum. Overall, the gap between the development of real wages and that of productivity remains modest. However, compared to 2015, the number of countries in which real wages outstripped productivity by a margin larger than 2% increased from four to eleven, with rates ranging from 2.06% in the Netherlands and 2.17% in Slovakia up to 5.38% in Estonia and 5.6% in Romania. From a macro perspective, this means that in the majority of EU countries at least part of the wealth has been redistributed from capital to labour, which in turn increases aggregate demand. Since the majority of EU countries follow a wage-led growth model (Onaran and Stockhammer 2016), this improves the chances for growth and a more sustained economic recovery.



## Wage developments

Figure 3.3. Development of real wages 2001-2016



Source: author's calculation based on AMECO (version January 2017).

### Real wages: the long shadow of the crisis and its management

Despite the recovery of real wages in the last two years, the picture looks far less impressive over the long run. Figure 3.3, which compares the average yearly growth of real wages in the pre-crisis period (2001-2008) with that in the crisis period (2009-2016), illustrates how the crisis, and in particular the crisis management policies based on austerity and internal devaluation, changed the dynamic of real wage growth.

The pre-crisis period was characterised by a pronounced increase of real wages in most EU countries. This applies in particular to the central and eastern European (CEE) countries as part of their economic catching-up process. The three Baltic states and Romania had particularly high average growth rates of 8% or more. The CEE countries are followed by a second group with an average growth rate of around 2%, which comprises a diverse selection of countries including Greece, Ireland, the UK, Croatia and Sweden. The odd one out is Germany,

which is the only country which had a negative average growth rate.

With the start of the crisis in 2009, the pattern of real wage development changed completely. Stagnating or even decreasing real wages became the dominant feature in the crisis period. A total of seven EU countries show negative annual growth rates. The fall in real wages is particularly pronounced in Greece (-3.12), followed by Croatia (-1.06), Hungary (-0.89) and Portugal (-0.74). In another 14 EU countries the annual average growth rate of real wages is below 1% and only seven countries show a fairly strong real wage development of 1% or more on average per year during the crisis period.

The economic implications of this development are apparent today. The prolonged weakness in real wage development throughout the EU systematically curbed internal demand and fostered a disinflationary development of prices (Schulten 2016a). By now even the European Commission acknowledges that domestic demand is the most important component of economic growth in Europe (European Commission 2016b). Against this background it is not surprising that the economic recovery in the EU lags far behind that in the US. Some economists even expect a long-lasting period of stagnation and weak economic growth in Europe (De Grauwe 2015). However, help seems to come from unexpected quarters: as Schulten (2016a)

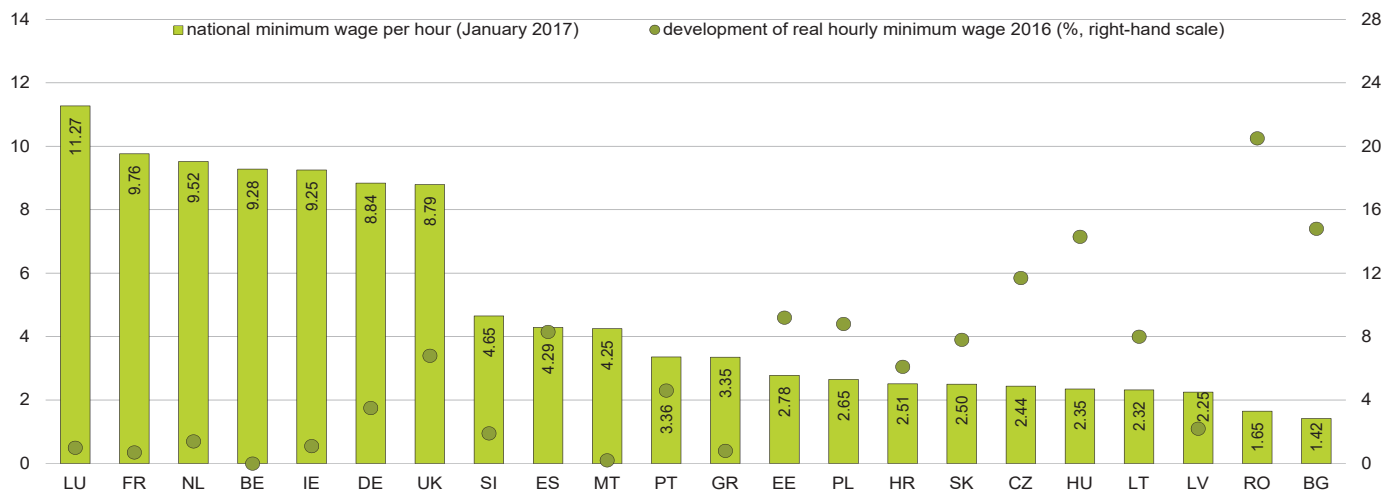
points out, even economic and financial market analysts emphasise the importance of a more dynamic development of wages. The same point was also made by the president of the European Central Bank, Mario Draghi, who declared at the European Parliament that '[T]he case for higher wages is unquestionable' (Draghi 2016: 19).

Concrete steps in this direction have been taken by the European Trade Union Confederation (ETUC) which declared '2017 the year of the pay rise for European workers' (ETUC 2017). In order to support its affiliates in their push for wage increases in 2017 the ETUC launched a campaign, 'Europe needs a pay rise - It's time for our recovery' (ETUC 2017), that will last throughout 2017. A key objective of this campaign is to change the attitudes of policymakers, employers and the general public and promote a more positive view of a demand-side oriented approach to wage policies.

Nevertheless, the above analysis of this year's CSRs (see page 38) has illustrated that despite all the lip service paid to the importance of a more dynamic wage development there is still a long way to go.

## Minimum wage developments

Figure 3.4. National minimum wage per hour in 2017 (in euros)



Source: WSI minimum wage database (WSI 2017).

### Growth of real minimum wages gathers pace

As regards the absolute level of (statutory) minimum wages, Europe remains divided into three country groups. As Figure 3.4 illustrates, the first group with relatively high minimum wages is comprised exclusively of western European countries. Luxembourg is leading the table with €11.27 per hour, followed by France (€9.76), the Netherlands (€9.52), Belgium (€9.28) and Ireland (€9.25). At the bottom of this group we find Germany (€8.84) and the UK (€8.79). However, the figure for the UK is heavily distorted by exchange rate effects; without the almost 13% devaluation of the British pound vis-à-vis the euro in 2016, the hourly minimum wage for the UK would be €9.92 and therefore the second-highest in Europe (Schulden 2017).

The second country group with minimum wages between €3 and €5 contains Slovenia with €4.65 and the southern European countries Malta, Spain, Greece and Portugal with minimum wages between €3.35 and €4.29. The third group with minimum wages below €3 comprises ten exclusively central and

eastern European countries, and even within this group it is possible to distinguish two sub-groups, because Romania (€1.65) and Bulgaria (€1.42) lag far behind the remaining eight countries, which range from Latvia (€2.25) to Estonia (€2.78).

Despite the persistent geographical cleavages between the western, the southern and the central and eastern European countries, the overall development of minimum wages in 2016 was encouraging. After the already dynamic developments during the last two years (ETUC and ETUI 2016: 43), the growth of real minimum wages in the EU as a whole accelerated even further in the context of very low inflation rates and showed the strongest increase since 2000 (Schulden 2017).

However, this EU-wide trend hides very different national developments. Concerning the development of real hourly minimum wages, three groups of countries can be distinguished. The first group with a growth rate of 8% or more comprises Spain and seven central and eastern European countries ranging from Lithuania with 8% to Romania at the top of the table with 20.5%. The high growth rate in this country group is partly a statistical effect because most of the countries (with the exception of Spain) belong to the group with the lowest absolute minimum wages. However, it is also an indication of the general

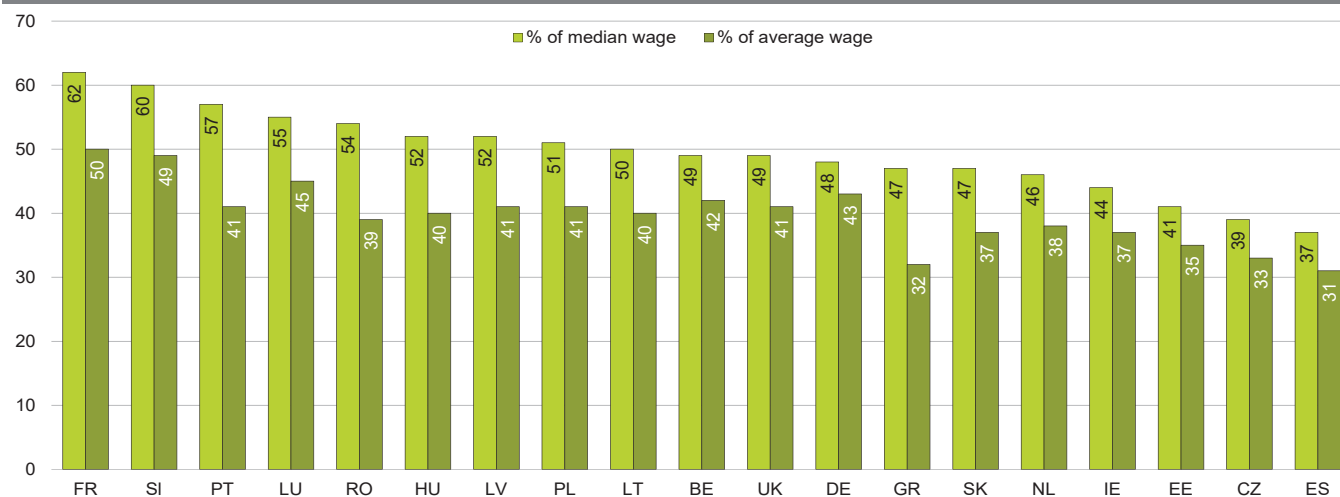
catching-up process of wage developments in the central and eastern European countries. The fact that real minimum wages grew substantially faster in the countries of this first group than real wages more generally also means that an internal catching-up process took place for low-paid workers (although it should be emphasised that wages still remain at a very low level).

The second group with an increase between 2% and 8% is a mixed bag, with countries from all geographical regions. This group ranges from Slovakia at the top of the table with a 7.8% increase to Latvia with an increase of 2.2%. This group also contains the UK, where real hourly minimum wages increased by a substantial 6.8% as a consequence of the introduction of the so-called 'National Living Wage' for all employees above the age of 25 in April 2016.

The third group with a growth rate below 2% consists of the countries with the highest relative level of minimum wages measured as a percentage of the national median wage (see Figure 3.5). However, this group also includes Greece (0.8%), where since 2012 no minimum wage increases are allowed without the explicit permission of the Troika (consisting of the Commission, the ECB and the IMF) (Koukiadaki and Grimshaw 2016).

## Minimum wage developments

Figure 3.5. Minimum wage as % of national full-time median and average wages (2015)



Source: OECD Stat.

### Limited impact of real minimum wages on low-wage sector

From a comparative perspective, a more appropriate way to assess the minimum wage level is the so-called 'Kaitz Index', which sets the minimum wage in relation to the overall wage structure as a percentage of the national full-time median. The median wage is the wage that divides the overall wage structure into two equal segments; i.e. it marks the boundary between the highest paid 50% and the lowest paid 50% of all employees.

However, the figures shown in the Kaitz Index can be attributed to entirely different sources. They could, on the one hand, represent a comparatively high minimum wage level, for instance in France and Slovenia. On the other hand, they may be the (statistical) result of an extremely polarised income distribution with a high concentration of wage-earners at the bottom of the wage scale, for instance in Portugal, Hungary and Romania (Schulten 2017). Thus, in order to get a clearer idea of the relative level of the minimum wage, it is helpful

to also measure the Kaitz Index as a percentage of the national full-time average wage. The difference between these two measures of the Kaitz Index provides an indication of the general wage inequality in the various countries (Schulten 2017). Figure 3.5, which is based on the OECD Income Database, therefore shows both measures for 2015.

One of the key messages to take from Figure 3.5 is that despite the more dynamic minimum wage development over the last three years, the relative level is still low. In all EU countries the statutory minimum wage remains below the low-wage threshold which the OECD and other international organisations set at two thirds of the national median (Grimshaw 2011). This illustrates the limited impact of minimum wages at the current levels in preventing low-wage work, and also chimes with the most recent Eurostat findings that in 2014 in the European Union one out of six employees (or 17.2%) was a low-wage earner (Eurostat 2016).

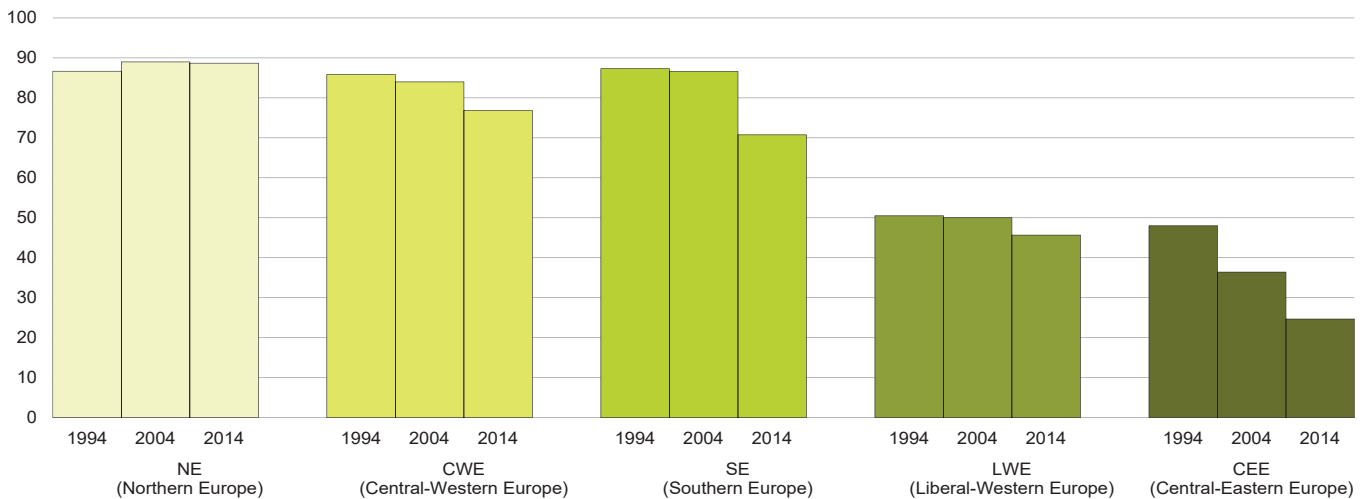
Assuming that one key objective of minimum wages is to ensure that workers are kept out of poverty without receiving any additional help from the state through tax credits, social benefits or other in-work benefits, it is particularly worrying that in 10 out of the 19 EU countries for which the OECD provides data, the relative level of the minimum wage is below 50% of the national full-time median wage. Even though in-work poverty

can be attributed to a variety of factors – such as insufficient working hours or the number of household members to be supported – the low level of minimum wages is another factor that contributes to many people across Europe not being able to make a living from the money they earn (Schulten 2016b: 70).

