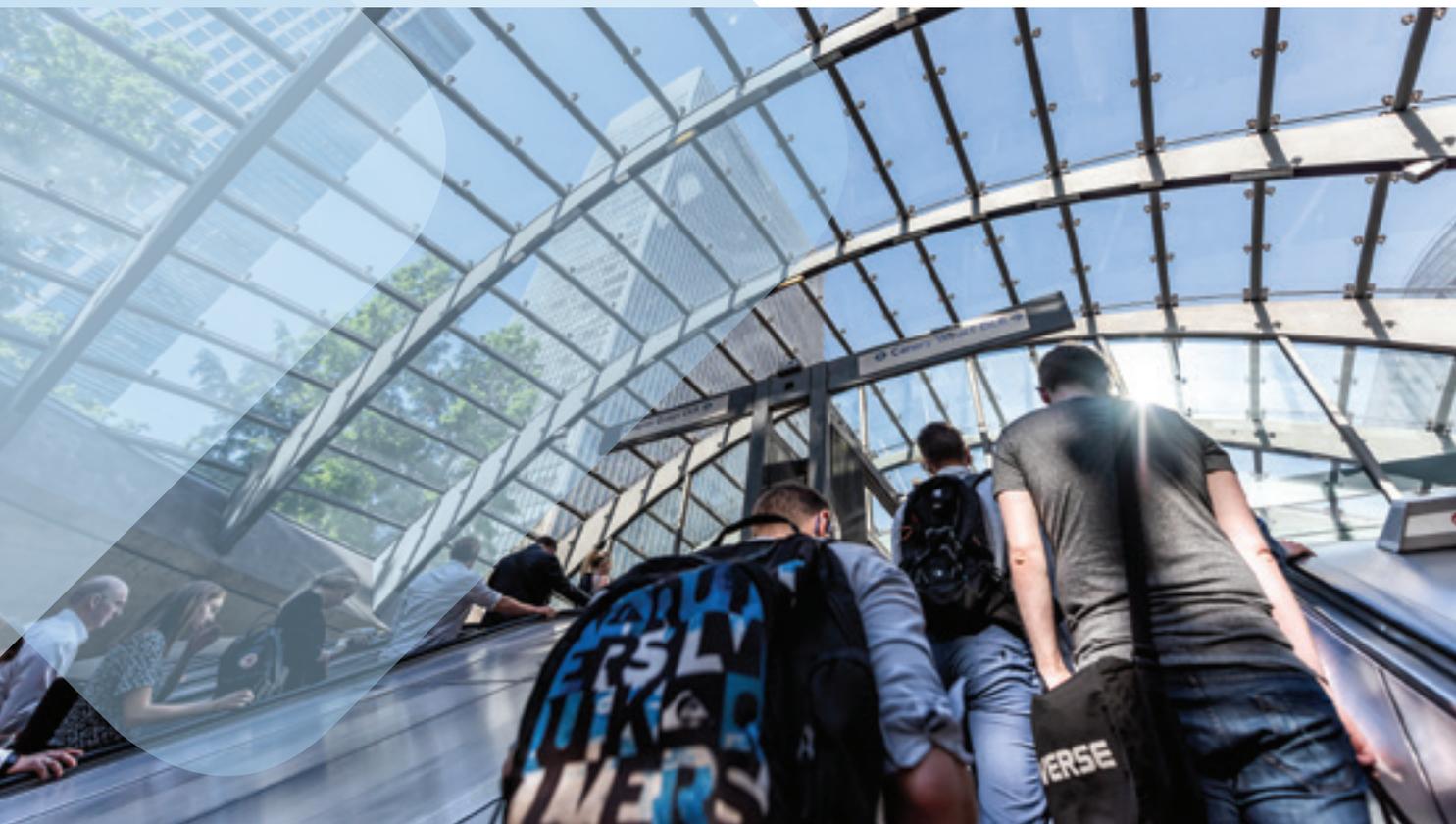


Industrial relations
Annual review of working life 2017



Annual review of working life 2017



European Foundation
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Introduction

Following a long tradition of more than 20 years, Eurofound is pleased to present you with this year's edition of its annual review of developments in working life, focusing largely on those that took place in 2017.

This report summarises, compares and digests what Eurofound's national correspondents observed and reported throughout the year in the area of 'working life': that is, industrial relations and working conditions. It starts by setting out the European context, summarising the main economic developments and labour market context in the European Union overall, and briefly describing EU-level developments in policies related to working life.

The report then turns to the national level in the 28 EU Member States and Norway. Any developments in industrial relations are closely linked to politics, so the national-level reporting starts with a brief summary of the political context, focusing on changes in governments. Such changes often result in the announcement of labour law reforms or broader regulatory changes. It then maps social partners' views and first reactions to such announcements. The report goes on to summarise developments in industrial relations, starting with the actors and institutions, changes in regulations affecting collective bargaining and innovations made in collective agreements. It briefly summarises developments concerning the regulation of collective disputes before

presenting selected major collective disputes of national significance. It looks at the following questions.

- How did national social dialogue develop in 2017?
- What topics did social dialogue address (or not address)?
- What form did social dialogue take and what were the main outcomes?
- What were the main debates?
- In which cases was social dialogue perceived to be limited, unsuccessful or non-existent, resulting in unilateral decisions being taken by government?

Short sections on working time and on health and well-being, together with annexed tabular overviews of selected policy developments at EU level in the arena of working life, and the main changes in regulations regarding employment status, complete the report. The national contributions, which serve as a basis for this report, have been published alongside it. The reader is encouraged to consult these contributions, as they contain information much richer and country-specific than a 70-page overview report can ever hold. In addition, the articles on the EurWORK observatory website are searchable by country, year and topic, so further reading on issues discussed in this report can readily be sourced.¹

¹ See <https://www.eurofound.europa.eu/observatories/eurwork>

Economic and labour market context

This section briefly reviews the short- and medium-term economic and labour market developments, looking into year-on-year changes in gross domestic product (GDP) and unemployment rates for 2017, as well as more medium- and longer-term developments up to a decade ago.

2017 was a year with a relatively favourable economic development for most Member States, with annual growth of real GDP per capita equalling 2.2% on average in the EU28. Short-term growth of GDP per capita also closely mirrored longer-term growth over the past decade in many Member States, with the most favourable developments being recorded in Poland, Ireland, Romania, Malta, Latvia, Slovakia, Hungary and Czech Republic. Overall, however, the past decade can be deemed one of stagnation for many EU economies, with average yearly growth of real GDP per capita equalling 0.5% per year in the EU28.

And in five countries – Luxembourg, Finland, Italy, Cyprus and Greece – GDP per capita in 2017 is still below the pre-crisis level of 2007, despite a recent return to growth (see Table A1 in Annex 1).

Employment usually follows economic growth with a certain lag. And while the EU28 as a whole is now exceeding its pre-crisis employment rate, in 2017 it was still 2.8 percentage points short of its 2020 target of an overall employment rate of 75%. Most EU Member States have, to date, been successful in raising their employment rates to the pre-crisis levels or beyond, but some Member States' employment rates are still lagging far behind those witnessed a decade ago – in particular, Greece, Cyprus, Spain and to a lesser extent Ireland. While the gender employment (rate) gap has narrowed over the past decade,² it still persists, equalling 11.5 percentage points in 2017.

Table 1: Development of employment rates in the Member States 2007–2017 and gender employment gap 2017

	2007 (%)	2012 (%)	2017 (%)	2007–2017 change (percentage points)	Distance from EU target	Women	Men	Gender gap (percentage points)
EU28	69.8	68.4	72.2	2.4	-2.8	66.5	78	11.5
Austria	72.8	74.4	75.4	2.6	-1.6	71.4	79.4	8.0
Belgium	67.7	67.2	68.5	0.8	-4.7	63.6	73.4	9.8
Bulgaria	68.4	63	71.3	2.9	-4.7	67.3	75.3	8.0
Croatia	63.9	58.1	63.6	-0.3	0.7	58.3	68.9	10.6
Cyprus	76.8	70.2	70.7	-6.1	-4.3	66.2	75.6	9.4
Czech Republic	72.0	71.5	78.5	6.5	3.5	70.5	86.3	15.8
Denmark	79	75.4	76.9	-2.1	-3.1	73.7	80.2	6.5
Estonia	76.9	72.2	78.7	1.8	2.7	75.1	82.4	7.3
Finland	74.8	74	74.2	-0.6	-3.8	72.4	75.9	3.5
France	Data not available	Data not available	70.6	Data not available	-4.4	66.7	74.6	7.9
Germany	72.9	76.9	79.2	6.3	2.2	75.2	83.1	7.9
Greece	65.8	55	57.8	-8.0	-12.2	48.0	67.7	19.7
Hungary	62.3	61.6	73.3	11.0	-1.7	65.7	81.0	15.3
Ireland	75.1	64.4	73.0	-2.1	4.0	67.0	79.1	12.1
Italy	62.7	60.9	62.3	-0.4	-4.7	52.5	72.3	19.8
Latvia	75.2	68.1	74.8	-0.4	1.8	72.7	77.0	4.3
Lithuania	72.7	68.5	76	3.3	3.2	75.5	76.5	1.0
Luxembourg	69.6	71.4	71.5	1.9	-1.5	67.5	75.4	7.9
Malta	58.6	63.1	71.4	12.8	1.4	58.0	84.1	26.1

² In 2007, it was 15.6 percentage points in the EU28 (a female employment rate of 62.1% versus a male employment rate of 77.7%).

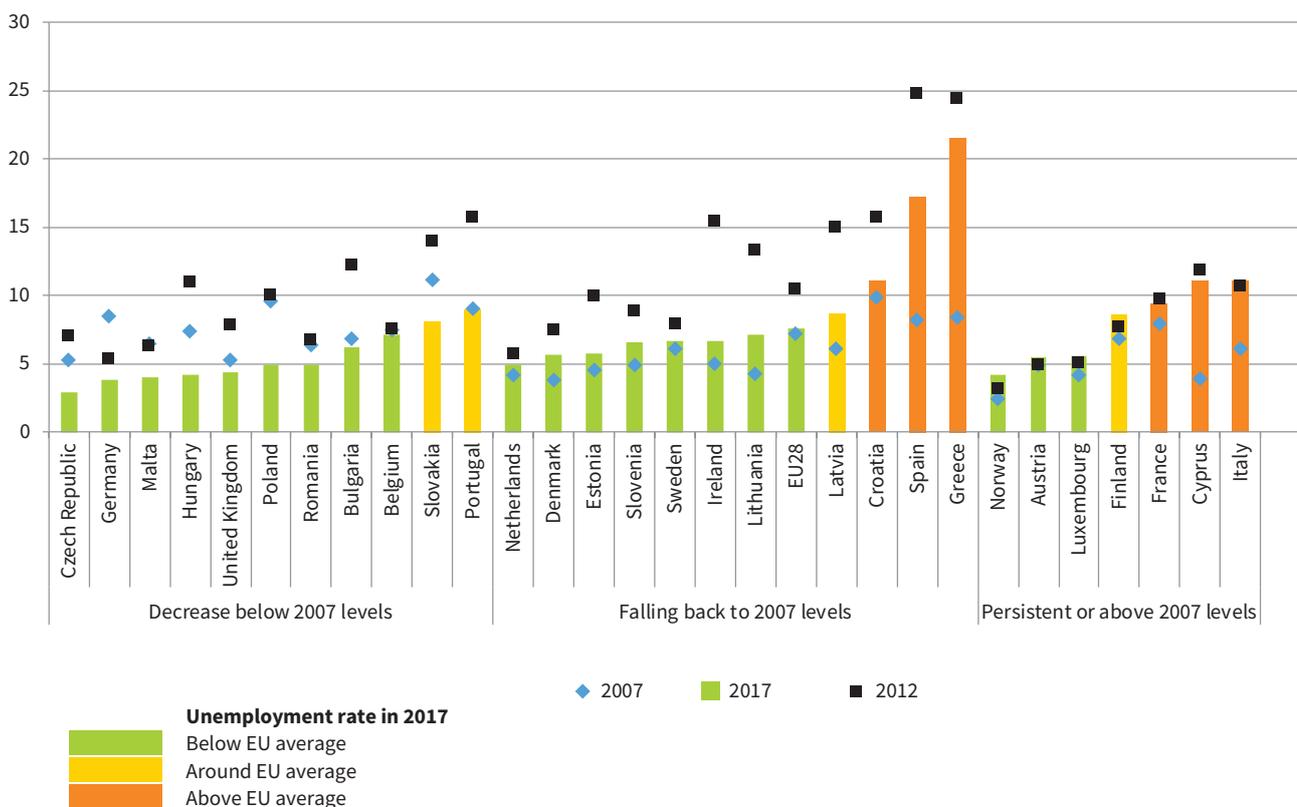
Table 1: Continued

	2007 (%)	2012 (%)	2017 (%)	2007–2017 change (percentage points)	Distance from EU target	Women	Men	Gender gap (percentage points)
Netherlands	77.8	76.6	78.0	0.2	-2.0	72.8	83.3	10.5
Norway	80.9	79.9	78.3	-2.6	Not applicable	76.2	80.2	4.0
Poland	62.7	64.7	70.9	8.2	-0.1	63.6	78.2	14.6
Portugal	72.5	66.3	73.4	0.9	-1.6	69.8	77.3	7.5
Romania	64.4	64.8	68.8	4.4	-1.2	60.2	77.3	17.1
Slovakia	67.2	65.1	71.1	3.9	-0.9	64.7	77.5	12.8
Slovenia	72.4	68.3	73.4	1.0	-1.6	69.7	76.9	7.2
Spain	69.7	59.6	65.5	-4.2	-8.5	59.6	71.5	11.9
Sweden	80.1	79.4	81.8	1.7	1.8	79.8	83.8	4.0
United Kingdom	75.2	74.1	78.2	3.0	Not applicable	73.1	83.4	10.3

Note: Employment rate is calculated as the share of employed people in relation to the active population of the same age group (here: 20–64 years of age).

Source: Authors' calculations based on Eurostat European Union Labour Force Survey (dataset: t2020_10)

Figure 1: Level and development of unemployment rates – long, medium and short term, 2007, 2012 and 2017 (%)



Note: All percentages refer to annual average unemployment rates for 2017.

Source: Eurostat, 'Total unemployment rate' (dataset: tps00203) 16 April 2018, updated 10 May 2018. Break in series for Belgium

The development of unemployment rates continued to be favourable in most Member States in 2017. In the EU28, the average unemployment rate stood at 7.6%, thereby closely approaching the pre-crisis level and considerably down from the high levels of 2012 and the peak in 2013.

Figure 1 captures the medium- and longer-term developments in the level of unemployment rates and distinguishes between three groups of countries.

The most favourable developments in unemployment, with rates in 2017 standing clearly below the pre-crisis

rates of a decade ago, were observed in Czech Republic, Germany, Malta, Hungary, United Kingdom, Poland, Romania, Bulgaria, Slovakia and Portugal. With the exception of Portugal and Slovakia, these countries' 2017 unemployment rates were also significantly below the EU average.

In a second group of Member States (Latvia, Croatia, Spain and Greece), unemployment rates have also shown

favourable development over the past five years. However, rates of unemployment are still above their values of a decade ago and in some cases above the EU average.

In a third group of countries, unemployment rates have remained unchanged, or even increased. In Norway, Austria and Luxembourg they remain at a rather low level, while they are above the EU average in Cyprus, France and Finland.

EU-level working life developments

EU-level discussions in 2017 continued to be overshadowed by the Brexit negotiations, triggering strategic deliberations on what route the EU27 will take following the departure of the UK in 2019. In March 2017, the European Commission presented its *White paper on the future of Europe*, outlining five scenarios for the European Union's evolution. The ideas in the paper are developed further in a series of reflection papers, including the *Reflection paper on the social dimension of Europe* (COM (2017) 206). The paper fleshes out – based on very practical examples and summarising pros and cons – what each of the scenarios could imply for social or working life policies. For example, if the implementation of the social dimension were limited solely to free movement of citizens, this would mean

keeping rules to promote cross-border movements of people in place, such as rules on social security rights of mobile citizens, on posting of workers, on cross-border health care and the recognition of diplomas. However, European legislation on the protection of workers, their health and safety, working and rest time would be scrapped. Minimum paid holiday and equality legislation would be abolished at European level. Member States could decide whether to allow temporary agency work or not. Equal treatment of part-time workers would no longer be ensured across Europe. There would be no minimum standards set for maternity and paternity leave, or for parental or carers leave, at European level. The right of workers to be informed, individually and collectively, about their rights would no longer be guaranteed at European level. The framework for European Workers' Councils in multinational companies would be abolished. Social dialogue at EU level would be limited to sectors and issues relevant for the Single Market.

(p. 27).

On the other side of the spectrum, a scenario in which the EU27 deepened the social dimension of Europe could mean that, 'Legislation would not only set minimum standards but, in selected areas, could fully harmonise citizens' rights across the EU'. And while it is stated that Member States and social partners will remain 'the centre of gravity for action', this could entail binding benchmarks for parameters contributing to employment, education, health and welfare-related policies.

