More of the same: wages and collective bargaining still under pressure

Introduction

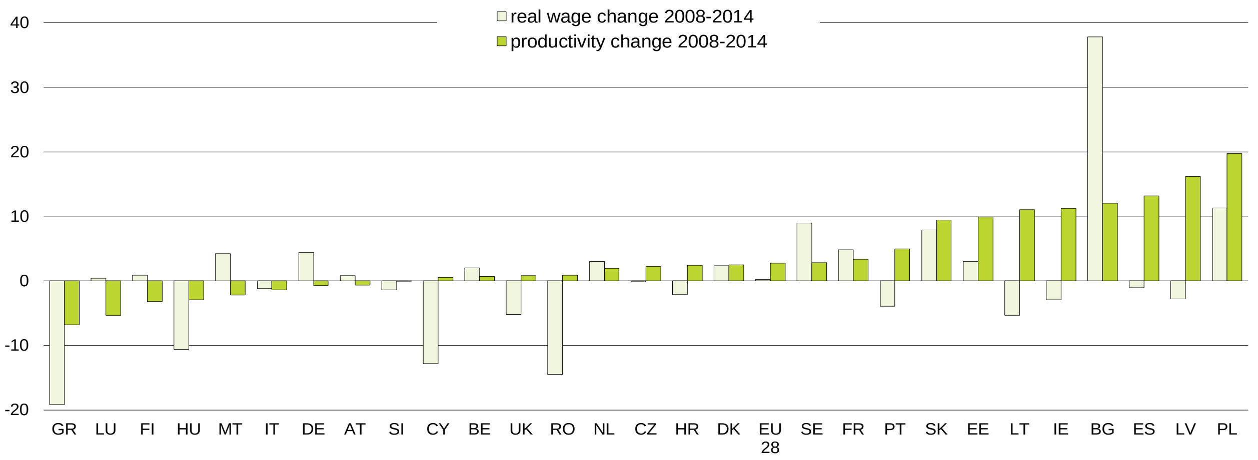
Even as the danger of deflation looms large, the strategy of internal devaluation continues to dominate EU crisis management. In the field of wages and collective bargaining this strategy entails constant pressure on wages and the relentless pursuit of further 'structural reforms' aimed primarily at increasing the downward flexibility of wages. This strategy is applied, what is more, not to the 'crisis countries' alone but also to the rest of Europe in the context of the country-specific recommendations adopted in the framework of the European Semester (Schulten and Müller 2015).

This chapter sets out to achieve 2 aims, the first being to critically review some of the arguments used by advocates of the current form of crisis management to justify the strategy of internal devaluation; the key focus here will be on the relationship between wages and productivity and the debate about the relationship between public and private sector wage developments. The second aim is to illustrate and describe the implications of the internal devaluation approach in the field of wages and collective bargaining. One key issue dealt with in this connection is recent developments in minimum wages in the wake of the explicit call by new European Commission president Jean-Claude Juncker, in an address to the EU Parliament in July 2014, for a minimum wage in all EU countries. A second key issue will be the implications for national collective bargaining systems in terms of changes in bargaining levels, bargaining coverage and union density. The chapter concludes with an analysis of different forms of action – such as strikes and litigation – used by trade unions to counter the attacks on basic trade union rights.

Topics

Wage developments

Figure 3.1. Development of real wages and productivity 2008-2014



Source: own calculations based on AMECO.

Real wage developments lagging behind productivity growth

One central argument used by European and national policy-makers to justify the strategy of internal devaluation was that nominal wages must remain in line with productivity as a means of reducing unit labour costs, a condition that was in turn seen as an essential prerequisite for the improvement of cost competitiveness (ETUI and ETUC 2014: 82).

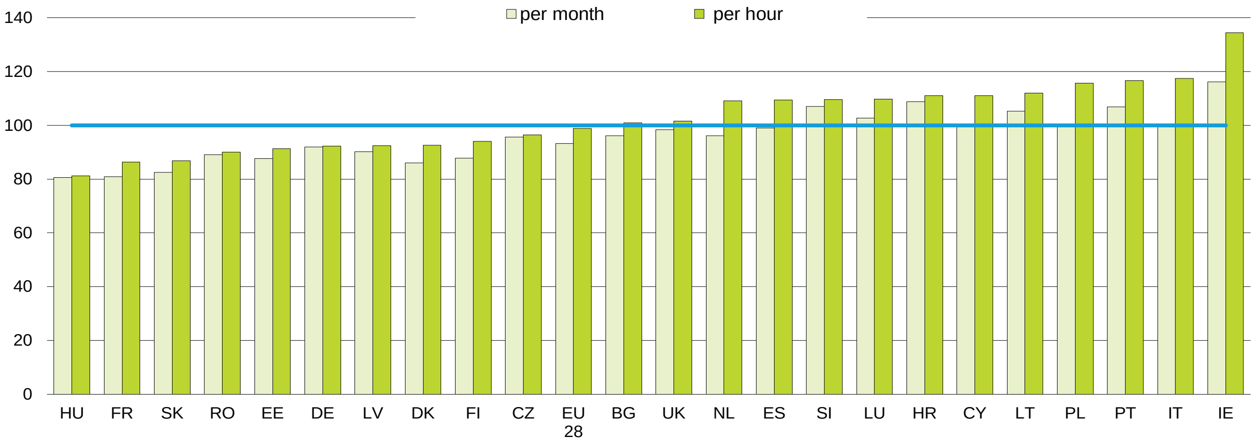
At first sight, therefore, the European Commission's most recent Annual Growth Survey contains good news for trade unions since the Commission here acknowledges that 'a high level of employment requires real wages to move in line with productivity developments' (European Commission 2014a: 12). It thus seems that the Commission has finally acknowledged the important role of wages and aggregate demand for growth and employment; at the same time, however, it calls for a 'certain degree of flexibility for differentiated wage increases across sectors and within sectors' (European Commission 2014a: 12). This means that sectoral or even firm-level productivity should, rather than national productivity, be the benchmark for real wage developments, and this is a recipe for further widening wage inequalities between workers in high-productivity and those in low-productivity sectors. Accordingly, in view of the negative effects of rising wage inequalities for growth and employment – which have been widely documented in most recent publications by the OECD and the ILO (Cingano 2014; ILO 2015) – differentiated wage increases counteract, to a certain extent, the Commission's original purpose of creating 'a high level of employment'.

DG ECFIN's most recent Economic Forecast contains similarly mixed messages (European Commission 2015). As Ronald Janssen (2015) has pointed out, on the one hand the Commission is concerned that low inflation would further depress nominal wages leading eventually to chronic economic stagnation and deflation while, on the other hand, it continues to press for further structural reforms via an agenda of decentralising collective bargaining arrangements that counteracts attempts to ensure that real wages stay in line with productivity through, for instance, more coordinated wage bargaining. Despite the concern about the recent deflationary tendencies, the Commission insists that 'decentralised wage bargaining and more flexible wage arrangements ... w ill also support job creation' (European Commission 2015: 5). The Annual Growth Survey moves in the same direction by stating that 'some Member States still need to complete the correction of pre-crisis trends, with wages outpacing productivity gains' (European Commission 2014a: 12).

All these recommendations are essentially based on the assumption that growth in real wages outpaced productivity. Yet the ILO's most recent Global Wage Report shows that between 1999 and 2013 the opposite was actually the case with productivity growth outstripping real wage growth in developed countries (ILO 2015: 8-12) – a ccompanied by all the familiar potential side-effects such as decreasing household incomes and consumption leading in turn to shrinking aggregate demand and economic growth. Figure 3.1, by comparing changes in real wages and productivity in the crisis period 2008-2014, confirms this finding. It shows that since the beginning of the crisis in 2008, real wage growth has remained behind productivity growth in the majority of EU countries (18 out of 28). Since in the eurozone as a whole internal demand is more important than exports for generating economic growth and employment (Feigl and Zuckerstätter 2012: 8), it is no surprise that the European economy is not recovering but is instead moving ever closer to depression.

Wage developments

Figure 3.2. Public sector wages as % of private sector wages, 2012



Source: Müller and Schulten (2015) based on Eurostat Labour Force Survey 2012. Note: Private Sector: NACE Code B-N (Buisiness economy). Public Sector: NACE Code O-S (Public administration and defence; compulsory social security; education; human health and social work activities; arts, entertainment and recreation, other services).

Is there a public-private sector wage gap?

One of the arguments most frequently used by European and national policy-makers to justify public sector pay cuts and freezes in the context of the current EU crisis management refers to the need to reduce public sector pay in order to improve private sector competitiveness. This argument rests on the assumption that 'excessive' wage developments in the (sheltered) public sector will drive up wages in the (exposed) private sector, a state of affairs that will in turn undermine the cost competitiveness of the export-oriented industry (Müller and Schulten 2015).

