

1. Collective bargaining and working time in Europe: an overview

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1.1. Introduction

The regulation of working time has historically been a central concern for trade unions. From their very inception, they aimed to improve working time regulation, through political pressure to achieve legislative reforms, and through collective bargaining with employers and their organisations. The early objectives included a reduction of the length of the working day and week, the right to paid holidays, a reduction of night work and others. Working time has remained on the agenda ever since, although the specific issues at stake have changed. In the 1990s and early 2000s, much of the working time debate concerned labour's goal of working time reduction, the interest of employers in various types of working time flexibility and the so-called work/life balance. In addition, some elements of the pension reform debate – in particular early retirement and the pension age – can be added to this list. Working time is also a thorny issue at the European level, as demonstrated by the ongoing controversies concerning the revision of the Working Time Directive.

In recent years the working time debate has changed. In a political and economic context unfavourable to trade unions, employers as well as a number of governments have been pushing for working time extensions without offering compensation. Working time statistics show indeed that the trend of previous years towards working time reduction has been reversed in a number of European countries. Trade unions are trying to defend the achievements of previous years but are more successful in some countries than in others. What is evident is that around Europe the working time issue has become a major source of disagreement and conflict.

This volume provides an overview of recent developments in the debate and disputes over working time in Europe, discussing both changes over time and differences between countries. The focus is on collective bargaining on working time issues, but also the broader political and economic context in which this bargaining is taking place, as well as relevant legislative changes will be discussed. Also, bargaining about working time provides valuable insights into the role played by collective bargaining at the national, sectoral and company levels, as well as the interaction between legislation and collective agreements, and recent changes in this respect. The remainder of this volume consists of 21 country reports covering most EU member states, as well as two candi-

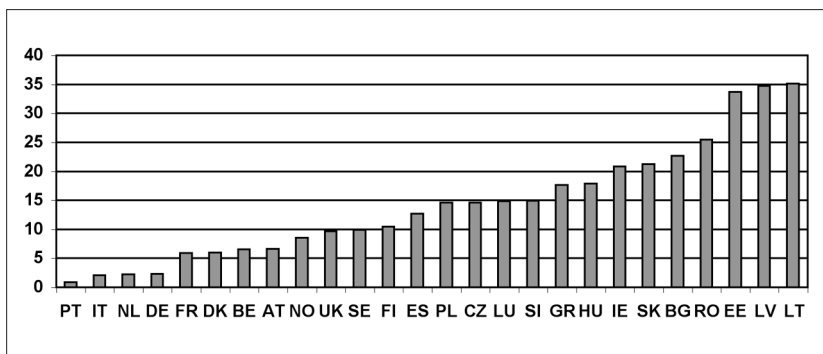
date countries. These reports highlight the most important recent developments in collective bargaining in the individual countries. The present chapter summarises the main findings and trends in these 21 countries, and places them in a European context. First, we will briefly discuss the changing context of collective bargaining in Europe (section 1.2). Then we will discuss the main working time issues and the respective positions of unions, employers and governments (section 1.3). Section 1.4 discusses the state-led or bargaining-based character or changes in working time regulation, while section 1.5 analyses recent changes in working time regulations and practices. Section 1.6 discusses implications for collective agreements and collective bargaining processes.

1.2. Changing context for collective bargaining in Europe

In most of Europe, the context in which unions seek to achieve their goals through collective bargaining has developed unfavourably in the last few years. This is the combined effect of a number of factors, some related to the state of the economy and the labour market, and others related more to the political context in which bargaining takes place. The mix of these factors differs by country and affects unions and collective bargaining in distinct ways.

As far as the state of the economy is concerned, the context for collective bargaining in Europe has been one of low economic growth. In the period 2002–2005, the economy of the EU-25 grew by 1.5% per year. However, major diversity can be observed across Europe (Figure 1.1). Growth has been close to stagnation in Germany, Italy, the Netherlands and Portugal, but France, Denmark, Belgium and Austria have also performed poorly. There has been high growth above all in the European Union's new member states (NMS) from Central and Eastern Europe, as well as in candidates Bulgaria and Romania. Of the EU-15, only Ireland and Greece have performed similarly to this group.

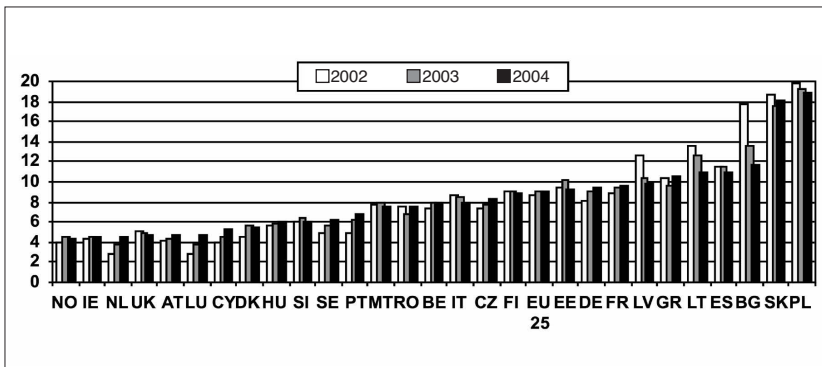
Figure 1.1: Accumulated GDP growth, 2002-2005 (%)



Source: Eurostat.