While future editions of this report would likely get much shorter under a 'Focus on the Single Market' scenario, the fact that the 2017 edition is still lengthy is due to important advancements that were made at EU level during 2017 in the social dimension of the EU, thereby affecting working life. First and foremost, in April 2017, the European Commission presented the European Pillar of Social Rights. The Pillar contains 20 principles building on the EU's social *acquis*, which do not replace existing rights, but offer a way to better judge the performance of national employment and social policies and should serve to restart the process of convergence within the Economic

and Monetary Union (EMU). European funds, particularly the European Social Fund, will also provide financial support to implement many key aspects of the Pillar. The Social Scoreboard – as part of the European Semester monitoring – was newly established in 2017 to track trends and performance across EU countries in 12 areas, to assess the announced progress towards a social 'triple A' rating for the EU as a whole. Discussion in the autumn Tripartite Social Summit for Growth and Employment between EU institutions and social partners fed into the Social Summit for Fair Jobs and Growth in Gothenburg in November 2017 – at the end of which EU leaders gave clear support and proclaimed the European Pillar of Social Rights.

Also during 2017, the regulatory fitness and performance programme (REFIT) process continued to review the legislative framework to ensure that it keeps pace with the latest broader developments in the field of employment, social affairs and inclusion. The Commission presented a proposal for a Directive, entitled *Transparent and predictable working conditions in the European Union* (European Commission, 2017c), which stems from the revision of the current Written Statement Directive (91/533/EEC) and essentially includes the endeavour that every worker in Europe – irrespective of their employment status or form of contract – shall have clarity about their terms and conditions of employment, from their first day of work onwards. The Commission also announced in the 2017 REFIT scoreboard that, following cost-benefit analysis, it will not recast the three Information and Consultation Directives, as originally considered, but only intends to evaluate the Information and Consultation of Workers Directive (2002/14/EC) and the European Works Council Directive (2009/38/EC).

One main conclusion derived after failed attempts to revise the Working Time Directive (2003/88/EC) in previous years was that the Directive remains a relevant instrument, yet a number of challenges exist as to its implementation. Following this, in 2017, the Commission presented an interpretative Communication on the Working Time Directive (European Commission, 2017b) with a view to clarifying any legal ambiguities, as opposed to pushing the envisaged revision further, for the time being.

The European Commission also published new proposals in 2017 on the European Mobility and Transport Package, the Package on Work-Life Balance of Parents and Carers and an Action Plan 2017–2019 on Tackling the gender pay gap (European Commission, 2017a). The first package includes relevant working-life related regulations for truck drivers engaged in cross-border transport – impacting, for instance, their working hours and rest-breaks. The second package follows on from failed attempts to recast maternity leave provisions that address health and safety considerations and protection for pregnant or breastfeeding mothers, by enlarging the scope to working fathers and care-givers. It proposes a set of legislative and non-legislative measures, all aimed at reconciliation and more gender equality in the sharing of family-related leave

and in the day-to-day care when parents or carers return to work. The initiative on tackling the gender pay gap is a strengthened commitment to take actions addressing the gap at various levels and with a mixture of measures. Possible new legislation – on making pay transparency measures binding, and on gender quotas in board rooms – has also been announced within the plan.

Previously, in 2016, the European Commission had published a proposal to revise the Posting of Workers Directive, a proposal to revise the rules on the coordination of social security systems and the Framework of Actions on Youth Employment, which continued to progress during 2017 and were still being negotiated by the co-legislators at the start of 2018.

During 2017, the Commission and the social partners also continued with their attempts to live up to their agreement to bring about a New Start for Social Dialogue (European Commission, 2016), including stronger involvement of the social partners in the European Semester process, more emphasis on the capacity building of national social partners, a strengthened involvement of EU social partners in EU policy and law-making and a clearer relationship between social partner agreements and the EU's Better Regulation Agenda.

One important outcome of EU-level social dialogue was achieved in March 2017, following nine months of negotiations, with the signing of the social partners' autonomous framework agreement on active ageing. The agreement is action-oriented and aims to ensure a healthy, safe and productive working environment and

work organisation to enable workers of all ages to remain in work until legal retirement age. It also aims to facilitate the transfer of knowledge and experience between generations at the workplace and takes into account the changing national demographic and labour market realities.

More details on these initiatives can be found in Annex 2.

The EU-level working life agenda remained full at the beginning of 2018 when, in March, the European Commission presented its Social Fairness Package, consisting of a Communication on monitoring the implementation of the European Pillar of Social Rights (European Commission, 2018c), a Regulation establishing a European Labour Authority (European Commission, 2018b), and a Council Recommendation on access to social protection for workers and the self-employed (European Commission, 2018a). The Commission is also working on developing a European Social Security Number, which is meant as a digital identifier to make existing systems interoperable. This would facilitate the portability of rights across borders, allow for real-time identification and verification of coverage, and also reduce risks of errors and fraud resulting from the use of paper documents. It would simplify the work of administrations at all levels. This initiative is part of the 2018 Commission Work Programme; the Commission is engaging with Member States and stakeholders and will come forward with an initiative later in the year. The Council negotiations around the proposed work-life balance package are now in full swing.

Political context affecting working life

The year 2017 saw a continuation of the developments initiated in 2016 when, in March, the United Kingdom formally applied to leave the European Union after the previous year's referendum vote. At the end of April, the European Council adopted a set of political guidelines defining the framework for the negotiations and European Union's positions on Brexit. The year was also marked by increasing support for populist or Eurosceptic parties in Austria, the Czech Republic, France, Germany, Hungary, Italy and the Netherlands. Elections that took place during the year in some countries were considered crucial for the maintaining of European integration, overshadowed by debates on Brexit and on Members States' responsibilities regarding migrants.

Several centre-right-wing governments came to power or were reinstated in 2017 in Europe. In **Austria**, a new coalition government led by Chancellor Mr Kurz, consisting of the conservative People's Party (ÖVP) and right-wing Freedom Party (FPÖ), replaced the former grand coalition of the Social Democratic Party (SPÖ) and the ÖVP. In **Bulgaria**, Prime Minister Boyko Borisov was reelected and his centre-right popular party Citizens for European Development for Bulgaria (GERB) holds the majority of seats in the National Assembly. In **Norway**, the government in office since 2013, led by Prime Minister Erna Solberg of the Conservative Party (Høyre), was re-elected and remains in coalition with the Progressive party (FrP), and in the **Czech Republic**, Eurosceptic Andrej Babiš (ANO) was appointed Prime Minister in December 2017, but resigned after a vote of no confidence in early 2018.

In other Member States, such as Germany, France and the Netherlands, newly formed governments precluded right-wing parties who had gained strong or increasing support in general elections. In **Germany**, the reshaping of the political landscape after the federal elections of September resulted in a new coalition agreement in early 2018, after long negotiations between the Social Democratic Party (SPD) and the Christian Democratic Union of Germany and Christian Social Union in Bavaria (CDU/CSU), and following failed attempts of the Conservatives to form a 'Jamaica coalition' with the Free Democrats and left-leaning Greens. Chancellor Angela Merkel had suffered a setback at the 2017 elections as the populist anti-immigrant Alliance for Germany (AfD) surged into third place. In September, at the federal elections, the AfD broke through to become the first hard-right party to win seats in parliament since the Second World War. In **France**, Emmanuel Macron was elected President with a new political movement, 'En Marche', which was launched in April 2016, drawing support from both centre-right and centre-left parties and decisively beating the far-right National Front (FN) in the run-off. It is the first time since the end of the Second World War that a French President has not been from one of the main political parties. In the **Netherlands**, the liberal People's Party for Freedom and Democracy (VVD) lost seats but remained the largest party, while the Labour Party saw a massive loss in vote share and seats. With parties unwilling to include the right-wing Party for Freedom

(PVV), a government of four parties was formed in October with a coalition comprising the liberal VVD, conservative Christian parties CDA and Christian Union and the centrist D66.

Governments were weakened or under political pressure in Italy, Spain, Finland and the United Kingdom. After the failure of the constitutional reform and its overwhelming rejection by referendum, the **Italian** Prime Minister, Matteo Renzi, resigned in December 2016 and a new government, led by Mr Paolo Gentiloni, took office. But in March 2018, elections produced a hung parliament and ongoing efforts to form a government. Another hung parliament resulted in the **United Kingdom**, when Prime Minister Theresa May called an early election in June 2017, seeking a stronger mandate for her approach to the Brexit process.

In October 2016, **Spanish** opposition socialists agreed to abstain in a parliamentary confidence vote on allowing acting Prime Minister Mariano Rajoy to form a minority government and end 10 months of political deadlock. In 2017, the governing Popular Party (PP) did not have an absolute majority, which obliged it to reach pacts with other political parties in order to approve measures, pass laws, etc. The Catalan crisis, derived from the drive for independence, created tension across the Spanish political spectrum, particularly from September 2017 onwards. As some parties did not agree with how the PP was dealing with the Catalan independence crisis, they did not support the PP for the passage of the Spanish 2018 budget, which was delayed. In October 2017, Madrid imposed direct rule in Catalonia after voters in a referendum backed separation from Spain.

The centre-right government of **Finnish** Prime Minister Juha Sipilä underwent an internal crisis in June 2017 as the party congress of the junior government partner, the populist Finns Party, elected controversial new leaders; notably, two of the four new leaders have been convicted for hate speech. The coalition government partners – the Centre Party of Prime Minister Sipilä and the centre-right National Coalition Party – said it was impossible to continue governing with the new leadership, and the government almost resigned. However, the Finns Party subsequently split into two factions, and the runaway members, opposing the new party leadership, were welcomed back to government. This provided the government with a relatively narrow majority of 105 out of 200 members of parliament.

New governments also took office in **Lithuania** – a coalition between the Lithuanian Peasant and Greens Union (LVZS) and the Lithuanian Social Democratic Party (LSDP) in December 2016 – and in **Romania** where, following national parliamentary elections held in December 2016, a government led by Sorin Grindeanu and formed by a coalition of social democrats (PSD) and liberal democrats (ALDE) was replaced by a new government, led by Mihai Tudose, in June 2017 but the political composition of the governmental coalition

remained the same. In **Malta**, the Labour Party (PL), which was in office, won the general election in June, polling 55.4% of the votes.

Labour law reforms and major packages of new labour regulations

Against the context of these political developments, correspondents were asked to report upon developments around significant labour law reforms or major packages of new labour-related legislation. Such broader reforms are often announced by incoming governments; however, changes in political power may shift the focus of ongoing reforms or put them on hold, or the implementation of major changes can turn out to be obstacles for governments in office. Each of these aspects was witnessed during 2017.

France: Macron's reform of the Labour Code

During his 2017 campaign, President Emmanuel Macron laid out his plans to reform France's labour code by ordinance – allowing him to make changes without the need for lengthy parliamentary debate. This main reform was adopted in September 2017 with five ordinances to speed up the implementation of the changes, while the government announced a new set of reforms with the aim to build a kind of 'French flexi-security'. The ordinances cover a line of reform that concerns the interactions between sectoral and company-level agreements, reducing the importance of sectoral agreements while giving company-level agreements a central place in the system of collective bargaining. Linked to this, part of the reform allows social partners, by majority collective agreement, to authorise unified committees to negotiate agreements. The aim of these reforms is to reduce long-term mass unemployment. To achieve it, one of the projects reforms unemployment insurance and extends the scheme to self-employed workers and employees who resign after five years of working with the same employer. Other plans concern the reforming of apprenticeship to better integrate young people into the labour market and to redesign the vocational system.

Finally, other regulations consist of clarifying economic redundancies. Ordinances need to be ratified by parliament first, before gradually coming into force. The ratification by the National Assembly at its first reading of the first five ordinances on the reform of the labour code was met with mixed reactions from the social partners. On 25 October, the government unveiled its roadmap for the transformation of apprenticeships, vocational training and unemployment insurance, with the goal of adopting a bill on these three topics before the end of summer 2018.

Germany: the new coalition's labour-related priorities

In **Germany**, there were no major labour market reforms in 2017, but the new government presented further labour market reform projects in its latest coalition agreement. Measures to be realised in the coming legislation period include, amongst others: the promotion of full employment with the creation of a new instrument called

'Labour market participation for everyone' – including €4 billion for subsidised employment, to integrate 150,000 long-term unemployed; opening clauses for the Working Time Act allowing employers to deviate from the 48 maximum hours if collective agreements and works agreements are in place; limits on fixed-term work with a quota system for unfounded fixed-term contracts for larger companies; and a new right on limited part-time work, whereby employees will be able to request part-time work for a limited period of time and return to their full-time jobs afterwards. Other measures planned by the agreement are aimed at creating a statutory regulation for on-call contracts; proposing a simplified procedure for setting up works councils' elections; developing a further training strategy to improve people's employability; and facilitating data exchange between institutions involved in the transition from school to working life.

Italy: continuation of controversies in the aftermath of the Jobs Act reform of 2015

The Italian government and parliament insisted on the implementation of the reforms already introduced in 2016 and 2015 (including the 2015 Jobs Act) and the public agencies envisaged for the governance of active labour market policies and labour inspection became operative. The regime of voucher-based work has been amended, introducing some limitations, after wide-ranging liberalisation occurred in 2012 and 2015. The more stringent provisions came after the largest Italian union, the Italian General Confederation of Labour (CGIL) collected 3.3 million signatures for the abrogation of the regime and obtained a referendum to be held on 28 May 2017. In order to avoid the referendum, the Democratic Party-led government abrogated voucher-based work by decree, and announced its intention to discuss the opportunity to regulate occasional jobs with unions. This move, welcomed by CGIL but contested by employers' organisations and other large unions, led to the cancellation of the referendum. Yet, one month later, parliamentarians of the same ruling party successfully proposed new rules on occasional jobs in the framework of parliamentary discussions on a bill amending the State Budget. (A new legislation introduced two types of voucher-based scheme: one tailored to private individuals who wish to use vouchers to pay workers who provide domestic and care services, and the other to 'other clients' such as self-employed workers, professionals, entrepreneurs, associations and NGOs, and public administrations. This second scheme sets out special provisions for clients in the public administration and agriculture sectors.)

Greece: reforms continue to be implemented

In Greece the implementation of major reforms continued. Two new laws were adopted in 2017 (Laws 4472/2017 and 4475/2017): drastic pension cuts for retirees and an increase in the amount of social contributions from self-employed people. Amendments were also made to the law on the protection of trade unionists from dismissal, and the law on collective redundancies. The year saw the continuation of measures favouring company-level collective bargaining over sector-level bargaining and an opening of the agenda on the amendment of the legislative framework on strike action.

Lithuania: new national agreement on reforms finally signed

After almost a year of discussions in Lithuania, a national agreement on reforms was signed on 16 October by the Prime Minister and representatives of business and union organisations. It consists of a legislative package approved by parliament in September. It defines the following long-term objectives: improving efficiency in the public sector and the quality of public services; strengthening social dialogue and the powers of the social partners; ensuring the quality and efficiency of education and training; ensuring lifelong learning; ensuring the compatibility and stability of tax systems; and developing the competitiveness of the country.

Belgium: social partners agree on three reforms

The first reform Belgian social partners agreed on was the further extension of the ‘flexijobs’ system to pensioners, with the exception that they will not have to work for 80%, as is the case for other people. It was also extended to the small retail sector, having previously been exclusively limited to the hospitality sector. The second reform of the agreement allows the use of ‘mystery calls’, whereby social inspection services pretend to be potential employees in order to investigate companies that have been reported for discriminatory recruitment practices. Lastly, there were adjustments in the duration of the notice period, which will require employers to provide one week’s notice before dismissal instead of two in the first three months of fixed contracts. (Before 2013, there was a probation period, which allowed the employer to dismiss the employee without paying the regular severance pay. In exchange, young low-skilled school leavers will become less expensive to employ by means of a reduction in gross minimum wages.)

Slovenia: a ‘mini labour reform’

The so called ‘mini labour reform’ in Slovenia encompassed amendments to three laws: the Labour Inspection Act, the Employment Relationship Act and the Labour Market Regulation Act. Measures against illegal uses of atypical forms of labour are included in the amendments to the Labour Inspection Act and the Employment Relationship Act. Given that the amendments to the Labour Inspection Act and the Labour Market Regulation Act were not controversial to social partners, the National Assembly passed both laws in September 2017. The Ministry of Labour has introduced labour law amendments to combat the misclassification of employees as independent contractors. The changes allow labour inspectors to compel employers to enter into an employment relationship with someone who has been illegally working as a contractor.

Labour-related developments in other countries

Other countries had neither major nor smaller ‘mini’ labour reforms, but reported that a substantial set

of labour-related regulations or policy measures was announced, prepared, implemented or reverted during the course of 2017.

In **Austria**, several changes were implemented by the outgoing government or by Parliament,³ some of which reversed previous decisions (such as an employment bonus or subsidised employment for older unemployed workers). One aspect the new Austrian government’s programme for 2017-2022 shares with Germany’s is the envisaged liberalisation of working time – via increasing the maximum daily amount to 12 hours, or requiring exemptions from the weekend and holiday rest periods to be negotiated at company level with the works council, or individually if no works council exists. Apart from this, the Austrian programme foresees major changes in the fields of labour and social policy, clearly sharing more similarities with policies in other liberal/right-wing led countries such as Finland, with envisaged cuts to unemployment and social benefits or a tightening of the ‘reasonableness criteria’ for unemployed people to take up a job offer (regarding commuting times, occupational protection, income protection).