According to the literature, there are essentially three different mechanisms whereby 'excessive' public sector wage developments may affect private sector wages and competitiveness. The first mechanism is seen to act more directly through established practices of public sector wage leadership. According to this logic, public sector wage growth may have a 'signalling effect', exerting pressure on private sector negotiators to follow developments in the public sector (Afonso and Gomes 2008: 27). The second mechanism is related to the labour market, because 'unjustified' public sector wage premiums may lead to a persistently sub-optimal supply of skilled labour to the private sector, thereby pushing up the equilibrium wage and hence negatively affecting national competitiveness and growth potentials (European Commission 2014b: 3). The third channel is related to a price effect, because 'excessive' wage developments in the public sector drive up aggregate national inflation with negative consequences for relative price competitiveness and export performance (Johnston *et al.* 2013: 17).

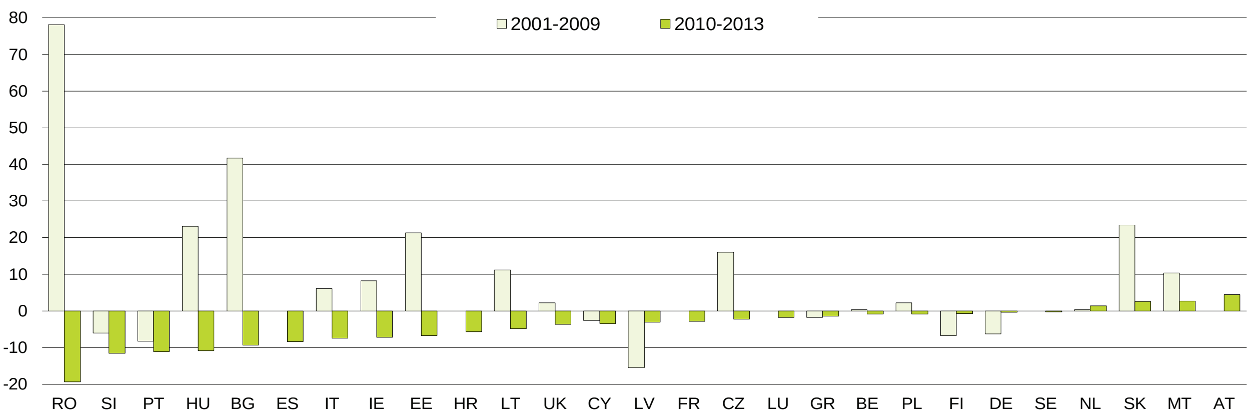
All three arguments – and the resulting recommendation to cut or freeze public sector pay – are based on the assertion that there actually is an 'unjustified' public sector wage premium, i.e. a wage premium that cannot be explained by individual or occupational characteristics such as higher educational attainment, skills levels and age/seniority of public sector workers.

The findings of comparative studies analysing the so-called 'public-private sector pay gap', which also control for individual and occupational characteristics, are rather diverse and do not support the widespread view that there *generally* exists an unjustified public sector pay premium (see Müller and Schulten 2015 for a more detailed discussion). Figure 3.2, which compares average wage levels in the public and private sectors confirms the diverse results of previous studies (Giordano *et al.* 2011; Grimshaw *et al.* 2012; De Castro *et al.* 2013; European Commission 2014b). It shows that according to data from Eurostat's Labour Cost Survey – even without taking into account individual and occupational characteristics – average wage levels in the public sector were lower than in the private sector in 13 EU countries. In only 10 EU countries for which Eurostat data was available was the opposite the case. The Figure shows also that both groups cover countries from almost all European regions – with the exception of those southern European countries for which data is available, all of which fall into the first group of countries with a higher average wage level in the public sector.

The public-private sector pay gap is usually diminished when monthly rather than hourly wages are considered. This might reflect the fact that in the private sector employees often work more overtime and receive more extra payments and bonuses. When considering monthly wages, average wage levels in the public sector are higher than in the private sector only in a minority of eight out of 23 EU countries.

Wage developments

Figure 3.3. Differences in public and private sector wage growth (in percentage points)



Source: Müller and Schulten (2015) based on Eurostat. Note: Private Sector: NACE Code B-N (Business economy). Public Sector: NACE Code O-S (Public administration and defence; compulsory social security; education; human health and social work activities; arts, entertainment and recreation, other services).

Mixed picture on public and private sector pay developments

The analysis of public and private sector pay developments between 2001 and 2013 yields a similarly differentiated result as does the analysis of average public and private sector wage levels. Figure 3.3 shows the difference in public and private sector wage growth for the pre-crisis period 2001-2009 and for the crisis period 2010-2013.

Figure 3.3 shows that in the pre-crisis period, out of the 22 EU countries for which Eurostat data was available, there are only eight in which public sector wages grew much faster – i.e. with a difference of more than 10 percentage points – than in the private sector. However, with the exception of Malta, all of these countries are from central and eastern Europe where public sector wages have usually been – and in many cases still are – lower than in the private sector.

As such, the more dynamic development of public sector pay in these countries in the pre-crisis period can be interpreted as a catching-up process (Müller and Schulten 2015: 17).

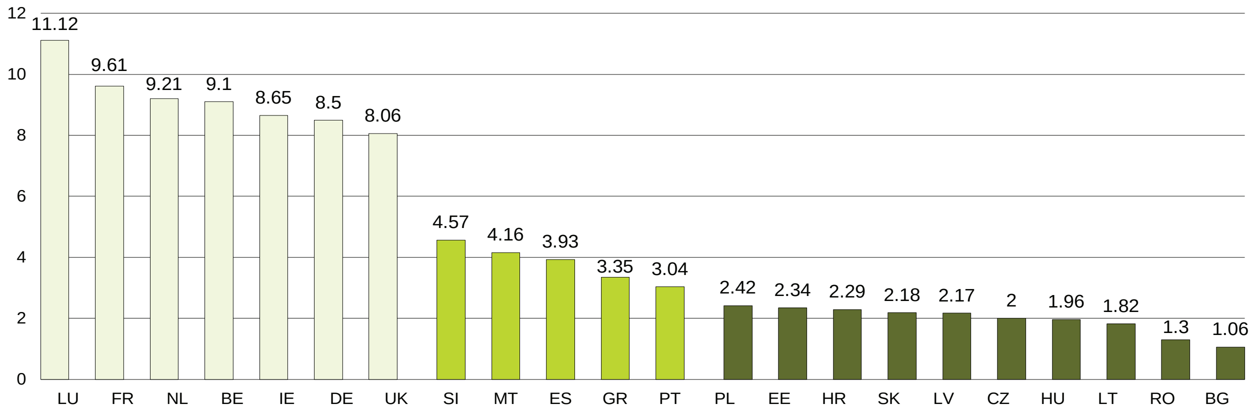
For the rest, in only two further countries did public sector wages grow significantly faster than private sector wages. These countries were Ireland and Italy, with a difference of eight and six percentage points respectively. While in Poland and the UK wages in the public sector grew only marginally faster than wages in the private sector, in the Benelux countries, public and private sector wages grew almost in line with each other. Finally, public sector wage growth lagged behind that of the private sector in seven countries; these constituted a rather ill-assorted group consisting of Greece, Cyprus and Portugal, Germany and Finland as well as Slovenia and Latvia. Particularly striking here is the inclusion of Portugal and Cyprus in this group of countries insofar as this contradicts the widespread claim that 'excessive' public sector wage developments in the run-up to the crisis undermined the competitiveness of the private sector in the 'crisis countries'.

Greece, by contrast, seems to confirm the picture of strong public sector wage leadership since public sector wages grew much faster during the period 2001 to 2008. However, the sharp cuts in public sector wages in 2009 have more than offset the strong growth between 2001 and 2008, which is why for the whole pre-crisis period public sector pay in Greece lagged behind that of the private sector.

For the crisis period 2010-2013, the picture changes dramatically. During this period, there were only four – Austria, Malta, Slovakia and the Netherlands – out of 27 countries (i.e. those for which Eurostat data was available) where public sector wages grew faster than wages in the private sector. In the great majority of 23 EU countries, public sector wage growth lagged considerably behind that of the private sector. In most of these cases, the negative public-private sector wage growth gap between 2010 and 2013 more than offset the stronger public sector wage dynamic during the pre-crisis period so that for the whole period 2001-2013 there are only eight countries where public sector wages grew faster than wages in the private sector: Slovakia, Bulgaria, Malta, Czech Republic, Estonia, Netherlands, Lithuania and Poland (Müller and Schulten 2015: 18).

Wage developments

Figure 3.4. National minimum wages per hour 2015* (in euros)



Source: WSI minimum wage database 2015. (WSI 2015) *effective 1 January 2015.