As regards the labour market, unemployment in the EU-25 has remained high and has increased somewhat in recent years, from 8.7% in 2002 to 9% in 2004 (Figure 1.2). Again, major differences occur across the continent. High unemployment can be observed first of all in several of the new member states (the three Baltic countries, Poland and Slovakia) and candidate Bulgaria, but also in some of the largest EU members (Germany, France, Spain). Unemployment is lowest in Norway, Ireland, the Netherlands, the UK and Austria. No NMS belongs to the best performers on this indicator: the strong economic growth in the NMS has largely been job-less growth.

Figure 1.2: Unemployment in Europe 2002-2004 (%)



Note: Data refer to unemployed persons as a percentage of the labour force, age group 15–74.

Source: Eurostat.

Economic growth and unemployment are important variables conditioning collective bargaining processes and some countries, noticeably Germany but also France, are under pressure on both these variables. However, other factors, more related to Europe's political economy and to the 'social dimension' of the EU and its members, are of importance here as well. Three major challenges confront this social dimension, including collective bargaining systems and practices (Waddington 2005: 519):

- globalisation, that is, the liberalisation of trade in goods and services, integration and expansion of capital markets, high levels of transnational company mergers, acquisitions and foreign investment, and consequent 'regime shopping' by employers;
- continued demands for deregulation and privatisation from neo-liberal politicians and economists, as well as growing numbers of employers;

- strengthening calls from employers for decentralisation of industrial relations and collective bargaining.

One way or another, these factors have weakened the bargaining position of trade unions or strengthened that of the employers. This is further exacerbated by the slow but generalised decline in trade union membership in Europe (Ebbinghaus 2004; European Commission 2004a). This decline is especially strong in the new member states: whereas union density in the EU declined from 32.6% to 26.4% between 1995 and 2001, in the EU-15 union density decreased from 31.0% to 27.3% and in the EU-10 from 42.7% to 20.4% (European Commission 2004a: 18).

Finally, the recent enlargement of the EU in May 2004 has played an important role. It is often argued that this enlargement acts as a sort of intra-European intensifier of the globalisation effect and as an incentive for employers to relocate their productive activities from the EU-15 countries to the new member states, where wages are much lower; others question this argument for various reasons (for a discussion of this issue, see Galgóczi et al. 2005). Irrespective of the merits of the arguments, there is a heated public debate on relocation and its potential effects on employment, and employers increasingly use the threat of relocation to strengthen their demands for concessions in collective bargaining (Keune 2005).

1.3. Working time: issues and positions

The present debate on working time addresses three major issues: (i) the length of the working week (or year), (ii) various types of working time flexibility and non-standard employment contracts), and (iii) pension regulations concerning the length of working life (that is, the pension age) and early retirement regulations. This chapter will deal mainly with the first two and below will outline the controversies to which these two issues are subject. Because of space limits here pension reform will not be discussed. This is not to say that it is not an important issue; indeed, as shown by the country reports, in a number of countries – including Austria, Belgium, Denmark, Finland, Greece and Switzerland – the pension issue plays a key role in bargaining on working time.

1.3.1. Length of the working week

The length of the working week is presently at the heart of the working time controversy. In recent decades, in many of the EU-15 countries working time reduction, a historical trade union demand, re-entered the trade union agenda, starting in the 1980s. Many of the EU-15 unions have had a 35-hour working week as one of their key demands. On several occasions unions have been joined in their cause

by leftist governments or political parties. In the NMS, working time reduction has been on the union agenda for a somewhat shorter period, appearing only during the 1990s. Also, working time reductions have been less central to the unions' demands in the NMS than in the EU-15. One reason for this is low wages: many workers are actually interested in working longer if this leads to higher income.¹ Still, despite the fact that very few workers in the Czech Republic would prefer more leisure time to higher wages, ČMKOS, the largest trade union confederation in the Czech Republic, asked unions representing private sector workers to put forward demands for a reduction of weekly working hours to 37.5 without a reduction in wages (Fassman and Čornejová, in this volume).

The trade union arguments for working time reductions are threefold:

1. Working time is considered to be a health and safety issue, and long working hours are considered to have negative implications for workers' health and well-being.
2. Especially since unemployment rose precipitously in the 1980s–1990s, trade unions see working time reduction as a means of job creation. A reduction in working time, it is argued, will lead to further hiring by way of compensation. Only in countries like Norway, where unemployment has remained low, working time reduction has not been on the agenda as an employment-creation strategy (Lismoen, in this volume).
3. A reduction in working time is argued to improve workers' control over their lives and to give them more opportunities to engage in non-work activities, which enhance the quality of life. In recent years this has been one of the issues discussed under the heading of the work/life balance.