In **Finland**, a similar focus on activation measures was at the core of the Sipilä government’s reforms,⁴ which proposed an ‘active unemployment model’, which passed the vote in Parliament mid-December 2017, to come into force in January 2018. The model entails a cut in unemployment benefits if the unemployed person has not been in any type of limited short-term employment or self-employment during the duration of their unemployment, or participated in active Public Employment Services measures. Also, the **Croatian** government introduced a broader set of active labour market policy (ALMP) measures called ‘From Measure to Career’, effective as of March 2017.

In **Estonia** amendments to the Individual Labour Dispute Resolution Act were approved to make resolution processes easier and clearer for out-of-court disputes and to give more authority to the Labour Dispute Committees, in matters relating to monetary claims, working conditions, performance of a collective agreement and some new resolution mechanisms such as conciliation and agreement procedures. In 2017, the pension system was discussed in government and in 2017, the parental leave and benefits system reform was passed, allowing for a greater work–life balance and participation from fathers in childcare.

In the **Netherlands**, negotiations between social partners on three major changes in labour law came to a standstill: the reduction of the gap between rights for permanent and flex workers, in particular dismissal rights (though the new government has made some proposals); the reform of the pension system; and the payment system of wages of employees in the second year of sickness, based on a collective agreement instead of an individual agreement with the employer, in order to reduce risks.

3 Among them, for instance, the updated law against wage and social dumping, a reform of the childcare benefit system, a pilot project for subsidised employment for 20,000 long-term unemployed, and the Act on Part-time work upon reintegration of workers who had been on extended sick leave.

4 The government was also involved in 2017 in the preparation of a major reform to health, social services and regional government.

Social partners' reactions to working life policies following changes in governments

Changes in the political landscape in 2017 raised mixed reactions from social partners. Trade unions reportedly tended to be more critical – or more vocal – about announced new programmes or broader packages of legislative changes in Austria, France, the Netherlands, Norway and Romania. And Spanish trade unions criticised the standstill in the social area due to the Catalan crisis.

Labour market policies

Netherlands: Mixed reactions from the social partners on labour market policies: The new labour market policies that came from the general elections of March met with agreement from the Confederation of Netherlands Industry and Employers (VNO-NCW); they included the lowering of labour income taxes and a call for higher wages, making work more secure and flexible, and the combination of dismissals grounds. The largest union, the Federation of Dutch Trade Unions (FNV), expressed disagreement on the dismissal rules that will be easier to

apply and the measure to allow employers to pay below minimum wage for people on social assistance benefits. As for raising wages, the trade unions think that wages for civil servants should be raised first.

Norway: Trade union confederation disappointed by election outcome: The Norwegian Confederation of Trade Unions (LO) had put efforts into having the social-democratic Labour party (Arbeiderpartiet) return to office, after losing the elections in 2013; LO was hopeful that this change of government would result in the regulation of labour market issues that had been deregulated by the previous government; this particularly was the case with regulations on temporary employment. Even though the leading coalition's majority was reduced from that of the 2013 election, the result was disappointing for the centre-left coalition led by Arbeiderpartiet, which had been ahead in the polls until the last few weeks before the election, and also a disappointment for the trade union confederations. The Confederation of Norwegian Enterprise (NHO), unlike LO, does not support any of the political parties economically; however, it has supported many of the measures in the field of labour market politics introduced by the government in office.

Box 1: Mixed reactions to coalitions' new programme and agreement

Austria: coalition's new work programme presented in January raised mixed reactions: Positive responses came from the employer side, i.e. the Federal Economic Chamber (WKO) and the Federation of Austrian Industry (IV) on measures of efficiency gains and de-bureaucratisation, as well as on the extension of the working day. On the other side, while the Federal Chamber of Labour (AK) expressed a welcome on the planned expansion of social infrastructure, many of the envisaged measures (which the AK criticised as being quite vague) are seen as potentially increasing pressure on the labour market and on employees. A stronger initial reaction made by the Federal Trade Union Confederation (ÖGB) emphasises the negative impacts on employees such as the abolition of young workers' councils and the implementation of 12-hour working days, to name a few.

Germany: coalition's agreement raised criticisms on mini-jobs contracts: The Confederation of German Trade Unions (DGB) welcomed the investment proposed in education, housing, transport and mobility and the rules on working part-time and the limitation of unfounded fixed-term contracts, but criticised new rules on 'mini-jobs' considered as an extension of precarious work. The Confederation of German Employers' Associations (BDA) also shared a positive outlook on education and the increase of childcare facilities. They welcomed the new regulation on immigration but criticised the lack of vision to secure business competitiveness.

France: use of ordinances to pass reform on labour law triggered strong reactions from unions: Following the presidential election of Emmanuel Macron, one of the major reforms in 2017 was the plan to reform labour laws by ordinance, avoiding a more lengthy process of parliamentary debate. The reform supported by employers' organisations sparked off a strong opposition from trade union General Confederation of Labour (CGT) that led demonstrations and organised strikes. The other four main unions (the French Democratic Confederation of Labour (CFDT), the French Confederation of Management - Confederation of Executives (CFE-CDC), the French Confederation of Christian Workers (CFTC) and Workers' Force (FO)), although not approving the reform, failed to build a common front against the reform that was then adopted without delay by the National Assembly.

Lithuania: new plan of measures to reduce costs and develop productivity in public sector: In additions, plans were announced to optimise the tax system, reform the education system, combat poverty and reduce migration outflows. A sceptical reaction was voiced from employer representatives on the intervention of the state into businesses, such as its plan to introduce an alcohol and drug monopoly. Trade unions, on the other hand, had a more positive response as social dialogue initiatives emerged, such as the signing of the national trilateral agreement to draft the Labour Code.

Spain: Re-start of negotiations after standstill: After the summer of 2017, social partners were going to start negotiations concerning salaries and social protection agreements. Both the Trade Union Confederation of Workers' Commissions (CCOO) and the General Workers' Confederation (UGT) trade unions criticised the paralysis of the social agenda as a consequence of the Catalan issue. Without denying their concern about the Catalan crisis, the trade unions' leaders felt that the independence process is relegating other serious economic, labour and social issues to the background.

Romania: New law on unitary pay and fiscal legislation changes face criticisms: The year 2017 witnessed a series of important reforms that triggered criticism from social partners. Discussions around the Law on Unitary Pay in the Public Sector (Law No. 153/2017) were accompanied by a number of street protests organised by the trade unions. Even after the law was adopted by parliament, the trade unions continued to criticise it, claiming the new law will generate new inequalities in the public system. In turn, the employers' organisations warned that the public sector wage increases provided by the new law will encourage employees' migration from the private to the public sector, further deepening the labour shortage in the private sector. The government also faced criticism from both social partners – unions and employers' organisations – of the fiscal legislation changes, which result in the transfer of social contributions from employer to employee. The trade unions pointed to the new provisions' impact on the labour relation and social model, while the employers criticised the costs associated with the new and, in their opinion, unnecessary changes.

Industrial relations developments 2017

Actors and institutions

Actors

The year 2017 was another year in which long standing trends in the actors' landscape continued. Trade union density generally continued to decline, while membership in employers' organisations appears to be stable, but judged on the basis of very limited data. On both sides of industry, the actors' landscape was found to be relatively stable, with a limited number of cases reported in a few Member States that could be deemed 'major' changes. On the trade union side there was a continuation of the trend of further concentration, with a number of mergers taking place or starting to be taken into consideration, while on the employers' side, the institutional landscape was reportedly more stable.

More concretely, major trade union mergers took place among three industrial trade unions in **Finland**, where the Metalworkers' Union (Metalli), the Industrial Union (TEAM) and the Woodworkers' Union (Puuliitto) merged into a new Finnish industrial union, Teollisuusliitto, at the end of 2017. The new union will have a total of 226,000 members, which makes it the second largest union in the country after Service Union United PAM, with 231,000 members, and will represent some 75% of all export industry employees. In **Latvia**, the Union of Latvian Interior Employees (LIDA), which has 2,600 individual members including police officers, firefighters, border guards and prison officers, joined the Free Trade Union Confederation of Latvia (LBAS), which now has 21 member organisations. The largest trade union in **Slovenia**, the Association of Free Trade Unions of Slovenia (ZSSS), and the Confederation of Trade Unions (Pergam), are also close to merging, with completion envisaged in 2018. They endeavour to jointly represent both private and public sector employees and to strengthen their power by avoiding fragmented representation. In **Lithuania** the two largest peak-level unions – LPS Solidarumas and LPSK – have started to discuss merger opportunities, actively looking to combine their resources and strengthen their power in the context of a perceived weakened role for trade unions. This perception is due to the new Labour Code, which gives increased roles to works councils in information and consultation processes and limits the application of collective agreements to trade union members only, where collective agreements had previously been applicable to all employees in the company.

Only three 'major' cases of new unions, or sections within unions, being created were reported, with two of them reflecting the observation of the previous year's report: that such new organisations essentially seek to cover

a workforce hitherto not covered by unions. In **Austria**, vidaflex was founded as a subgroup of the vida services union, aiming to represent the 300,000+ one-person enterprises, freelancers, bogus self-employed and small companies with up to four employees. While the number of members is not yet known, the initiative has sparked criticism by employer organisation the Austrian Economic Chamber (WKO), which is the legal and mandatory representative for all those one-person enterprises holding a business licence, which would also overlap with the target group of vidaflex (e.g. self-employed professional caretakers). In the **Netherlands**, organisations for self-employed workers without personnel, such as Platform Zelfstandige Ondernemers (PZO) and ZNP Nederland, are becoming more of a factor and starting to cooperate with VNO (large employers' organisation) and MKB-Nederland (small and medium-sized employer organisation).⁵ And in **Cyprus**, the Trade Union of Self-employed, Fixed-Term and Indefinite-Term Employees and Contract Employees (EQUALITY) was newly registered in 2017. The novelty of this trade union is its intention to exclusively represent employees with employment relationships that deviate from normal or permanent employment relationships in the broader public sector. The self-employed, which the union is also aiming to represent, are working in the broader public sector within the framework of purchasing or leasing of services. The trade union has already 360 members. Reportedly less successful in organising emerging sectors were the **Maltese** trade unions, despite their attempts to recruit members from new industries – notably financial services and online gaming. In the three years up to June 2016, an additional 24,350 persons entered the Maltese labour market as full-time employees, with the largest increases in employment occurring in online gaming, financial intermediation, personal care, catering, hospitality and construction. A report published by the Registrar of Trade Unions indicates that the Maltese trade unions have recruited few, if any, of these new entrants – many of whom are foreign workers – into the labour market.

A new **Dutch** education sector union, Primary Education In Action (PO in actie), was founded as a reaction to a growing dissatisfaction with traditional unions, after mass protests and strikes in the primary educational sector. Starting out as an action group, with a 45,000-strong Facebook group, and making more contact with followers on the Twitter account @POinactie, it received growing support among teachers and later in 2017 established itself as a 'modern' trade union. Later on, more traditional trade unions started a dialogue with PO in actie.

Measures to counter the trend of membership declines have been reported in another two countries, albeit with

⁵ Their influence has become larger due to the higher membership rates and a further professionalisation of their organisation. Furthermore, the PZO has acquired a seat in the Socio Economic Council, the main tripartite body (employer organisations, trade unions and independent members, mainly from the academic world), and is a member of the European Organisation for Independent Professionals. In the public debate, it tends to agree with the opinions of the employer organisations rather than trade unions; for instance, in the pension debate, it is against an obligation for self-employed persons to participate in second-pillar pension contribution schemes as employees do.

Box 2: Countering the trend of membership decline – two attempts in 2017

Sweden: Tax breaks for union fees as countermeasure against the record low in trade union density. As part of the budget bill for 2018, the Government is reintroducing a tax break for union membership fees. The Minister for Finance, Magdalena Andersson, says the aim of the reform, which will come into force in July 2018, is to increase union density, as it is an important part of the Swedish model and key to ensuring a high degree of collective bargaining coverage. While union density in Sweden is high by international standards, the rate of organisation among Swedish workers is currently at a record low. During the last decade, union density has decreased by eight percentage points (from 77% to 69%) and is particularly low among blue-collar workers. The decrease has been traced to the removal of the union fee tax break, and an increase in unemployment insurance fees in 2007 by the centre-right government. The political opposition has attacked the tax cut. A representative from the Swedish Centre Party stated that the money would have been better spent on tax reductions for small enterprises or measures to combat mental ill-health among young people, adding that the government should not be involved in deciding which organisations people should join. None of the major employers' organisations have made any statements regarding the tax break.

Estonia: Major trade union recruitment campaign. The trade union membership level in Estonia has been rather low and decreasing (11% in 2009 and 7% in 2015 – data from Statistics Estonia). Thus, the Estonian Trade Union Confederation (EAKL), together with their member unions, organised a trade union recruitment campaign. The aim was to encourage people to join trade unions in order to make workplaces and jobs better together instead of people changing jobs due to poor working conditions. The aim of the campaign is also to show employers that the existence of a trade union in a company is not a threat, but rather an opportunity to create a working environment in which the employees want to stay and contribute to the company. At least 270 new members were recruited.

different strategies. In **Sweden**, trade unions received support from the government, which reintroduced tax breaks for union fees. In **Estonia**, the peak-level trade union itself carried out a major recruitment campaign in 2017.

On the employer side, far fewer 'major' institutional cases affecting the actors' landscape were reported – one demerger in Finland and one merger in Slovakia – with a failed attempt in the latter case to become part of the established tripartite social dialogue. In **Finland**, the Employers' Federation of Road Transport (ALT) announced it would leave the Confederation of Finnish Industries (EK) in January 2018. ALT states that since EK no longer participates in collective bargaining following an internal change of rules, membership does not benefit ALT, which manages its own interest advocacy. ALT has approximately 700 member companies with 24,000 employees. After the secession, EK will have 24 member organisations representing 16,000 companies with 900,000 employees. In 2016, EK was deserted by another member organisation, the Finnish Forest Industries Federation (Metsäteollisuus), which claimed to want better-targeted interest promotion.

In **Slovakia**, a new national-level organisation of employers, the Association of Industrial Unions (APZ), established in 2016, associates all relevant sectoral employer organisations in industry: the Association of Mechanical Engineering (ZSP SR), the Slovak Electromechanical Association (SEA), the Association of the Automotive Industry (ZAP), Metallurgy, Extractive Industry and Geology (ZHTPG), the Slovak Construction Association (ZSPS) and the Association of Electrical Industry (ZEP), and covers about 80% of industry. In 2017, APZ members employed about 110,000 employees and it made attempts to participate in the national tripartite Economic and Social Council (HSR) as the fourth national employer organisation. However, at the meeting of the

tripartite HSR on 22 May 2017 (Zaznam), APZ's application was not accepted.

Representativeness

Before moving on to key themes of social dialogue processes and developments in collective bargaining, one central question is that of the representativeness of social partners. Who is a legitimate actor to represent its members in negotiations with the other side of industry and within tripartite institutions? European countries differ in how they address this question, ranging between the two poles of 'mutual recognition', where it is essentially left to social partners to recognise their partners, and the 'legal conformity' approach, in which the sovereign sets the rules. A 2016 report by Eurofound distinguishes between four types (Table 2).

The majority of countries reported that there were no major changes to, or exchanges about, the representativeness of social partners.

Exchanges around representativeness in 2017 occurred in countries belonging to each of the four types, but in all of the cases, they essentially related to changes in state regulation.

In **Lithuania**, where the representativeness of social partners is determined by self-regulation, the new Labour Code, valid since 1 July 2017, established representativeness criteria for social partners to be represented in the Tripartite Council of the Republic of Lithuania (LRTT) for the first time. The most important include membership in international organisations, having members or representatives in different regions or sectors, being active for at least three years, covering at least 0.5% of the country's employees for trade unions, and having at least 3% of salaried employees of the country employed within their companies for employer organisations. This resulted in four additional organisations (two employers

Table 2: Classification of Member States and Norway by representativeness model

Representativeness model	Countries
Social partner self-regulation	Cyprus, Denmark, Finland, Ireland, Lithuania , Malta, Norway, Slovenia (for employers), Sweden, UK.
Mixed model	Austria, Estonia, Germany , Hungary, Italy, Netherlands, Portugal , Spain (for employers) and Slovenia (for trade unions).
State membership regulated	Bulgaria, Croatia, Czech Republic, Estonia, Greece, Latvia, Poland, Romania , Slovakia.
State electoral strength model	Belgium , France , Luxembourg, Spain.

Notes: This classification extends the difference between legal conformity and mutual recognition systems by taking into account the drivers and impacts of representativeness.

Countries in bold: Cases in which aspects of representativeness of social partners was on the agenda during 2017.

Source: Eurofound (2016a), p. 26, based on the Network of Eurofound Correspondents

and two trade unions) being admitted to the national tripartite social dialogue.