Still great diversity in absolute minimum wage levels

In 2014, an important development in the field of minimum wages was the introduction of a statutory minimum wage in Germany. The implementing act, adopted by the German parliament in August 2014, stipulated that from 1 January 2015 there would be a national minimum wage of 8.50 euros. The German minimum wage model can be criticised on many counts, for instance the various exceptions for young workers below the age of 18 and for the long-term unemployed (for a brief summary of the key features of German minimum wage law see DGB 2015; for a more detailed discussion see Bosch and Weinkopf 2014; Eldring and Alsos 2014; Schulten and Bispinck 2014a, b). Whatever its shortcomings, however, the adoption of the statutory minimum wage in Germany was important also from a broader European perspective, for it provided new impetus to the more general debate about minimum wages in Europe as a tool to increase domestic demand and to strengthen social cohesion. The renewed interest in the issue is illustrated by the fact that Jean-Claude Juncker, in his speech to the European Parliament on 15 July 2014, explicitly called for a minimum wage in all EU countries (Euractiv 2014). The idea of a European minimum wage policy also found its way into the discussions of all major political parties in the recent European Parliament election campaigns (Sanial 2014).

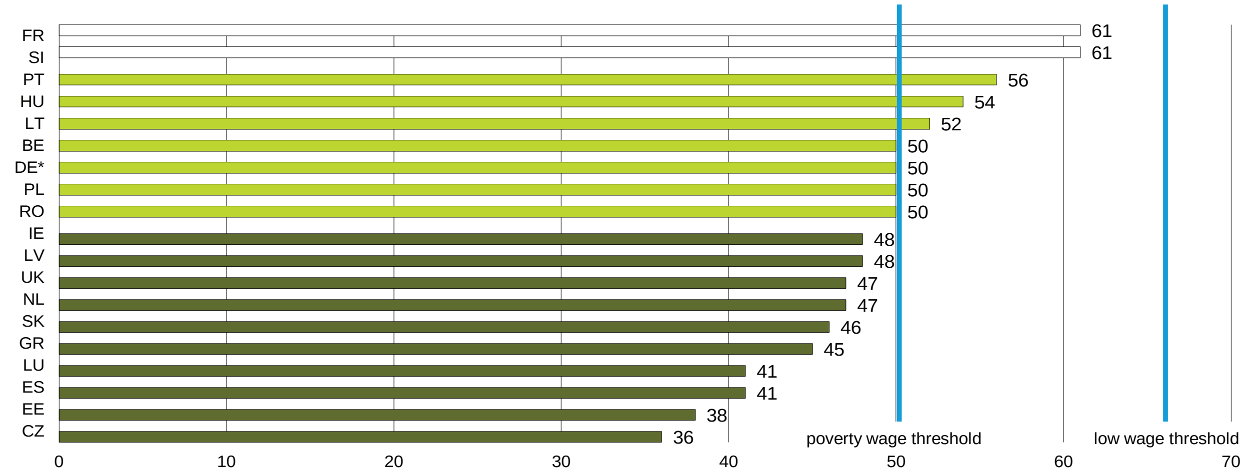
With the introduction of a statutory national minimum wage, Germany joined the 21 EU countries which already had a universal minimum wage regime with a general wage floor that, generally speaking, applies to all employees. This leaves only six countries – Austria, Cyprus, Denmark, Finland, Italy and Sweden – with a sectoral minimum wage regime in which, as a rule, minimum wages are set by collective agreements for particular sectors and/or occupational groups (Schulten 2014a; Schulten and Müller 2014a).

Concerning the absolute level of the national hourly minimum wage in 2015, it is possible to distinguish three groups of countries within the EU (see Figure 3.4). The first group, with relatively high minimum wages, includes seven western European countries, ranging from Great Britain with 8.06 euros per hour to Luxembourg with 11.12 euros per hour. However, without the 30% devaluation of the British pound against the euro in recent years, the minimum wage for the UK would today be well above 9 euros, which would place the UK right in the middle of this first group of countries (Schulten 2015). The second group, with minimum wages of between 3 and 7 euros, is made up of five countries: Slovenia (4.57 euros), Malta (4.16 euros), Spain (3.93 euros), Greece (where the minimum wage was cut by 20% in February 2012 bringing it down to 3.35 euros), and finally Portugal (3.04 euros). The third group, with minimum wages of below 3 euros, is exclusively comprised of central and eastern European countries ranging from Poland (2.42 euros) to Bulgaria (1.06 euros).

In the absence of a national minimum wage in countries with a sectoral minimum wage regime, the absolute level of minimum wages can be determined only by looking at the lowest collectively agreed wage group. Recent studies demonstrate that two groups of countries can be distinguished. The first group comprises the Nordic countries and Italy, where the absolute level of collectively agreed minimum wages is considerably higher than in the rest of the EU (Eldring and Alsos 2012; Kampelmann *et al.* 2013). The second group consists of Austria (and, hitherto, Germany), whose sometimes extremely low collectively agreed minimum wages are substantially below minimum wages in comparable western European countries.

Wage developments

Figure 3.5. Minimum wage as % of national full-time median wages (2013)



Source: OECD, for Germany: calculations done by WSI based on employment statistics provided for by the Federal Employment Agency. * Based on fictitious minimum wage of 8.5€ per hour in 2013.

Most national minimum wages below poverty threshold

Due to the different economic and social framework conditions, it is difficult to compare absolute minimum wage levels across Europe. A more telling indicator is the so-called 'Kaitz Index', which sets minimum wages in relation to the overall wage structure by measuring the minimum wage as a percentage of the national median wage. The median wage is the wage that divides the overall wage structure into two equal segments, with one half of employees earning more and the other half earning less. Figure 3.5, which is based on the OECD Income Database, shows the national minimum wage as a percentage of the national median wage. The most recent data of the OECD Income Database was available for the year 2013.

With respect to the relative level of statutory minimum wages, three groups of EU countries can be distinguished. The first group with more than 60% of the national median wage comprises only France and Slovenia. These two countries come closest to the low wage threshold, which according to the OECD and other international organizations is set at two thirds of the national median wage (Grimshaw 2011). The second group comprises seven countries with a relative minimum wage level of between 50 and 59% of the national median wage. However, as Figure 3.5 illustrates, in the vast majority of EU countries the relative minimum wage level does not even top the 50% threshold which in analogy to international poverty research – which sets the poverty threshold at 50% of the median household income – can be defined as the poverty wage threshold (Schulten and Müller 2014a). This third group of ten EU countries ranges from the Czech Republic with only 36% of the national median wage to Ireland and Latvia with 48% of the national median wage.

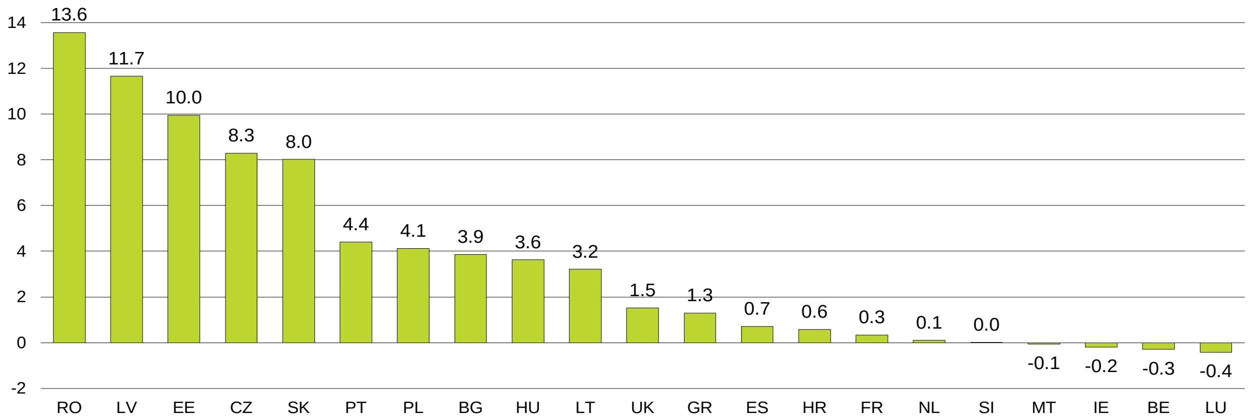
In the Nordic countries, which at least in the past were marked by a long tradition of solidaristic wage policy placing major emphasis on supporting lower wage groups, the Kaitz Index of collectively agreed minimum wages is as a rule between 60 and 70%, and therefore significantly higher than in the rest of the EU countries (Eldring and Alsos 2012).

In the light of the low relative level of minimum wages in Europe, a study carried out by Eurofound calculated the potential impact of a hypothetical European minimum wage rule of 60% of the national median wage (Aumayr-Pintar *et al.* 2014: 82ff). According to this study, in 2010 a substantial 16% of all employees in the EU would have benefitted from such a European minimum wage rule. In absolute figures, this amounts to more than 28 million workers. It should be added, however, that these figures assume full compliance with a European minimum wage rule of 60% of the national median wage and do not take into account potential exceptions such as exist in many countries today, for instance for young workers. Even subject to this caveat, the number of workers that would benefit from such a European minimum wage rule is very substantial.

The predicted impact of such a European minimum wage rule would vary considerably from country to country, depending on the size of the respective low wage sector. The impact ranges from merely 7% in Finland and Sweden to a staggering 24% of affected workers in Germany and Lithuania (Schulten and Müller 2014a: 6). Despite this country-specific variation, the study by Aumayr-Pintar *et al.* (2014) shows that a gradual increase of national minimum wages up to a level of 60% of the national median wage would make a substantial contribution to reducing (income) poverty and (income) inequality.