The large difference between the two measures of the relative level of minimum wage in both Portugal and Romania illustrates that the fairly high minimum wage level in relation to the median wage is the result of unequal wage distribution, with a high concentration of wage earners at the bottom of the wage scale. In other words, in these two countries the whole wage scale is so low that the seemingly high minimum wage level in relation to the median is still not enough to make a living; 57% of a very low median wage in Portugal is still a very low minimum wage in absolute terms even though statistically it seems fairly high. This is why it is very important to take into consideration both measures of the relative level of minimum wages when discussing the appropriate level needed for preventing in-work poverty.

## Trends in collective bargaining systems and strike activities

Figure 3.6. Development of collective bargaining coverage within EU (1994, 2004, 2014)



Source: author's calculations based on ICTWSS (2016). If no data was available for the given year, data from the closest available year was used.

### Trends in collective bargaining coverage in the EU28

There is considerable variation across EU Member States in terms of collective bargaining coverage rates and the degree of bargaining coordination. These differences emerged gradually in relation to other elements of the countries' political-economic systems (Hall and Soskice 2001), but they also reflect more recent economic trends and policy choices.

For the following analysis of recent developments in collective bargaining the EU Member States are grouped into five country clusters identified by Visser (2009). In the 'Northern European' group, which includes Denmark, Finland and Sweden, social partners actively participate in the policymaking process and collective bargaining takes place mainly at the sectoral level. Despite the absence of legal extension mechanisms (except in Finland), all Nordic countries have preserved high bargaining coverage rates thanks to the significant extent of union mobilisation and strong bargaining culture.

The industrial relations systems of the 'Central-Western European' countries (Belgium, Austria, Germany, Luxembourg, the Netherlands and Slovenia) are based on a complex set of legal rules. With the exception of Belgium, all cluster members have experienced a considerable decline in trade union density rates in recent decades, but the corresponding fall in bargaining coverage has been less pronounced due to the high degree of bargaining coordination.

In the 'Southern European' countries (Greece, Spain, France, Italy and Portugal) industrial relations had traditionally been politicised and employee interest representation fragmented, but bargaining coverage rates had remained high due to the presence of statutory extension mechanisms or their functional equivalents. As a result of crisis-era reforms and EU-imposed conditionality, however, bargaining coverage rates in Portugal and Spain dropped substantially, and in Greece they nearly halved.

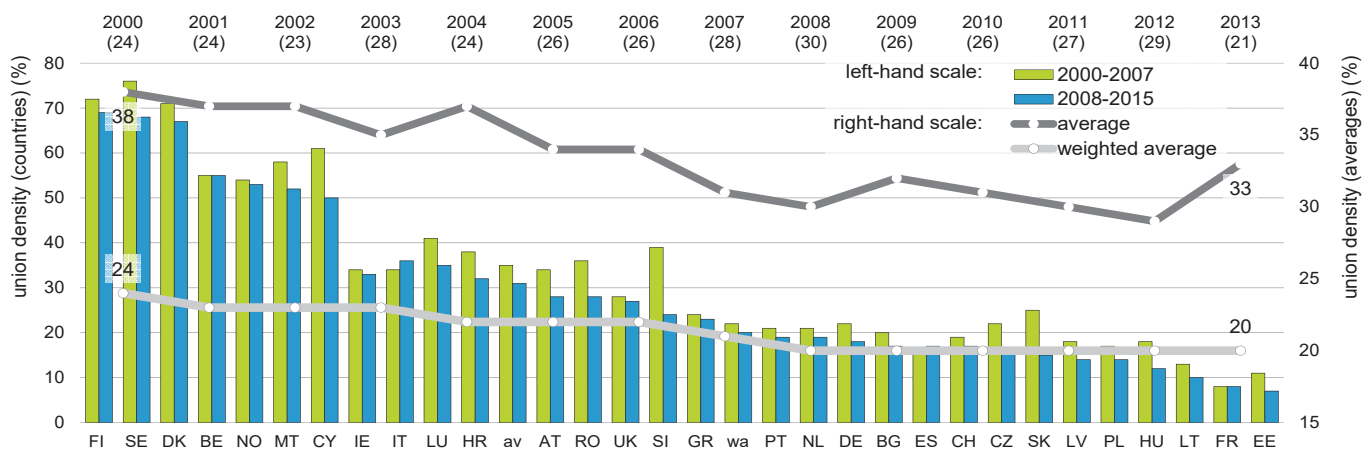
In the 'Liberal-Western European' cluster (the UK, Ireland, Malta and Cyprus), social partners are periodically engaged in socioeconomic discussions but their input is not always reflected in policy outcomes. With the partial exception of Ireland, single-employer bargaining has prevailed but bargaining coverage rates have remained fairly stable, with a more pronounced decline discernible only during the last decade.

The industrial relations systems of 'Central-Eastern European' countries (Poland, Czechia, Slovakia, Hungary, Romania, Bulgaria, Croatia, Estonia, Lithuania, Latvia and Croatia) have been characterised by an absence of bargaining traditions, low levels of bargaining institutionalisation and the considerable weakness of social partner organisations. Collective bargaining coverage rates in the former socialist states had been low and declined even further during the recent crisis. In Romania, the relatively well-developed bargaining system has been dismantled as a result of Troika-inspired reforms (Trif 2013).

According to Visser and Kaminska (2009: 19), 'a degree of solidarity wage setting based on coordination at the sectoral level or above' was an important factor behind the unprecedented economic growth in west European countries after the Second World War. Coordinated bargaining has brought tangible benefits to its participants, providing workers with a collective voice and guaranteeing high wages and decent working conditions. Against this background, the recent decline in collective bargaining coverage, particularly pronounced in southern and central-eastern Europe, is a matter of concern, especially as regards job quality and industrial democracy. It is also unclear whether the weak collective bargaining systems in these countries will be able to generate the wage-driven demand stimulus that is badly needed for their economic recovery.

## Trends in collective bargaining systems and strike activities

Figure 3.7. Union density in Europe since 2000 and country comparisons between 2000-2007 and 2008-2015



Source: ICTWSS (2016) and own updates.

Note: av: average; wa: weighted average; data for 2000-12: MT, PT, PL; 2000-13: FI, BE, CY, IE, IT, UK, SI, DE, ES, CZ, SK, FR; 2000-14: SE; 2000-15: DK, NO, AT, NL, CH, 2003-12: LU; 2000, 2004, 2008-12: HR; 2002-03, 2006-08, 2012: RO; 2001, 2004-06, 2008, 2011, 2013: GR; 2000, 2003, 2005, 2007-09, 2012: BG; 2003, 2006-08, 2010-12: LV; 2002-03, 2005, 2007-08, 2012-13: HU; 2000, 2002-03, 2005, 2007-12: EE.

### No limits to de-unionisation?

The bar graph (left-hand scale) in Figure 3.7 depicts the slow but almost continuous decline in trade union density in the EU28 countries and Norway and Switzerland from 2000 until 2013 (the latest year for which data is available for most countries). On average, probably less than one worker out of three is unionised today (an aggregated figure masking, for instance, occupational and sectoral differences). The figure is in fact even lower, as the denominator, based on the number of wage and salary earners, does not take into account all workers relevant for unions, such as the solo self-employed and workers in the 'shadow economy'. Furthermore, the lower weighted average confirms that density is rather low in some larger countries, although this is not due to country size or the dominance of particular industries as such (Visser 1993). Rather it is labour-friendly labour market institutions (Schmabel 2013), together with union membership itself and how it is understood, that matter for explaining country differences in the level of unionisation.

The line graph (right-hand scale) ideally compares average union density in the 2000-2007 period with a period of

(almost) equal length (since the beginning of the Great Recession). However, such a comparison is fully possible for only a few countries; the data is missing or not yet available for most countries. Nonetheless, considerable divergence in unionisation rates remains, with Finland and Denmark still at the top of the 'unionisation league'. While unions' involvement in voluntary unemployment insurance (the 'Ghent system') is an important explanation for this (Høgedahl and Kongshøj 2017), union access to the workplace is also key (Toubøl and Jensen 2014; see Chapter 4). At the bottom of the league we find most CEE countries; Croatia and Slovenia are exceptions, but decline has recently also set in in these countries too. Union density has fallen in most countries, and primarily in most CEE countries, 'supporting the notion that to some degree European integration has served as a neoliberal project to advance the interest of capitalists' (Vachon *et al.* 2016: 13). Density remained relatively stable in four countries: Belgium, Norway, Ireland and low-unionised France, and it increased in Italy and Spain. However, the stability in Ireland and increase in Spain are not the result of union growth, but of membership falling at a slower pace than employment. Likewise, the Italian density is the result of a slight increase in union membership and a decrease in the number of wage and salary earners. The case of France, with its low membership, il-

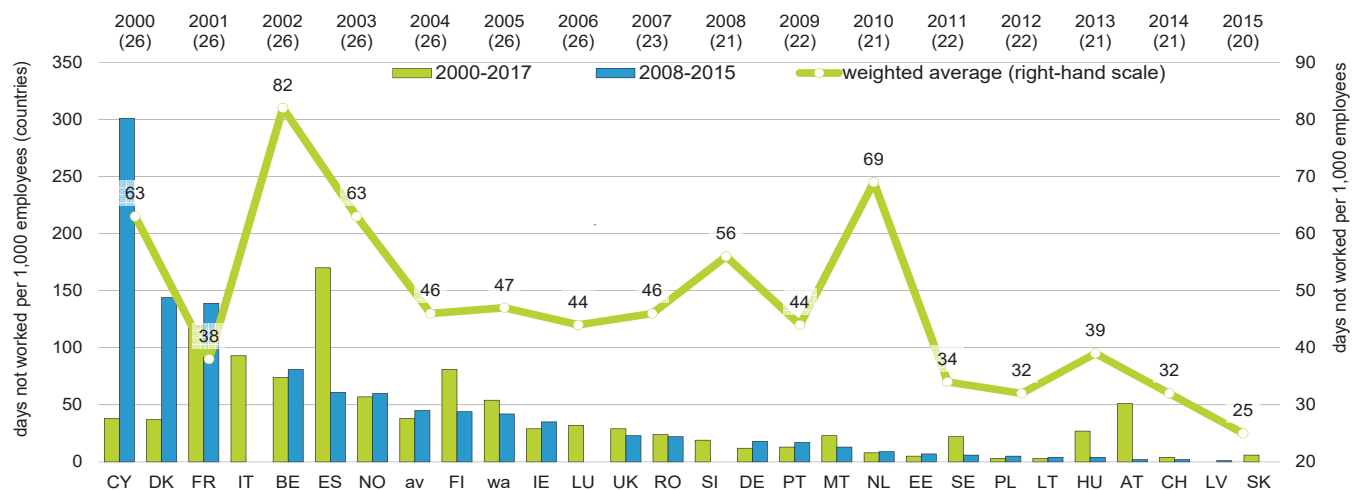
lustrates that workers' power can also be based on their mobilisation capacity (Sullivan 2010).

Nevertheless, individual unions are still able to grow their membership; some of them have increasingly been inspired by a US-style 'organising model'. Yet this policy transfer from the English-speaking world to continental Europe might risk unions losing sight of class and societal issues, even in the case of organising vulnerable, precarious and marginalised workers (Martínez Lucio *et al.* 2017). However, if unions want to reduce inequality and promote a high level of employment, addressing both class and societal issues continues to be essential (Crouch 2017). Moreover, the engagement of unions with 'democratic experimentalism' (Murray 2017) seems a prerequisite for going beyond the management of union decline, which is often based on a toolbox of practices inspired by the 'organising model' (Simms and Holgate 2010). Unions might consider whether restoring the prominence of strike action, ideally relying on the mass participation of ordinary people, should be a part of their endeavours in democratic experimentalism (McAlevy 2016). Indeed, evidence from Germany (Dribbusch 2016) and the UK (Hodder *et al.* 2016) reveals how strike action has helped to highlight perceived injustices, demonstrate union effectiveness and increase union membership.



## Trends in collective bargaining systems and strike activities

Figure 3.8. Relative strike volume in Europe since 2000 and country comparisons between 2000-2007 and 2008-2015



Source: ETUI.

Note: av: average; wa: weighted average.

### Strike action: stability after the 2010 peak?

The bar graph (left-hand scale) in Figure 3.8 depicts the weighted average of the strike volume in most EU28 countries together with Norway and Switzerland since 2000. It displays a relative peak in the volume in 2010, mainly resulting from 'national days of action' (including strikes) against pension reforms in France (Ancelovici 2011). After that, the volume falls to a level below that of 40 days not worked due to industrial action per 1,000 employees. However, the post-2008 strike development is underestimated, in particular as it overlooks several general strikes linked to anti-austerity protests, especially in southern Europe (Dribbusch and Vandaele 2016). The European weighted average of the strike volume would rise if missing data about general strikes (especially in Greece, Italy, Portugal and Spain) had been considered (Vandaele 2016). Additionally, the strike picture at the country level is far more differentiated in its details than the line graph suggests.

Notably, the structural crisis of the finance-dominated accumulation regime

has affected the European economies differently. However, economic hardship has only provided a general context for grievances and feelings of relative deprivation: the social protest cycle should be studied in relation to austerity programs, as they made it more likely for blame to be attributed to political authorities (Bermeo and Bartels 2014). Besides the austerity drive's timing and severity, the organisational cohesion between unions, and the institutional access for negotiations between them and political authorities, have also been of a varying nature, all of which has generated nation-specific dynamics of resistance (Ancelovici 2015). Finally, nationally embedded repertoires of action also explain the sustained cross-national variation in the strike volume and its uneven development. In particular, general strikes are barely or not at all part of the action repertoire of workers in several countries as they are (deemed) unlawful. Those general strikes together with generalised large-scale strikes in the public sector tend to dominate the data. They help to explain country differences in the volume as shown in the line graph (right-hand scale), which compares the average volume in the period 2008-2015 (i.e. in the aftermath of the 2007-2008 financial crisis) with a period of equal length running up to 2008.

In most countries for which data is available for the two periods, the volume

either declined or has been relatively stable. The drop in the volume is naturally most prominent in those countries with a relatively high level in the previous period, like Spain, Finland and Austria. Still, there are exceptions, of which Cyprus and Denmark are the most prominent cases. Cyprus skyrockets to the top of the 'strike league' due to an open-ended conflict that erupted in the construction industry in 2013. Large-scale strikes in the public sector in 2008 (Scheuer *et al.* 2016) and a general lock-out in the public sector in 2013 dominate the strike data.

The varying use of the strike weapon, across sectors, countries and time, reflects its context-dependent character and the variation in the legal recognition of labour rights (Gentile and Tarrow 2009). However, this recognition (also regarding the right to strike (Clauwaert 2016a; Xhafa 2016)) has been increasingly hollowed out by political authorities, especially since the Great Recession. As a result, the capacity of workers to voice their support for a more 'moral economy' through institutionalised corporatist channels in the economic arena has been undermined (Vlandas and Halikiopoulou 2016). Moreover, as unions' return to the streets has only resulted in limited political exchange (Hyman 2015), the electoral revolt against political elites in the post-democratic era should come as no surprise.