Most employers have never been enthusiastic about working time reduction. At the same time, many employers until recently were willing to exchange working time reductions for concessions in their own interest, in particular increased working time flexibility. In the last couple of years there has been a change in this attitude. Within the context outlined above, in most European countries employers are increasingly rejecting working time reductions and demanding working time extensions without offering (full) compensation, which amounts to an effective decrease in hourly wages (see the country reports in this volume; also Visser 2005). And this is not only the case in countries with shorter working weeks but also, for example, in Switzerland, which already has among the longest working weeks in Europe (Ackermann, in this volume). They argue that such extensions

¹ Survey data suggest this may be the case for 50% of employees in the Central European NMS, compared to only 14% in the Scandinavian countries, 25% in Germany and 28% in the UK (CPB/SCP 2005, Appendix table B2.1).

are imperative in the face of the increased global and European competition and threaten relocation if no concessions are made.

Where governments are concerned, the situation is extremely variegated. Left-of-centre governments have been more in line with union objectives than right-of-centre ones. For example, the Socialist-Green government that won the elections in France in 1997 pushed strongly for a 35-hour working week, but when the Right came to power in 2002 it made several legislative changes to limit the impact of the legislation adopted by the previous government and to 'pave the way for a possible return to the 40-hour system' (Dufour, in this volume).

However, no clear relation can be assumed between the 'colour' of the government and its working time policy. Some left-of-centre governments are ambivalent on the issue or simply reject working time reduction for the sake of competitiveness. For example, in Italy, in 1997 the left-of-centre Prodi government, under pressure from one of its more radical coalition members, tabled draft legislation to reduce statutory working time to 35 hours; however, the same government majority failed to approve this draft because of internal differences on the issue (D'Aloia et al., in this volume). The Labour government in the UK favours opt-outs from the EU Working Time Directive, and in this way continues to keep open the possibility of long working hours (above 48 hours), following business rather than trade union arguments (Exell, in this volume). Also in Hungary, the Socialist coalition government joins the employers in emphasising that working time should not be reduced at present because the global competitiveness of the Hungarian economy must be strengthened (Borbély, in this volume). Conversely, in Poland the centre-right Akcja Wyborcza Solidarność government pushed working time reductions in the early 2000s (Stelina, in this volume).

1.3.2. Working time flexibility

The controversies on the length of the working week are intrinsically linked to the question of working time flexibility and, as indicated above, for some time exchanging working time reductions for increased working time flexibility was the trend in a number of European countries. The question of working time flexibility is more diverse and complex, spanning issues like the flexible scheduling of working time according to the changing needs of the enterprise or organisation; the use of time banks; permitted hours of overtime and overtime compensation; various types of leave; weekend work; and the use of non-standard employment contracts.

Increased working time flexibility has long been called for by employers as part of their demand for more labour market flexibility. They demand broader possibilities to flexibly schedule working time within ever-increasing reference periods, higher limits on the number of hours of overtime they can require of their employ-

ees without compensation, the abolition of restrictions on weekend work, the possibility to sequence temporary contracts, and so on. In addition, in countries where national and sectoral collective bargaining is important in the regulation of working conditions, employers are increasingly calling for the decentralisation of bargaining to company level or for the possibility of opening or opt-out clauses from higher-level agreements, to allow for company-specific working time policies and solutions. They have received ample support in their cause from neo-liberal economists and politicians, as well as from international organisations like the OECD and the World Bank. In their view, increased working time flexibility would increase the employer's control over labour and allow employers to modernise work organisation and to utilise labour when most convenient. Again, this is claimed to be imperative to strengthen productivity and competitiveness, while it is expected to improve growth and employment creation. Also, the European Commission stresses the need for increased working time flexibility to strengthen enterprise adaptability, although it also calls for worker-friendly types of flexibility to improve the work/life balance (for example, parental leave) or to allow particular groups (for example, older workers) to participate in the labour market (European Commission 2005). Also, the Commission is calling for increased flexibility to be accompanied by increased security for workers, even if it remains rather vague on what such security should entail (European Commission 2004b, 2003).

While trade unions largely reject working time extensions, for a variety of reasons they do not simply reject or oppose working time flexibility. One reason is that many unions accept that, within limits, companies do require a certain flexibility to deal with ups and downs in demand and to strengthen competitiveness. This argument has gained such weight across the board that it is hard to resist. Also, many unions consider that there are not only 'negative', employer-oriented types of flexibility – where control over working time is handed over to the employer – but also 'positive', employee-oriented types of flexibility, which increase workers' control over working time. It is argued that in today's economy, in contrast to the Fordist, male-breadwinner model of some decades ago, workers have much more heterogeneous working time needs and preferences, and 'positive' types of working time flexibility may allow them to better combine work and non-work activities, and facilitate female labour market participation or the participation of older workers (cf. the contributions in Messenger 2004).

Responding to such heterogeneity would be important not only to improve the work/life balance of workers and the employment chances of certain groups, but also to strengthen the link between workers' needs and preferences on the one hand and trade union policies on the other. This is an important area in which, in a period of declining trade union membership, trade unions can show their value to their (potential) members. Hence, unions are often willing not only to discuss

the exchange of increased ‘negative’ flexibility for working time reduction, but also for ‘positive’ types of flexibility, arguing that flexibility can be to the benefit of both employers and workers. For example, in Austria,

the trade unions’ current bargaining policy is to agree upon more working time flexibility only in exchange for more innovative working time models which take into account the employee’s entire working life, thus including provisions on time off for retraining, childcare and nursing commitments, sabbatical leave or partial pension schemes (Pernicka and Adam, in this volume).