Wage developments

Figure 3.6. Development of real hourly minimum wages in EU28 (2014)*



Source: WSI minimum wage database (2015). (WSI 2015) *development from 1 January 2014 to 1 January 2015. Nominal increase deflated by increase of national consumer prices 2014.

The end of minimum wage restraint?

After years of declining real hourly minimum wages during the crisis (ETUI / ETUC 2014: 73), in 2014 there seemed to be some light at the end of the tunnel. In 2014, real hourly minimum wages increased in the majority of countries. Only Malta, Ireland, Belgium and Luxembourg reported a (marginal) decrease. Obviously, the very low inflation rate across the EU was an important factor leading to this positive development (Schulten 2015).

A closer look at Figure 3.6 shows that the most significant increases in real hourly minimum wages of more than 3% were seen almost exclusively in central and eastern European countries, where minimum wages traditionally are very low. The only exception is Portugal with an increase of 4.4%. However, since Portugal is the country with the lowest absolute minimum wage of all the western European countries, the substantial increases in the real hourly minimum wage can be interpreted as being part of a general catching-up process. The increase of real hourly minimum wages in the rest of the western European countries was actually quite modest, ranging from 1.5% in the UK to 0.1% in the Netherlands. Thus, even though the figures for 2014 seem to suggest a reversal of the previous trend of falling real hourly minimum wages, the overall level of minimum wages still remains at a fairly modest level (Schulten 2015) – too modest to have a serious impact on the current trend of rising income and wage inequality in many EU countries (for a more detailed discussion see Cingano 2014 and ILO 2015).

Against this background, there is a renewed debate in many European countries about the need for a stronger increase in minimum wages. The arguments in favour of a stronger increase in minimum wages comprise a normative and an economic perspective. The normative line of argument refers to the fact that every worker has the right to a decent wage from which he or she can make a living – a right which was already enshrined as a fundamental social right in the United Nations' 1948 Universal Declaration of Human Rights (ETUC 2014: 8). This normative argument is also the basis of the recently highly successful 'living wage campaigns' in the US and the UK, the purpose of which was to enable the individual to meet basic needs so as to maintain a safe and decent standard of living and to participate in the social and cultural life of the community (Living Wage Foundation 2015).

However, with the danger of deflation and economic stagnation looming large, the Keynesian economic line of argument for higher minimum wages has of late become increasingly important. The advocates of this line of argument stress the important role of minimum wages as one of the central building blocks of a macro-economic reorientation towards a demand- and wage-led model of growth (Lavoie and Stockhammer 2012). According to this view, minimum wages foster aggregate demand by their signalling function for the overall development of wages and by ensuring a more egalitarian wage structure. The latter fosters aggregate demand because of the greater propensity of low-wage-earners to spend a larger proportion of their additional income (Schulten 2014b).

Development of collective bargaining institutions

Figure 3.7. Levels of collective bargaining in the EU (2003 and 2013)

	Intersectoral	Sectoral	Company	Predominance	
				MEB[a]	SEB[b]
Austria		● ● ●	●	MEB	
Belgium	● ● ●	● ●	●	MEB	
Bulgaria		● (● ●)	● ● ● (● ●)		SEB
Croatia		● ●	● ● ●	MEB	
Cyprus		● ● (● ● ●)	● ● (●)	MEB	
Czech Republic		●	● ● ●		SEB
Denmark	●	● ● ●	● ●	MEB	
Estonia		●	● ● ●		SEB
France		● ● (●)	● ● ●	MEB	
Finland	● ● ●	● ●	●	MEB	
Germany		● ● ●	●	MEB	
Greece	● (● ●)	● ●	●	MEB	
Hungary		●	● ● ● (● ●)		SEB
Ireland	(● ● ●)		● ● ● (●)		SEB (MEB)
Italy		● ● ●	● ●	MEB	
Latvia		●	● ● ●		SEB
Lithuania		●	● ● ●		SEB
Luxembourg		● ●	● ●	MEB	
Malta		●	● ● ●		SEB
Netherlands	(●)	● ● ●	●	MEB	
Poland		●	● ● ●		SEB
Portugal	(●)	● ● ●	● ● (●)	MEB	
Romania	(● ● ●)	● (● ●)	● ● ● (● ●)		SEB (MEB)
Slovakia	●	● ●	● ●		SEB
Slovenia	● ●	● ●	●	MEB	
Spain	(●)	● ● ● (● ●)	● ●	MEB	
Sweden		● ● ●	●	MEB	
United Kingdom		● (-)	● ● ●		SEB

Source: European Commission (2004: 39) and Schulten and Müller (2014: 99). Note: ● ● ● = most important level, ● ● = important level, ● = existing but marginal level; ' blank' = level is non-existent. Red: 2003; Black 2013. a= Multi-employer bargaining. b= Single-employer bargaining.

Intensified decentralisation of collective bargaining

An important trend in the field of collective bargaining since the start of the crisis in 2008 was the increased decentralisation of collective bargaining and wage-setting mechanisms in many EU countries (for a more detailed discussion see Marginson and Welz 2014; Schulten and Müller 2014b). The decentralisation of collective bargaining is not a new phenomenon. It can be traced back in different guises to the early 1980s (Baccaro and Howell 2011). However, the recent crisis – and in particular the crisis management pursued by national and European policy-makers – provided new impetus to this process. The more or less open intervention in the bargaining autonomy of trade unions and employers played a pivotal role in this context.

Figure 3.7, which compares the significance of different bargaining levels in the EU countries in 2003 and 2013, shows how in different countries the importance of the intersectoral and sectoral level decreased while at the same time bargaining activities at the company level took on increasing significance. However, decentralisation can mean different things in different contexts. The most dramatic decentralisation took place in Ireland and Romania both of which, prior to the crisis, had been characterised by a comparatively high level of bargaining centralisation involving national cross-sectoral agreements that defined the terms of reference for lower-level negotiations (Visser 2011: 41). As a consequence of the crisis-induced reforms, multi-employer bargaining in both countries completely collapsed so that currently collective bargaining activities have become largely restricted to the company level.

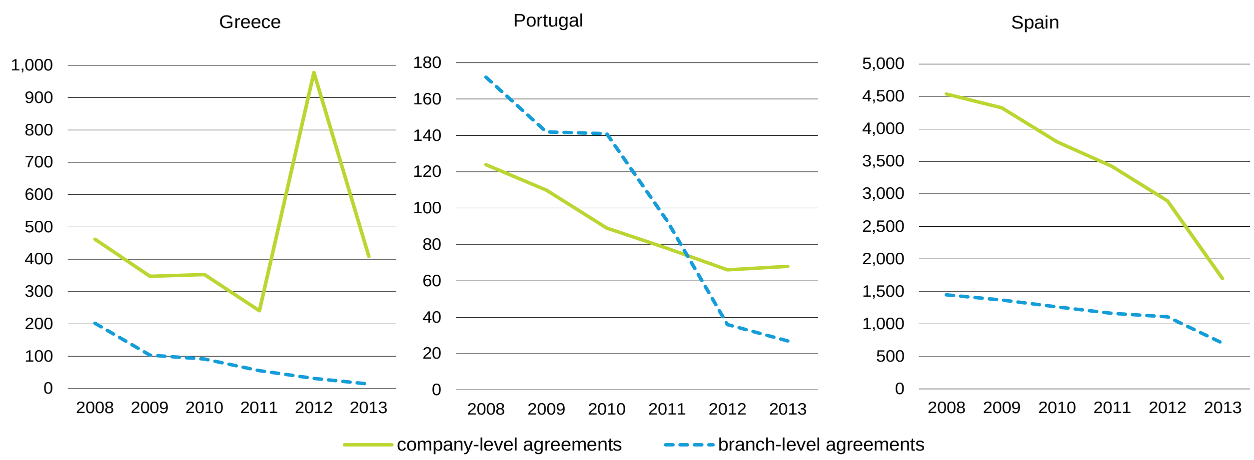
However, processes of organised decentralisation (Traxler 1995) took place also in countries such as Austria, Germany, Italy and Sweden which formally display a high degree of structural continuity. While in these cases the sector still remains the most important level for collective bargaining, the selective use of opening and opt-out clauses extended the scope for company-level negotiation and derogations from the wage standards specified in higher-level agreements (Marginson and Welz 2014: 8). The important point in these cases is, however, that in these processes of organised decentralisation the conditions under which regulatory competences are delegated to the lower level are clearly defined in higher-level agreements so that central-level actors retain a certain degree of control over bargaining processes taking place at lower levels.

This is in stark contrast to the processes of disorganised decentralisation (Traxler 1995) seen in the southern European countries Greece, Spain and Portugal. Even though the well-established multi-employer bargaining structures in these countries remained formally intact, their scope and regulatory capacity was increasingly undermined by the various legal changes that have been introduced in response to the demands placed upon these countries by the Troika (Schulten and Müller 2015: 347).