## Judicial developments and trade union rights

Figure 3.9. Trade union rights before European courts and judicial bodies in 2016

Court	Case nr.	Case name	Outcome
CJEU	C-25/14 and C-26/14	<i>UNIS</i>	Collective agreements are subject to transparency requirement (Article 56 TFEU)
ECtHR	No. 20641/05	<i>Eğitim Ve Bilim Emekçileri Sendikası v. Turkey</i>	TU attempts to facilitate education in mother tongue are protected under Article 11 ECHR
ECtHR	No. 23646/09	<i>Geotech Kancev GmbH v. Germany</i>	Obligation to participate in Social Welfare Fund (set up by social partners) does not breach Article 11 ECHR
ECtHR	No. 26126/07	<i>Naku v. Lithuania</i>	Diplomatic immunity does not allow restrictions to employee's access to court for labour law disputes
ECSR	No. 101/2013	<i>European Council of Police Trade Unions (CESP) v. France</i>	Blanket prohibition on associations for police (also when fulfilling military functions) breaches Article 5 ESC

Sources: CVRIA (<http://curia.europa.eu/>), HUDOC ESC (<http://hudoc.esc.coe.int>), HUDOC ECHR (<http://hudoc.echr.coe.int>).

### Are the courts on the side of trade unions?

Trade union (TU) rights have been litigated before various European courts in 2016. In the majority of cases the courts have sided with workers and also the trade unions, revealing a trend different to that in the shipping sector (analysed below). Nevertheless, some worrying trends remain.

In joined cases C-25/14 and C-26/14 *UNIS*, the Court of Justice of the European Union (CJEU) ruled that when a collective agreement that is universally applicable in the sector appoints a single body to manage a supplementary social insurance scheme, there needs to have been a degree of publicity sufficient for opening up the competition and ensuring the impartiality of the award procedure. The transparency principle under Article 56 of the Treaty on the Functioning of the European Union (TFEU) has to be obeyed by the social partners.

The European Court of Human Rights (ECtHR), which is the court of the Council of Europe system, issued three judgments of interest in 2016. First, in the case *Eğitim Ve Bilim Emekçileri*

*Sendikası v. Turkey*, where a teachers' TU had been dissolved for including the words 'receive education in their mother tongue' in its constitution, the ECtHR found a violation of Article 11 of the European Convention on Human Rights (ECHR) (the right to freedom of assembly and association).

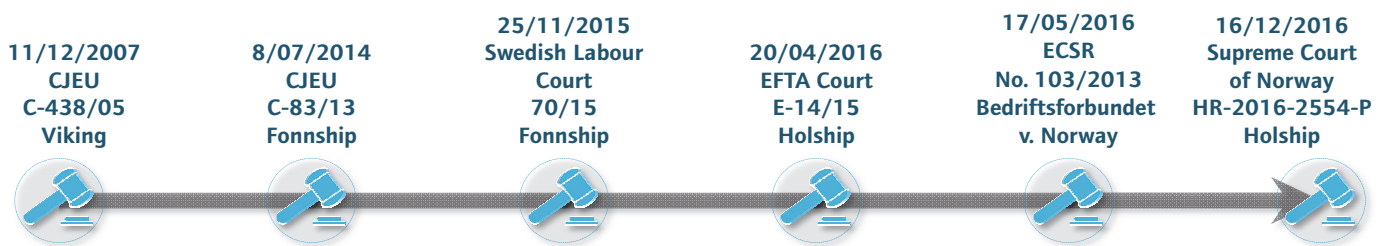
Second, in *Geotech Kancev GmbH v. Germany* a company considered that the obligation to participate in the social welfare fund set up by social partners breached its right not to join an association. The ECtHR ruled that while the obligation to contribute to the fund might be creating a de facto incentive for the applicant company to join the employers' organisations, it was too remote to strike at the substance of the right to freedom of association (no violation of Article 11 ECHR).

Third, in *Naku v. Lithuania* an employee who had also been the chairperson of the TU for locally employed staff at the Swedish embassy in Vilnius challenged her dismissal and requested compensation. The applicant had *inter alia* urged the signing of a collective agreement by the Swedish embassy, but the latter had refused, arguing that it does not need to adhere to Lithuanian labour law, even though the employment contract had indicated that as the applicable law. The Lithuanian court had refused access to courts on the basis of diplomatic immunity. The ECtHR found

a breach of Article 6(1) ECHR (the right to a fair trial), but since the applicant had not properly voiced her complaints of having been discriminated on account of her TU activities, the Court regrettably did not look at the potential violation of Article 11 ECHR. The troubling aspect of this case is the Swedish embassy's unwillingness to adhere to Lithuanian collective bargaining practices, implying that high labour standards and collective bargaining rights end at the border. Finally, in January 2016 the European Committee of Social Rights adopted a decision concerning exclusion of the Gendarmerie from the scope of TU rights. The Committee distinguished between when the Gendarmerie performs tasks that are civilian in nature, and when it performs military tasks. In the former situation the French system did not provide the employee representatives with sufficient protection from potentially harmful consequences of their TU activities. In the latter situation a blanket prohibition on professional associations of a TU nature was not proportional and breached Article 5 of the European Social Charter (the right to organise).

## Judicial developments and trade union rights

Figure 3.10. The legacy of *Viking* lives on



Source: CVRIA (<http://curia.europa.eu/>); EFTA Court (<http://www.eftacourt.int/>); HUDOC-ESC (<http://hudoc.esc.coe.int/eng#>).

### The legacy of *Viking* lives on

Judicial decisions play an important role in constraining or supporting trade unions' (TU) capacity to act in the field of wages and collective bargaining. One particularly important case in this respect was the famous *Viking* case in 2007 whose legacy still haunts the trade unions. In *Viking* the CJEU ruled that freedom of establishment can be invoked against a TU to prevent collective action aimed at obtaining an agreement on decent wages for workers. Lately this relatively old case law has grown in influence.

*Viking* was followed by *Fonnship* (C-83/13), where the CJEU expanded its approach to cover the situations falling under the EEA agreement. In November 2015, the Swedish labour law court delivered the final judgment in the case and ruled that the industrial action by local TUs, which included preventing the loading and unloading of a vessel owned by a Norwegian company and demanding that it enter into a collective agreement, was unlawful. The requirement to pay the crew wages equitable to the Swedish wages went beyond what was allowed under the EEA Agreement and the TUs

were found liable to pay damages as well as to repay certain fees (AD 2015 No. 70).

In 2016 the EFTA Court (sister court to the CJEU for the EEA countries) delivered what could be deemed 'the judgment of the year' for TUs active in the shipping sector. The Norwegian Supreme Court questioned the lawfulness of a declared boycott that aimed to procure the signing of a framework agreement giving priority to dock workers registered with the Administration Office for Dock Workers (AO) by bringing the case before the EFTA Court. The EFTA Court (E-14/15 *Holship*) ruled that the exemption from the competition rules (see *Albany*, C-67/96) for collective agreements (the so-called 'Albany exemption' which had been extensively relied upon by the TUs for years) does not cover the priority rule for using workers registered with the AO instead of the company's own workers. The EFTA Court strongly suggested that there had been a breach of competition law, and added that there had likely been a restriction on the freedom of establishment (as in *Viking*).

On 16 December the Norwegian Supreme Court delivered the final judgment. Even though it did find that competition law applies, it chose to rule based on the freedom of establishment and the case law, as originally developed in *Viking*. The Court found a breach because, even though the declared purpose of the boycott was to protect workers' rights,

the primary objective was actually to prevent *Holship* from establishing itself as a provider of unloading and loading services.

Finally, the European Committee of Social Rights also looked at a case involving Norwegian ports (complaint No. 103/2013). A Danish business association (Bedriftsforbundet) had challenged the practice at the Norwegian courts requiring that the employees have to be members of the dock workers' union in order to be hired and to continue to be employed (alleged closed shop practice). The Committee, however, found no violation of Article 5 of the European Social Charter (the right to organise), delivering an outcome in tune with the TUs' position in the case.

In sum, the recent cases show that the legacy of the *Viking* judgment lives on and continues to affect TU rights to take collective action and also to bargain collectively concerning wages in situations where the freedom of establishment applies. Moreover, the case law from the EFTA Court also significantly restricts the long-existing Albany exemption of collective agreements from competition law.

## Conclusions

### The need for wage-led growth instead of internal devaluation

This chapter's analysis has shown that last year's trend of real wages growing faster than productivity gathered further momentum. Even though in the majority of countries real wage growth is attributable in large part to very low inflation rates in the EU, this trend nevertheless indicates a redistribution from capital to labour income. Wage growth also applies to real minimum wages which in most EU countries exceeded the general growth in real wages. This in turn indicates that wages at the bottom of the wage scale grew faster than those higher up the scale. However, despite this growth, statutory minimum wages in the majority of EU countries are still very low, prompting the European Parliament to call for minimum wages 'attaining at least 60% of the respective national average wage ..., to avoid excessive wage disparities, to support aggregate demand and economic recovery and to underpin upward social convergence' (2016: 17).

The analysis furthermore demonstrated that this real wage growth took place in a context of not very favourable political and institutional framework conditions that comprised the following elements:

1. The country-specific recommendations in the field of wages and collective bargaining, which for 2016/2017 were a déjà-vu experience. Despite all the rhetorical commitments to the importance of social cohesion and a more dynamic wage development, the actual recommendations continued with the same old strategy of internal devaluation. The Commission's key objective therefore is still to improve cost competitiveness by ensuring moderate wage developments through more flexible (meaning more decentralised) wage-setting mechanisms.

2. The long-lasting trend of a decrease in collective bargaining coverage which was particularly pronounced in the southern and central-eastern European countries as a consequence of the crisis and the 'structural reforms' that were implemented as part of its management.

3. The continuing trend of de-unionisation in many EU countries which indicates a decline in trade unions' organisational power resources and capacity to act.

4. Continuing restrictions on trade union activities by international and national labour courts which, following the example set by the famous *Viking* case, give the freedom of establishment priority over trade union rights.

The question that remains, therefore, is whether the recovery of real wages over the last two years indicates a general re-orientation towards a more wage-led growth model. Given the current political and institutional framework conditions described above, the answer is most likely negative, particularly as the components of such a re-orientation would be exactly the opposite of, for instance, those promoted in the CSRs.

As Onaran and Stockhammer (2016) illustrate, re-orientation towards a wage-led growth model comprises a complex set of measures in different policy areas such as fiscal and tax policy as well as macroeconomic and industrial policy. However, one essential building block of such a re-orientation is the Europe-wide coordinated pursuit of a new form of solidaristic wage policy, which goes beyond the classical notion of a productivity-oriented wage policy in which wages develop in line with both productivity and price developments (Schulten *et al.* 2017). A solidaristic wage policy, as proposed by Chagny and Husson (2015) with their 'optimal wage regime', would also supply remedies for the increased pay differentials between individual sectors, and in doing so seek ways to disproportionately increase the wages of low-paid workers.

However, there are three fundamental prerequisites to pursuing such a solidaristic wage policy: appropriate minimum wages, all-encompassing collective bargaining systems and strong

trade unions (Schulten *et al.* 2017). As regards minimum wages, there were some positive developments in 2016. However, the task of a Europe-wide coordinated minimum wage policy would be to guarantee adequate wage levels above the 'risk of poverty' threshold for workers in all countries. Concerning collective bargaining systems, the analysis has shown that there are still large cleavages in the coverage rates. A solidaristic wage policy requires high coverage rates based on multi-employer bargaining systems. In the context of decreasing union density in many countries, this in turn requires support from the state, for example through the establishment of extension mechanisms that ensure the universal application of collective agreements. Support could also come from the European level; instead of weakening or even dismantling multi-employer bargaining systems, the EU should, together with European trade unions and employers' federations, initiate a broad-based campaign to strengthen collective bargaining systems and coverage (Schulten *et al.* 2015). Finally, even the IMF by now acknowledges that an inclusive growth model on the basis of a more egalitarian distribution of income requires strong trade unions (Jaumotte and Buitron 2015). Although it is obviously first and foremost up to the trade unions themselves to strengthen their organisational power base and reverse the trend of falling membership levels, institutional support could also come from the European and national level by reversing the policies which, in an attempt to get rid of labour market rigidities, restrict trade unions' capacity to act.

Under the current political circumstances, the implementation of such a solidaristic wage policy as part of a broader macroeconomic re-orientation towards a wage-led growth model may sound utopian. However, with the launch of the ETUC campaign 'Europe needs a pay rise - It's time for our recovery' (ETUC 2017) a first important step has been taken in mobilising for such an alternative approach.

# One step forward, two steps back? Taking stock of social dialogue and workers' participation

## Introduction

With a view to assessing the current state of play in social dialogue, social policy, and workers' participation, this chapter assesses a range of issues and indicators. It opens with a critical analysis of the European Social Dialogue and the attempts to revive it. Seeking to anticipate the contributions of other key actors, we identify a few social policy initiatives embedded deep within the European Commission's 2017 work programme and highlight the role that the jurisprudence of the European Court of Justice has played in aligning the rights of atypical workers. Turning to workers' participation rights more specifically, we open with a reiteration of the benchmark established by the many specific rights to information and consultation laid down in the EU *acquis*, and assess the spread and impact of the institutions of workers' participation at workplace level across the European Union. To assess the European dimension of these rights, we look at the variation in the quality of the transposition of the Recast Directive and highlight some of the findings of recent evaluations on the impact of the EWC Directive on EWCs in legislation and practice. We also sketch some initial figures on the potential impact of Brexit, which may result in the exclusion of UK workers from information and consultation processes going on in multinational companies. Finally, we assess the current practices and debates around board-level employee representation, which represents one of the least harmonised or integrated elements of workers' participation.

## Topics

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## Renewing the European Social Dialogue?

Figure 4.1. Overview of joint European cross-industry social dialogue texts (2008-2016)

Year	Type/theme of outcome
2008	Progress report on reconciliation of professional, private and family life (07/02/2008)
	Joint letter on childcare (07/07/2008)
2009	(Revised) framework agreement on parental leave (18/06/2008, incorporated in Dir. 2010/18)
2010	Report on joint work on ECJ rulings <i>Viking, Laval, Ruffert</i> and <i>Luxembourg</i> (19/03/2010)
	Autonomous framework agreement on inclusive labour markets (25/03/2010)
	Joint statement on the Europe 2020 strategy (04/06/2010)
2011	–
2012	–
2013	Framework of actions on youth employment (11/06/2013)
	Declaration on European alliance for apprenticeships (01/07/2013; with Commission and LT Council Presidency)
	Joint declaration on social partner involvement in European economic governance (24/10/2013)
2014	–
2015	In-depth employment analysis (01/09/2015)
2016	Joint declaration on new start for a strong social dialogue (27/01/2016)
	Joint call on EU institutions to bring competitive and sustainable industry back to core of EU policy agenda (16/03/2016; BusinessEurope and ETUC)
	Joint statement on digitalisation (16/03/2016)
	Joint statement on the refugee crisis (16/03/2016; together with Eurochambres)
	Joint statement on industrial policy (16/03/2016, BusinessEurope and ETUC)
	Joint statement on 'Towards a shared vision of apprenticeships' (30/05/2016)
	Quadripartite statement on a new start for social dialogue (27/06/2016; together with Commission and Council)
Framework agreement on active ageing and intergenerational solidarity (December 2016, but not yet adopted and signed)	

Source: ETUI sectoral social dialogue text database, Commission social dialogue text database; all texts are concluded by all European cross-industry social partners (ETUC, BusinessEurope, CEEP and UEAPME) unless otherwise mentioned; table does not include implementation and/or follow-up reports/tables on framework agreements/frameworks of action, nor the three joint work programmes (2009-2010, 2012-2014 and 2015-2017 concluded within the reference period).