Still, there is no unified trade union point of view on working time flexibility as illustrated by the situation in Portugal, where the two major unions differ on the issue. The CGTP-IN sees flexibility primarily as a negative factor in working life and, in explicit opposition to it, aims to reduce working time (35 hours, more holidays) and to increase workers’ control over working time organisation; the UGT, in contrast, aims for more effective reconciliation between work and private life by striving for ‘collective agreements and legislation that allow a more adequate organisation of working time and new forms of work organisation’, and sees gender equality as an area in which flexibility offers an opportunity for positive changes (Naumann, in this volume). In Greece, the trade union position towards measures to increase flexibility on the labour market is unequivocally hostile (Christofi, in this volume).

Furthermore, governments have in recent years generally favoured increased working time flexibility, following the employers’ and unions’ lines on this, the specific weight given to the issue depending on the particular country and moment. In the NMS, government positions have been influenced by the requirements of EU accession and the discourse of the European Employment Strategy, which they shadowed for several years before becoming members (Keune 2003). The EES also promotes both employer-oriented and employee-oriented types of flexibility, among other things with the objective of increasing female labour market participation (McCann 2004).

1.4. Changing working time regulations: state-led or bargaining-based?

Working time regulations have changed substantially in recent years. These changes concern both the regulatory environment within which collective bargaining takes place and the provisions in collective agreements. The weight of collective bargaining and of the social partners in producing these changes differs strongly across countries, however, with innovations in some being more state-led and in others more bargaining-based or negotiated. This is first of all a reflection of the differences between national industrial relations systems and their respec-

tive working time regimes (Anxo and O'Reilly 2002). In most countries where coverage of collective bargaining is low and national-level social dialogue is in general weak, innovation in working time regulations has largely come from state-led legislative changes, which modify the regulatory context for largely individual employment contracts. This has been the case in most of the NMS and the UK. In the latter, for example, 'the net impact of bargaining has been modest. ... Trade unions are concluding good deals but they only affect a minority of the workforce' (Exell, in this volume). In the NMS, two other factors further strengthen the state-led and legislative character of change. One was the focus on the adaptation of legislation to the EU *acquis communautaire* in the years before accession. The other is the fact that collective bargaining in the NMS is often more exclusively focused on wages, while the organization of working time is more often considered a management prerogative, as long as it stays within the terms of the law. Collective agreements often simply repeat labour legislation on working time issues.

This is not to say that unions and employers' organisations play no role at all in these countries and that reforms have not had negotiated elements. Unions and employers play a part through the limited collective bargaining that does go on, as in the UK, as well as, in a number of cases, through national-level agreements, even if these are not part of a strong social dialogue system. For example, the so-called 'Euro-amendment' of the Labour Code effective as of January 2001 in the Czech Republic, which had a major impact on working time regulations, was based on a broad societal dialogue which included the social partners (Fassman and Čornejová, in this volume). In Poland, it was due to an agreement reached between the OPZZ trade union and the employers' organisations in spring 2002 that a bill amending working time provisions in the Labour Code was presented to the Parliament (Stelina, in this volume). In this agreement, in exchange for trade union concessions allowing an increase in working time flexibility, the employers undertook to limit 'pseudo self-employment' and to maintain regular employment relationships. Finally, in Slovenia, trade unions and employers have been participating in a meaningful social dialogue, giving them a say in the modification of labour legislation, even though at present social dialogue is under attack.

However, also in some of the countries where collective bargaining coverage is extensive, its role in regulating working time has been limited because unions and employers could not manage to agree on changes in working time regulations through autonomous agreements. As a result, the state stepped in. This has been the case in Greece and Portugal. In Greece, 'given the divergent views on the working time question held by employers and trade unions and the absence of any agreement on this matter, recent developments in this area have been the result, largely, of government initiative' (Christofi, in this volume), while in Portugal, 'since as early as the 1990s, the inability of the social partners to reach

compromises on the revision of collective agreements transferred the responsibility for change to the government' (Naumann, in this volume).

In other countries, the role of the state and of bargaining has been more balanced. The main example here is the move towards the 35-hour week in France. In two rounds of legislative changes (the laws Aubry I and II in 1998 and 2000), the Socialist–Green government sought to institutionalise the 35-hour working week. However, it left it to the unions and employers to effectuate the respective working time reductions through collective agreements, allowing them to decide on the level of bargaining and the pay arrangements accompanying this reduction, as well as recognising many forms of working time flexibility which could be drawn upon in collective agreements (Dufour, in this volume). Also in Norway, in some areas, including working time flexibility, regulation takes place through an interplay between collective bargaining and legislation (Lismoen, in this volume).