The de facto decentralisation of collective bargaining was essentially based on the following three elements: first, giving company agreements priority over sectoral agreements – for instance by abolishing or reversing the favourability principle – so that company agreements can in practice undermine standards defined by sectoral agreements; secondly, the far-reaching withdrawal or dismantling of legal support for collective bargaining, for instance through more restrictive criteria for the extension or after-effect of collective agreements; and thirdly, by creating more wide-ranging possibilities for non-union groups of employees to negotiate and conclude company-level agreements (Schulten and Müller 2015: 347).

Development of collective bargaining institutions

Figure 3.8. Collective agreements in Greece, Portugal and Spain (2009-2013)



Source: Schulten and Müller (2014b: 349); based on data provided by the Ministry of Labour in Greece, Portugal and Spain.

De-collectivisation of labour relations in the south

The far-reaching impact of the various 'structural reforms' that have been implemented in the collective bargaining systems of the southern European countries manifests itself in the dramatic decline in numbers of collective agreements and in collective bargaining coverage. Even though, formally speaking, the multi-employer bargaining structures are still in place, in practice the collective bargaining systems in these countries now increasingly resemble the highly decentralised systems typical of the UK and many central and eastern European countries (Meardi 2014).

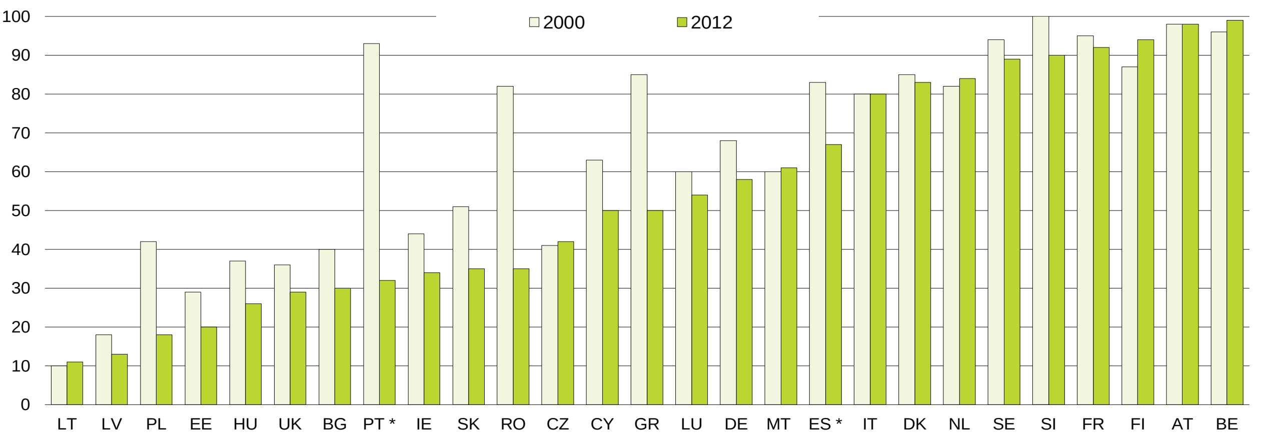
However, as Figure 3.8 illustrates, the number of collective agreements in Greece, Portugal and Spain decreased not only at sectoral but also at company level. The far-reaching changes in the law that were imposed by the Troika therefore not only stepped up the decentralisation of collective bargaining but led also to a de-collectivisation of labour relations more generally. The data presented in Figure 3.8 shows that in Spain, for instance, the number of sectoral collective agreements was just about halved between 2008 and 2013 from 1, 448 to 706. However, company-level agreements declined even more, by roughly two thirds from 4,539 in 2008 to 1,702 in 2013. As a consequence, between 2008 and 2013, the number of workers covered by collective agreements decreased in this country from 12 million in 2008 to just 7 million in 2013 (Schulten and Müller 2015: 349). In Portugal the decline in the number of collective agreements was even more dramatic. Here, the total number of registered agreements dropped from 296 in 2008 to 95 in 2013 when there remained no more than 27 sectoral agreements.

Since at the same time the number of extended collective agreements dropped from 131 in 2008 to only 9 in 2013, the number of workers covered by collective agreements virtually collapsed, from 1.7 million in 2008 to 200,000 in 2013 (Schulten and Müller 2015: 349). In Greece, the number of newly concluded branch-level collective agreements decreased from 202 in 2008 to just 14 in 2013. Between 2008 and 2011, the number of company-level agreements almost halved from 462 to 241. The – at first glance surprisingly strong – increase in company-level agreements in 2012 is principally attributable to the fact that many companies used the new rules introduced in October 2011 to negotiate company-level wages that fell below the existing sectoral wage level (Daouli *et al.* 2013). In 2013, accordingly, the number fell back down to 408.

Though the drop in collective bargaining activity was most pronounced in the southern European 'Troika countries', the number of collective agreements decreased in other countries too. Marginson and Welz (2014: 17) show that during the last five years the number of sectoral agreements has dropped also in Belgium, Bulgaria, Cyprus, Germany and Slovakia. Furthermore, in all the Baltic countries as well as in Poland, the number of company-level agreements has decreased since 2008. While in Estonia, for instance, the number of agreements fell from 88 in 2007 to 50 in 2012, Poland experienced a decline from 154 agreements in 2008 to 92 in 2013 (Marginson and Welz 2014: 17). All of this shows how the declining significance of collective bargaining as a tool to regulate the employment relationship intensified across the whole of Europe during the crisis.

Development of collective bargaining institutions

Figure 3.9. Collective bargaining coverage



Source: Visser (2013) ICTWSS Database. BG: data 2000 is from 2003; CY: data 2000 is from 2002, data 2012 is from 2011; EE, LV and PL: data 2000 is from 2001; MT: data 2000 is from 2002 and data 2012 is from 2011. *according to figures provided for by the national Ministry of Labour for 2013.

Significant decline in collective bargaining coverage

The increasing decentralisation of collective bargaining across Europe obviously has far-reaching implications for collective bargaining coverage since this coverage is usually much higher in countries with multi-employer bargaining arrangements than in those where bargaining takes place predominantly at company level. Figure 3.9 shows that, with the exception of Malta, all the countries with collective bargaining coverage of 50% or more are countries with multi-employer bargaining arrangements. By the same token, all the countries at the bottom end of the scale are countries with single-employer bargaining systems. The exceptions to this observation are Portugal, Cyprus and Greece – where multi-employer bargaining formally still exists but where the Troika-imposed 'structural reforms' have undermined its operation in practice. Figure 3.9 illustrates the dramatic decline in collective bargaining coverage in these countries. In Portugal, for instance, collective bargaining coverage dropped from 93% in 2000 to 32% in 2013. A sharp decrease in bargaining coverage can also be observed in Greece from 85% in 2000 to 50% in 2013. Spain and Cyprus also experienced a significant drop in bargaining coverage from 83% in 2002 to 67% in 2013 in the former and from 63% in 2002 to 50% in 2011 in the latter.

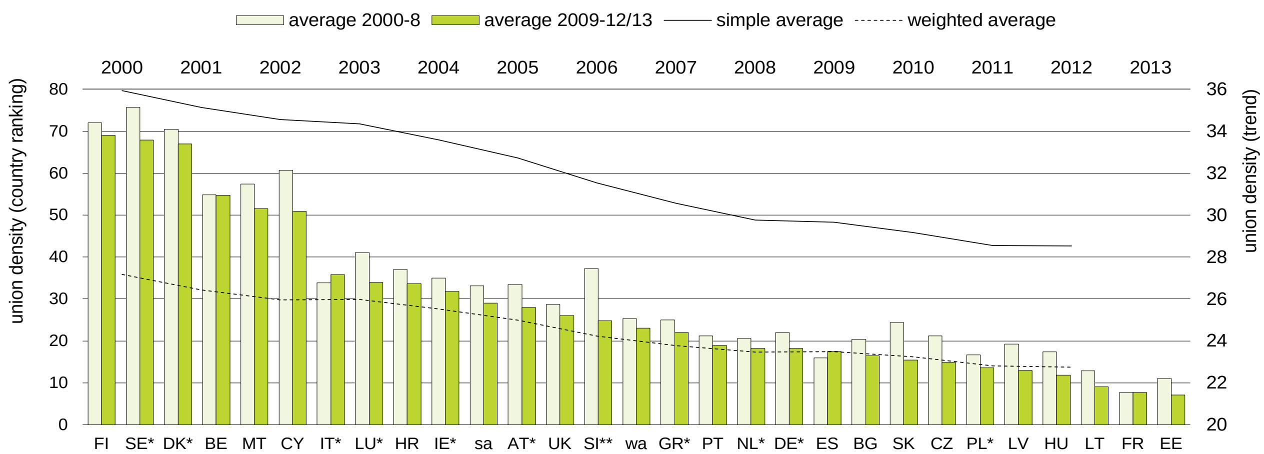
However, Figure 3.9 also shows that the 'Troika countries' represented only the most dramatic cases of declining collective bargaining coverage. As a matter of fact, between 2000 and 2012, collective bargaining coverage decreased in a majority of 19 out of the 27 EU countries for which data was available. Significant drops of 10% or more also took place in the following countries: Romania (-47%), Poland (-24%), Slovakia (-16%), Hungary (-11%), Bulgaria (-10%), Germany (-10%) and Ireland (-10%).