### Can a stagnating EU Social Dialogue...

Developing and fostering social dialogue is an essential element of the European social model and it is anchored in Articles 152-155 of the Treaty on the Functioning of the European Union. Since the second half of the 1990s in particular, the European Social Dialogue (ESD) has developed considerably, both at cross-industry and sectoral level. At least from a quantitative point of view, it has yielded an impressive array of legally binding and non-binding documents – such as (autonomous) framework agreements, frameworks of action, declarations, opinions, rules of procedure and toolkits – on a wide variety of topics.

However, over time and in particular since the emergence of the economic crisis in 2008, some important institutional, socioeconomic, political and legal developments have caused the European

Social Dialogue at both levels to lose impetus, resulting, in some cases, in setbacks or even a complete standstill.

There are several causes of this loss of momentum. Firstly, the Commission, which had previously been the main driving force, has gradually withdrawn as a (pro)active actor in the ESD at both levels. Evidence of this disengagement can be seen in the (deliberately?) forgotten role of the Social Dialogue in the EU 2020 strategy (ETUC and ETUI 2011: 86-89), the Commission's (and Council's) deregulatory approach towards social dialogue actors and structures as expressed in the memorandums of understanding and the country-specific recommendations issued in the framework of the European Semester (Clauwaert 2015 and 2016a; ETUC and ETUI (2016: 40), and finally, its refusal to put forward proposals to convert certain sectoral framework agreements (such as that on the protection of occupational health and safety in the hairdressing sector) into directives, despite the joint demands of the European social partners to do so.

Secondly, the growing hostility to social dialogue amongst some Member States' governments, as evidenced by their actions at national level (such as the implementation of national or European-level measures to decentralise, dismantle, or undermine social dialogue and collective bargaining structures, processes and actors, directly or indirectly) as well as at EU level (such as the pressure reportedly exerted by some Member States on the Commission not to put forward proposals for the incorporation of sectoral agreements into directives).

Last but not least, there is the increased reluctance of employers (again at both national and European level) to genuinely engage in social dialogue and collective bargaining and to commit themselves to binding outcomes.

This can be seen in the refusal of some European employers' organisations to engage in negotiations on issues like paternity leave or carers' leave in the framework of the Commission's consultations on work-life balance.

## Renewing the European Social Dialogue?

Figure 4.2. New European sectoral social dialogue committees (SSDC) 2008-2016

Sectoral social dialogue committees (SSDC)				
Creation SSDC	Sector	Employees	Employers	Joint texts 2008-2016
2008	Professional football	ECA, EPFL	FIFPro	3
2010	Metal	IndustriAll	CEEMET	15
2010	Central government administrations	TUNED	EUPAN	14
2010	Education	ETUCE	EFEE	15
2010	Paper industry	IndustriAll	CEPI	6
2012	Food and drink industry	EFFAT	FoodDrink Europe	8
2013	Graphical industry	UNI Europa Graphical	Intergraf	5
2013	Ports	ETF, IDC	FEPOR, ESPO	1

Source: European Commission (2015), ETUI sectoral social dialogue text database, Commission social dialogue text database.

With support seemingly draining away since the emergence of the crisis, the European Social Dialogue has been delivering below its potential at both the sectoral and cross-sectoral levels, albeit with certain nuances.

### ...be successfully relaunched?

As Figure 4.1 shows, at the cross-industry level the last framework agreement incorporated into a directive dates as far back as 2009 (revised parental leave) and the last (autonomous) framework agreement (on inclusive labour markets) dates back to 2010. More promising is the fact that at the end of 2016, ETUC, BusinessEurope, CEEP and UEAPME successfully concluded the negotiations on a framework agreement on active ageing and intergenerational solidarity; at the time of writing however (January 2017), this agreement has not yet been formally adopted and signed. For the rest, as demonstrated in Figure 4.1, in the period 2008-2016 the European cross-industry Social Dialogue yielded only limited results, albeit on important issues, such as the role of the European social partners in the European economic governance process, the refugee crisis and the impact of digitalisation (on the latter, see also ETUC and ETUI 2016: 60-61).

During that same period, the European cross-industry Social Dialogue in fact witnessed three 'dry' years in which no joint text was concluded (2011, 2012, and 2014).

The picture looks a bit rosier for the European sectoral Social Dialogue. In the same period of 2008-2016, a total number of eight new European sectoral social dialogue committees were established (see Figure 4.2) and in 2012 a test phase was launched for the establishment of a sectoral committee for the sports and active leisure sector. Furthermore, a total of ten framework agreements were concluded in nine different sectors (see Figure 4.3; in fact, the total amounts to 11 framework agreements, since – due to pressure from both the Commission and the Council – the 2012 hairdressers agreement was renegotiated in 2016). However, and particularly when compared to the cross-sectoral social dialogue, this uneven record of the European sectoral dialogue does not necessarily imply that the sectoral social dialogue was more active; rather, the rise in activity is due to its having broadened its coverage to more sectors (Degryse 2015).

Some progress notwithstanding, the European Social Dialogue at both levels was (and still is) clearly in need of a new stimulus. The commitment of Commission President Juncker to revive it is certainly to be welcomed. This revival process aims for: (1) more substantial involvement of the social partners in the

European Semester; (2) a stronger emphasis on capacity-building of national social partners; (3) a strengthened involvement of social partners in EU policy- and law-making; and (4) a clearer relation between social partners' agreements and the Better Regulation agenda.

The 'relaunch' of the European Social Dialogue kicked off with a high-level conference on 5 March 2015 and was followed by intensive discussions and negotiations between the Council, the Commission and both European cross-industry and sectoral social partners in two thematic groups. One group focused on the role of social dialogue in economic governance and the importance of capacity-building (particularly the functioning of social dialogue in newer Member States), while the second group dealt mainly with the involvement of social partners in policy- and law-making as well as the concept of representativeness at the EU level.

The discussions led on 27 June 2016 to the unprecedented 'Quadripartite statement [...] on a New Start for Social Dialogue' being signed by the European cross-industry social partners (but covering also the European sectoral social partners), the European Commission and the Council (Presidency of the Council of the EU 2016).

It should be noted, however, that this statement amounts to a 'light version' of the European social partners' joint declaration on 'a new start for a strong social dialogue', which had emerged from the



## Renewing the European Social Dialogue?

Figure 4.3. List of the framework agreements signed by the European sectoral social partners 2008-2016

Date	Sector	Title (theme)
19/05/2008	Maritime transport	Agreement on the ILO maritime labour convention, 2006 (working conditions)
10/06/2009	Railways	Joint declaration on the application of the CER-ETF agreement on a European locomotive driver's license (training)
18/06/2009	Personal services	European agreement on the implementation of the European hairdressing certificates (training)
17/07/2009	Hospitals	Framework agreement on prevention from sharp injuries in the hospital and healthcare sector (health and safety)
24/11/2010	Private security	European autonomous agreement on the content of initial training for CIT staff carrying out professional cross-border transportation of euro cash by road between euro-area Member States (training)
15/02/2012	Inland waterways	European agreement concerning certain aspects of the organisation of working time in inland waterway transport (working time)
19/04/2012	Professional football	Agreement regarding the minimum requirements for standard player contracts in the professional football sector in the European Union and in the rest of the UEFA territory (working conditions)
26/04/2012	Personal services	European framework agreement on the protection of occupational health and safety in the hairdressing sector (health and safety)
21/05/2012	Sea fisheries	Agreement between the social partners in the European Union's sea-fisheries sector concerning the implementation of the work in fishing convention (2007) of the International Labour Organization (working conditions)
21/12/2015	Central government	General framework for informing and consulting civil servants and employees of central government administrations (information/consultation)
23/06/2016	Personal services	European framework agreement on the protection of occupational health and safety in the hairdressing sector (renegotiated version of 2012 agreement following refusal of the Commission to incorporate into Directive)

Source: ETUI sectoral social dialogue text database, Degryse (2015).

discussions in the thematic groups, but to which the Commission in particular could not fully agree. Unlike the joint declaration of the social partners, the title of the quadripartite statement excludes the word 'strong' from its reference to social dialogue (ETUC 2016), arguably an indication of their lower level of commitment.

Although this new roadmap for the European Social Dialogue has at least the merit of bringing all the main stakeholders back to the negotiating table to explore and put down in black and white their respective and mutual commitments to this dialogue, all will of course depend on its actual implementation. Although the Commission has already expressed a positive view on the fulfilment of (some of) its commitments (European Commission 2016), the social partners, and in particular the ETUC, remain more prudent.

Early signs do look promising; for instance, the track record for 2016 shows that the cross-industry social partners concluded no less than nine joint texts, including an autonomous framework agreement.

Nevertheless, the future of the Social Dialogue and its success will very likely depend on the social partners themselves, through the implementation of their current work programme 2015-2017 (Lapeyre 2015); in particular, it will depend on the quality of the content of their next work programme 2018-2020

and their overall ability to reach binding agreements. Negotiations on this new work programme are envisaged to start in the second half of 2017.

### Will this relaunch be the 'last chance'?

Indeed, the time may have come to cease conducting a noncommittal, insubstantial Social Dialogue, i.e. talking for the sake of talking without a genuine commitment to achieve binding outcomes. Instead, the key motivation should be to pursue a strict, results-oriented agenda for the Social Dialogue, with a clear focus on concluding and effectively implementing binding agreements. This is declared as a top priority in the latest ETUC Resolution on a European Social Dialogue Strategy (ETUC 2016). Not only does the ETUC consider that it is 'crucial' to avoid 'time-wasting on issues of minor political importance', but it is also 'committed to achieving a short, concrete and precise work programme, while maintaining the flexibility to jointly address issues which may not be addressed in the text of the work programme.' Furthermore, the ETUC seeks to explore the possibility of setting up a joint working group on the modernisation of the Social Dialogue (which will investigate amongst other

issues how to improve the effectiveness of the Social Dialogue Committee), to enhance the work of the so-called Subgroup of the Social Dialogue Committee (which is mandated to examine the implementation of the framework agreements and frameworks of action) and, finally, to consider how to involve European Works Councils more actively in the implementation of autonomous framework agreements.

Reciprocal concrete commitments from the employers' organisations are eagerly and urgently awaited. Launched in 2015, this process carries high stakes and it could turn out to be, in the words of Commission President Juncker, the 'relaunch of the last chance' (Degryse and Pochet 2016).

## Legislative initiatives in social policy

Figure 4.4. Overview of legislative initiatives

Initiative	COM	Pending	Outcome	Initiative	COM	Pending	Outcome
Personal pension product	P			EU Agency on Asylum		L	
Social security		L		Application for international protection		L	
E-privacy		L		Crisis Relocation Mechanism		L	
Whistleblowers	P			Safe Countries List		L	
Apprenticeships	P			Procedure for international protection		L	
Work-life balance	P			Accessibility to products and services		L	
Access to social protection	P			Application for protection of unaccompanied minors		L	
Written statement directive	P			Platform on undeclared work			A
Road transport	C			Regulation EURES			A
Consumer protection	E/R			Pregnant Workers Directive			R
Posting of workers		L		Working Time Directive			R
EU-OSHA		L		General Equality Directive		L	
Eurofund		L		Directive on copyrights for print-disabled		L	
Qualifications Regulation		L		Directive on mutual recognition of seafarers' certificates	E/R		
EU Resettlement		L		OHS <i>acquis</i>	E/R		
Residence permits for TCNs		L		Information and consultation of workers	C		
Standards for reception of TCNs and stateless persons		L		Part-time work and fixed-term work	E/R		
Uniform status for refugees		L		Equal treatment in social security	E/R		
Entry by TCNs for work		L		Women on company boards	E/R	L	
Entry by TCNs for studies			A	Legal migration <i>acquis</i>	E/R		
Protection from carcinogens and mutagens		L		Asylum Package		L	
Establishment of 'Eurodac'		L					

Source: COM(2016) 710 final with annexes and also OEIL - European Parliament Legislative Observatory (<http://www.europarl.europa.eu/oeil/home/home.do>).

Note: COM: within the Commission; P: planned; E/R: evaluation/REFIT; C: consultation; L: legislative process; A: adopted; R: revoked. TCNs: third-country nationals.

## Workers' rights back on the agenda?

Rather than delivering much-needed social change, the EU legislative machinery seems more occupied with already proposed measures and evaluations of existing ones (see Figure 4.4).

At the same time, the amount of social initiatives in the pipeline could be seen as a positive sign. The landmark initiative of 2016, the controversial European Pillar of Social Rights (Lörcher and Schömann 2016), will be accompanied by proposals on work-life balance and access to social protection, as well as the revision of the Written Statement Directive. Other expected initiatives are proposals for a pan-European personal pension product and protection for whistleblowers. Finally, the non-legislative initiative on working time suggests that, after two failed attempts, the idea to amend

the Working Time Directive has been abandoned.

Initiatives with potential social impact still going through the REFIT, evaluation, or consultation processes include the E-Privacy Directive, the improvement of social legislation in road transport, proposals on the information and consultation of workers, consumer protection, legal migration, equal treatment in social security, and the part-time and fixed-term framework agreements. The long-awaited Communication on the modernisation of the occupational health and safety *acquis* (the result of the biggest REFIT evaluation on social matters so far) (COM(2017) 12 final) proposes a range of actions and important amendments to the existing *acquis*. Another significant group of initiatives are pending in the legislative process. Some have been there for a very long time with small prospect of being adopted (e.g. the Equality Framework Directive and the proposal on gender balance on company boards). Others were proposed only recently and might lead to actual change (e.g. the

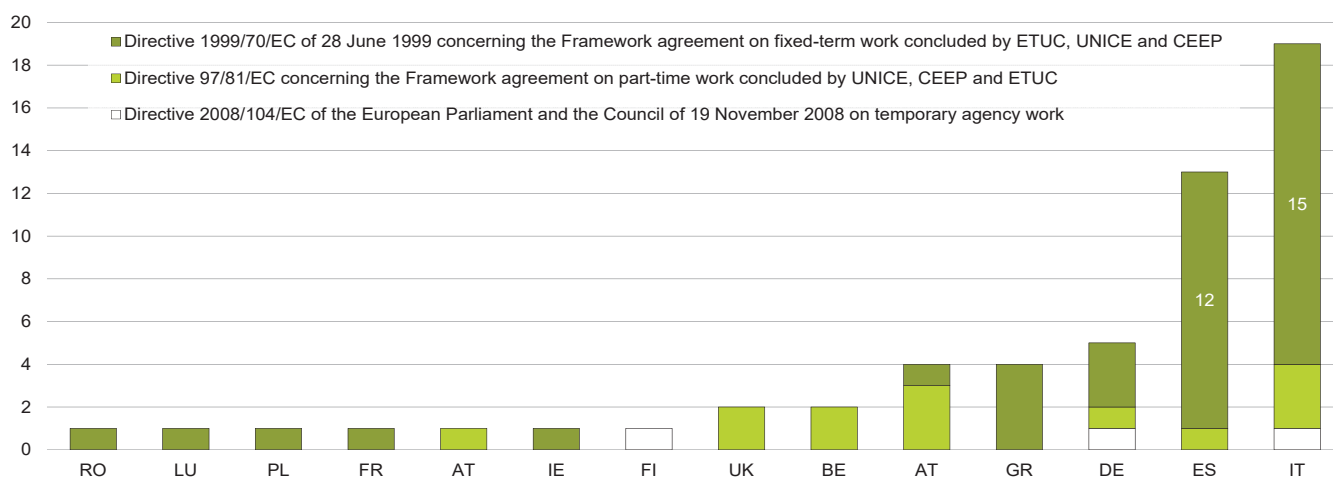
Posted Workers Directive, and the Carcinogens and Mutagens Directive).