Among the countries with a ‘mixed model’ in which elements of social partner recognition are combined with state regulation and legal conformity, 2017 brought new aspects to ongoing cases in **Germany** and **Portugal**. The ongoing case in Germany (see previous editions of this annual review) essentially concerns the legitimacy of trade unions and the question of which trade union is recognised as a partner in collective bargaining, in companies where more trade unions exist; the Act on Collective Bargaining Unity (*Tarifeinheitgesetz*) of 2015 rules that, if different company-level collective agreements are made affecting the same group of workers, only the collective agreement reached by the trade union with the largest membership in the company shall be applied. Fearful that the legislation would affect their rights to strike and to conclude collective agreements, several trade unions filed complaints with the Federal Constitutional Court. In July 2017, the Court declared the Collective Bargaining Unity Act largely constitutional, but emphasised that the law should provide protective measures regarding certain occupational groups and minority unions until the end of 2018. In addition, the court also stressed that the right of minority unions to strike had to be ensured. A related case was reported from the **Belgian** railways sector, in which two small independent trade unions (the Independent Union of Rail Personnel – OVS and the National Union of Public Services – UNSP/NUOD) within the national railway undertaking (NMBS/SNCB) disputed limits on participation in social elections with the constitutional court. The court stated the limitation to be detrimental for the democratic process of the social elections at NMBS, judged in favour of the independent unions and abolished it. It is up to the government and the Ministry of Mobility now to make a final decision.

In **Portugal**, 2017 brought a change in relation to the representativeness criteria for sectoral social partners. Following the memorandum of understanding with the Troika in 2011 and the subsequent unilateral government decision, employers’ organisations had to prove that they represented more than 50% of employees in a sector as a precondition for the extension of sectoral collective agreements. This was a major cause for the drop in Portuguese collective bargaining coverage,

well-documented elsewhere. In 2017, following tripartite debates, the government eliminated the criteria of representativeness (82/2017) and replaced them with new criteria for extension.

In **Romania**, the regulation of the representativeness of social partners has been an ongoing point for debate since 2011, when the Social Dialogue Law (62/2011) introduced new criteria for representativeness, resulting in a standstill of sector-level collective bargaining. One of the major changes introduced in 2017 affecting the way in which representativeness of social partners is regulated or assessed was the creation of the Ministry of Public Consultancy and Social Dialogue, which initiated a round of consultations with the social partners on a series of amendments of the Social Dialogue Law. The draft law provides for a change in the representativeness criteria at sectoral level (an increase from 7% to 10% of the overall number of sectors’ employees), simultaneously with a redefinition of the existing economic sectors. The main goal of the amendments is to unblock the social dialogue at sectoral level – in 2017, only one collective agreement at sectoral level was concluded (pre-university education sector). The trade unions also demanded a reduction of the representativeness threshold at company level from 50% to 30%. The negotiations continue in 2018.

In **France**, the representativeness of social partners is determined by their electoral strength. Trade unions have to gain at least 8% of the votes every four years in workplace elections, and employer organisations have to represent at least 8% of companies or employees within a sector. In 2017, the second round of elections since the 2008 trade union representativeness reform was held. At the national and inter-sectoral level, the same five unions regained their representativeness, but for the first time in French trade union history, the French Democratic Confederation of Labour (CFDT) (26.4% of the votes) overtook the General Confederation of Labour (CGT) (24.9% of the votes) in the private sector, although the CGT remains the trade union with the most support in the public sector. Furthermore, for the first time, employers’ organisations’ representativeness was measured at national and cross-sectoral level and at the level of professional branches. According to the data for the number of members in 2015 – revised by the professional organisations, certified by their auditors and validated by

the Ministry of Labour – the Movement of the Enterprises of France (MEDEF) has 123,387 member companies, the General Confederation of Small and Medium Enterprises (CPME) has 144,939 and the Union of Local Businesses (U2P) 150,605.

Institutions

The institutionalised social dialogue landscape also appeared to be very stable, with only a few countries reporting some significant changes made during 2017. All of these reported cases can be considered changes that support the functioning of social dialogue institutions. In **Lithuania**, new rules are now in effect, governing the national tripartite social dialogue. The **Polish** social partners are discussing with the government various extensions of the social partners' mandate in social dialogue contributing to national-level policies – for more details see Box 3. In **Hungary**, the government has positively considered a trade union request to set up (as of January 2018) a separate tripartite consultative forum for fully or partially state-owned public utility companies

dealing with wage setting, employment and other relevant policy issues. In **Sweden**, where no tripartite peak-level institutions exist, the government supports the bipartite social dialogue with a new research centre on the working environment, thereby reacting to long standing demands from social partners.

Regulatory changes affecting the company-level social dialogue were made in Lithuania and in Luxembourg. In **Lithuania** the new Labour Code obliges employers in workplaces with more than 20 employees to initiate the establishment of works councils, and clearly sets out the tasks of works councils with regard to trade unions: while the works councils shall represent employees in information and consultation matters, trade unions remain the unique partner in collective bargaining. The new workplace-level rules for employee representation in **Luxembourg** pave the way for electronic voting and also regulate the appointment of experts to support the work of works councils, with associated costs borne by the employer.

Box 3: Changes to tripartite social dialogue bodies in 2017 – Lithuania and Poland

The new **Lithuanian** Labour Code, valid since 1 July 2017, introduced new rules on the establishment and operation of the main national tripartite institution, the LRTT. Now, the LRTT will be formed for a term of four years, whereby such tenures have not existed previously. In order to delegate their representative to the LRTT, social partner organisations must meet newly established criteria for representativeness; another novelty is that compliance of the organisations with the established criteria will be assessed by the Ministry of Social Security and Labour in accordance with certain rules. The new labour code also sets the maximum number of terms for LRTT members, which shall not be more than two consecutive terms.

In **Poland**, the President presented draft amendments to the Act on the Social Dialogue Council and Other Social Dialogue Institutions in late October with a view to enlarging the bodies' scope of responsibilities. This would include an extension of the right of social partners to issue bipartite resolutions on drafts of governmental strategies, programmes and other official documents, because at the moment they only have such a prerogative concerning draft legislation. It would also enlarge the circle of persons entitled to participate in the plenary session by the representative of the National Labour Inspectorate, and enhance the powers of regional social dialogue councils (WRDS). Those proposals subsequently became subject of debate with the social partners. As of the end of the year, the issue remained open. In addition, in 2017, three new tripartite sectoral committees (TZB) were established: in road transport, for the food industry and for culture and media. Such committees have been in existence since 2003 and to date there are 17 of them operating.

Collective bargaining

Changes affecting collective bargaining in 2017

The decentralisation of collective bargaining from higher towards lower bargaining levels and from larger towards smaller bargaining units has been a long-standing trend in Europe. It has been accelerated during times of economic and financial crisis, in which several countries were asked or recommended to undertake reforms of their collective bargaining regulations, so as to allow more room for company-level action. And it has been governed differently, with some countries 'organising' the decentralisation more than others, for instance by redefining the articulation between sectoral and company-level agreements instead of diminishing some

bargaining levels all together. In Greece, Spain and Italy the 'favourability principle' was inversed in 2011 or 2012, favouring the conditions of enterprise agreements.⁶

The regulatory changes affecting sectoral and company-level bargaining during 2017 show a dual picture. Changes leading to more decentralised bargaining continued to be put in place in a number of Member States, such as **Finland**, **France** and **Greece**. The drivers for these changes were different: in **Finland**, the impetus came from the main employers' organisation, the Confederation of Finnish Industries (EK), which stepped out from centralised collective bargaining supported by the government of Prime Minister Juha Sipilä, the main driver in **France** was government enacting a labour law reform, and in **Greece**, the regulations originated from the Memorandum of Understanding with the lenders and were re-confirmed in national legislation during 2017.

⁶ See variable 'DR' in the EurWORK database on wages, working time and collective disputes, version 2.0.

Table 3: Overview of changes affecting collective bargaining

Changes leading to more decentralised collective bargaining	
Finland	Sectoral agreements being negotiated in autumn 2017 and spring 2018 are not coordinated or restricted by centralised agreements. Many agreements negotiated during autumn 2017 include increased flexibility for negotiating pay, working time or other conditions at company or unit level.
France	New rules on the articulation between sector- and company-level agreements, reversal of the favourability principle and reform reduces the importance of sectoral agreements, while promoting the conclusion of company-level agreements.
Greece	Reversal of the favourability principle continues to apply, and possibility to extend agreements to the entire sector further suspended until August 2018.
Changes promoting more centralised, sector-level bargaining	
Latvia	New regulations promoting the conclusion and extension of sector-level agreements.
Portugal	New rules on extension of collective agreements seem to soften the negative impacts of earlier reforms. A novelty is in particular the reference to social objectives when considering extensions, thereby promoting inclusiveness through collective bargaining and improving bargaining dynamics and preventing the 'dualisation' and inequality in the labour market that has been facilitated by the drastic reduction of extension ordinances in recent years, in particular during the Troika intervention.
Slovakia	Redefinition of extension criteria; new type of agreement introduced 'representative collective bargaining agreement'. Only such 'representative' multi-employer agreements can be extended.
Germany	Automobile workshops in North-Rhine Westphalia sector moved from company-level bargaining for the first time to the conclusion of a sector-level agreement.
Sector-related cases, promoting sector-level collective bargaining	
Croatia	Moved towards a better coordination of collective wage bargaining in the public sector.
Hungary	Legislative amendment opens the possibility for extension of healthcare sector agreement.
Lithuania	In 2017, two sectoral collective agreements were signed in the education and health care sectors covering wage-related issues for the first time.
Changes affecting company-level collective bargaining	
Lithuania	Labour Code confirmed that trade unions remain the sole partner in signing collective agreements, thereby clearly distinguishing their responsibilities from those of the newly introduced works councils.
Romania	Government obliged companies to initiate collective bargaining in order to deal with the impact of a recent change in social security contributions.
No major changes implemented in 2017 that would affect sector- and company-level bargaining and social dialogue	
Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Italy, Malta, Netherlands, Norway, Sweden, Slovenia, Spain, United Kingdom	

Source: Country working papers

On the other hand, 2017 also brought changes in the opposite direction: attempting to promote or return to more centralised sector-level bargaining. This concerned changes in the regulation on the extension of collective agreements in **Portugal** and **Slovakia**, both of which can be seen as an attempt to soften the effects of earlier reforms. In other countries with hitherto a very low level of sectoral collective bargaining, some attempts to promote it – across the board or in a single case – have been reported for 2017: in **Latvia**, which has had a complete absence of sector-level collective bargaining so far, new rules aim to promote the conclusion and extension of collective agreements. In **Croatia**, there are ongoing debates about a better coordination of collective wage bargaining in the public sector, including the establishment of a central state administrative body which will be responsible for coordinating and concluding collective bargaining

agreements for civil and public service employees. Sectoral agreements were concluded in **Hungary** (health care) and **Lithuania** (health care and education) – both of them equally being countries which are characterised by a very low incidence of sector-level bargaining. And in the **German** automobile workshops, which were, until recently, covered by 300 firm-level agreements, the social partners changed the bargaining system and negotiated a sector-level agreement for the first time.

Innovation in collective bargaining agreements

What's new in collective agreements? In the course of this exercise, Eurofound's correspondents were asked to report – based on their own judgement and knowledge – interesting innovations within collective agreements. This could be new topics, novelties in the bargaining process leading up to an agreement or new actors being involved.

Box 4: France: Reform promotes company over sectoral bargaining

Ordinance 2017-1385, adopted in the framework of the labour law reform adopted in August 2017, concerns the interactions between sectoral and company-level agreements. It lists specific topics (such as minimum wages) on which sectoral agreements will continue to prevail. It also includes a limited list of topics on which the agreement will determine whether or not the sector level prevails over company-level agreements. Sectoral agreements will apply for all other matters only in the absence of company-level agreements. This means that, for a large number of issues, company-level agreements will prevail.

The reform will also facilitate the conclusion of company-level agreements. For instance, it will be easier to initiate a referendum on agreements signed by unions for which only 30% of workers voted at the last workplace election. This will allow all workers to have a say as well as giving small unions the opportunity to participate in negotiations. It will also be easier to negotiate a company-level agreement in the absence of union representatives, mainly in companies with fewer than 50 employees.

Another change is that it will be possible to adapt sectoral agreements to the size of the company. For example, some of their stipulations may not cover small businesses.

The industrial relations landscape is also being shaken up by the acceleration of sector restructuring which began in 2015. This restructuring cuts the number of sectors from more than 700 to just 100. In addition, the latest collective bargaining report (DARES and Ministère du Travail (2017) published by the Ministry of Labour highlights a reduction in the number of agreements reached in the sectors in 2016 and an increase in the number of company agreements.

The question was deliberately left rather open and explorative.

Innovations in specific collective agreements can lead to further imitations in other sectors and companies, particularly in countries where coordination takes place 'horizontally' and bargaining actors take note of agreements made elsewhere.

The majority of correspondents, about two-thirds, said that they could not identify any such interesting 'innovation', but that bargaining was developing in the traditional 'business as usual' way.

New topics addressed in collective bargaining

The most interesting and innovative reported case of 2017/ beginning of 2018 was – in the authors' view – the new collective pilot agreement in the **German** metal industry – see Box 5 – as it now not only includes a range of new topics, such as specific working time clauses for people experiencing private or occupational strain, but also leaves a number of options on the extent of working time open for further negotiation at the company level. In this sense it is, firstly, an interesting example of how collective agreements can also collectively regulate for individual needs, and in this case the group of beneficiaries – parents or people with care obligations – is also on the radar of EU-level policy. Secondly, it is a good example of a case of 'organised' decentralisation, which regulates working time at sectoral level, but leaves room for company-level negotiations within a predefined set of options and, on top of this, allows at the company level some room for individual choices over working time duration, accounting for different needs and preferences of workers. When adopted in other parts of Germany, the agreement will become effective for nearly four million employees in one of Germany's most important and pace-setting industries. It runs for 27 months and ends on 31 March 2020.

Czech trade union confederation the Bohemian-Moravian Confederation of Trade Unions (ČMKOS) has

also recommended to its company-level negotiators to aim for the inclusion of new topics, such as the use of agency work, employment of third-country nationals, and implementation of elements of Industry 4.0 and the replacement of human work by robotised workplaces, in connection with digitalisation. The extent to which this has been included already in company-level bargaining is, however, still unknown.

Another set of new topics was taken up in the only sectoral agreement in **Malta**, in the public sector. The agreement has been renegotiated for the first time, with a very long duration of eight years. It includes new provisions on extending the right of a three-month pre-retirement leave to civil servants who work past the statutory retirement age. To emphasise the importance of lifelong learning, the agreement rewards an increase in qualification allowance to employees who hold qualifications in addition to the pre-requisites of their post.

Spill-over of innovations in collective agreements

The **French** bargaining innovation of 2014 – that is, the legal possibility for companies to foresee the donation of leave to employees with seriously ill children – is increasingly being taken up within French company agreements, with about 17 agreements in place to date. In 2017, a legislative proposal was made to extend the scheme to workers in charge of a seriously ill elderly parent. The original law of 2014 also triggered debates in **Belgium**, in the context of a major labour market reform – the 'Peeters Law' of 1 February 2017 – but was more critically viewed there. It is one of the few items that have to be negotiated and agreed upon at sectoral level as well which, to the correspondent's best knowledge, has not yet been done.

Another – and probably less critically viewed – case of international spill-over is the **French** innovation of 2013 on the legal right to 'switch off from work' (Eurofound, 2014). On 19 June 2013, France's social partners adopted a national interprofessional agreement on well-being

Box 5: Germany: The new pilot agreement for the metal sector

German metalworkers' union IG Metall and the Baden-Wuerttemberg Employers' Association of the Metal and Electrical Industry (Südwestmetall) negotiated a pilot agreement for the German metal and electrical industry. After a contested bargaining round, the social partners reached an agreement at the beginning of February 2018. Initially, IG Metall called for a 6% wage increase and had wanted to introduce a new working time option for employees (to reduce weekly working time from 35 hours to 28 hours for a maximum of two years, with wage compensation for certain employee groups). However, the metal employers had refused this option as it would have meant unequal treatment of staff in the same position and workplace. From their point of view, more flexible working time schemes, not shorter working hours, were needed when skilled labour shortages persisted and the economy thrived.

The final agreement foresees clauses on pay increases, working time regulations, mobile work and other issues. The pay increases are a combination of permanent percentage increases of basic pay (4.3% over two years) and some lump-sum payments worth 27.5% of one monthly wage. Establishments in economic difficulties can reduce, postpone or cancel the latter part (if the union agrees).

Employees affected by private or occupational strain (parents, carers and shift workers) can opt to receive eight extra days of holiday instead of the additional lump-sum payment of 27.5% of one monthly wage. All employees have the right to ask for a reduction of working time for 6-24 months, including the right to return to full-time work, whereby companies have the right to decline the request, in case there are too many, or in case key qualifications are lost.