The factors that influence collective bargaining coverage are manifold (for more detailed discussions see Traxler *et al.* 2001; European Commission 2011). One crucial factor, however, is the existence of national extension procedures (or functional equivalents thereof) that ensure high and stable coverage rates. Figure 3.9 shows that all the countries with a high coverage of 70% or more have some kind of mechanism to extend collective agreements to all workplaces and employees in a certain region and/or sector. The two exceptions to this rule are Sweden and Denmark whose high collective bargaining coverage rests solely on the organisational strength of both trade unions and employers' federations (Schulten 2012: 491).

The most common method of extending collective agreements used in the EU is a 'declaration of general applicability (DGA)', i.e. a state legislative act which extends the scope of a collective agreement beyond those workplaces that are directly covered by the agreement in question (Schulten 2012: 486). The widespread use of DGAs traditionally ensured high collective bargaining coverage in Belgium, Finland, France, The Netherlands and also – before the Troika-induced changes to their collective bargaining systems – in Portugal and Greece. The functional equivalents to DGAs that exist in other countries include the following: first, *erga omnes* provisions – as in Spain – which automatically extend collective agreements to non-organised workplaces without a specific legislative act; secondly, the requirement for employers to belong to 'economic chambers' which negotiate collective agreements with trade unions – as in Austria; and thirdly, the 'indirect *erga omnes*' arrangement practised in Italy and based on the constitutional right to fair remuneration and the fact that in the case of a dispute the labour courts usually refer to the rate stipulated in the relevant collective agreement (Schulten 2012: 489).

Collective organisation and action of workers

Figure 3.10. Trade union density: country comparisons (2000-8 compared with 2009-12/13) and the trend since 2000



Source: OECD and Visser (2013). Notes: *Until 2013; **Until 2011: No data Romania (2000-1 and 2009-13); Countries ranked by 2009-12/13-average. sa: simple average, wa: weighted average.

Continuing de-unionisation

Effective collective bargaining depends on, among other factors, the organisational rate of workers' and employers' organisations (Traxler *et al.* 2001). Figure 3.10 provides an overview of the development of trade union density in 28 EU member states based on administrative or survey data. The line graphs (right-hand scale) depict the annual development of the simple and weighted EU28 average union density in the last decade. The bar graphs (left-hand scale) compare the average trade union density for two periods, firstly 2000-8 and secondly the period since the Great Recession starting in 2009 (until 2011 in the case of Slovenia and either 2012 or 2013 in other cases). For Romania the comparison could not be made due to limited data.

Both line graphs show a continuing and unequivocal trend towards de-unionisation. Based on the weighted average, in 2000, more than one in four workers in the EU28 was unionised. By 2012 this ratio had decreased to 23 per cent, although considerable variation in unionisation rates between occupations and economic sectors remained prevalent (cf. Scheuer 2011). On the basis of a comparison between the two periods (2000-8 and 2009-12/13), trade union density is seen to have declined in the vast majority of countries, while there remain a few exceptions.

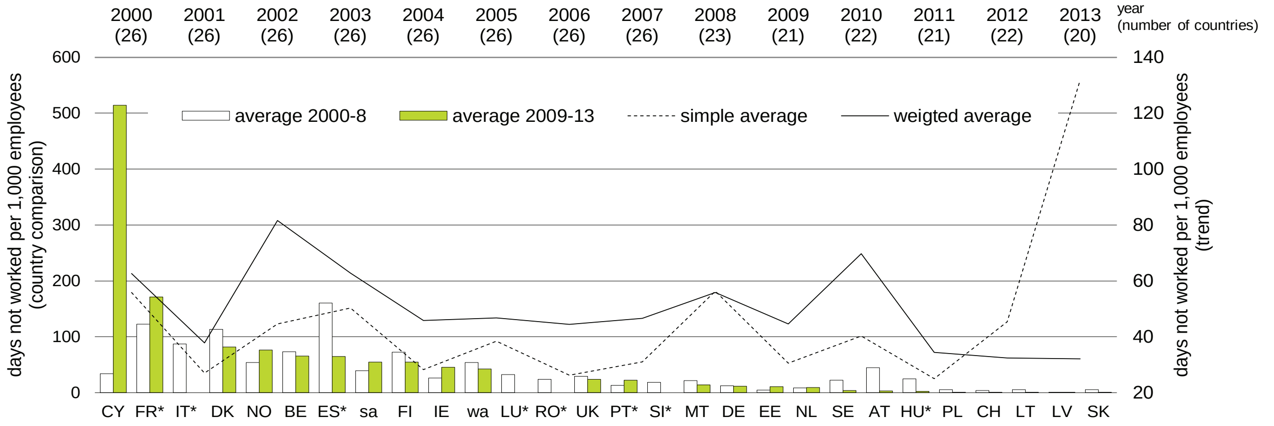
Alongside Norway (not depicted here), both Belgium and France (the latter at a much lower level) show noteworthy stability. In all three countries, trade unions have managed to keep their membership levels in line with the rise in the number of wage-and salary-earners, although this observation might not necessarily be the reflection of a vibrant labour movement (Bergene and Mamelund 2015). Two crisis-hit southern countries, Italy and Spain, have even seen an increase in union density since the beginning of the crisis. In the Spanish case, however, this is solely as a result of a shrinking denominator, i.e. a reduction in overall numbers of wage- and salary-earners (mainly as a result of emigration), for the trade unions have in actual fact continued to lose members since the beginning of the crisis.

In all other EU28 countries, union density has declined, although considerable divergence in unionisation rates remains, with all Nordic countries still recording the highest union density rates. Like the trade unions in Belgium, Cyprus and Malta, the Nordic unions are able to attract into membership more than half of the wage- and salary-earning population. Even so, in recent times, some Nordic unions have – as trade unions in high-union density countries – taken increasing inspiration from other unions' experiences with the 'organising model' in low-density countries (e.g. Arnholtz *et al.* 2014).

Furthermore, the de-unionisation trend in most of the EU28 member states does not mean that unions are unable to attract new members; it means that they have difficulties in retaining their (new) members (Waddington 2014) and fail in their efforts to ensure that their membership keeps pace with – increasing – labour market participation. All in all, the continued de-unionisation trend makes it necessary for trade unions to rethink their priorities and requires a shift in their power resources in order to narrow the growing demographic gap in union membership between young and older workers, to empower precarious workers in particular, and to revitalise the union movement in general.

Collective organisation and action of workers

Figure 3.11. Days not worked per 1,000 employees due to industrial action: country comparisons (2000-8 compared with 2009-13) and the trend since 2000



Source: ETUI Strikes in Europe (dataset, version 2.1, January 2015). Notes: *No data for BG, HR, CZ, FR (2012), GR, HU (2011 and 2013), IT (2009-13), LU (2008-12), PT (2008-9), RO (2009-13) and SI (2008-13); strikes in public administration are excluded for Portugal and general strikes and some public sector strikes are excluded for Spain. sa: simple average, wa: weighted average.

Strikes: stability at a low level after the 2010 peak

Social protest has been on the rise in Europe since the beginning of the crisis and is levelled particularly at governments' austerity drives. Whereas trade unions have generally been the main vehicles for organising mass demonstrations and general strikes, other forms of protest have been more ephemeral, often with only weak trade union involvement and in some cases active hostility towards the unions. As in any surge of social protest, the repertoire of collective action has been enriched with new forms expression and, in some cases, the rediscovery of old ones. Although reliably convincing data in relation to such innovative forms of protest is unlikely to be available on a longitudinal and comparative basis, strike data has, generally speaking, been available in the past. Yet this too has, to some extent, changed today.

For some crisis-hit southern European countries, accordingly, recent national statistics are missing for some years (in the case of Portugal for 2008-9) or are not available at all (Greece since 1999 and Italy since 2009). For several other countries too, recent data are lacking or no official figures are collected at all, although alternative sources are sometimes available.

Finally, it is clear also that the strike volume, the most reliable indicator for comparing countries over time, is usually underestimated by the authorities insofar as strike action in the public sector or general strikes are often excluded from the official data. Data is missing, for example, for government workers in Portugal. In Spain meanwhile, general strikes in 2010 and 2012 have deliberately been left out of the strike statistics, as have also certain public sector strikes in 2013.