In Austria, Belgium, Denmark, Finland, Germany, Italy and Spain, collective bargaining has been more central to the regulation of working time. In Belgium and Finland such bargaining takes place mainly at the inter-sectoral level, together with the government, and is aimed to a large extent at legislative innovation. In the other countries, however, industry- and increasingly also company-level bargaining dominates. This does not mean that the parties to such bargaining agree. Indeed, increasing tensions between unions and employers are reported in almost all these countries, stemming first of all from the fact that employers are more and more calling for working time extensions, combined with increased flexibility (see the respective country reports; Visser 2005). In some cases, notably Italy, trade unions use collective agreements to limit the impact of legislative changes (D'Aloia et al., in this volume).

Switzerland is a special case in that the trade unions have tried on two occasions to modify working time legislation through a referendum (Ackermann, in this volume). The goal of these referenda, which took place in 1988 and 2002, was the introduction of a shorter working week. However, on both occasions the trade union proposals were rejected with clear majorities. From the side of the population and the workers working time has not been considered a priority issue in Switzerland, except for some sectors where working hours are well above the average. There, through collective bargaining, some small successes have been achieved, bringing working hours closer to those in the rest of the economy (Ackermann, in this volume).

Finally, the changing of working time regulations also has a European dimension. In particular the transposition of the Working Time Directive and the recent debate on modification of the Directive have played a role, in particular in countries with limited working time legislation (UK, Denmark) and in the NMS as part of the transposition of the *acquis communautaire*.

1.5. Changing working time outcomes

1.5.1 Working hours

As far as working hours is concerned, in a longer term perspective a trend towards working time reduction can be observed; at the same time, in many cases this trend has come to an end or has been reversed in recent years. These developments are the result of both changing regulations and changing use of these regulations. The dominant trend, however, cannot simply be generalised across countries; major differences also occur across sectors (Marginson and Sisson 2004, chapter 10; Marginson et al. 2003). To illustrate these points, let us consider some examples.

In the mid-1980s, the German unions began their fight for a 35-hour working week, which was finally implemented five years later in the metalworking and printing industries. Since 1998, collectively agreed weekly working hours in the western part of Germany have remained stable at 37.4 hours, while in the eastern part they have been slowly declining, from 39.5 hours in 1995 to 38.9 in 2004 (Bispinck, in this volume). However, in recent years a number of examples have pointed towards a reversal of the trend towards reduction. In 2003, IG Metall attempted to achieve a working time reduction in the metalworking industry in the eastern part of Germany from 38 to 35 hours, to match the agreement for the western part. This initiative, including the related strike, failed dramatically because of internal conflict within the union, combined with growing unity and resolve among employers (Thelen and Kume 2006). Also, the 2004 agreement for the metalworking and electrical industry included possibilities to extend working time for part of the employees. Moreover, starting in 2004, a number of company cases of concession bargaining, including Siemens and DaimlerChrysler, included an increase in working time. Finally, the effective setting of working time is increasingly being decentralised to company level, both through increasing availability and use of opening and opt-out clauses and through employers abandoning their organisations to rid themselves of the obligations of sectoral agreements and to have the option of negotiating working time extensions.

In France, the Aubry laws of 1998 and 2000 led to the negotiation of over 200 industry agreements and several tens of thousands of company agreements regulating working time reductions (Dufour, in this volume). Between 1999 and 2002, the average working week for full-time employees in companies employing 10 or more people dropped from 38 to 35.6 hours (*ibid.*). However, the right-wing government that took office after the 2002 elections then adopted a number of measures which paved the way for a possible return to the 40-hour week through, for example, increased possibilities for overtime.

In most of the NMS the statutory working week was reduced in the years 1999–2002 to 40 hours. However, in the last couple of years, further reduction of the statutory working week has gone off the agenda. In some countries, working time reduction was achieved in collective agreements. Most noticeably, in the Czech Republic, a shortening of weekly working time without reduction of wages was agreed in 94% of company collective agreements in 2004 and the agreed average weekly working time was 38 hours, while 76.5% of company collective agreements extended statutory annual leave by one week (Fassman and Čornejová, in this volume). At the same time, labour legislation permits employers to include compulsory overtime of up to 150 hours a year in wage settlements, which effectively provides an option to extend working time.

In Portugal, the Socialist Labour Ministry introduced changes to labour legislation, including working time reduction, in 1997; in 2003, after the victory of the centre-right coalition in the 2002 elections, modifications to the Labour Code reduced the existing limitations on working time extension (Naumann, in this volume).

However, some cases are not in line with this general trend. For example, in Italy, working time negotiated through collective bargaining has remained substantially unchanged since the mid-1990s (D'Aloia et al., in this volume). Also, in Austria and Finland, while employer pressure for working time extension is mounting, for the moment the unions are managing to resist. In the UK, the trade unions, through collective agreements, have managed to reduce the number of people working more than 48 hours per week from 3.9 million in 2001 to 3.6 million in 2004 (Exell, in this volume). In Spain, an overall reduction of average annual working time was agreed in collective agreements in the period 2001–2004 as a result of the fact that every year a working time reduction is agreed in over a quarter of all collective agreements (Otaegui Fernández and Gutiérrez Quintana, in this volume). In Switzerland, no changes to statutory working time have been made in recent decades. However, in some sectors collective agreements include working time reductions: in cleaning services in German-speaking Switzerland, as of 1 January 2005, weekly working hours were reduced from 44 to 42 hours per week; in the cleaning service sector in French-speaking Switzerland (also from 1 January 2005), working hours were reduced to 43 hours per week; in the ancillary building trade, Canton of Geneva, there was a reduction of one hour for certain trades; and in metalworking there was a reduction from 40.5 to 40 hours (Ackermann, in this volume).