Regarding working time and in the context of labour shortage, two options were negotiated within the agreement. Firstly, companies may negotiate within works agreements to offer a higher share of workers a longer working week (i.e. 40 hours instead of 35 in western and 38 in eastern Germany). Secondly, companies can choose to go for a working time volume model, in which the average weekly working hours are set at 35.9, so some workers can go on reduced working time when others work longer hours (with corresponding changes in pay).

at work, which encourages businesses to find ways of avoiding intrusion on employees' private lives by defining periods when devices can be switched off and no company emails will be sent. The aim is to improve working conditions but also to avoid legal disputes. An important agreement that includes this right was reported in 2016 in the telecoms group Orange and it has, to date, only found its way into about 10 agreements focusing on this issue since September 2017 in France. At the same time, **Spain** has seen its first new company-level collective agreement giving employees the right to disconnect by switching off phones after hours concluded between AXA's management representatives and the CCOO. The agreement also promotes and regulates telework as a new form of work that facilitates better work-life balance, and it also improves and creates new types of leave and permissions on top of statutory leave. Finally, this collective agreement also introduces novelties concerning flexible remuneration, including different (voluntary and reversible) options of in-kind remuneration. It is the first agreement of this kind in Spain.

While, strictly speaking, the case of the **Luxembourg** public sector agreement is not a genuine collective agreement (but a statutory provision as an outcome of social dialogue), the second-largest sector in Luxembourg follows the financial services sector with this agreement by including long-term working time accounts. Civil servants will be able to request a sabbatical year if they have saved 1,800 working hours – which could be achieved by working a maximum of 48 hours per week, 10 hours per day.

New ways of pay setting within collective agreements

In some cases, the innovations within collective agreements related to the ways in which wages are set within the agreement.

In the case of **Estonia**, this relates to the peak-level collective agreement, which serves as a basis for the determination of the statutory minimum wage. Traditionally, the collective agreement has been negotiated by the peak-level social partners. In 2017's national minimum wage agreement, however, the social partners agreed that, from 2019 until 2022, the minimum wage increase will be calculated annually on the basis of labour productivity and economic growth. This responds to recommendations made within the European Semester to establish a transparent way of setting the minimum wages. In **Lithuania**, two sectoral collective agreements were signed in 2017, in the education and health care sectors, covering wage-related issues for the first time. Both agreements were finalised after long negotiations of more than two years. In the education sector agreement, this includes a statutory pay scale for teachers, and in the healthcare sector, wages of doctors and nurses will be linked to the average wages in the economy, so sustainable growth it is hoped will be achieved.

Merged agreements or new signatories

Reducing the number of collective agreements can turn out to be conflictual, as a Finnish case showed. **Finnish** employers in the technology industry requested a merger of the collective agreements of electrical workers and of other blue-collar industrial workers in the sector, as they wanted to streamline collective bargaining structures. This led to a one-week strike initiated by the Electrical Workers' Union (Sähköliitto), which feared a worsening of employment conditions and the loss of the right to nominate a shop steward. The final agreement was that while the two collective agreements were technically merged, Sähköliitto could retain a contact person within

the company, and their employment terms and conditions would remain unchanged in the merged agreement.

The conclusion of the collective agreement in the **Spanish** chain stores and big distributors sector for 2017–2020 also brought new signatory partners in, but was not conflictual – not least because of a more favourable economic climate. Sectoral employers' organisation the National Association of Large Distribution Companies (ANGED) concluded this agreement with the most representative sectoral trade unions: the Federation of Independent Workers of Commerce (FETICO), the Federation of Trade Union Associations (FASGA), the General Union of Workers (UGT) and the Workers' Commissions (CCOO). (The previous agreement, which covered the period 2013–2016, was only signed by FETICO and FASGA.) Another improvement is related to the conditions laid out in the new agreement; while the previous agreement included wage freezes, and Sundays and holidays work without compensation in exchange for the maintenance of employment levels, the new agreement included wage increases, seniority supplements and additional payment for overtime.

Collective disputes

Regulation of collective disputes

In the majority of Member States, 2017 did not bring any major changes concerning the regulation of collective disputes, including the right to strike.

A new regulation concerning the definition of collective disputes was introduced via the **Lithuanian** Labour Code. As of 1 July 2017, labour disputes are divided into two categories: labour disputes (whether individual or collective) over rights and collective labour disputes over interests. (Before 1 July 2017, labour disputes in Lithuania were classified into individual labour disputes and collective labour disputes). In **Slovenia** a new Law on Collective Actions (Official Gazette of RS, No. 55 /17) was adopted in September 2017, which introduces the possibility of collective enforcement of monetary and other compensation claims in the case of certain typical massive damages in certain areas, including the violation of workers' rights. The law determines the scope and procedure for collective action and introduces the possibility of collective settlement as a special institute of peaceful dispute resolution in cases of massive damage.

Two remarkable cases concerning the protection of the right to strike for certain groups of workers concern Germany and Sweden.

In **Germany**, in July 2017, the Federal Constitutional Court brought an end to the extended controversy over the right to representation of smaller occupational groups and minority unions, in the context of the 2015 Collective Bargaining Unity Act (see also the reporting in the 2015 and 2016 Annual Reviews). The Court declared the Collective Bargaining Unity Act largely constitutional but emphasised that the law should provide protective measures regarding certain occupational groups and minority unions until the end of 2018 and stressed that the right of minority unions to strike had to be ensured. In **Sweden**, progress was made

in a protracted conflict around unions' right to represent posted workers and the right to strike, with the repeal of Lex Laval. According to the 'Lex Laval regulation', which was introduced in 2010 following a ruling of the Court of Justice of the European Union (CJEU) in 2007, unions were not permitted to use industrial action against foreign enterprises claiming to apply working conditions for posted workers that were 'comparable' to those agreed in Swedish collective agreements. According to the new regulation, adopted by parliament in April 2017, unions will be able to negotiate for, and agree on, collective agreements for posted workers; the new rules now clarify when unions may legally use industrial action as a tool in any dispute over posted workers. While Swedish unions (e.g. the Swedish Trade Union Confederation – LO) welcomed the repeal, employers (e.g. the Confederation of Swedish Enterprise – SN) expressed concerns that fewer foreign enterprises would choose to operate in Sweden, leading to reduced competition.

In two other countries, Greece and the United Kingdom, new regulations limited unions' ability to go on strike. In the case of **Greece**, this involved an increase in the share of 'economic settled' members that have to be present in the general assembly in which the decision to go on strike is made, from one third to half. In the **United Kingdom** the controversial Trade Union Act came into force on 1 March 2017. The Act introduced (among other things) restrictive changes to strike ballots, industrial action and picketing. For balloting, for instance, unions must give notice to employers on impending action at least 14 days in advance, there is an 'expiry' date for yes votes, and the share of yes voters in a ballot is calculated based on the number of total members eligible to vote, instead of the total number of members turning up for the vote. Regarding picketing, it is now a requirement for a union to appoint a supervisor to oversee any picketing for picketing to qualify for protection.

Major selected labour disputes of national significance

Correspondents had also been asked to report on up to three selected collective labour disputes of national significance, the main issues debated, which sectors or occupations were concerned and how they were resolved. This does not provide a comprehensive picture on industrial action and labour disputes in Europe, but gives an indication of the main grievances witnessed in 2017. Major national-level protests and demonstrations were held against pension reforms in Belgium and Italy, against the labour law reform in France, and in relation to continuing austerity measures and the contents of the Memorandum of Understanding in Greece. In Spain, trade unions mobilised workers for demonstrations in the context of difficult negotiations on the 2017 pact on salaries, in which they called for a decent wage increase to allow for some recovery of purchasing power lost in the crisis.

Sectoral 'hot spots' of industrial action in Europe were, as in other years, those with closer ties to public funding or ownership: health and social care, education, other public sector activities or (formerly) state-owned transport or telecommunication companies. Wages were commonly observed to be the predominant point of contention and often grievances were expressed concerning the removal of austerity measures or demands for correcting effects of

austerity measures (such as in the public sector in Cyprus, Croatia, Portugal, Slovenia and the United Kingdom).

Several labour disputes were motivated by the reduced or insufficient deployment of funds needed for the sustainability and quality of services for patients, students or the general public (e.g. health care in Estonia, Latvia, Poland and Portugal, the education sector in Italy, Latvia and Lithuania, and the border police in Bulgaria).

At company level, it is worth mentioning events in the Czech Republic, Portugal, Romania and Slovakia in the automotive sector, on issues of working time and wage development.

Few disputes were reported concerning trade union recognition, the most prominent example being the case of the Irish-based airline Ryanair, which had refused to recognise trade unions, but changed its policy following looming industrial action over the Christmas period.

Box 6: Ryanair recognises pilot unions following strike threats over the Christmas period

In a major shift in policy, Ryanair said in December 2017 that it 'agrees to recognise pilot unions to avoid widespread customer disruptions' over the Christmas period. This followed a threatened one-day strike by unionised pilots, members of the IALPA branch of IMPACT, in a bid to secure representation rights.

In its statement, Ryanair announced that it has written to the 'pilot unions' in Ireland, the UK, Germany, Italy, Spain and Portugal inviting each of them to talks to recognise these unions as the representative body for pilots in Ryanair in each of these countries, 'as long as they establish Committees of Ryanair pilots to deal with Ryanair issues, as Ryanair will not engage with pilots who fly for competitor airlines in Ireland or elsewhere'.

Table 4: Overview of selected collective disputes and main issues

National-level disputes	
Belgium	Pension reform: Calculation of pensions rights based on a points system as a percentage of average labour income.
Italy	Demonstrations on pension reform and precarious employment: No agreement on pensions. Call for public policies to sustain job creation through public and private investments. National demonstration on democracy and right to vote, in the context of the referendum on voucher-based work.
France	Labour law reform: The movement against the enforcement of the labour law reform with recourse to ordinances, initiated in 2016 and continued in 2017.
Greece	Two nationwide 24-hour strikes with a general character against 'policies dictated by the memoranda' and austerity measures.
Spain	2017 Pact on salaries: Salaries and purchasing power after the crisis.
Healthcare and social care sector	
Austria	Nurses: Trade unions demand mandatory staff requirements analysis in health and social care institutions and a reduction of working time to 35 hours per week to prevent risk of burnout.
Estonia	Wage and working conditions: Funding to guarantee sustainable healthcare system.
France	Nurses: Working conditions of staff impacting on quality of care for the elderly.
Luxembourg	Social care workers: Wage agreement in social care sector to be aligned with wage agreement in civil service.
Latvia	Health care workers: Reform involving cuts on wages and/or longer working time during the crisis, but not abolished since.
Malta	Medical doctors: Privatisation of three hospitals. Guarantee on working conditions with takeover by new management.
Poland	Medical doctors: Request to raise the allocation of public expenditure on healthcare to 6% of GDP.
Portugal	Medical doctors and nurses: Working time, overload in emergency services. Reform of professional nurse status to include specialty category and pay overhaul.
United Kingdom	Nurses: Wage cuts over past seven years. Request for lift of pay cap.
Education sector	
Italy	Students and teachers: Implementation of dual education system (issues with training being of poor quality, no compensation for travel, meal costs, unpaid work).
Lithuania	In the context of collective bargaining: Dissatisfaction with extension of academic year proposed by Minister of Education and Science.
Netherlands	Primary school teachers: actions against work pressure and request for higher wages.

Table 4: Continued

Latvia	Education sector: Reform involved closing of schools especially in rural areas as conditions for raising teachers' salaries.
Poland	Teachers: Implementation of reform of compulsory education. Petition for national referendum to put reform on hold not successful.
Portugal	Teachers: Working conditions, unfreezing of careers and counting of length of service.
Public sector and public service	
Bulgaria	Border police officers: Poor working conditions, request for more funds (old uniforms, low wages).
Cyprus	Public services: Reduction of pay cuts imposed by the crisis.
Germany	Local public administration: Collective agreement on wage increase.
Portugal	Re-establishment of collective bargaining over wages and career advancement and 35-hour week for all public sector workers.
Romania	Protests from public sector employees over the provisions of the draft law on unitary pay. Sectors involved: public administration, local police, social assistance and education.
Slovenia	Public sector labour dispute over pay and removal of austerity measures.
United Kingdom	Prison officers and police: 'voluntary tasks', pay cap, pension and surging levels of violence in prisons.
Manufacturing and construction	
Czech Republic	Off-road tyres: MITAS a.s. concluding company agreement on wage development.
Denmark	Industry: dissatisfaction with terms negotiated in the industry agreement (working time duration, overtime).
Portugal	Automotive: Company plans to introduce mandatory working time with no rights to customary rates of overtime.
Romania	Several disputes in the automotive sector, mainly over pay.
Slovakia	Automotive: Request for wage increase in new collective agreement reflecting good performance of company.
Transport and communication	
Belgium	National Belgian railway company (NMBS): Rejection of the current government policy. Unions disagree whether or not the strike should have taken place.
Denmark	Copenhagen airport, catering company Gate Gourmet: termination of local agreements affecting seniority-based entitlements.
Ireland	Bus Eireann: Long-running dispute over pay, working conditions and cost saving proposals solved. Strike at Irish Rail and dispute at Ryanair over recognition of pilot unions.
Norway	Political strike on the ban on the use of temporary agency workers within the construction sector in Oslo.
Romania	Walk-out in the national railway undertaking CFR in the context of collective wage bargaining.
Portugal	Portugal Telecom: Legality on the transfer of workforce to outside service providers of the Altice Group. Postal services (CCT): Call for renationalisation of the company, protection of jobs, better working conditions and compliance with company agreement.
Sweden	Port of Gothenburg: APM terminals: agreement on employment conditions, working environment and union representation.
United Kingdom	Airlines: Pay dispute with cabin crew of British Airways against alleged discrimination (withdrawal of bonuses, travel concessions on basis of blacklist of strikers).
Private-sector services	
Estonia	Finance sector: Bank with Scandinavian owners refuses to enter collective bargaining. Prolonged dispute.
Hungary	Tesco: Country-wide strike in the context of a collective agreement on wage increase. Higher wages; spill-over effect to other commerce companies.
Finland	Lock-out in a ski-resort business; diverging demands over pay rises.
Portugal	Temporary agency workers (employed via multinational Randstad) working for call centres of EDP (electricity) held a strike for better working conditions, against their precarious situation.
Sweden	Waste disposal, Reno Norden: New collective agreement on increase of working time and wages. Unofficial strike.

Source: Network of Eurofound Correspondents

Developments in peak-level national social dialogue 2017

As in last year's annual review, Eurofound's correspondents were asked to provide a comprehensive overview of social dialogue held at peak level and to report on its form of interaction and associated outcomes, based on an open list of preselected topics related to working life. For countries with peak-level tripartite social dialogue institutions (most of which can be found in the countries of central and eastern Europe), this forum would serve as the main starting point. Other Member States do not have institutionalised peak-level tripartite fora, but could report on peak-level social dialogue happening either ad hoc – in relation to concrete policy debates, in a bipartite manner – or within institutions managed on a tripartite basis (such as, for instance, public employment services). The focus on peak-level social dialogue in addition means that this report has abstained from looking into any form of sectoral social dialogue – mainly because of its sheer volume, which could not be captured meaningfully in this report. (Some correspondents reported major sectoral social dialogue cases mainly related to the public sector. These cases can be found in the individual country contributions, but were left out of the scope of analysis presented here, as the public sector has not been systematically included in all contributions.)

Overview of peak-level social dialogue: interactions, outcomes and themes

Peak-level social dialogue contributed to a wide range of employment and working life related policy areas. Correspondents were asked to identify such cases and to provide a brief description together with a proposed classification of the form of social dialogue interaction and the resulting outcome. In addition to these cases – 184 of them in total – the correspondents also provided more detailed information on two to three 'selected' major peak-level social dialogue debates and reported upon major cases where unilateral government action was taken in the absence of social dialogue. Before turning to this richer qualitative insight, we apply a 'bird's eye' perspective to set the scene and summarise figures around the national-level social dialogue in 2017 based on the 184 identified cases.

The majority of peak-level social dialogue was either held in the form of tripartite debates (20%), tripartite negotiations (25%, some of which might have included formal consultations of social partners) or formal consultations of both social partners (25%). In a small minority of cases, only one side of industry was formally consulted by government (1%: only trade unions; 2%: only employer organisations). Bipartite debates (3%) or bipartite formal negotiations (11%) are also far less widespread at peak level, and so are lobbying activities

(9%) from at least one side, which often precede any further social dialogue (and in this case, they are not separately counted here).

The mapping of cases shows that social dialogue in 2017 made substantial contributions leading to concrete changes of working life related regulations; in only 5% of cases, the issue was dropped during 2017 without any concrete outcome. Nearly one third of the reported cases (31%) were still ongoing at the end of 2017. Every sixth social dialogue case resulted in some form of genuine social dialogue outcome, such as a joint opinion (2%), a bipartite agreement (7%) or a tripartite agreement or position (8%). The vast majority of social dialogue debates, however, ended up contributing in one way or another to legislative changes; in 9% of the cases, legislation was in preparation and in 26% of cases it had been passed during 2017. In an additional 5% of cases legislation followed bipartite or tripartite social dialogue outcomes. In 9% of cases legislation was passed following unilateral government decisions. (A dedicated section later in the report will focus on such cases.)