While all this suggests a lot of activity, the actual legislative outcomes in 2016 were negligible. The only two pieces of 'social' legislation actually adopted were the Decision establishing a platform on undeclared work and the Regulation on the European network of employment services. Both have had only marginal impact: the former is only a framework for further cooperation and the latter does not give any new rights to European workers. Finally, in 2016 the Commission withdrew its 2015 proposal to amend the Pregnant Workers Directive which would have *inter alia* increased the length of maternity leave and clarified the prohibition of dismissal in line with the case law of the European Court of Justice.

Overall, while there is some cause for optimism about the future of Social Europe, until now there has been very few actual legislative outcomes.

## Litigating atypical workers' rights

Figure 4.5. Overview of the litigation focusing on the EU Directives on atypical work (part-time, fixed-term and temporary agency work) (number of cases)



Source: CVRIA (<http://curia.europa.eu/>).

### The European Court brings equality to 'atypical' workers

Over the years, the European Court of Justice (CJEU) has heard many cases concerning the three key EU measures designed to protect the rights of atypical workers: the Directives on fixed-term work (1999/70/EC), part-time work (97/81/EC) and temporary agency work (TAW) (2008/104/EC).

The intense amount of litigation underscores the importance of these measures (see Figure 4.5). The majority of cases have concerned fixed-term arrangements (40 cases), followed by part-time work (12 cases), with the most recent measure on temporary agency work bringing up the rear (3 cases). Most notably, the vast majority of cases have been referred to the CJEU by southern European courts, suggesting widespread problems with the rights of atypical workers in the region.

In most of these cases the CJEU has held that national law restricted workers' rights and found it incompatible with EU requirements. This puts the CJEU in

a rather positive light when it comes to protecting atypical workers.

The same can be said of the cases that were decided by the CJEU in 2016. On 14 September 2016 the CJEU adopted three separate judgments concerning fixed-term work. First, in *Martínez Andrés* (C-184/15 and C-197/15), the CJEU ruled that the national law prohibiting the courts from upholding employment relationships in the public sector where the use of successive fixed-term contracts had resulted in abuse breached Clause 5(1) of the Framework Agreement. The Court also ruled that the requirement for the worker to bring two successive cases (one to recognise the abuse and the other to determine the penalty) breached the principle of effectiveness.

Second, in *de Diego Porras* (C-596/14), a fixed-term worker's contract was abruptly and prematurely ended when the worker whom she replaced returned to work earlier than planned. The question raised concerned the right to compensation for early termination and whether it has to be the same as for a full-time worker. The CJEU ruled that different treatment was forbidden.

Third and most significant was the CJEU's judgment in *C-16/15 Pérez López*. In this case, a health care worker was hired to provide services of a 'temporary, auxiliary or extraordinary nature' even though the needs of the hospital had actually been of a permanent nature.

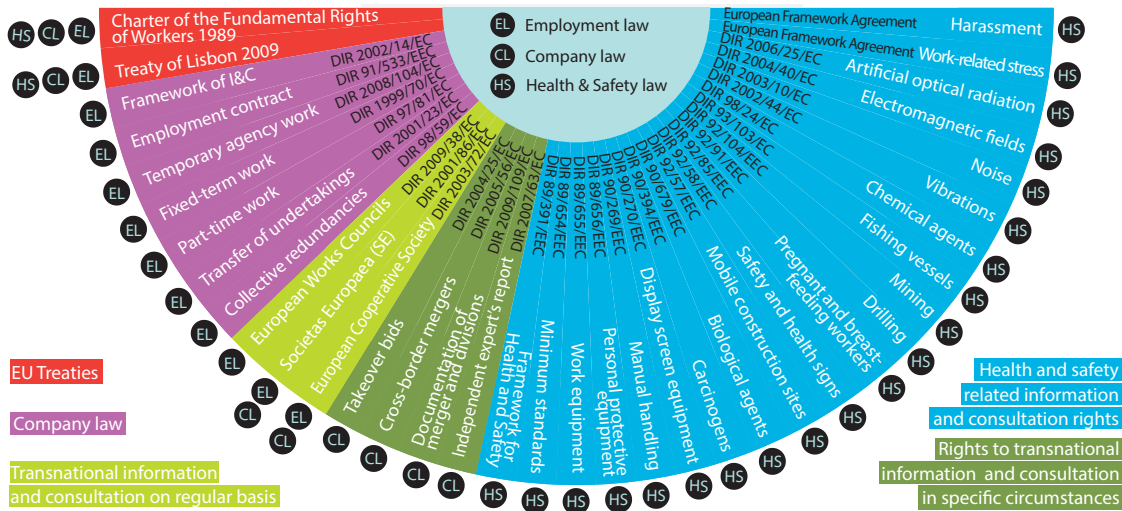
The CJEU ruled that while temporary replacement contracts issued in order to satisfy the employer's temporary needs are allowed, temporary staff cannot be used for the purpose of performing tasks that normally come under the activity of the ordinary hospital staff. The Court's ruling suggested a positive obligation on the Member State to ensure that, where there is a structural deficit of regulated staff in a sector, additional permanent posts are to be created instead of continuously hiring temporary staff.

Finally, the case *Betriebsrat* (C-216/15) concerned the TAW Directive. Here, the Court ruled that the status of the worker under EU law has to be determined independently of national law. Even though the worker in question was not recognised as a temporary agency worker under German law, the CJEU ruled that she fell under the scope of the TAW Directive.

In sum, in 2016 the Court continued to bridge the gap between typical and atypical workers by increasingly recognising that the latter should benefit from the same privileges as the former. At the same time, the amount of case law suggests that the time might be ripe for the EU legislator to follow suit and improve the protection of atypical workers, at the very least by codifying the Court's case law. This would also provide a solution to the apparent problems of protection, most prevalent in southern Europe.

# Information and consultation rights

Figure 4.6. Information and consultation rights in the EU *acquis*



Source: Hoffmann and Jagodzinski (2017).

## A rich palette of rights sets the benchmark for workers' participation

Employees in Europe have had the right to a voice in company decision-making that concerns their jobs and working conditions for over 25 years. The principles laid down in the Community Charter of the Fundamental Social Rights of Workers in 1989 have since been further specified and developed. Thanks to almost 40 pieces of EU legislation laying down fundamental rights to information and consultation, democracy does not end at the factory gate or the office door (see Figure 4.6).

Usually, these rights are exercised regularly via employee representation bodies or trade unions active at the workplace. Whether that employee representation is called *Betriebsrat*, *RSU*, *comité d'entreprise* or *ondernemingsraad*, and whether or not it is a trade union body, workers' rights to have a voice in the company are comparable across Europe. Next to this systematic involvement of employees, EU law also grants rights of

involvement when it comes to very specific issues and situations, such as employment contracts, the use of temporary, fixed-term and part-time work, and dealing with changes of ownership and collective redundancies. If a company changes owners, merges with or is taken over by another company, then the employee representatives have the right to know about the plans and their potential consequences.

Furthermore, employee representatives must be informed and consulted about all measures taken by companies to protect workers from dangerous or risky working conditions. This applies to measures such as work equipment and protective clothing, and also covers workplace risks associated with lifting heavy loads, noisy environments, mechanical vibrations, chemicals, carcinogens, biological agents and electromagnetic fields. There are specific approaches to the specific risks faced by construction workers, pregnant or breastfeeding workers, and workers in the mining, drilling and fishing sectors.

These rights are essential tools to ensure the close involvement of the workforce at the local level. However, the rights of employees working in a multinational company to be informed and consulted do not end at the national border. Indeed, within multinational companies these rights can be used in conjunction with one another to great effect. Management must inform and consult with representatives from the whole workforce across Europe

about any issues or measures that have possible consequences in different countries, or measures that are decided by the central management.

For trade unions and employee representatives, European Works Councils (EWCs) also provide a vital forum in which to discuss their common issues with management, and to communicate and coordinate with one another the strategies they are pursuing at the individual sites of the company.

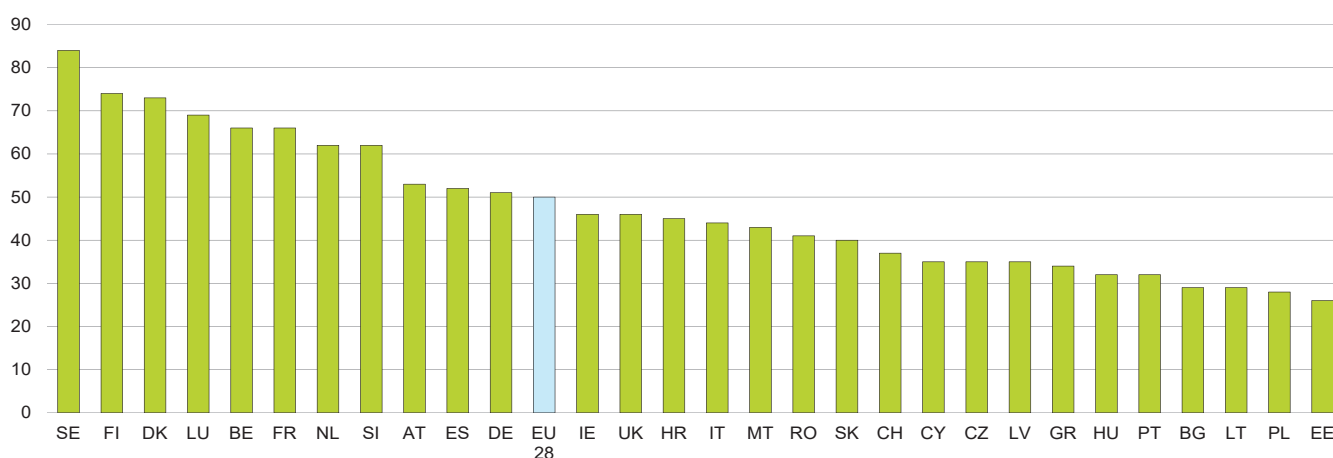
If a company is being restructured, then workers' representatives have important involvement rights at the local level. Since these rights are more or less the same across Europe, all workforces in a multinational company can expect to be treated the same; if the representatives of employees of a multinational company in/from various countries are aware of these rights, they can use them together in order to avoid being played off against each other by management.

This rich palette of common rights across the EU sets the benchmark for participation. It is in the implementation and enforcement of these rights that cleavages are seen between countries, between sectors, and between large and small workplaces. These gaps present significant impediments to the effective articulation of these rights across borders within European-scale multinational companies.



## Company-level workers' representation

Figure 4.7. Company-level employee participation in Europe



Source: European Working Conditions Survey 2015 (Eurofound).

Note: proportion of employees answering 'yes' to the question: 'Does your organisation have a trade union, works council or a similar committee representing employees?'

## Workers' representation: essential for all parties

The results of the 2015 European Working Conditions Survey are very revealing. On average, 50% of all employees in the EU work in an organisation which has a trade union, a works council or a similar committee representing employees (see Figure 4.7).

However, behind this figure lies a wide degree of variation. More than 60% of employees have a trade union or works council in the Nordic countries, Belgium, France and Slovenia. Between 60 and 40% have one in Germany, Austria, Spain, the UK, Croatia, Italy, Malta, Romania and Slovakia. In Cyprus, Czechia, the Baltic states, Greece, Hungary, Portugal, Bulgaria and Poland, less than 40% of employees have any form of workplace representation.

The observed cleavage between employees with and without access to employee representation is cause for concern. Employee representation of any kind is useful for all parties involved: the employees, the employer and the wider society.

In Europe, we are proud defenders of *political democracy*. According to some, however, political democracy is incompatible with capitalism (Webb and Webb 1897). In a political democracy, citizens have basic rights. Yet an employment relationship, as many of these same citizens experience it, is often one of authority and subordination. Without the necessary checks and balances, this relation could undermine political democracy and freedom. Legislation and workers' participation in companies provide these checks and balances and serve as a safeguard for democratic societies.

However, there are also ways in which employee representation benefits the company. Wigboldus *et al.* (2014) identified three main channels. The first is the *innovative channel*. Through employee representation, management can obtain an insight into what goes wrong and develop ideas about how to improve the organisation's functioning. The second is the *social channel*. Good communication with the employees and early involvement lead to better management plans but also a higher level of acceptance by the employees and a smoother implementation. Furthermore, if employees can voice their discontent through representative organs, they are less likely to leave the company. The third channel is a *political* one. Employee representation reduces possible opportunistic behaviour of

management which might damage the companies' interests.

Last but certainly not least, employee representation is essential for the employees themselves. Given the relation of authority between an individual employee and their employer, speaking out individually is not always easy. Employee representation gives a collective voice to the employees and to any discontents they may have, enabling this to be communicated to management with a view to finding collective solutions. Additionally, such collective representation aims to ensure equal treatment of employees.

