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Europe
at a crossroads

Which way to
quality jobs
and prosperity?

Workers' participation and company law

The varying patterns of workers' participation and the role of board level representation

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Contents

- Varying patterns of employee representation
 - Union strength
 - Workplace representation
 - Board level representation
- Private sector board level representation
 - Patterns
 - Links between the structures
- Changes



Varying levels of union density

Union density	Countries (Density %)
High (50% plus) (6 states)	Finland (74%), Sweden (70%), Denmark (67%), Cyprus (55%), Malta (51%), Belgium (50%)
Medium (15% to 49%) (16 states)	Luxembourg (41%), Croatia (35%), Italy (35%), Romania (33%), Ireland (31%), Austria (28%), Slovenia (27%), UK (26%), Greece (25%), Bulgaria (20%), Netherlands (20%), Portugal (19%), Spain (19%), Germany (18%), Czech Republic (17%), Slovakia (17%)
Low (below 15%) (6 states)	Latvia (13%), Hungary (12%), Poland (12%), Estonia (10%), Lithuania (10%), France (8%)



Workplace level representation

- Just works councils:
 - 4 states: Austria, Germany, Luxembourg and Netherlands
- Works councils and union structures at work
 - 8 states both are present: Belgium, Croatia, France, Hungary, Poland, Slovakia, Slovenia and Spain
 - 3 states works councils much less likely: Czech Republic, Greece and Portugal
- Just union structures:
 - 7 states: Cyprus, Denmark, Finland, Italy, Malta, Romania and Sweden
- Primarily union, but other structures possible:
 - 6 states: Bulgaria, Estonia, Ireland, Latvia, Lithuania and UK



Workplace representation protects the interests of employees (& plant?)

- Croatia: works council *“protects and promotes the interests of the employees ... by providing advice, participating in decision making and negotiating with the employer ... about the issues which are important for the employees”*
- Germany: role of the works council *“to work together with the employer ... in a spirit of mutual trust....for the good of the employees and the establishment”*
- Sweden: employer must start negotiations with the local union before a *“significant change to the employer’s activity”* and before *“significant changes in working or employment conditions for employees”*



Board level representation

- Representation at board level in both private and publicly owned companies
 - 12 states: Austria, Croatia, Denmark, Finland, France, Germany, Hungary, Luxembourg, Netherlands, Slovakia, Slovenia and Sweden
- Representation at board level in publicly owned companies
 - 6 states: Czech Republic, Greece, Ireland, Poland (also privatised), Portugal and Spain
- No board level representation
 - 10 states: Belgium, Bulgaria, Cyprus, Estonia, Italy, Latvia, Lithuania, Malta, Romania and UK



Board-level representation – the range

- Always minority – typically one third
 - Half in German companies above 2,000 (although shareholder chair can vote twice)
 - A single employee board member in Croatia
 - Just one or two in France
- Threshold ranges from 25 employees in Sweden to 5,000 in France
- On both two-tier boards and single-tier boards



Board-level representation: generally same rights and duties as others

- Austria: all members of the supervisory board must exercise their functions in the interest of the company, bearing the interests of shareholders and employees as well as of the general public in mind
- Germany: employee members of the supervisory board have the same rights and duties as other members, including remuneration
- Hungary: employee representatives have the same rights and obligations as other members of the supervisory board
- Sweden: *“the provision of other acts or legislative instruments concerning members of the Boards of Directors ... shall apply to employee members”*



Some Nordic exceptions

- Denmark: employee members cannot be involved in decisions on industrial disputes.
- Finland: employee members cannot participate in decisions on industrial disputes, pay and conditions or the recruitment and dismissal of senior managers
- Sweden: employee members cannot take part in discussions relating to collective bargaining or industrial action, or other issues where there is a clear conflict of interest between the company and the union



Private sector board level representation – the pattern I

Union density	Countries (Density %)
High (50% plus) (6 states)	Finland (74%), Sweden (70%), Denmark (67%), Cyprus (55%), Malta (51%), Belgium (50%)
Medium (15% to 49%) (16 states)	Luxembourg (41%), Croatia (35%), Italy (35%), Romania (33%), Ireland (31%), Austria (28%), Slovenia (27%), UK (26%), Greece (25%), Bulgaria (20%), Netherlands (20%), Portugal (19%), Spain (19%), Germany (18%), Czech Republic (17%), Slovakia (17%)
Low (below 15%) (6 states)	Latvia (13%), Hungary (12%), Poland (12%), Estonia (10%), Lithuania (10%), France (8%)



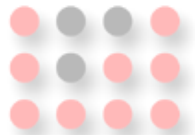
Private sector board level representation – the pattern II

- Just works councils:
 - 4 states: Austria, Germany, Luxembourg and Netherlands
- Works councils and union structures at work
 - 8 states both are present: Belgium, Croatia, France, Hungary, Poland, Slovakia, Slovenia and Spain
 - 3 states works councils much less likely: Czech Republic, Greece and Portugal
- Just union structures:
 - 7 states: Cyprus, Denmark, Finland, Italy, Malta, Romania and Sweden
- Primarily union, but other structures possible:
 - 6 states: Bulgaria, Estonia, Ireland, Latvia, Lithuania and UK



Private sector board level representation – the pattern III

Countries	Type of workplace representation	Level of union density
Austria, Germany, Luxembourg, Netherlands	Works council only	Medium 41% to 18%
Denmark, Finland, Sweden	Just union structures	High 74% to 67%
Croatia, France , Hungary, Slovakia, Slovenia	Union structures and works councils	Medium to low 35% to 8%



Private sector board level representation – links

- Generally provided through mechanisms for choosing board level members
 - This reflects the overall structure of employee representation
 - Through election
 - Appointment by the local union (Sweden)
 - Chosen by the works council (Austria)
 - In Germany in larger companies mechanism gives a role at company level to the unions (otherwise missing)
- These links and presence at board level strengthen the position of employee representatives
 - Through increased information
 - Through contacts with management



But some exceptions

- France: the position of an employee representative at board level cannot be combined with any other elected position, such as a member of the works council or a trade union representative
- Netherlands: employees of the company or of a union involved in collective bargaining with it are specifically excluded from being members of the supervisory board



Changes I

- Reduction of employee presence at board level
 - Czech Republic: employees in privately owned public limited companies with at least 50 employees have lost the right to elect one third of the members of the supervisory board (January 2014)
 - Hungary: 2006 legislation allowed companies to choose between one and two-tier boards – no obligation to have employee representatives on one-tier boards
 - Slovenia: 2006 legislation allowed companies to choose between one and two-tier boards – reduced employee representation possible on one-tier boards



Changes II

- Increased employee presence at board level
 - France: 2013 legislation makes employee representation at board level obligatory in all companies with 10,000 or more employees worldwide or 5,000 in France
- Board level employee presence protected
 - Germany: Commission in 2006 recommended that the existing system should be maintained



Conclusions

- Employee representation across Europe very varied
 - Works councils, union, mixture
- Board level representation provides a key element in the structure in some countries
 - Linking with other structures
- But in some countries in Central and Eastern Europe rights have been removed or weakened



Thank you for your attention

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- More information on these issues from
www.worker-participation.eu
National Industrial Relations