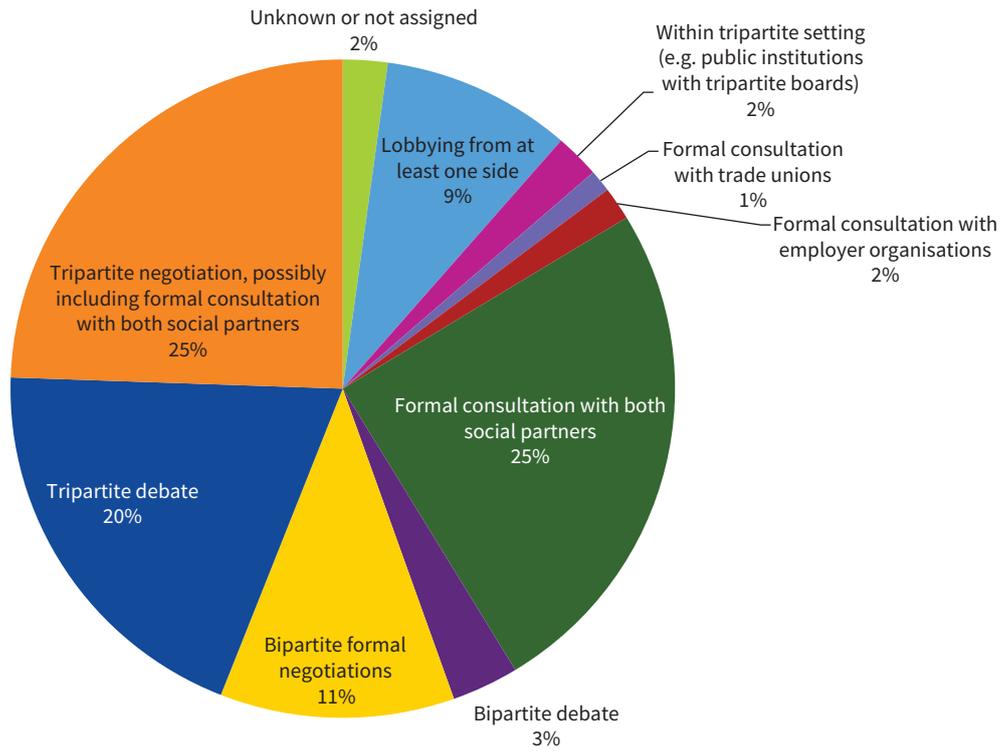
Figure 4 and Figure 5 depict how the cases are spread across the topics and what form of social dialogue prevailed. Most commonly, social dialogue was on employment-related subjects, including job creation or the reduction of unemployment; dialogue around different aspects of wage-setting (beyond the regular increases of statutory minimum wages) was the second most frequently addressed thematic issue addressed within peak-level social dialogue.

To a lesser extent, but still with an average of half to two-thirds of countries, social dialogue addressed cases around terms and conditions of employment, pension reforms, skills, training and employability, as well as to work-life balance related themes.

Peak-level social dialogue in 2017 also addressed issues around taxation and non-wage-related labour costs and benefits. And in around one third of Member States it contributed to new regulations in the area of health, safety and well-being at work, or to new working time regulations.

The most frequently captured topical area was **employment** covering mainly policies in the area of job creation and the reduction of unemployment and specific examples of active labour market policies. (See Eurofound's report, *Statutory minimum wages 2018*, for such regular debates and outcomes.) Concrete social dialogue examples within this group include activation measures for the unemployed in Finland and cuts on activation measures in Poland, integration of refugees and migrants in Denmark and Sweden, quotas for foreign workers in the Czech Republic and Estonia, the reform of active labour market policies and a simplification of

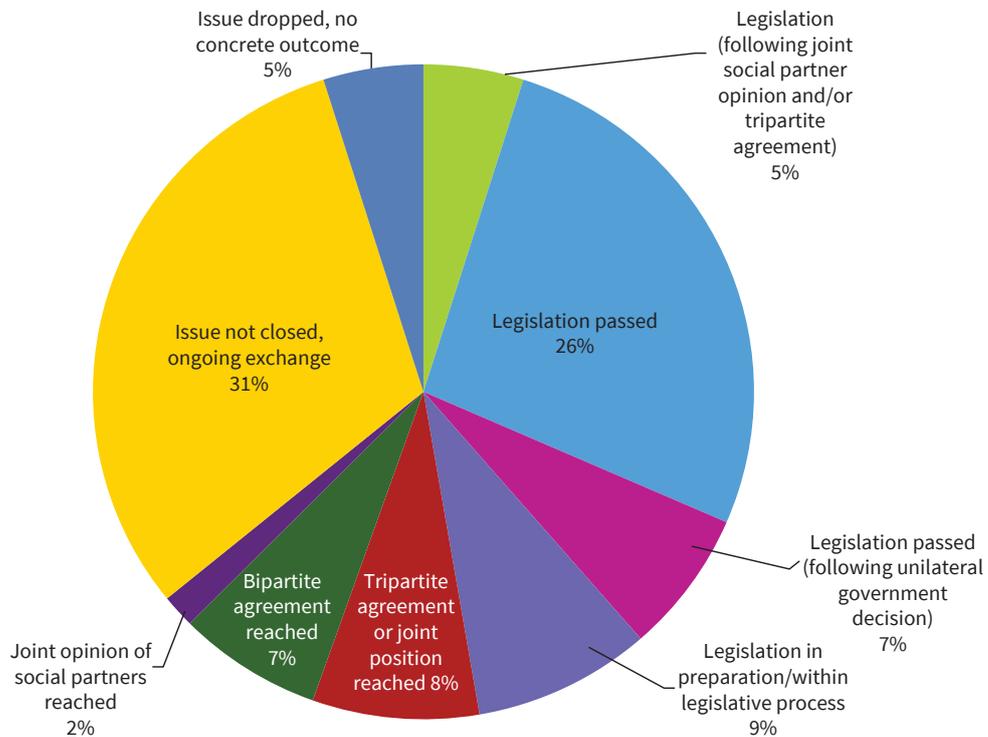
Figure 2: Type of interaction within national peak-level social dialogue in 2017



Note: Correspondents were presented with a list of interactions from which they could choose multiple items. Here, one 'predominant' form of interaction has been assigned to each case.

Source: National contributions, based on 184 cases reported by Eurofound's correspondents

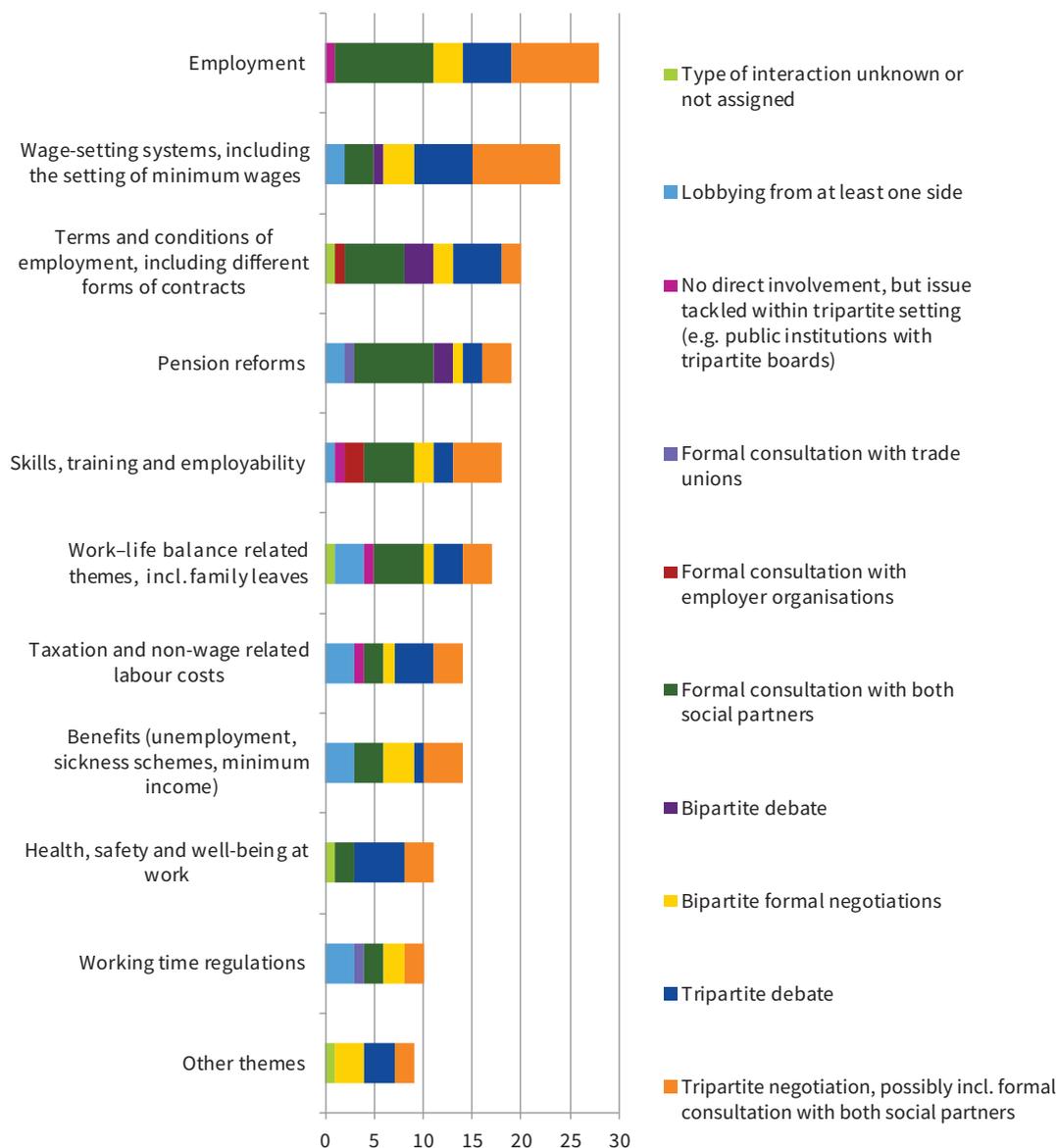
Figure 3: Outcomes reached following peak-level social dialogue in 2017



Note: Correspondents were presented with a list of outcomes from which they could choose multiple items. Here, one 'predominant' form of outcome has been assigned to each case.

Source: Network of Eurofound Correspondents – findings from 184 cases

Figure 4: Topics covered by peak-level social dialogue in 2017 and form of interaction



Source: Network of Eurofound Correspondents – findings from 184 cases

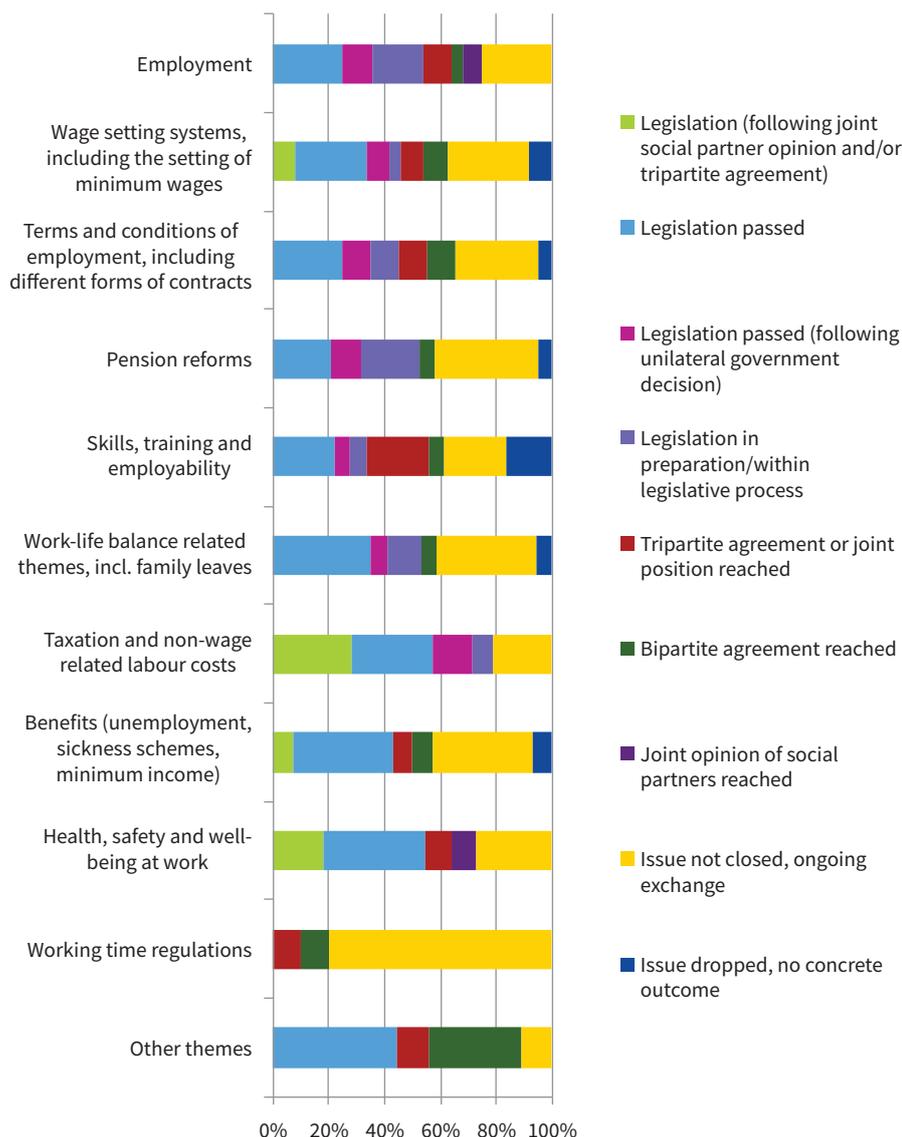
occasional or temporary provision of employment-related services by foreign companies in Croatia, several examples of active labour market policies for specific groups of workers (such as older workers) in Austria (where they were abolished in late 2017 by the newly elected government) and the Netherlands, and mobility support for the unemployed in Belgium and Bulgaria. Examples also include social dialogue on new regulations concerning new forms of employment within the subsidised or social economy, such as pensioners’ cooperatives in Hungary, and new rules on social enterprises in Lithuania and Slovakia. Most commonly, such employment-related social dialogue included tripartite negotiations – often preceded by formal consultation of social partners, or solely the formal consultation of social partners.

Social dialogue on **wage-setting** (beyond the ‘regular’ debates on determining the level of wages),⁷ was

the second most frequently addressed topic in 2017, most frequently dealt with by tripartite debates and negotiations. Examples can be found around the setting of minimum wages in relation to its predictability (Czech Republic, Malta, the re-activation of the Cypriot indexation mechanism), the decency of its level (Romania), the possible introduction of new sub minima rates (for younger workers in Belgium and graduates in Hungary) or the gradual removal of sub minima rates for younger workers in the Netherlands, and exchanges about a possible introduction of new statutory minimum wages (‘in the shadow of the law’ in Austria, and with an ongoing exchange in Italy). Further examples of wage-setting-related peak-level social dialogue include the taxation of wages (tax incentives for seasonal workers in Croatia; tax relief on performance-related pay in Italy), non-payment of wages in Bulgaria, wage supplements for night and weekend work in Slovakia, and the introduction of gender

⁷ See Eurofound’s reports *Statutory minimum wages 2018* and *Developments in collectively agreed pay 2000–2017* – latter is forthcoming).

Figure 5: Outcomes reached following peak-level social dialogue in 2017 by topic



Source: Network of Eurofound Correspondents – findings from 184 cases

pay transparency measures in Germany, Estonia and Ireland.

Four further topical areas – pension reforms; skills, training and employability; terms and conditions of employment; and benefits – were relatively equally the focus of debate, with up to two-thirds of countries having devoted any peak-level social dialogue to them during 2017.

Social dialogue around **pension reforms** was predominantly held in the form of formal consultation of social partners. In 2017, several countries – including Belgium, Estonia, France, Greece, the Netherlands and Slovenia – continued to discuss broader packages of measures around pensions. Other reported social dialogue debates focused on the increase of retirement age (in Croatia, Italy and Sweden), and structural reforms of the system, such as the introduction of a ‘second pillar’ in Malta, the merger of two occupational pension schemes in France or the strengthening of occupational pensions in Germany. In Portugal and Hungary, changes regarding early retirement schemes were on the plate, suggesting

the non-penalisation of those early retirees with longer working lives (in Portugal), or flexible retirement schemes for workers in hazardous jobs (in Hungary).

Social dialogue on **skills, training and employability** also included a broad range of interactions. Examples include several social partner consultations regarding reforms of vocational educational training systems or institutions: debates about a new apprenticeship law in Slovenia, proposed reforms in Poland, France and Italy on the functioning of paritarian vocational training institutions, and passed legislation reforming vocational training in Finland and Hungary. A focus on social dialogue on adult training, including lifelong learning, was reported in Denmark and Portugal. In Spain, the social partners and central and regional governments reached a tripartite agreement on a Training Plan in Digital Competences. Training actions and priority groups have been agreed based on sectoral collective bargaining.