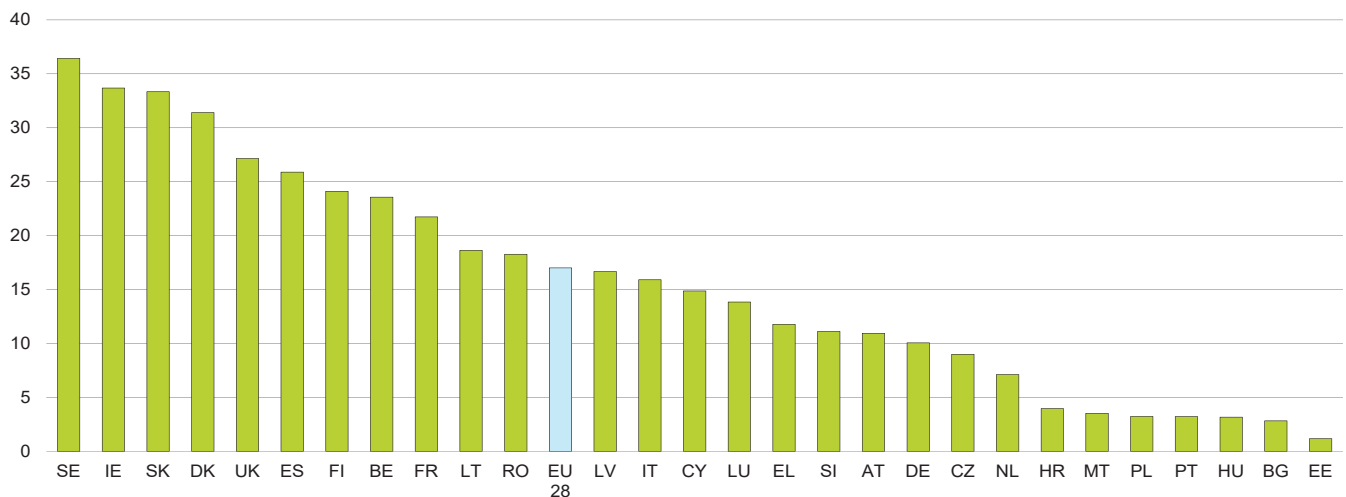
Moreover, employee representation gives a certain degree of control to the employees over their workplace. It is widely accepted that control and self-determination are crucial to preventing employees from being alienated from their work.

It is clear that employee representation is essential for a democratic society, productive organisations and motivated employees. The observation that 50% of all employees still lack any kind of collective representation through trade unions, works councils or other means should therefore be an alarming one.

Public policy, trade union activism and the enforcement of workers' rights are all indispensable in the effort to bridge this gaping divide between the haves and the have-nots.

## Company-level workers' representation

Figure 4.8. Percentage of the workforce in small companies with workplace representation in the EU28 (2013)



Source: Own analysis of ESENER-2 database, Vitols (2017).

### No workplace representation in most small establishments in the EU28

Large-scale surveys show that roughly half of the European workforce enjoys representation by a trade union or works council at the workplace level. One of the most recent of these surveys is the second edition of the European survey of enterprises on new and emerging risks (ESENER2), which was conducted by the European Agency for Safety and Health at Work in 2014 and covered almost 50,000 establishments (European Agency for Safety and Health at Work 2016). Based on the data from this survey, it can be estimated that a 'general' form of representation – that is, trade union or works council representation on a broad range of issues – covers about 56% of workers in enterprises with five or more employees (Vitols 2017). This percentage is even higher (about 80%) when the definition of 'representation' is expanded to also include health and safety representatives and committees.

When considering workplace size, however, worker representation is very unevenly distributed. In the EU28, an estimated 87% of workers in large establishments (with 250 or more workers) have some sort of general representation, i.e. a local trade union or works council. However, workplace representation decreases rapidly as establishment size gets smaller: 70% of workers in medium-sized establishments (with 50-249 employees), 37% of workers in small establishments (with 10-49 employees), and only 17% of workers in micro establishments (with 5-9 employees) are covered by 'general' representation.

Figure 4.8 above shows that worker representation in small establishments varies significantly across countries. Substantially above the EU28 average of 17% are the Nordic countries Sweden, Denmark and Finland; however, Ireland and Slovakia also have representation levels of over 30%. At the other end of the scale are a number of eastern European countries (Estonia, Bulgaria, Hungary, Poland and Croatia) but also Portugal and Malta with less than 5% of the workforce covered by workplace representation.

Significantly, a number of countries with relatively strong overall systems of worker representation also have below-average representation in small establishments. For example, works councils in the Netherlands, Germany and Austria have extensive rights of information,

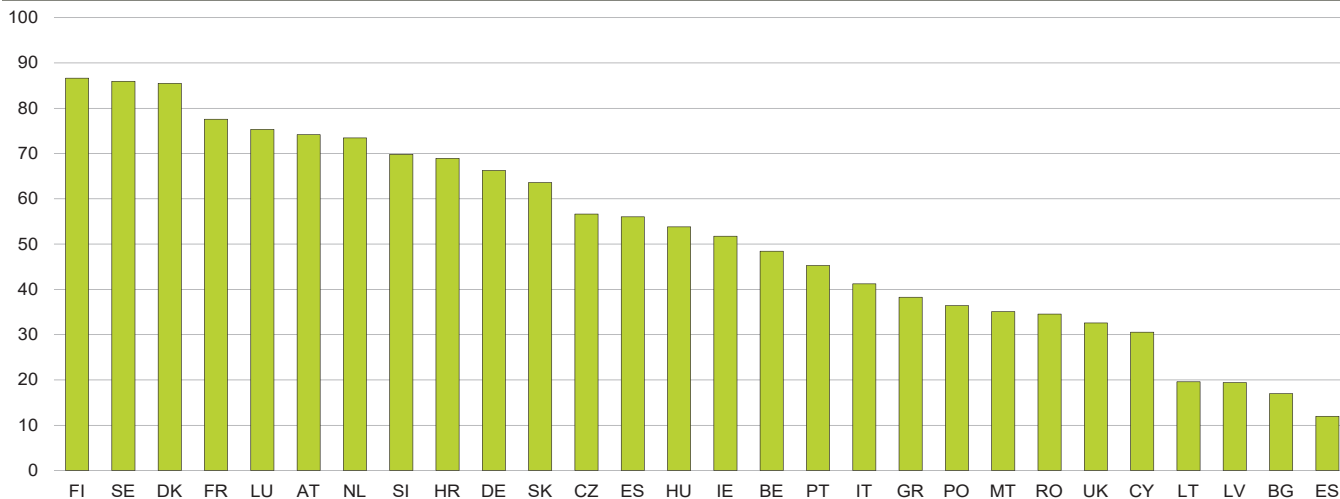
consultation and co-determination (Rogers and Streeck 1995). All three of these countries have scores above the European average on the European Participation Index (EPI), which is designed to measure the strength of worker 'voice' in companies in different countries (Vitols 2010). However, in all three countries the representation of workers in small enterprises is below the EU28 average. Only 7% of workers in the Netherlands, 10% of workers in Germany and 11% of workers in Austria in this size category enjoy 'general' workplace representation. This indicates a quite significant gap in the coverage and strength of worker representation between small and large companies in these countries.

The overall weakness of workplace representation in small establishments should be a particular cause for concern for policymakers when making recommendations impacting the small firm sector. On the whole, workers in this sector are less well protected than workers in large and medium-sized enterprises. However, over the past decade, many initiatives by the European Commission have emphasised reducing regulations in the small and micro-firm sector to a level lower than those covering the rest of the economy.



## Company-level workers' representation

Figure 4.9. European Participation Index (EPI) in 2013, by EU28 country



Source: Vitols (2017).

### Uneven participation rights

Previous editions of *Benchmarking working Europe* applied the European Participation Index (EPI), an instrument for measuring the strength of worker participation in different countries (ETUI 2009: 55; ETUI 2011: 98-99; ETUI 2012: 104). The EPI includes three sources of worker influence on companies: 1) board-level employee representation, 2) workplace representation, and 3) collective bargaining strength, as measured through the percentage of the workforce covered by collective bargaining and trade union membership. The components are scaled: countries get an EPI score of between 100 (very strong participation rights) to 0 (no participation rights). The EPI is described in detail in Vitols (2010). In successive annual evaluations, countries that score higher on the EPI have performed better on all eight of the Europe 2020 headline indicators. Income inequality is also lower in countries with higher EPI scores.

The original EPI was based on data gathered in 2009, at the start of the financial crisis. An update based on data from 2013 shows that developments within its individual components and between specific countries have been rather

differentiated. On the whole, however, worker participation rights have weakened since the crisis. The average EPI decreased from 55 to 52 between 2009 and 2013.

The EPI component with the greatest stability in the past half-decade has been board-level employee representation (BLER). This component differentiates between three types of countries: those with widespread worker rights, those with limited participation rights (mainly state-owned or privatised companies) and those with no or very limited rights. Between 2009 and 2013, only two countries have switched groups: Malta moved downward, from the 'limited' to 'no' category, whereas France moved upwards, from the 'limited' to the 'widespread' category. Because the French workforce is larger than the Maltese workforce, the 'average' EPI weighted by the size of workforce has therefore slightly increased.

A second component of the EPI, however, indicates an overall erosion of participation rights at the workplace. The extent of workplace representation in Europe can be estimated through large-scale establishment surveys, such as Eurofound's European Company Survey (ECS) and EU-OSHA's European survey of enterprises on new and emerging risks (ESENER). An analysis of the 2009 and 2013 waves of ESENER estimates a drop by 3% in the proportion of workers that enjoy formalised workplace

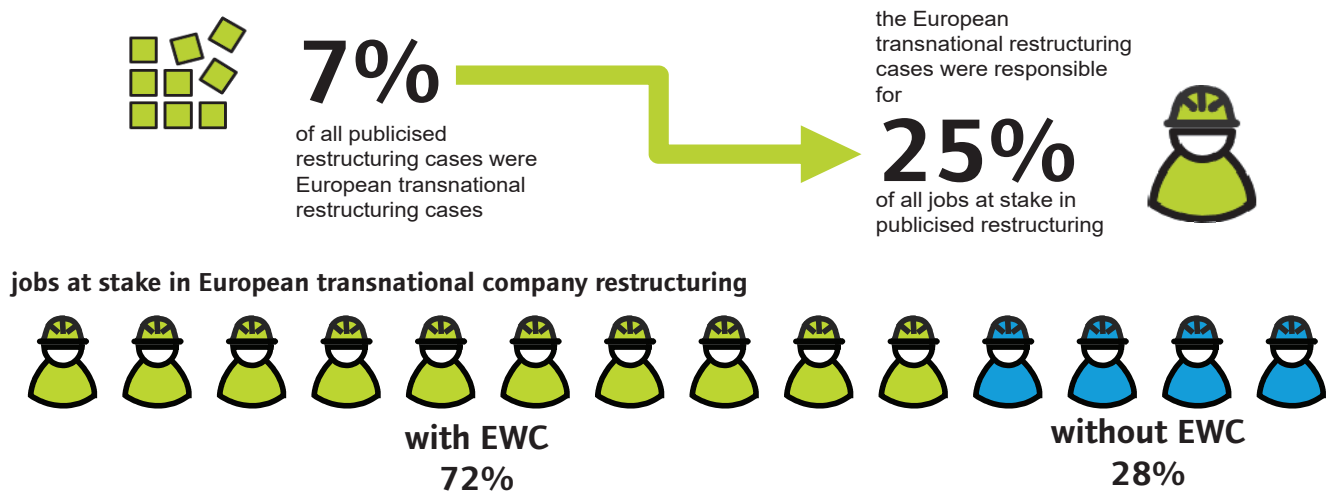
representation through a works council or trade union. An estimated 68% of workers in establishments with ten or more workers had formal representation in 2009, but by 2013 this had eroded to 65%.

The third component of the EPI, worker voice through collective bargaining, also indicates an overall weakening since the financial crisis. The percentage of workers represented by trade unions through collective bargaining decreased by an average of 5% from 65 to 60%. Especially large decreases were experienced in collective bargaining coverage in Romania and Greece (down by 63% and 41%, respectively). Trade union density fell less drastically from 23.9 to 22.4%.

Due to the small sample size of establishments in different countries, it is not possible to make detailed statements about EPI trends in specific countries. However, it is possible to create a rough ranking of countries based on their EPI score at a specific point in time. Figure 4.9 shows that Finland, Sweden and Denmark have the highest score (around 85 out of 100 possible points). These countries have strong rights in all three components of the EPI. Several eastern European countries as well as Cyprus and the UK have EPI scores at the lower end of the scale. The EPI tended to decrease more in countries which had a lower score in 2009, indicating an increasing cleavage between countries with strong versus weak participation rights.

## European Works Councils

Figure 4.10. Company restructuring and European Works Councils (2013-2015)



Source: European Works Council Database (ETUI) and European Restructuring Monitor (Eurofound).

### Workers in transnational restructuring: closing the gap

When a company undertakes a transnational restructuring project, it is essential for employees and their representatives to have direct access to the transnational management of the company. Talking to the national management at the local or national level is not enough to be able to really influence the company's decision or defend the workers' interests.

A European Works Council (EWC) can serve that purpose. It brings together employee representatives from different European countries and the transnational management. It enables the workers to be informed about the transnational strategy of the company and consulted about transnational restructuring plans, and can, ultimately, enable a move towards a coordinated European employee response.

European Works Councils, however, are not present in all companies facing transnational restructuring. Some of those companies might not meet the thresholds for the establishment of an

EWC (1,000 employees in total, of which 150 are employed in at least two Member States). But even if they meet these thresholds, the establishment of an EWC is, as a rule, the outcome of lengthy negotiations initiated by an employee or the employer.

Using data from the European Restructuring Monitor, maintained by Eurofound (Hurley *et al.* 2013), and the ETUI European Works Councils Database ([ewcdb.eu](http://ewcdb.eu)), Figure 4.10 displays the number of national and European transnational restructuring cases in the last three years, and whether or not the companies involved in these cases had an EWC in place. The figures should be interpreted with some caution as the data on company restructuring has some drawbacks (see: De Spiegelaele 2017).

The figures show that in the last three years, the impact of most restructuring cases was confined to the local or national level, i.e. only affecting sites within a single country. However, about 7% of all restructuring cases had a European scope. In these cases, sites in more than one (European) country were involved. Here, an EWC is essential in order for a genuine process of transnational information and consultation of the employees to take place. However, in about one third of all European transnational restructuring cases, there was no EWC established in the company concerned.

The second figure looks at the jobs declared to be at stake in these national and European transnational restructuring cases. As companies involved in transnational restructuring tend to be larger, they represent a larger share of the 'jobs at stake' in restructuring. About one fourth of all jobs at stake in the last three years (as registered by the European Restructuring Monitor) were related to transnational restructuring measures. 8% of all jobs at stake were located in companies which did not have an EWC, accounting for about one third of all jobs at stake in European transnational restructuring projects.