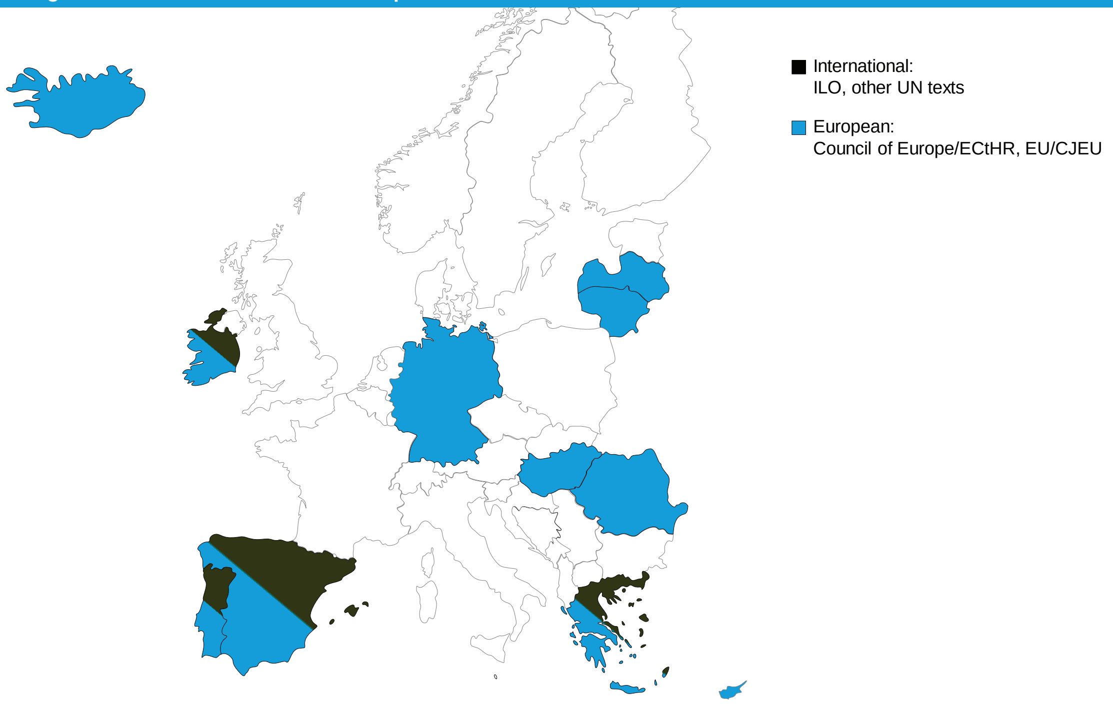
Previous research has shown that the relative strike volume or the average days not worked due to industrial action per 1000 employees has generally declined in Europe since the year 2000, although considerable cross-country differences in strike levels appear much as before (Vandaele 2011). Figure 3.11 shows the development of the simple and weighted average of the strike volume in Europe (line graphs at right-hand scale) and compares the average volume in two periods (2000-8 and 2009-12) in 22 countries (bar graphs at left-hand scale). While it is certain that strike activity is underestimated for the period since the beginning of the crisis, it would appear, on the basis of the weighted average, that the volume in Europe (excluding partly or wholly southern European countries) has not risen inordinately, with the exception of a one-off peak in 2010 which demonstrates that strikes tend to occur in waves.

Even so, in six countries with differing strike levels – C yprus, Estonia, France, Ireland, Norway, and Portugal – the volume has increased since the Recession, although the relationship between austerity policies and strike action is not always direct or clear. Based on the 2009-13 average, Cyprus is currently top of the league due to an open-ended conflict that erupted in the construction industry in 2013 and which is regarded as the longest strike on this Mediterranean island since 1948. Undoubtedly, political mass strikes in Greece and Italy and probably also Spain have affected the respective volume to such an extent that they can be added to this group of countries with a rising strike volume. Taking into account these and other omissions, the position of a number of countries near the top of the European 'strike league' would need to be downgraded.

All other countries for which sufficient data is available appear to have seen a decline in average strike volume in the period since the Recession compared to the 2000-8 period. Details of these observations are bound to shift when the 2014 data become available as social protest is notoriously volatile from one year to the next.

Collective organisation and action of workers

Figure 3.12. Litigation actions at international/European level



Source: ETUI own research; the countries coloured concern cases brought against austerity measures not necessarily limited to cases related to changes to IR/CB and wage-setting systems.

Protecting trade union rights via litigation at international level

As reported in the 2014 edition of *Benchmarking Working Europe*, individual citizens, political parties – particularly opposition parties – as well as trade unions increasingly have recourse to litigation at the international, European and national levels as a means of contesting anti-crisis measures (ETUI and ETUC 2014: 65-67).

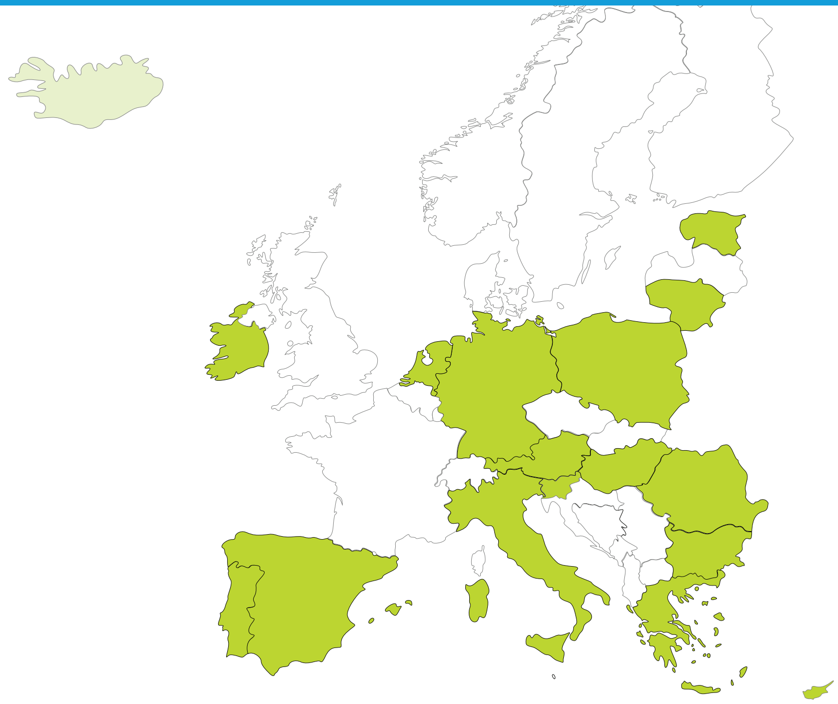
Alongside attacks on institutional frameworks and actors (such as the Troika, the ESM Treaty, etc. see e.g. CJEU C-62/14 and cases before constitutional courts in Austria, Germany Estonia, Spain, The Netherlands and Poland), not surprisingly, given the drastic and far-reaching measures enacted in several countries, many of these cases/complaints relate also to alleged infringements of international, European and national law regulating industrial relations and collective bargaining systems as well as to interference in wage-setting systems.

At the international level, several national trade unions, in particular from Greece and Spain, successfully filed complaints between 2010 and 2014 before various ILO supervisory committees including the Committee of Freedom of Association (ILO CFA), the ILO Committee of Experts on Application of Conventions and Recommendations (ILO CEACR) and the ILO Conference Committee on the Application of Standards (ILO CCAS). The committees in question ruled that a number of repeated and far-reaching instances of interference in free collective bargaining (such as allowing for suspension of, or derogations to, collective agreements and further decentralisation of collective bargaining towards the company level), as well as other forms of intervention leading to a social dialogue deficit, indeed constituted clear-cut violations of the fundamental ILO conventions 87 and 98 on freedom of association and collective bargaining (ILO CFA 2012; ILO CEACR 2013 and 2014; ILO CCAS 2011, 2012 and 2013).

At the European level, and within the EU context, reference can be made in the first instance to some – unfortunately less successful – cases brought by trade unions before the Court of Justice of the European Union (CJEU). For example, the two cases brought by the Greek public service trade union ADEDY on different measures introduced by the Greek government to combat the excessive budget deficit were dismissed because the trade union was considered to be 'not directly concerned' by the actions it was challenging (CJEU Cases T-541/10 and T-215/11). A case brought by a Portuguese union in the banking sector suffered a similar fate. The Sindicato dos Bancários do Norte, alleging that pay losses suffered by its members represented an infringement of Article 31 of the EU Charter of Fundamental Rights on fair and just working conditions, sought to bring proceedings against the – since nationalised – bank BNP that had disregarded the terms of

Collective organisation and action of workers

Figure 3.13. National litigation actions (constitutional court, human rights commissions, ombudsmen, referenda, etc.)



Source: ETUI own research; the countries coloured concern cases brought against austerity measures not necessarily limited to cases related to changes to IR/CB and wage-setting systems.

Protecting trade union rights via litigation – the national dimension

the collective agreement in force and inflicted considerable wage cuts which it justified with reference to the 2010 Portuguese Budget Act. The CJEU declined to take up this case on grounds of lack of jurisdiction insofar as the proposed case failed to establish an adequate link between a relevant EU source and a member state action (even though the latter had been taken in the framework of the memorandum of understanding signed between Portugal and the Troika as a condition for the provision of financial assistance under the European Financial Stability Mechanism (EFSM) and the Europe Financial Stability Facility (EFSF) (CJEU C-128/12). A similar conclusion was reached in another 'Portuguese case' (CJEU C-264/12) as well as in three other Romanian 'wage-related cases' (CJEU C-462/11, C-134/12 and C-369/12).