Social dialogue on **terms and conditions of employment** – while also recording a broad range of forms of interaction

– was relatively more often held as bipartite negotiations or debates. Examples of this combination include negotiations within the Dutch Social Agreement around dismissal rights and the Work Security Act (which were dropped due to disagreement); the Belgian social partners' joint dismissal of proposed lower taxation for some contracts, so as to ensure fair competition; the Polish social partners jointly urging government to include social clauses in public procurement; bipartite debates around telework in Estonia; and bipartite debates on working rights in the gig economy within the Taylor Review in the United Kingdom. Further tripartite debates were held in Spain and Greece concerning the terms and conditions of fixed-term workers; Slovenia consulted its social partners before adopting legislation on the protection of labour rights for foreign workers, and is also preparing legislation on vouchers for work in certain areas to combat undeclared work; Romania held a tripartite debate before passing legislation on written employment contracts; and in Finland and Ireland, the re-regulation of zero-hour contracts was the focus of social dialogue.

The vast majority of social dialogue cases on **work-life balance** – unsurprisingly, in the context of ongoing EU negotiations around the work-life balance package – related to reforms of family leave schemes and their associated benefits. Somewhat more frequently, social dialogue in this context took the form of lobbying from one side or was based on formal consultations of both social partners, while there were relatively fewer tripartite debates or negotiations, and – with the exception of Denmark, where the social partners are strongly involved in the management of leave benefits – no bipartite interaction. The cases include, for instance: changes around special parental leaves for families to take care of sick children in Denmark, Luxembourg, Greece and Malta; an increased number of paid paternity leave days for fathers in Slovenia; a proposed increase in the number of months earmarked for the father from three to five in Sweden (however, this was not passed by parliament); and a reform of the parental leave benefit system in Austria, with more flexible options for parents regarding the length taken. Further exchanges on broader reforms of family leave or policies were launched in Estonia, Norway and Finland. In the latter, there are also negotiations on major revisions to accommodate for increasing flexibility of working time and place, and in Spain tripartite negotiations on more flexible working time schedules were entered into.

Social dialogue at peak level also happened in relation to changes in **taxation and non-wage related labour costs**. Lobbying from at least one side, together with tripartite debates, were the prevailing forms of interaction in this area. In several countries reforms of, or changes to, the taxation system were on the agenda. In Estonia, employers lobbied for the need to change the social tax system; the Luxembourg tripartite forum has launched exchanges on a partial revision of the fiscal reform; the Lithuanian tripartite forum exchanged on the Ministry's proposals to improve the tax system; and in Latvia, a major tax

reform was completed following intensive social dialogue, including tripartite negotiations. Personal income taxes were cut in Romania and Sweden's trade unions lobbied for a tax reduction for trade union membership to be re-introduced, while in Greece thresholds for paying income tax were lowered and corporate taxes were cut. Portuguese social partners were consulted on lower social security contributions for the self-employed and also agreed on a reduction of corporate taxes for SMEs. In Belgium, social partners came to an agreement on regulating a mobility budget for employees, including the option for employees to exchange their company car for more sustainable alternatives.

The majority of peak-level social dialogue cases concerning **benefits** related to unemployment benefits, in particular the rules concerning long-term unemployment. The French peak-level social partners concluded a national interprofessional agreement covering, amongst other things, higher unemployment contributions for sectors employing a high percentage of workers on short-term employment contracts, as well as an age increase, which allows unemployed people to remain on unemployment benefit for longer. Proposals to extend the eligibility criteria for unemployment benefits were made from trade unions in Cyprus (in relation to older workers) and Estonia; and in Slovenia, activating measures for low-skilled unemployed people via a top-up of their initial wages with partial unemployment benefits, when they return to work before the period of entitlement ceases, were debated.

Peak-level social dialogue on **health, safety and well-being at work** most frequently addressed aspects of the physical work environment rather than psychosocial aspects. The predominant forms of interaction were tripartite debates or negotiations, compared to a limited use of other types of interaction. In addition, a relatively high share of these cases had been closed with some form of concrete outcome – legislation or agreement.

In Greece, legislation (Law 4488/2017) was passed following tripartite debates, allowing labour inspectors to impose a temporary or permanent discontinuation of business in the case of a violation posing an immediate or severe risk to the safety and health of workers. Cypriot social partners agreed on a new system on the supervision of employees' health with regular medical examinations and also in Slovakia new legislation⁸ regarding occupational health service in enterprises was preceded by tripartite negotiations. In Estonia, the government consulted the social partners on potential changes to the occupational health and safety regulations in the context of an increasing trend of work-related accidents, and in Slovenia, the government is facilitating a tripartite exchange on the new health and safety strategy. Social dialogue on measures beyond the physical working environment took place in Belgium, where the Summer Agreement included the measure that companies with more than 100 employees should make use of a 'burn-out coach'. It was, however, dismissed

8 Amendments to the Act No. 355/2007 concerned the scope of employees entitled to the occupational health service, quality of provided service and obligations of employers in examination of the health risk at the workplaces in cooperation with the occupational health service.

after negotiations between social partners and Minister Kris Peeters, because social partners were critical, saying that the specific job requirements for ‘burn-out coaches’ were vague and could be abused by charlatans. The social partners have proposed an alternative and want to start with trial projects in companies that have asked for help with burn-out. In Denmark, rules for obtaining a ‘crown smiley’ for maintaining a good working environment were strengthened. In Finland, in the context of the #Metoo campaign, the social partners issued a joint opinion on sexual harassment at work, and in Sweden the social partners were consulted prior to legislation which strengthens employers’ duties regarding anti-discrimination. Finally, following negotiations, Austria has implemented legislation (BGBl. I 30, *Wiedereingliederungsteilzeitgesetz*) which allows people who had been on longer-term sick leave to re-enter employment on a part-time basis with compensation for the hours not worked, subject to the employer’s approval. (See also the section on health and well-being at work, on page 37.)

Changes to **working time** regulations were the least frequently addressed issues within the peak-level social dialogue.⁹ Four cases related to the possible extension of working time. Austrian social partners launched bipartite negotiations regarding the possible extension of the working day to 12 hours under the heading of ‘working time flexibility’ after having been prompted to do so by the federal government (without reaching a solution); in Denmark a bipartite agreement foresees that employers can unilaterally prescribe overtime up to 42 hours per week in the absence of related company-level agreements; in Hungary trade unions succeeded in their efforts to stop envisaged legislation on an extension of the working time reference period; and in the United Kingdom, trade unions are lobbying against the potential post-Brexit scrapping of the Working Time Directive. Other cases addressed annual leave for public holidays falling on weekends in Malta, the possible introduction of long-term working time accounts in Belgium, a rejected proposal on the legal right to return from part-time to full-time work in Germany, lobbying from Croatian trade unions to ban Sunday work in retail, and possible amendments to regulations on rota work in Norway. Most of the cases were still ongoing at the end of 2017. (See also the section on working time regulation on page 35.)

Major social dialogue debates

In addition to providing a summative overview of social dialogue topics, correspondents were also asked to select two to three major social dialogue debates and elaborate on their context, themes, process and outcomes, including the views of different stakeholders.

Exhaustive reporting will not be undertaken on these debates. The national contributions are published alongside this report; the interested reader is referred to them. Table 5 provides an overview of which topics

were deemed to be the most wide-ranging or important peak-level social dialogue debates within each country. Apart from this, the report will present the outcomes of some further analysis that was carried out by looking at the interlinkages between different themes or forms of social dialogue with some country-specific background information on the labour market context.

A first glimpse of the headlines, as per Table 5, shows that wage-related social dialogue at peak level was by far the most frequently quoted ‘major’ debate in 2017. While in the previous section regular debates on increases were deliberately excluded, here it is evident that such debates are often perceived to be the core of what social partners and governments are discussing at peak level. Also peak-level social dialogue leading to collective bargaining or social agreements are commonly quoted to be among the ‘major’ debates, joined by social dialogue on terms and conditions, employment issues and working time. It is also important to note that social dialogue is not exclusively confined to ‘working-life’ issues; the reported cases suggest a substantial amount of ‘major’ social dialogue going on in areas which are not a traditional key domain of the social partners (for instance, this includes social dialogue around health care financing or reforms in Cyprus or Latvia, peak-level social dialogue in Bulgaria on the energy directive, or the Croatian social partners discussing the draft of an act on strategic development planning). Meanwhile, social dialogue addressing health, safety and well-being at work, skills and employability, taxation, benefits, work-life balance or pension reforms was never or seldom identified as one of the ‘major’ peak-level social dialogue debates. Also of note is an absence of major peak-level social dialogue on the ‘newer’ cross-cutting topics on ‘digitalisation’, the ‘gig’ economy or the ‘greening’ of the economy. While aspects of these were touched upon in some cases, only a very limited number of such individual cases were reported this year, so the extent of such national peak-level debates remains to appear rather limited.

Further analysing the cases, it emerged that countries which already decreased their unemployment rates below the 2007 level focused their main social dialogue debates relatively more often on aspects of wage setting and working time regulations; this included either an upward pressure on wages or a reduction in pay inequalities. But aspects of wage setting were also the predominant main social dialogue theme in countries with persistent or increasing unemployment rates.

Countries which are ‘on their way back’ to the 2007 levels of unemployment, on the other hand, focused more often on terms and conditions of employment, and on job creation and reduction of unemployment. Regarding the topical spread of social dialogue, it was found to be greater in those countries with rather high employment rates, and much narrower in countries in which employment rates were still well below the pre-recession level.

⁹ See Eurofound (2015) Working time developments in the 21st century: Work duration and its regulation in the EU, p. 14 how working time is set in Europe.

Table 5: Overview of selected major social dialogue debates in 2017

Country	Social dialogue debate in 2017	Theme
Austria	Cross-sectoral minimum wage of €1,500 agreed upon by social partners in the shadow of the law	Wage-setting system
	Working time flexibility – 12 hour working days	Working time regulations
Belgium	Social partners within national Labour Council criticise untaxed earnings	Taxation, non-wage related labour costs
	Dispute between social partners and Minister regarding pension reforms	Pension reforms
Bulgaria	The General Labour Inspectorate is entitled to initiate bankruptcy proceedings in case of non-payment of labour remunerations	Wage-setting system
	The industrial trade unions are united against the new EU directive for the energy sector	Other themes
Croatia	Social partners discussed the draft of an act on the strategic development planning and development management system	Other themes
	The role of social partners in achieving gender equality in Croatia	Other themes
Cyprus	Agreement reached for the reinstatement of Cost of Living Allowance COLA	Wage-setting system
	Dispute over pay increases in the broader public sector settled with a complementary agreement	Wage-setting system
	Law for the introduction of a General Health Scheme for Cyprus passed	Other themes
Czech Republic	Shortage of labour continues	Employment
	End of Cheap Labour campaign (Konec levné práce)	Wage-setting system
Germany	Constitutional Court confirmed Act on Collective Bargaining Unity	Collective bargaining
	Wage transparency act coming into effect	Wage-setting system
Denmark	Collective bargaining in the main private sector concluded	Collective bargaining
	Tripartite agreement reached	Collective bargaining
Estonia	Working group debates foreign workforce and exceptions from immigration quota	Employment
	Social partners sign teleworking agreement	Terms and conditions of employment
Finland	Active employment model highly unpopular among both social partners	Employment
	Family leave system finally to be reformed	Work-life balance
France	Toward a strict control of jobseekers	Employment
	Toward a reform of the minimum wage setting	Wage-setting system
Greece	Signing of the National General Collective Employment Agreement of 2017	Collective bargaining
	Major social partners send position papers to the government	Other themes
Hungary	Graduate Minimum Wage Initiative for public sector workers	Wage-setting system
	Initiative to introduce a three-year working time reference period	Working time regulations
Italy	Growing precarisation of self-employment and quest for new rights	Terms and conditions of employment
	Concerns over the social sustainability of the pension system after austerity measures	Pension reforms
Latvia	Tax reform	Taxation, non-wage related labour costs
	Financing of the health care sector	Other themes
	Teachers' salaries scheme	Wage-setting system

Table 5: Continued

Country	Social dialogue debate in 2017	Theme
Lithuania	Tripartite negotiation on a number of Labour Code articles, regulating various working life related issues	Terms and conditions of employment
	Tripartite negotiation on national agreement on reforms necessary for the country's progress	Collective bargaining
Luxembourg	Extension of family leave	Work-life balance
	Amendment to tax reform	Taxation, non-wage-related labour costs
	Debate on a possible increase in the minimum wage	Wage-setting system
Malta	Consensus among social partners about increase in the minimum wage	Wage-setting system
	Compensation for public holidays falling on a weekend	Working time regulations
Netherlands	Social partners stopped negotiations on major reforms	Other themes
	'Action Plan 50+', to improve the employability of people at the margin of the labour market, implemented	Employment
Norway	Regulating temporary agency work	Terms and conditions of employment
	Amendments to pension schemes	Pension reforms
Poland	Pay dispute in public health care	Wage-setting system
	Ban on Sunday trading	Working time regulations
Portugal	Tripartite commitment on collective bargaining labour market modernisation	Collective bargaining
	Tackling precarious work in the public sector: innovative social dialogue and the PREVPAV programme	Terms and conditions of employment
Romania	Debates and tensions around the Unitary Pay Law in the public sector	Wage-setting system
	Negotiations on amendments to the social dialogue legislation	Collective bargaining
Slovakia	New rules for the extension of collective agreements	Collective bargaining
	Extension of the ban of retail sales	Working time regulations
Slovenia	Minimum wage should become the lowest basic wage	Wage-setting system
	Amendments to the Employment Relationship Act without support from social partners	Terms and conditions of employment
Spain	Agreement with measures to support youth employment	Employment
	Agreement to improve public sector employment by limiting fixed-term employment	Terms and conditions of employment
Spain	Agreement on 2017 salaries signed	Wage-setting system
Sweden	New form of employment to facilitate labour market integration	Employment
	Government plans to raise the age of retirement	Pension reforms
United Kingdom	The Future of Work – the Taylor Review (2017)	Terms and conditions of employment

Source: Network of Eurofound Correspondents

Cases of unilateral government decisions

Criticism over non-existent or limited social dialogue is often closely linked to disagreement over the substance of the issue. And in addition, criticism regarding the process of social dialogue is typically voiced (more vehemently) by those organisations, or the side of industry, which disagree the most on the substance. During 2017 nearly half of the Member States reported examples in which unilateral government decisions were taken following – reportedly – no or limited social dialogue.

The widest-ranging case where **social dialogue was limited prior to major changes in regulations** affecting working life continues to be Greece, in a context where the government itself claims to have only a limited leeway and discretion over reforms it has committed to implement via agreement with its lenders. New laws in 2017 concerned pension cuts, arrangements for collective redundancies and limitations to the protection of trade unionists against dismissal, as well as a continuation of measures curtailing sectoral collective bargaining. Before the parliamentary adoption of the laws, the social partners sent statements of views and letters to the Prime Minister and the Ministry of Labour; yet the social dialogue was more like an announcement of positions than an attempt to form a common final result. In Poland, while there was reportedly a consultation of the tripartite concerning the removal of the upper limit of income incurred from employment that is subject to mandatory social security dues, the social partners unanimously considered the time insufficient for consultation or meaningful discussions to take place and also disagreed on the substance of the proposal.

Social partners also **disagreed on the substance of legislative proposals** in Belgium, Romania and Slovenia but, in each case, government moved on and took unilateral decisions. In Belgium, social partners could not agree jointly, leading Minister Peeters to propose new legislation on ‘mystery calls’. Such calls may be carried out by inspection services to companies which are suspected of applying discriminatory hiring practices. In Romania, social partners’ doubts about the transfer of social security contributions from employers to employees were disregarded and in Slovenia the social partners felt left out in the discussions on a major health reform, when the Slovenian government submitted legislative proposals to parliament before social partners had agreed.

In the remaining cases, the criticism concerned a total **absence of consultation or a perceived insufficient involvement of social partners**. These concerns were predominantly voiced by trade unions in Austria (on the reform of the child care benefit), Cyprus (on a new inspection body, the introduction of paternity leave and on the recognition of qualifications), Hungary (regarding the introduction of new pensioner cooperatives), Italy (regarding the reintroduction of voucher-based work) and Luxembourg (on retail opening hours in Luxembourg city). Similar concerns stemming from the employers’ side were voiced in Austria (regarding the harmonisation of employment status between blue- and white-collar workers), Bulgaria (against the administrative setting of the minimum wage outside the tripartite for 2017) and Malta (in the context of a new law giving a new Commissioner for Human Rights and Equality an extended remit of judging and deciding about the shortcomings in equality and discrimination in employment).

Working time regulations 2017

The predominant theme around the regulation of working time in 2017 was its flexibilisation and potential prolongation. This was the focus of debate or regulation in a substantial number of countries, with some country-specific variations in approach due to different points of departure from existing regulations, differences in the role played by the social partners themselves, and a different economic context, with some countries feeling a stronger pressure than others due to labour shortages and/or unemployment. Most often, such debates or new regulations were recorded in countries where social partners have a predominant role in its setting.