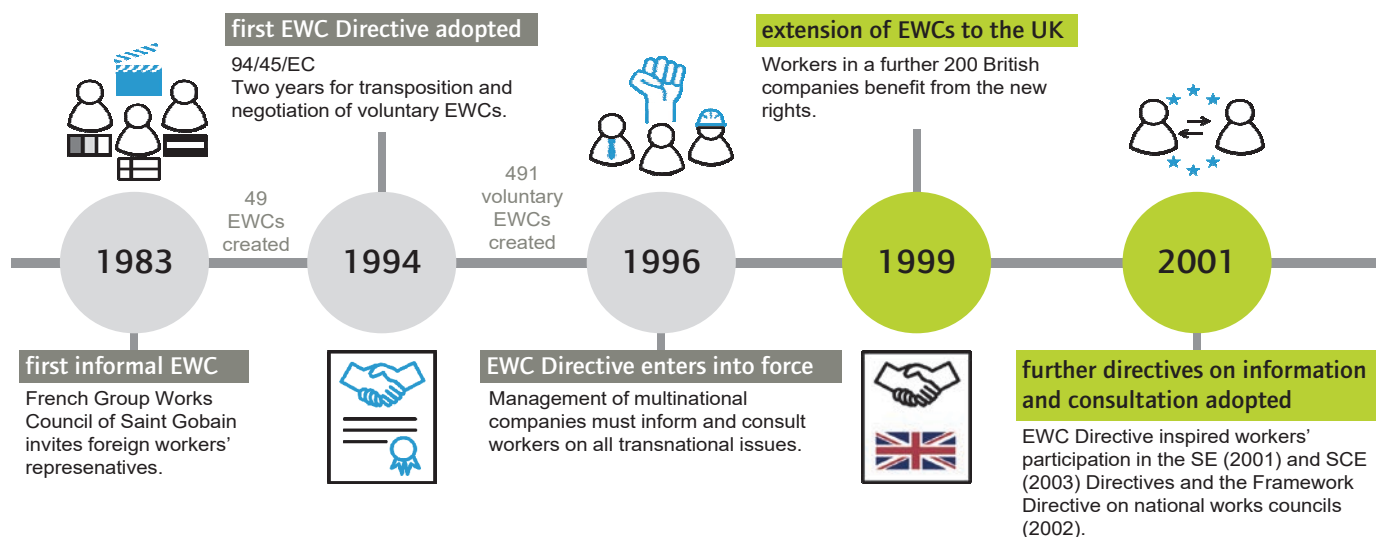
Remarkably, all companies working under the *societas europaea* (SE: European Company) statute which were involved in transnational restructuring did have an SE- Works Council installed. One of the main differences between an EWC and an SE- Works Council is that for the latter, negotiations about workers' involvement are obligatory for the establishment of the SE.

Evidently, policy could quite easily rectify the divide between those with transnational representation and those without by adding a similar obligation to the EWC policy framework.

The impending evaluation of the EWC Recast regulation (see Figure 4.12) could provide an excellent opportunity to close this gap.

## European Works Councils

Figure 4.11. Twenty years of EU legislation on European Works Councils (1)



Source: Jagodzinski (2016).

## Roses and thorns in legislation and practice

The 22 September 2016 marked two decades of binding legislation introducing the right to transnational information and consultation for workers in multinational companies (MNCs). This pioneering law (EWC Directive 94/45/EC) allowed workers' representatives to be informed and express views about managerial decisions that had a cross-border impact on workers.

This right is needed now more urgently than ever, as an increasing number of companies take decisions on a supra-national level without much regard for workers' interests and all too often bypassing national-level social dialogue.

Looking back over the creation of more than 1,300 EWCs, of which almost 1,000 are currently active, with over 20,000 delegates representing more than an estimated 17 million workers across all sectors, some conclusions can now be drawn and outlooks sketched.

EWCs have proven remarkable in many respects. Firstly, they were a bottom-up initiative of workers and thus represented a citizen-driven Europeanisation which is unique (see also Whittall *et al.*

2007). Secondly, they are not EU social policy window dressing, but are instead a real tool to protect workers' interests and rights in a globalised economy. Thirdly, positive experience with EWCs has inspired further pieces of EU legislation on workers' participation, such as that laid down in the European Company Statute (SE 2001), the European Cooperative Statute (SCE 2003) and at national/local level (Framework Directive 2002/14/EC). Fourthly, EWCs are the concrete embodiment of the EU Charter of Fundamental Rights with regard to workplace democracy and specifically the right to information and consultation. Furthermore, as research shows (Vitols 2009; Lamers 1998; Voss 2016) EWCs (can) contribute to company social performance and do not have detrimental financial effects on corporate economic performance.

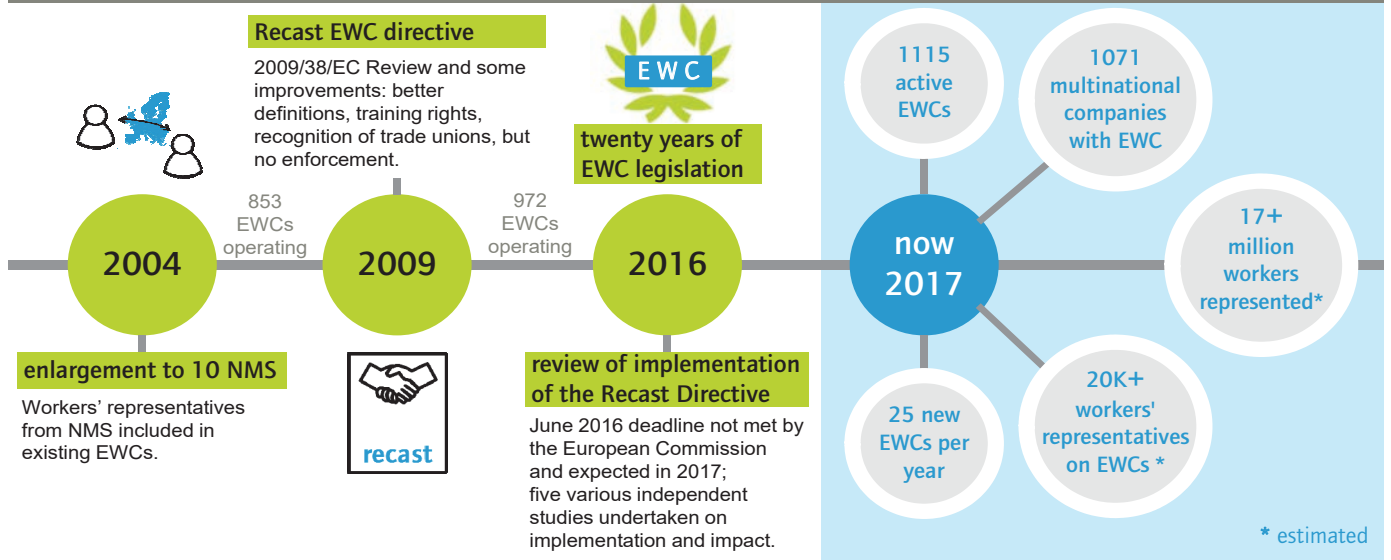
As does any rose, however, EWCs do carry some thorns. Firstly, the legal status of EWCs differs depending on whether they were set up before or after the entry into force of the Directive in September 1996. EWCs based on so-called pre-Directive Art. 13 ('voluntary') agreements remain outside the scope of any legal requirements and continue to represent 42% of the entire population. The improved EWC Recast Directive of 2009 does not fully cover them, and workers' representatives are worse off in this sense than their counterparts in those EWCs which are firmly based

on the Directive. Secondly, despite being outlined on paper, EWCs' rights are too often ignored and violated. A survey among EWC members (Waddington 2010) found that only a small minority of EWCs are informed before decisions are finalised (24%) or before they are made public (37%), while even a smaller proportion are consulted before these critical junctures are reached (20% and 30% respectively); worse still, 13% of EWCs are not informed and 30% not consulted at all. Moreover, EWCs are reportedly often refused access to information due to its alleged lack of transnational relevance. Finally, many EWCs lack the necessary resources: e.g. seven in ten EWCs meet only once a year, with only two in ten meeting twice a year (ewcdb.eu 2016; De Spiegelaere and Jagodziński 2015).

Lastly, many problems are due to insufficiently precise national legislation implementing the EWC Directive(s). The ETUI's recent study on the topic (Jagodziński 2015) revealed numerous shortcomings in national legislation. Some (albeit limited) hope can be placed in the pending European Commission's evaluation of the implementation of the Recast Directive announced for the spring of 2017. It remains to be seen if it will contain proposals for corrective measures to address the cleavages between various types of EWCs and national frameworks, as well as the persistent gap between rights and their enforcement.

## European Works Councils

Figure 4.12. Twenty years of EU legislation on European Works Councils (2)



## Evaluations concur: the EWC Recast falls short

The year 2017 will see the (delayed) launch of an important debate about the future of transnational workers' information and consultation (see also ETUC and ETUI 2016: 64-64). The European Works Councils Recast Directive of 2009 is under formal review by the European Commission. The Commission will then present a report, in which it may propose changes to the legislation.

Because EWCs are a pillar of workers' representation in MNCs and the most common institution of transnational information and consultation, various parties have undertaken efforts to evaluate the EWC Recast Directive and its impact on EWCs' performance.

Firstly, the ETUC surveyed EWC members and coordinators about their experience with EWCs (Voss 2016). The report underlined the achievements of EWCs (e.g. added value for MNCs and improving professionalism of EWCs), but found no evidence of a growth in the number of well-functioning EWCs. At the same time, clear shortcomings were identified with regard to establishing new EWCs,

the lack of opportunity for them to make a contribution to the company's decision-making, and a lack of basic resources and respect for rudimentary competences that serve to curb their capacity to defend workers' rights, for example in restructuring cases. However, the surveyed practitioners differed significantly with regard to whether the existing loopholes are the result of the Directive's vagueness or of weaknesses in its national implementation. One conclusion was common across the board, however: changes are necessary.

Another report focused on the views of managers dealing with EWCs in MNCs (Pulignano and Turk 2016; Waddington *et al.* 2016). The researchers interviewed 56 primarily HR managers; they concluded that from this perspective, EWCs are seen to be primarily institutions of information exchange rather than of employee influence and that they are thus not involved until the implementation stage of transnational restructuring, rather than at earlier phases of strategic decision-making. Importantly, irrespective of the reported cost of EWCs, a majority of interviewees thought that their benefits outweighed their cost (only 19% disagreed), and 70% of interviewed managers reported that the EWC was a useful means to promote corporate identity. It is noteworthy that the majority of interviewees did not see the need to revise the EWC Recast Directive.

Two evaluation studies were published by the ETUI. Firstly, an analysis

of national implementation acts across the EU (Jagodziński 2015) revealed that an excessive use of copy-paste from the Directive into national legislation leads to cursory implementation and inadequate regard for the actual enforcement of workers' rights. Secondly, building upon and deepening the insights from 'EWC Facts and Figures 2015' (De Spiegelaere and Jagodziński 2015), a statistical analysis of the impact of the Recast Directive (De Spiegelaere 2016) demonstrated that the improvements predominantly reproduced what had already been common practice in EWC agreements before 2009. In other words, rather than living up to expectations of it being an impetus for the establishment of more and better EWCs, the Recast Directive clearly delivered too little, and at too late a stage to have any significant impact on the EWC landscape and practice.

Many of the above points are also confirmed by a study of EWCs in transport commissioned in 2015 by the European Commission (ICF International 2015).

With such an abundance of analyses, the European Commission has plenty of evidence with which to review the EWC Recast Directive. This evidence suggests that corrective actions are required with regards to both national implementation and the quality and enforcement of the contents of the Directive itself (as well as that of the agreements negotiated on its basis).



## European Works Councils

Figure 4.13. European Works Councils and Brexit



Source: European Works Council Database (ETUI).

## Brexit: pulling the rug out?

In the wake of the portentous 2016 Brexit referendum, attempts to predict its possible consequences are emerging. Brexit may well pull the rug out from under one of the linchpins of company-level employment relations: European Works Councils (EWCs). In these councils, employee representatives from all over Europe meet with the company's central management to be informed and consulted about transnational company issues. They are thus an important source of influence and rights for UK workers in MNCs.

Drawing on ETUI data, we explore how and how many EWCs might potentially be affected by Brexit. We look at EWC representatives from the UK, EWCs working under UK law, and EWCs with company activities in the UK.

Firstly, the most immediate effect could be felt by the EWC representatives from the UK. According to the ETUI's European Works Council Database ([www.ewcdb.eu](http://www.ewcdb.eu)), an estimated 2,400 UK-based employee representatives might see their seat called into question if the UK steps out of the system underpinning their mandates. This is about 12% of all EWC representatives (see Figure 4.13b).

However, the UK has been out of the EWC system before, being exempt from the EWC Directive until 1999. In that period, however, only eight agreements excluded the UK explicitly; of these, three agreements simply referred to the fact that the UK was excluded from the scope of the Directive, with the immediate consequences being unclear, and three agreements provided for guest status for UK employee representatives. This means that only two agreements actually explicitly excluded the UK employee representatives from taking part. Moreover, many EWC agreements currently provide for seats for representatives from beyond the EU/EEA. If past experience is any guide, then relatively few, if any, UK representatives should see their seat called into question. However, it remains unclear on what legal basis, if any, these mandates would be based, which raises questions about the enforceability of their rights.

A second effect may be felt in those companies whose EWCs are based on the UK transposition of the EU Directive. If the UK decides to retract this legislation, these EWCs will lose their legal basis. In total, 138 currently active EWCs are based on the UK legislation, which represents 12% of the total (EWCs and SE-WCs) currently active (see Figure 4.13). Most of them are based in the metal (31%), service (27%) and chemical (19%) sectors, and about 43% are so-called 'pre-Directive' EWCs based on Article 13 of the original

EWC Directive. If the UK EWC legislation disappears, then these EWCs will need to renegotiate their legal basis according to the legislation of another EU Member State. In total, an estimated 2,800 representatives (of which 850 are UK representatives) are active in those 138 EWCs under UK legislation (see Figure 4.13a).

Finally, if discounting the UK share of total EU employment pushes the overall employment figures in a company below the thresholds required to establish an EWC (1,000 employees in all, of which at least 150 are in two different EEA countries), then these EWCs may face dissolution. 78% of all currently active EWCs cover activities in the UK (see Figure 4.13a). Unfortunately, the ETUI does not have sufficient data to estimate the number of EWCs that may become defunct after a Brexit. In any case, however, the EWC can still be continued on a voluntary basis.

In conclusion, Brexit may affect the mandates of UK employee representatives in existing EWCs, will certainly affect those EWCs which are based on the UK transposition laws, and might change the eligibility of some firms to have an EWC. Based on the available data, we conclude that there could be an impact on many EWCs and EWC representatives, but it will most likely be fairly limited.

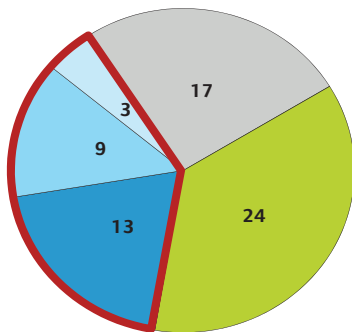
Much will depend on company-level solutions, and whether and to what extent Theresa May honours her promise to maintain EU workers' rights in UK legislation.

## Board-level employee representation

Figure 4.14. How does board-level employee representation (BLER) become European?

a. SEs by number of countries with BLER

■ no data    ■ one country    ■ two countries  
 ■ three countries    ■ four countries    ◊ European BLER



b. Inclusive national arrangements

Workers in foreign subsidiaries might be represented on the board of the parent company if...

<b>Norway</b>	...(1) a majority of employees request group-level representation and (2) employees and the management agree to include foreign subsidiaries in the collective arrangement.
<b>Denmark</b>	...(1) a majority of employees says 'yes' to BLER representation in a ballot triggered by employees, the TU or the works council, and (2) GMS decides to extend BLER to foreign subsidiaries.
<b>Sweden</b>	...Swedish local TUs decide to include delegates from foreign subsidiaries in the distribution of seats.
<b>Germany</b>	...German TUs decide to include representatives from foreign subsidiaries in the seats reserved to TU officials (workplace mandates are reserved to workers and rules within Germany).
<b>France</b>	... the GMS decides that the EWC or SE-WC is to appoint the second BLER, (first BLER always reserved to workers and rules in the French territory).