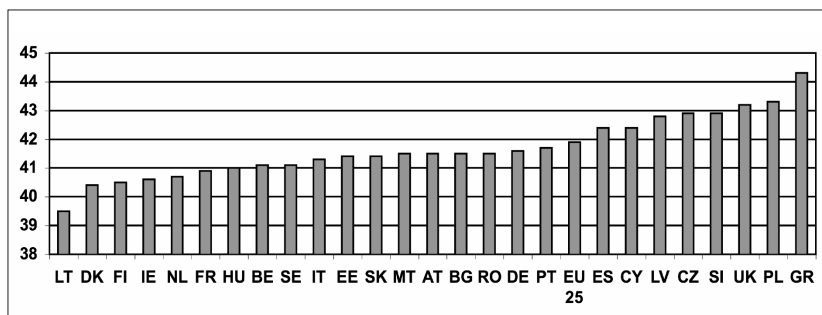
However, effective working time depends not only on the prevailing regulations but also on the use of such regulations. Indeed, almost everywhere actual working time is above the norms stipulated in collective agreements or labour legislation as a result of company collective agreements or individual contracts that

undercut the standards of legislation or higher-level agreements; because of the use of overtime; or through other mechanisms. For example, in Germany,

even if it is true that in some individual cases the parties to the collective agreement have been able to prevent the untrammelled use of opt-outs ... it is nevertheless hard to avoid the growing impression that collectively agreed working time is becoming little more than a reference figure for calculating (collectively agreed) pay (Bispinck, in this volume).

This point becomes more obvious if we consider data on the actual average working week. Major differences in weekly working time prevail across Europe (Figure 1.3). Average weekly working hours for full-time employment in 2005 for the EU-25 amounted to 41.9 hours. Working time was below 41 hours in six countries (Lithuania, Denmark, Finland, the Netherlands, Ireland and France), while it was over 43 hours in three countries (the UK, Poland and Greece). In Greece, usual weekly working hours even exceed 44 hours, partly because of the very high percentage of self-employed (over 40% of the employed). Of the eight countries with working hours above the average, five are new member states. However, the other five new member states, as well as candidates Romania and Bulgaria, are clearly below the average. Hence, the popular perception that in the new member states long working hours are used as a competitive strategy is not entirely correct. Indeed, working hours in Germany, for example, are longer than those in five new members and the two candidates.

Figure 1.3: Average weekly working hours, full-time employment, 2005 (Q2)



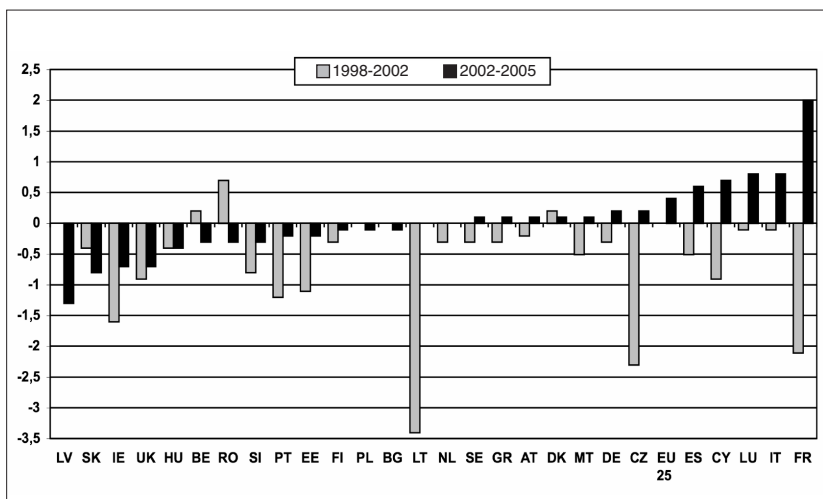
Note: AT=2003.

Source: Eurostat.

If we then consider the changes in hours worked per week over time, we see that indeed there is a shift from working time reduction towards working time extension (Figure 1.4). In the period 1998–2002, in virtually all European countries,

working time was decreasing, and in six of them by more than 1 hour. The most noticeable reductions – that is, over 2 hours per week – were achieved in Lithuania, the Czech Republic and France (with its 35-hour working week policy). In only three countries was working time extended in this period, and these extensions were minor. However, between 2002 and 2005, working time was extended in 12 countries, while also the average for the EU-25 went up. These extensions are not related to the business cycle since economic growth was much more robust in the first than in the second period. Most noticeably, with the abandonment of the 35-hour policy, working time went up in France by 2 hours per week, undoing almost completely the working time reduction achieved in 1998–2002. In 13 out of 27 countries working time was still reduced, but in most cases these reductions were negligible and smaller than the reductions in the earlier period; only in one case did they exceed one hour per week. Hence, a clear trend from working time reduction towards working time extension can be observed.