Again at European level, but this time within the framework of the Council of Europe's European Social Charter (ESC), trade unions proved more successful. In five complaints (Complaints 76-80/2012, Council of Europe 2012 b-f) submitted by Greek pensioners' trade unions, the main supervisory body, the European Committee of Social Rights (ECSR), ruled that austerity measures introduced in 2010 and 2011 reducing additional premiums such as Christmas, Easter and vacation bonuses constituted a violation of the ESC.

In an earlier complaint also against Greece (Complaint 65/2011; Council of Europe 2012a) alleging violations of the ESC by new laws allowing for derogation by means of a collective agreement concluded at company level from the provisions set out in a collective agreement concluded at sectoral level, or for the conclusion, in a situation where there is no trade union in the workplace, of a company-level collective agreement by trade unions of a different level, the ESCR found no violation of the ESC but ruled solely on the grounds that Greece had not ratified the relevant articles of the ESC.

A new complaint was lodged at the end of 2014 by the GSEE alleging violations of the ESC in particular by new laws introduced – under the pressure of the Troika in the framework of the Memorandum of Understanding – from 2011 onwards and also by interference in collective bargaining and wage-setting systems (Complaint 111/2014; Council of Europe 2014). In addition to these cases, the ECSR, in the framework of the normal reporting system, published its so-called 'Conclusions 2014' in January 2015 (Council of Europe 2015). It found several countries to be in breach of Article 4§1 (decent remuneration) as, due to austerity measures among other things, governments did not guarantee a (statutory) (national) minimum wage able to ensure a decent standard of living for workers and their families. Countries mentioned in this connection included

Collective organisation and action of workers

Belgium, Germany, Spain, Greece, Ireland, Lithuania, Luxembourg, Portugal, Romania, Slovakia, Slovenia and the UK.

In that same context, and following a successful earlier collective complaint against Greece on allocating lower wages to young workers (Complaint 65/2011, Council of Europe 2012a), the ECSR now also found other countries to be in violation of Article 4§1 (e.g. Belgium, Ireland and The Netherlands). Furthermore, several countries were found to be in violation of Article 6§2 (promotion of a machinery for voluntary negotiations) due to austerity measures leading to the decentralisation of collective bargaining (e.g. Bulgaria, Estonia, Spain, Hungary, Latvia, Lithuania, Romania, Slovakia).

Finally, on the national level, several constitutional courts have condemned interventions in wage cuts/freezes. For example, the Greek Constitutional Court (Case Areios Pagos, 7 Nov 2012) unanimously ruled that the latest cuts in judges' and prosecutors' wages violated the Greek Constitution. In Portugal, the Constitutional Court rejected, by a decision of 5 April 2013, austerity measures drawn up by the government, based on the adjustment programme Portugal had agreed with the European Union (EU) and the IMF in May 2011, including, amongst other things, cuts in public sector employment; again, on 30 May 2014, the Court struck at austerity measures by ruling that cuts in public employees' wages in the absence of changes to the wages of other categories of worker represented a violation of the constitutional principle of equality.

It thus appears that the increasing numbers of cases brought – whether by individuals, political parties or, in particular, trade unions – before different courts or institutional bodies on the international, European and national level have begun to bear some fruit. In this respect, the CJEU represents, however, an unfortunate exception insofar as it continues to hide behind a 'lack of jurisdiction' rather than condemn structures, policies and measures that clearly have their foundation in the European 'treaties', policies and structures set up supposedly to manage and stem the tide of economic crisis.

Now that other international, European and even EU institutions, including some European Commission DGs, have begun to admit that 'austerity measures' were not the appropriate road to follow and even that they may run counter to fundamental rights obligations which member states have committed to honour, it is surely time for the CJEU to have the courage to act similarly, in particular in relation to the damagingly intrusive stance still adopted by the EU in relation to collective bargaining and wage-setting systems.

Alas, the recent opinion of the CJEU ruling that the agreement on the accession of the EU to the European Convention for the Protection of Human Rights is incompatible with certain EU Treaty provisions signals no improvement; on the contrary, this can be described as nothing short of a disaster for the effective protection of fundamental human and social rights (CJEU Opinion 2/2013).

Conclusions

Call for a more expansive wage policy

As regards the field of wages and collective bargaining, the most recent Annual Growth Survey recognizes – or at least pays lip-service to – the need to change the course of current EU crisis management by embracing a more demand-side-oriented view of wages. Unfortunately, however, this recognition finds no reflection in the policy recommendations actually issued, for these continue to follow the counter-productive strategy of internal devaluation and neoliberal structural reforms.

If the European Commission is serious about the need for real wages to develop in line with productivity, it would do well to change not only its rhetoric but also its course of action, for instance by promoting a more expansive wage policy aimed at higher wage growth and a more equal income distribution (Schulten and Bispinck 2014b). According to the traditional concept of expansive wage policy, nominal wage growth should not only follow the combined growth of inflation and productivity but also include a redistributive component so as to increase the wage share and, in so doing, boost aggregate demand (Agartz 2008). Two central building blocks of such a more expansive wage policy are equitable minimum wages and strong collective bargaining structures.

In this context, recent developments in Germany are very interesting because the law on the 'strengthening of collective bargaining autonomy' provides not only for the introduction of a statutory minimum wage but also for stronger political support for sectoral collective bargaining by way of new and less stringent criteria for the extension of collective agreements (Eldring and Alsos 2014; Schulten and Bispinck 2014 a, b). Depending on the manner in which it is implemented, the new legislation has a 'strong potential to promote a more expansive and more solidaristic wage policy' (Schulten and Bispinck 2014b: 19).

This is important also from a broader European perspective because, with the adoption of this new piece of legislation, the German government did at home exactly the opposite of what it has been promoting in the European context. At European level the German government was and still is one of the most fervent advocates of the strategy of internal devaluation based on wage restraint and neoliberal 'structural reforms' (Merkel 2013). One way of interpreting the recent adoption of the law on the Strengthening of Collective Bargaining Autonomy is that Germany is finally playing its part in a strategy of symmetrical adjustment of the still existing macroeconomic imbalances (De Grauwe 2012). According to this approach, internal devaluation in the deficit countries must be accompanied by a simultaneous process of internal revaluation in the surplus countries; or – to make the same point differently – in order to correct the macroeconomic imbalances, wages and unit labour costs in deficit countries must be reduced, while in surplus countries they need to grow.

However, in the light of the meagre results of the supply-side-oriented crisis management in terms of generating economic growth and employment, particularly in the crisis countries (see Chapters 1 and 2), the need for alternative demand-side-oriented policies across the whole of Europe should be evident – even more so in that, in the eurozone as whole, domestic demand is still the key driver of economic growth. Feigl and Zuckerstätter (2012: 8), for instance, show that in the eurozone exports account for less than one fifth of overall demand; and that even in Germany, which takes great pride in its status as 'export world champion', exports account for only one third of the overall demand for goods and services. Thus, alongside increased investments and a departure from contractionary fiscal policies, a more expansive wage policy based on a European minimum wage standard and political support for strong collective bargaining structures could be a key component of a macro-economic reorientation with a stronger focus on internal demand and social cohesion.

At a more practical level, such a more expansive European wage policy should define an equitable European minimum wage standard which, in order to fulfil its twofold function of combating poverty and fostering internal demand, should ideally be close to two thirds of the national median wage, this being the OECD's definition of the low-wage threshold. The implementation of a European minimum wage standard should furthermore take account of the fact that statutory and collectively agreed minimum wages are functional equivalents for the purpose of ensuring the comprehensive application of minimum wages; as such, the European minimum wage standard should not only specify a certain relative level but should also incorporate a range of measures to improve collective bargaining coverage. This would, however, require a complete reversal of the neoliberal structural reforms implemented in the context of the crisis management and which have essentially undermined the regulatory function of collective bargaining in many European countries.

A more expansive European wage policy that supports a European minimum wage standard and strong national collective bargaining systems can make an important contribution to the reorientation of the current EU crisis management in three respects: first, from a normative point of view, such a policy would ensure compliance with a number of international and European conventions such as the 1948 UN Declaration of Human Rights, the European Social Charter and the ILO Convention 131 of 1970, all of which stipulate the right to a fair and equitable wage that provides for a decent standard of living. Secondly, from an economic point of view, a more expansive wage policy could counter the current deflationary tendencies by preventing a further decrease of real wages and stabilising aggregate demand as one of the key drivers of economic growth. Last but not least, from a political point of view, support for a more expansive wage policy could represent a concrete political project for reviving the idea of a social Europe, thereby helping to win back EU citizens' confidence and belief in the value of European integration. In view of the crisis of legitimacy currently affecting the European Union in most EU countries, this political dimension should not be underestimated.