Source: ETUI (2017b) (18.01.2017).  
 Note: 66 established SEs have BLER.

Source: Mulder (2017), Hagen (forthcoming), ETUI and ETUC (2015) and own research.  
 Note: GMS: General Meeting of Shareholders; TU: Trade unions.

## How does BLER become European?

Board-level employee representation (BLER) continued to take on a European dimension slowly but steadily in companies registered under European company law (SE, CBM or SCE Directives) or, in some jurisdictions, under national law.

In the case of established European Companies (*Societas Europaea*, or SE), the ETUI has identified 66 which have provisions for board-level employee representation (ETUI 2017a). At least 25 of these SEs have BLER mandated in at least two countries (13 SEs count two countries, 9 SEs count three countries, and 3 SEs count four countries, as Figure 4.14a shows). Germany stands out not only for having the vast majority of SEs with BLER headquartered in its territory (53 out of 66), but also excelling in terms of Europeanisation: the 12 SEs with the strongest worker representation on boards in multinational companies (i.e. in at least three different countries) are based in Germany, except for one in Austria (ETUI 2017b).

Companies that emerge from a cross-border merger may see the Europeanisation of their BLER. The ETUI has identified 75 cross-border mergers between 2008 and 2012 where employee

participation issues arose in merger plans (Biermeyer and Meyer 2015). SEs may also be involved in cross-border mergers. Overall, however, it could often not be clarified whether an agreement had been struck by a Special Negotiating Body or if instead management had unilaterally applied the CBM Directive's standard rules.

However, when it is not European but national law which brings about the internationalisation of mandates to cover subsidiaries in other European countries, serious challenges may arise. How should the workers' side of the board in parent companies be comprised in such cases?

In the absence of universally applicable rules in Europe, national legislatures have adopted various solutions. Some remain silent, allowing in practice the inclusion of workers abroad through voluntary negotiations (e.g. Germany or Sweden). Others, such as France, Denmark or Norway, explicitly provide for the possibility to extend participation rights to workers employed by foreign subsidiaries, under certain conditions (ETUI and ETUC 2015: 65) (see Figure 4.14b).

In Denmark and Norway, such workers are granted the right to vote and to be elected to the board of the parent company (Mulder 2017). However, group board-level employee representation can only be established by negotiated group arrangements, which are seldom used in practice. In Denmark, only one company is known to have applied it, and only 24 Norwegian

groups have been found to have made such arrangements (Hagen, forthcoming).

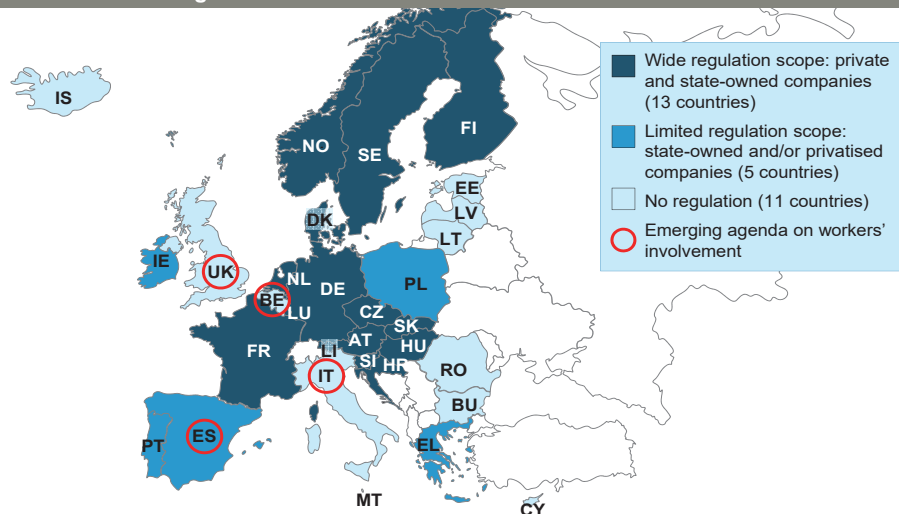
In France, when employees are entitled to at least two board representatives, the general assembly of shareholders can opt for an appointment procedure in which the second member must be appointed by the European (or SE-) Works Council, if any exists. This solution grants a European mandate to the member appointed, who can be employed either in France or in a foreign subsidiary. The Institut Français des Administrateurs has encouraged internationalised companies to open the election procedure to foreign subsidiaries as a means to rebalance representation between workers in France and abroad (IFA 2014).

However, insecurities arise from conflict between national laws and the lack of EU provisions on BLER. The European Court of Justice is currently considering the legal question of whether a Member State is obliged to explicitly include workers from foreign subsidiaries in the election procedures for the board of a parent company in order to comply with EU principles of non-discrimination on the grounds of nationality and the principle of workers' freedom of movement (Arts. 18 and 45 of the Treaty on the Functioning of the European Union) (C566/15 *Erzberger/TUI AG*). A decision on this potentially landmark case is expected in summer 2017.



## Board-level employee representation

Figure 4.15. BLER regulations and new agendas in EEA countries



Source: Kluge, Stollt and Conchon (2013), updated by Lafuente Hernández (2017).

### Converging views on BLER?

The regulatory picture of board-level employee representation has not changed much recently (Conchon 2015). Only one major change should be noted: as shown in Figure 4.15, Czechia has regained its place among the countries with widespread coverage of participation rights. A reform in 2012 removed the right of employees to be represented in joint-stock companies, but it has been reintroduced from January 2017. Employees are now entitled to one third of the seats in supervisory boards in joint-stock companies with over 500 employees. Under the new regulations, however, joint-stock companies can choose their governance structure and may seek to avoid dualistic boards.

Despite the absence of further regulatory changes concerning BLER rights, the issue has come to the fore of the political agenda for several actors. Debates on workers' participation seem now more alive than seen since the 1970s.

Indeed, the UK, Belgium and Italy, which traditionally lack board-level participation rights (Page 2011) have seen some developments in favour of the introduction of board-level employee representation.

In the UK, Theresa May announced in July 2016 her intention to involve employees and consumers in corporate governance. The TUC welcomed this initiative, expecting workers would get the right to sit and vote on company boards. In the end, the Green Paper on Corporate Governance Reform (November 2016) left stakeholders' involvement as an empty shell. Rather than mandating the appointment of employee representatives to company boards, three options are proposed, which prioritise unilateral management initiative over binding rules: (i) introducing consultative stakeholder advisory panels; (ii) assigning a non-executive director the responsibility of watching over stakeholders' interests; and (iii) strengthening companies' annual reporting requirements.

In Belgium, where unions and political parties have historically opposed workers' participation in company boards (Van Gies and De Spiegelaere 2015), the debate may be reopened. The Socialist Party announced its support for a new form of private company with mandatory board-level employee representation. A concrete proposal should be defined by March 2017 after an internal reflection process: it would draw on full parity rules and a bicameral board structure in which one of the chambers fully represents employees' interests (Ferreras 2012).

Italy also witnessed some evolution in the debate on workers' participation.

Italian unions have traditionally resisted employees' board-level participation rights but recently the three main confederations jointly declared BLER to be 'fundamental' to a more balanced industrial democracy. Their position does however depart from the German model of co-determination, and stresses strictly different roles for management/capital and labour (CGIL, CISL and UIL 2016).

The Spanish unions UGT and CCOO have also confirmed their support for workers' board-level participation rights. During the crisis, corruption scandals in savings banks revealed insufficient transparency and control in the Spanish model of workers' board-level representation. Stung by the damage caused to the reputation of trade unions and the near disappearance of BLER in Spain, close scrutiny and an internal debate led CCOO to declare a renewed interest in a BLER system resembling the German one (CCOO 2013 and 2016).

For its part, the ETUC has called for EU standard rules on articulated information, consultation and BLER rights in European company boards, building upon its 2014 resolution (ETUC 2016).

Despite important discrepancies, these positions reveal a converging agenda in Europe in which workers' board-level participation rights are a political priority.

## Conclusions

This chapter has taken a closer look at the social policy agenda in terms of its institutions and policies. For the European Social Dialogue, the waning support from the European Commission, the Member States and employers has left the inter-sectoral social dialogue largely bereft of any real output. The sectoral social dialogue, however, has seen an increase in activity, though this largely only reflects the establishment of more sectoral social dialogue committees. Whether this differentiation leads to a more effective implementation of agreed standards or approaches, or rather to their fragmentation across all sectors, will to a great extent depend on the cross-sectoral actors' ability to coordinate social dialogues across the board. At the same time, the weakened support from the Commission and the Member States can only be partially offset by the sometimes patchy engagement of the employers. It is in this context that the unions' resolve to pursue a strict, results-oriented agenda which has a clear focus on concluding binding agreements will play an essential role: *not talks for the sake of talking, but talking with a view to action* is needed now.

Our review of the state of play of social legislation initiatives in the Commission's 2017 work programme reveals that while there are a range of proposals stuck in either the preparatory or evaluation stages, there is nothing particularly new in the pipeline. Unless the Pillar of Social Rights indeed acts as a catalyst to move social legislation forward, the outlook is rather bleak. A promising exception to this may be the Commission's declared intention to strengthen the existing provisions to protect health and safety. The European Court of Justice, moreover, provides further grounds for optimism, as seen in its rulings which close the gap between the legal protections afforded to atypical workers and to those working in more typical forms of employment. It is to be hoped that the EU legislators follow suit in codifying these landmark decisions.

Turning now to workers' participation issues, it is appropriate to recall that pan-European benchmarks of workers' rights to have a voice in important areas

of working life date back decades, and have been continuously developed and refined over the years. Whether participation rights are embodied in the Treaties, in employment law, in company law or in health and safety protection legislation, EU law securing rights to information and consultation at the workplace and company level has at least provided the basis for comparable, if not entirely equal rights across the EU.

On the face of it then, it looks as though workers' participation rights have established a level playing field, which nonetheless respects national histories, customs and norms. A closer look, however, reveals that there is still far more differentiation than one might expect. Data on the presence of local actors and institutions of information, consultation and negotiation paint a rather bleak and divided picture: half of all employees lack any kind of collective interest representation through trade unions or works councils. Just as critically, most smaller workplaces lack any form of employee representation at all, even in countries in which information and consultation is generally well established. When we include a wider range of workers' participation instruments and mechanisms, such as board-level employee representation and collective bargaining coverage, we see an alarmingly wide divergence between the Nordic countries and such countries as the Baltic states, Bulgaria, the UK and Cyprus.

It should come as no surprise that the cross-border or European dimension of workers' participation does not offer a more homogenous picture than that seen at the local company level. The continued exemption of so-called 'voluntary' or 'pre-Directive' EWC agreements from the improvements codified in the 2009 EWC Recast Directive perpetuates the unequal treatment of workers, solely based on the history of their EWC negotiations dating back over two decades. In addition, the transposition of the Directive's rules into national legislation is marred by inconsistencies in its quality and coherence. Our review of several different evaluations of the Recast EWC Directive reveals a broad consensus about its shortcomings. The gaps in EWC coverage

revealed by our analysis of publicised cases of cross-border company restructuring should galvanise policymakers and practitioners alike to work towards the establishment of more EWCs. Finally, in the year that the uncertain effects of Brexit loom large, we explore the potential impact on workers' participation if and when the UK formally repeals the key legislation underpinning EWCs, SE-WCs and board-level workers' participation. There is, however, some reason to hope that the impact will not be as drastic as feared; European-scale companies and UK employers have in the past proven reluctant to exclude UK workforces from transnational arrangements.

Finally, we assess the state of play regarding the Europeanisation of board-level employee representation. There have indeed been interesting developments in the past years, which, while showing some positive prospects, also reveal certain legal, democratic and operational obstacles. This awareness of the opportunities and challenges of genuine Europeanisation dovetails nicely with an emerging convergence in discussions about reforming, maintaining or introducing BLER at the national level. There is still a great deal of variation between different national forms of BLER; despite the commitment of the parties involved to Europeanise this form of participation, the unregulated interface between systems based in national law and practice will remain problematic in the absence of encompassing EU legislation.

As is so often the case, we see a mixed track record in the area of workers' participation and social dialogue. On the whole, it seems to be a case of one step forward, two steps back, as important but small advances are undermined by setbacks or standstill in other areas.

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## List of abbreviations

<b>AGS</b>	Annual Growth Survey	<b>EU</b>	European Union
<b>ALMP</b>	active labour market policy	<b>EU-OSHA</b>	European Agency for Safety and Health at Work
<b>AMECO</b>	Annual macro-economic database	<b>EU-SILC</b>	EU statistics on income and living conditions
<b>APA</b>	advance pricing agreement	<b>EWC</b>	European Works Council
<b>AW</b>	average wage	<b>GDP</b>	gross domestic product
<b>BLER</b>	board-level employee representation	<b>GHG</b>	greenhouse gases
<b>CCCTB</b>	Common Consolidated Corporate Tax Base	<b>GMS</b>	general meeting of shareholders
<b>CEE</b>	central and eastern Europe	<b>ILO</b>	International Labour Organisation
<b>CEEP</b>	European Centre of Employers and Enterprises providing Public Services	<b>IMF</b>	International Monetary Fund
<b>CJEU</b>	Court of Justice of the European Union	<b>IOM</b>	International Organisation for Migration
<b>CSR</b>	country-specific recommendation	<b>MNC</b>	multinational company
<b>DMC</b>	domestic material consumption	<b>NMS</b>	new Member State
<b>EC</b>	European Commission	<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>ECB</b>	European Central Bank	<b>p.p.</b>	percentage point
<b>ECHR</b>	European Convention on Human Rights	<b>PPS</b>	purchasing power standard
<b>ECtHR</b>	European Court of Human Rights	<b>Q</b>	quarter
<b>EEA</b>	European Economic Area	<b>R&amp;D</b>	research and development
<b>EEA</b>	European Energy Agency	<b>REFIT</b>	Regulatory Fitness and Performance Programme
<b>EFTA</b>	European Free Trade Association	<b>SE</b>	Societas Europaea (European Company)
<b>EIB</b>	European Investment Bank	<b>SE-WC</b>	Societas Europaea Works Council
<b>EPI</b>	European Participation Index	<b>SSDC</b>	sectoral social dialogue committee
<b>ERDF</b>	European Regional Development Fund	<b>TFEU</b>	Treaty on the Functioning of the European Union
<b>ESENER</b>	European survey of enterprises on new and emerging issue	<b>TCN</b>	third-country national
<b>ESF</b>	European Social Fund	<b>TU</b>	trade union
<b>ESIF</b>	European Structural and Investment Funds	<b>UEAPME</b>	European Association of Crafts, Small and Medium-sized Enterprises
<b>ETUC</b>	European Trade Union Confederation	<b>UNEP</b>	United Nations Environment Programme
<b>ETUI</b>	European Trade Union Institute		

# **The Benchmarking Group**

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