Figure 1.4: Change in average hours worked per week, full-time employment, 1998-2002 and 2002-2005 (hours)



Notes:

No data for 1998-2002 period for EU25, BG and PL. Cyprus: 1998=1999; Malta: 1998=2000; Austria: 2005=2003; Luxembourg: 2005=2004.

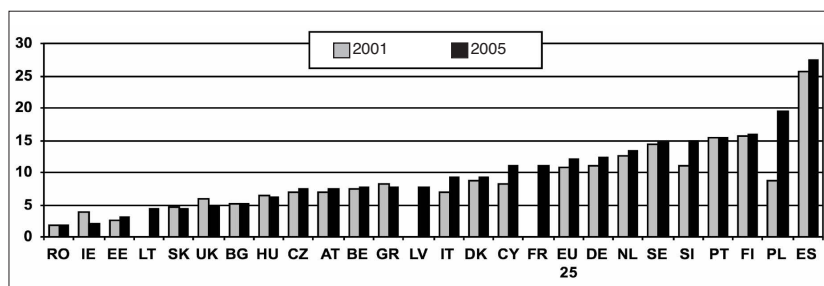
Source: Eurostat.

1.5.2. Working time flexibility

Where outcomes concerning working time flexibility are concerned, in every country in Europe flexible working time arrangements are at the centre of the bargaining agenda and of legislative reforms. Working time flexibility concerns a number of different areas: the regulation of overtime, including the maximum amount of, reasons for and compensation for overtime; the flexible scheduling of working time within prolonged time frames; the maximum hours allowed per day and week and work in different types of shifts; the use of time banks or time accounts; weekend work; flexi-time arrangements; and the use of different types of flexible contracts (temporary, part-time, temp agency, on-call, zero-hours, and so on). In addition, in the countries where this is relevant, decentralisation of the regulation of working time issues, from the national or sectoral level to the company level, can be considered a means of flexibilisation.

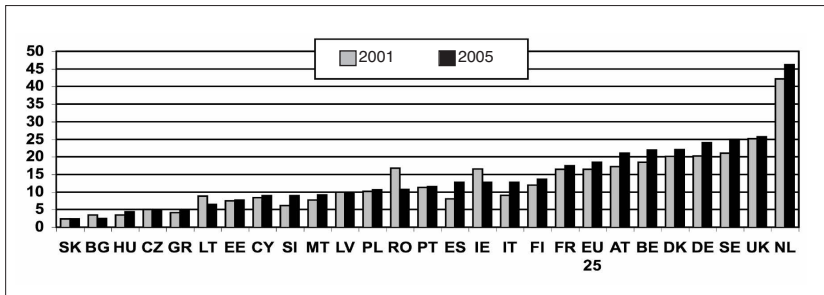
There is little doubt that there has been a steady increase in employer-oriented types of working time flexibility, even though the precise configuration of flexibility measures differs across countries and sectors. Because of the large empirical diversity it is beyond the scope of this chapter to provide a detailed picture of the regulations. However, the country reports clearly show that over the past decade, in most cases, time frames for the scheduling of working time have been extended, the use of flexible contracts made easier, overtime limits extended, compensation for overtime limited, and so on. As an illustration, Figures 1.5 and 1.6 provide data on the incidence of temporary and part-time contracts. On average, both increased for the EU-25 in the period 2001–2005: temporary contracts from 10.9% to 12.0% and part-time contracts from 16.4% to 18.5%.

Figure 1.5: Percentage of employed with temporary contracts, 2001-2005



Source: Eurostat.

Figure 1.6: Percentage of employed with part-time contracts, 2001-2005



Source: Eurostat.

Indeed, according to many commentators, employer-oriented working time flexibility is very extensive. Possibly the most striking remark in this respect comes from the president of the Confederation of German Employers' Associations, Dieter Hundt. He is quoted as saying that 'anyone who says that collective agreements are an obstacle to companies adapting working time precisely to meet their requirements is either being malicious or does not know anything about collective agreements' (*Handelsblatt* 20.4.2000, quoted in Bispinck, in this volume).

In addition, in a number of cases, employer-oriented flexibility is further increased by the use of certain unregulated and sometimes quite extreme types of flexibility. This includes, for example, the use of 'pseudo self-employment' or 'dependent self-employment', where workers are formally self-employed but in practice dependent on one single employer and integrated into the work organisation of the employing organisation (Perulli 2003; Muehlberger 2002). This puts them out of the scope of the normal regulatory framework, including working time regulations, and strengthens the employer's control over the time of the worker. Also, it may deprive workers of overtime payments. The same problems occur with work in the informal sector or other irregular types of work.

Where employee-oriented types of flexibility are concerned, the picture is less clear and indeed inconclusive. The issue is increasingly part of the working time discourse, in which improving the work/life balance is becoming more and more prominent. Measures discussed under this heading include working time accounts, certain types of leave related to family circumstances, home working, voluntary part-time employment, and flexi-time schedules allowing for flexible entry and exit hours. Such schemes, it is argued, strengthen workers' control over their time and allow them to adjust work and non-work activities when needed. And where in previous decades employer-oriented working time flexibility was often

exchanged for working time reductions, today more often the professed goal is simultaneously to increase both employer- and employee-oriented flexibility.

In a number of the country reports an increase in employee-oriented types of flexibility, achieved through collective bargaining, is reported. For example, in the UK, a modest increase in the availability of work/life balance measures – as well as in their take-up – was recorded between 2001 and 2004 (Exell, in this volume). Also, as already mentioned, the use of part-time contracts has been on the increase. However, one should be careful to simply assume that the existence of such schemes indeed strengthens workers' control over their time. It is their practical application which in the end determines whether these schemes are indeed employee-oriented or not. This is illustrated by the example of Germany, where working time accounts have become a major instrument of flexibilisation. However, while such accounts are often presented as employee-oriented schemes, only 20% of workers can effectively decide when to deposit or withdraw time from their accounts (Bispinck, in this volume). Similarly, although part-time employment is on the increase, taking up part-time employment is not always a positive choice for the individual and a substantial proportion of it is involuntary (Buddelmeyer et al. 2004; Anxo and O'Reilly 2002).

1.6. Implications for collective agreements and collective bargaining processes

A number of implications for the characteristics of collective agreements and collective bargaining processes can be derived from the analysis of collective bargaining on working time. One is that collective agreements have become more complex, containing often quite extensive regulations on more and more working time issues. Another is that collective agreements have become instruments of flexibilisation, and that this concerns first of all employer-oriented flexibility. Developments concerning employee-oriented flexibility are much less conclusive. The extensive regulation of working time flexibility through collective agreements is a result of the unions' aim of ensuring that flexibilisation is a regulated process, setting clear rules and limits, and a negotiated and controlled process in which workers and their representatives participate in the design and implementation of flexible schemes. Of course, this is more the case in countries where collective agreement coverage is high and where collective bargaining has had a primary role in regulating working time, although on a number of occasions labour legislation explicitly gives workers and their representatives a role in the flexibilisation of working time. Still, in countries with low collective agreement coverage the negotiated and controlled character of flexibilisation is clearly more limited.

As already discussed, collective bargaining on working time has also become more and more decentralised to the company level in the countries where previously national or sectoral agreements prevailed. This in itself is a type of flexibilisation of working time regulations, allowing more and more for company-specific solutions. To a large extent, recent processes of decentralisation can still be characterised as organised decentralisation, that is, the delegation of certain bargaining issues to regulation at the company level within a binding framework set by multi-employer settlements (Traxler 1995, 2003). The multi-employer agreements here determine the room for manoeuvre within which working time flexibility can be negotiated at the company level. In Germany, increasingly opening and opt-out clauses allow actors at company level to deviate from sectoral agreements and to arrive at company-specific agreements concerning working time and other issues (Seifert and Massa-Wirth 2005; Bispinck, in this volume; Haipeter and Lehdorff 2005). Similar processes can be observed in Denmark, Austria, Italy, Spain or Belgium (see the country reports in this volume; Visser 2005; Marginson et al. 2003).

However, the organised character of such decentralisation towards the company level is increasingly coming under pressure. For example, in Denmark in recent years central collective agreements have extended the reference periods for the flexible organisation of working time partially because of bottom-up pressures, that is, to reflect the reality of company-level 'closet agreements', informal company agreements in which employees and their representatives have agreed on increased working time flexibility (Jørgensen, in this volume). Also, organised decentralisation in Denmark seems to be going beyond the company level towards individualisation of working time regulations within the context of company-level framework agreements: 'In the future, the local partners will still have to agree on a framework, but the actual organisation within this framework will be agreed directly with individual employees or groups of employees (Jørgensen, in this volume).' Another issue is the increased use of opt-out and hardship clauses. Although these are allowed by sectoral agreements, they do weaken the power of the sectorally agreed frameworks by expressly undercutting them, even though this happens in specific and agreed circumstances (Marginson and Sisson 2004, chapter 7). Additionally, particularly in Germany, the possible defection of employers from multi-employer bargaining to avoid sectoral agreements remains on the agenda.

Finally, developments concerning working time demonstrate the more general point that trade unions have difficulties achieving their objectives through collective bargaining under the present economic and political circumstances. Collective bargaining was for a long time a means for trade unions to achieve working time reductions, possibly in exchange for increased flexibility. Recently, however, collective bargaining has increasingly been used to defend earlier achievements and,

sometimes, to negotiate concessions, including working time extensions. Indeed, the position of trade unions in collective bargaining on the length of the working week is becoming less offensive and more defensive. At the same time, as discussed above, there are a number of exceptions to this trends. Also, where working time flexibility is concerned, unions are trying to regain the initiative, pushing for new forms of flexibility that respond to workers' demands and preferences. At the moment, there would seem to be more space for unions to achieve improvements on the issue of worker-oriented flexibility. As a result, a trade-off between employer- and worker-oriented flexibility might become the new deal between unions and employers. However, working time reduction remains an objective of unions around Europe and when the context for collective bargaining changes it is likely to regain some of the prominence it had in past decades.

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