Extension of working time in peak periods

Possible employer-induced extension of working time in peak periods featured in the following countries. In **Austria**, the social partners were gearing up for debates in 2018 on an extension of the maximum working day from 8 to 12 hours, as envisaged in the government's coalition agreement. In **Belgium**, 'Peeters Law' (2017-03-05/03, 2017011012) foresees an annualisation of working time within which the employer can adjust the working patterns according to company needs, but not by more than more than two additional hours per day or five additional hours per week. In **Denmark**, the industry agreement includes a 42-hours rule, giving a unilateral right to the employer to give notice of an hour daily over time during five days in a week, at a week's notice, in exchange for overtime pay and time off in lieu for the employees involved. In **France**, new working time rules within the Labour Law reform left the duration of 35 hours per week untouched, but there is now more flexibility for companies regarding their approach to overtime, as company-level agreements now may – within statutory boundaries – also include less favourable conditions than sector-level agreements. In **Luxembourg**, one of the key measures of the new law on the organisation of working time is to enable employers to increase the legal reference period from one month to four months. In **Hungary**, a similar governmental proposal to increase the reference period to three years was not passed by Parliament, following trade union resistance. And in the **United Kingdom**, a number of newspapers highlighted how 11 pro-Brexit Conservative Members of Parliament are pushing for the Working Time Directive to be scrapped following Brexit. When questioned on the matter, the Prime Minister refused to explicitly rule this out. (The Guardian, 2017)

Flexible organisation of working time and workplace

In some other countries the possible introduction or revision of working time banks was considered. The **Czech Republic** has proposed (but not adopted) amendments to introduce 'special working regimes' including working time banks and flexible working hours. Sweden started to assess whether a new regulation of working time banks is needed. In some countries they were actually introduced. In **Lithuania**, working time banks or annualised hours can

now be introduced if there is a business necessity and after liaising with employee representatives. In **Luxembourg**, long-term working time accounts have been introduced in the public sector, whereby civil servants will be able to request a sabbatical year if they have saved 1,800 working hours – which could be achieved by working a maximum of 48 hours per week or 10 hours per day.

More flexible ways for organising working time and place were addressed by the legislator in Italy, but also featured in the Finnish tripartite debate. In **Italy**, a new law (Act no. 81/2017) regulates ICT-based mobile work. The new modality of work performance, called 'smart work', allows for subordinate work performed remotely to be bound to targets or phases rather than with working time, provided rules on maximum working time are observed. Under the 'smart-work' modality, a share of the work performance takes place at the company's premises and a share outside, without a fixed workplace. In **Finland**, the new Act on Working should, among other things, include provisions for a working time model for flexi-work arrangements where employees work at a time and place of their choosing. Such arrangements would primarily be based on mutual trust between the employer and employees. By the end of 2017, social partners still disagreed on the proposal.

Working during unsocial hours

New regulations addressing **work during unsocial hours** (night, evening, weekends or public holidays) most often concerned sector-specific regulations – this year, predominantly in commerce.

Deregulations took place in **Belgium**, which lifted the prohibition of night work in e-commerce; **Malta**, which lifted restrictions on Sunday work, so that employees whose contract does not oblige them to work on Sundays can refuse to do so; and **Norway**, which lifted a restriction on evening work (after 21:00), so employees can work fewer hours during the day and return to work between 21:00 and 23:00. More restrictive is the **Slovenian** collective agreement in the commerce sector, which contains new amendments limiting the number of Sundays an employee can be asked to work (15 per year and a maximum of two per month) and – amongst other things – prohibits people with care responsibilities for children under the age of three, sick relatives or single parents, as well as pregnant or breastfeeding women, from working on Sundays. And in **Slovakia**, amendments to the Labour Code ban retail sales during public holidays.

Recording of working time in the context of combatting undeclared work

In several Member States – which tend to be characterised by a higher degree of undeclared work and renewed focus to combat it – new regulations around the lawful recording of working time or overtime was on the agenda. A new regulation in Bulgaria (Labour Code, article 142) foresees that recorded overtime and the normal schedules have

to be shared with the General Labour Inspectorate. The Spanish High Court ended a legal uncertainty by ruling that workers were not required to keep daily records of their working time. This only applies to cases when overtime is being performed. In Greece a new Law (4488/2017) obliges employers to enter any change or modification of the working hours, or the organisation of the working time, of employees into the Ministry of Labour's information system (ERGANI) at the latest by the day of the change or modification, and in any case before the employees

come on duty, as well as extra working hours and overtime before they start. In Romania, amendments to the Labour Code with a view to combat undeclared work (Government Emergency Ordinance no. 53/2017) concern stricter rules on working time, facilitating labour inspectorates controls: contracts have to include work schedules, daily working time records with start and finishing times have to be kept, employees must not be present in the premises outside scheduled working hours and overtime for part-time employees is unlawful.

Health and well-being at work

A number of countries reported developments regarding the physical work environment.

In **Cyprus**, the supervision of workers' health in asbestos- and port-related activities now includes regular medical examinations for workers and employees, and will be extended to other professional activities at a later stage. In **Germany**, changes stipulate minimum regulations for the workplace such as ventilation and lighting and, for telework stations, on portable display devices and the line of sight to the outside. In **Poland**, amendments to two ordinances entered into force in 2017 which cover new and stricter limits on the physical workload for women, as well as a new list of work tasks which could be hazardous to women during pregnancy or nursing. In **Lithuania**, regulation regarding the working conditions of pregnant workers and workers who have recently given birth or who are breastfeeding was approved and sets out the procedure for assessing hazardous working conditions, dangerous factors and occupational risks for this group of workers, as well providing lists of hazardous working conditions, dangerous factors and noxious substances. In **Portugal**, the minimum requirements for the protection of employees against the risks to safety and health due to exposure to electromagnetic fields at work were stipulated by law, which also defines the limit values for exposure to electromagnetic fields for employees, focusing exclusively on the short-term effects.

Other changes concern the measures aimed at encouraging employers to ensure a safer workplace. In **Denmark**, the so-called 'crown smiley', which is a certification by the Danish Working Environment Authority indicating that the enterprise made an extraordinary effort to ensure a high level of health and safety, has been adjusted in duration from five to three years. It also gives the Danish Working Environment Authority the right to inspect businesses with a crown smiley if there have been reported complaints or accidents. Another major development introduced in Denmark is a new expert commission on occupational health and safety, in response to the increase in the number of workers with mental stress and musculoskeletal diseases. **Luxembourg** launched an awareness campaign, 'Vision Zero', aimed at reducing the number of fatalities and serious work injuries that have increased in past few years, and created a code of conduct signed by 70 major companies. The plan is to introduce a *bonus-malus* system in 2019 that will penalise companies with the most recorded accidents by increasing the employer's contributions by up to 50%, while rewarding companies with fewer accidents through a 10% decrease in contributions. Simplified provision of occupational health services for employment agencies was introduced in the **Czech Republic**; now, for the first time, agencies can send their employees for medical examination provided by medical services ensured by the employer. In the **Netherlands**, the social security agency has clarified the conditions employers should comply with during the rehabilitation process of sick employees: employers should reintegrate the employee within their

own organisation or – if that is no longer possible – support them to find employment in another organisation. And in the **United Kingdom**, following the Grenfell Tower fire tragedy in June, more than 800 organisations and individuals (including the Trades Union Congress – TUC – and Unite the Union) signed an open letter addressed to the Prime Minister, to call for the halt to the deregulation of health and safety and fire risk management, which also affects workplaces.

Finally, advancements have been made in 2017 towards the protection of some categories of workers. In **Finland**, since January, occupational health services have been extended to dismissed employees for a duration of six months from the moment the dismissal takes effect where the employer has 30 or more employees. And in **Greece** a general framework of regulations has been set up to remove obstacles that prevent people with disabilities from participating fully and equally in social and economic life. It represents a positive development for future provisions for persons with disabilities as employees.

Very few countries issued new regulations addressing the **psychosocial working environment** in 2017. New legislation was brought into effect in **Austria**, with a new law that grants subsidised employment on a part-time basis for workers returning from extended sick leave. In **Denmark**, smaller changes to the Working Environment Act introduce new tools for labour inspections. Amongst other things, labour inspectors can now talk to employees individually. **France** reported that many collective agreements of 2017 now contain provisions on the 'expression of employees', with the aim to involve them in the design of the working organisation, to reduce their exposure to psychological risks, and to increase their well-being at work; and in **Norway**, protection for whistle-blowers was strengthened.

In the **Czech Republic**, amendments to the Labour Code were proposed, which would have obliged employers to limit work-related stress. This was, however, not passed. And in **Spain**, a broader social dialogue debate on new regulations concerning the right to disconnect after work was launched in 2017, extending into 2018.

Apart from these, the #MeToo campaign also triggered debates and dialogue in a few, mainly Scandinavian, Member States in the context of sexual harassment and violence at work. **Norway** amended regulations in the field, **Portugal** reinforced the legal framework (Law 73/2017, of 16 August) that regulates harassment at work, and in **Sweden** the Amendments to the Discrimination Act (2008:567) came into force, including directions for the process regarding active measures to prevent discrimination, a documentation requirement concerning the process of active measures, a requirement of an annual salary report (instead of every third year) and an obligation for employers to have guidelines and routines for the prevention of harassment, sexual harassment and retaliatory measures.

Summary and concluding remarks

The year 2017 was marked by a good economic climate and the recovery of employment and unemployment, with some variation between Member States. EU-level developments were overshadowed by the Brexit negotiations, and strategic deliberations on which route the EU27 are to take next were also held in the social or working life-related policy domain. Scenarios in which the sole focus is the Single Market would have a great impact on EU-level working life regulations: a great number of pages of future editions of this report would be blank if social considerations were limited to issues concerning the cross-border free movement of workers, or if EU-level social dialogue were limited to sectors and issues relevant for to the Single Market. The 2017 chapter on working life developments at EU level is still long, though, reflecting the Juncker Commission's commitment to live up to its promises to move Europe towards a social 'triple-A' rating. Most notably, the EU Pillar of Social Rights was proclaimed at the end of 2017 and, with it, 20 principles that will guide national policies from now on. Whether the New Start for Social Dialogue will take off remains to be seen: commitment at EU level is visible, the social partners' involvement in the EU semester process at EU and national level is promoted and closely monitored (Eurofound, 2018) – but there is room for improvement.

In several countries experiencing a prolonged period of favourable development, policies dealing with labour shortages were high on the agenda during 2017. This took different forms; while some aimed to mobilise their own labour potential (via activation policies for the unemployed or other inactive groups, or wider efforts to increase female employment), others gave employers more control over (temporary) prolongation of working time or discussed the simplification of employment of foreigners by extending quota schemes, for instance. Despite improvements made in many Member States, in others, unemployment rates or underemployment continue to remain high or unchanging, resulting in only moderate growth of wages.

Looking into industrial relations developments in the Member States and Norway, it can be noted that 2017 was – compared to the previous years – a relatively 'calm' one, without dramatic changes affecting institutions, actors or processes in most countries.

As far as collective bargaining on wages is concerned, there seems to be a trend to return to pre-crisis practices or rules – if not fully, at least partially – in those countries that had experienced the greatest amount of change. This includes, for instance, Cyprus with the re-instatement of the cost of living allowance, Slovakia reintroducing extension of sectoral agreements and a new type of 'representative multi-employer collective agreement' or, in Portugal, the revision of the criteria and conditions for the extension of collective agreements. Greece is a counter-example, as the suspension of the extension of collective

bargaining agreements is to continue, trade unions' protection against dismissal has been weakened and cuts to pensions or pay freezes are here to stay.

And, while 2017 was by and large a rather peaceful year, the major collective labour conflicts 'of national significance' often related to demands for reversing austerity measures, and grievances over wages were the main area of contention.

The topical scope of social dialogue has been broader in those countries with a more favourable labour market development and more focused and narrow in countries that have not experienced the same level of recovery.

A mapping of over 184 cases of peak-level social dialogue shows that national social dialogue in 2017 made substantial contributions, leading to concrete changes in working life related regulations. Every sixth social dialogue case resulted in some form of genuine social dialogue outcome, such as a joint opinion (2%), a bipartite agreement (7%) or a tripartite agreement or position (8%). The vast majority of social dialogue debates, however, ended up contributing in one way or another to legislative changes: in 9% of the cases, legislation was in preparation and in 26% of cases it had been passed during the year 2017. In an additional 5% of cases, legislation followed bipartite or tripartite social dialogue outcomes.¹⁰

The volume of cases where peak-level social dialogue happened is impressive – and those cases where governments took unilateral decisions with little or no prior social dialogue, or against strong opposition from both sides of industry, are much rarer. Yet such cases still were reported in nearly half of the Member States and, in Greece, major and wide-ranging measures are still implemented with social dialogue being limited to the issuing of written opinions by social partners.

Several working time related debates were 'brewing', but most often not finalised, in 2017, mainly in countries with a 'negotiated working time regime', in which social partners have a stronger role to play in setting it. While mainly discussed under the heading of 'flexibility' the discussions during 2017 often (but not always) focused on employer-led flexibility and included discussions on extending reference frames for average working time, or an increase in the maximum working hours within a day or week, or how much overtime employers can command.

A more employee-oriented debate witnessed during 2017 in many countries, originating from ongoing EU-level negotiations, involves new regulations in the field of improving work-life balance for working parents and caregivers. In 2017, many Member States continued their revisions around family leave regulations, including special leave for carers, or more flexible working time arrangements. These topics featured in many peak-level social dialogue debates in Europe.

10 In only 5% of cases, the issue was dropped during 2017 without any concrete outcome. Nearly one third of the reported cases (31%) were still ongoing at the end of 2017. In 9% of cases, legislation was passed following unilateral government decisions.

In the area of health and well-being at work, there was a regional divide between Member States where the main focus of the debates was concerned. Issues related to the physical work environment were more often discussed in 2017 in southern, and central and eastern European Member States, while aspects concerning the psychosocial working environment were much more frequently on the agenda in the EU15. However, it needs to be added that regulations in the latter field are rare and in 2017 no notable advancements were reported.

While the economic climate and labour market prospects continue to be favourable in 2018, the outlook for 2018 shows that it will be overshadowed by Brexit negotiations, marked by a high level of activity at EU level in the area of working life in order to finalise policy dossiers in the Commission's last year before Parliamentary elections in 2019, and concerned with the role that the upsurge of right-wing and Eurosceptic parties will play at national and European level for the future of working life related policies, including social dialogue.

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Annex 1: Economic context

Table A1: Development of gross domestic product per capita – long and short term 2007–2017

	GDP per capita in 2017	Long term		Medium term	Short term	
		% change 2007–2017	Average growth rate per annum 2007–2017	% change 2012–2017	% change 2016–2017	
Poland	11,800	38.8	↑	3.3	18.0	5.4
Ireland	56,300	38.0	↑	3.3	49.7	5.0
Romania	8,200	34.4	↑	3.0	26.2	6.5
Malta	20,600	32.9	↑	2.9	26.4	4.0
Bulgaria	6,300	31.3	↑	2.8	18.9	5.0
Lithuania	12,700	29.6	↑	2.6	23.3	5.8
Slovakia	15,000	26.1	↑	2.3	14.5	2.7
Latvia	11,700	14.7	↑	1.4	20.6	6.4
Hungary	11,800	13.5	↑	1.3	18.0	4.4
Czech Republic	17,200	13.2	↑	1.2	13.9	4.2
Germany	35,300	10.0	↑	1.0	5.7	1.7
Estonia	14,300	7.5	→	0.7	14.4	4.4
Sweden	43,100	6.7	→	0.6	8.6	1.2
EU28	27,600	5.3	→	0.5	7.4	2.2
Slovenia	19,400	4.3	→	0.4	12.1	4.9
Netherlands	40,500	4.1	→	0.4	6.9	2.5
United Kingdom	32,100	3.5	→	0.3	7.7	1.3
Austria	37,100	3.3	→	0.3	1.9	2.2
Euro zone	30,300	3.1	→	0.3	5.9	2.0
Belgium	34,900	2.9	→	0.3	3.6	1.2
France	32,200	2.2	→	0.2	3.5	1.6
Croatia	11,400	1.8	→	0.2	10.7	3.6
Portugal	17,400	1.2	→	0.1	8.1	3.0
Denmark	46,500	0.6	→	0.1	5.2	1.5
Spain	24,500	0.0	→	0.0	10.4	2.9
Luxembourg	81,800	-3.1	↓	-0.3	6.0	0.1
Finland	35,500	-4.6	↓	-0.5	1.7	2.3
Italy	26,300	-8.4	↓	-0.9	1.2	1.5
Cyprus	22,200	-8.6	↓	-0.9	2.3	2.8
Greece	17,400	-23.3	↓	-2.6	1.2	1.8

Source: Eurostat, [tsdec100], authors' calculations

Annex 2: EU-level working life developments – overview

Developments within the REFIT initiative 2017

Information and consultation directives

Following on from the 2013 Fitness Check in the area of employment and social affairs, and as published in the first annual REFIT scoreboard (SWD(2014)192 final), it was established that the three EU directives on information and consultation of workers under evaluation – the Collective redundancies Directive (98/59/EC), the Transfers of Undertakings Directive (2001/23/EC) and the Directive establishing a general framework for informing and consulting employees in the European Community (2002/14/EC) – were generally relevant, effective, coherent and mutually reinforcing, but that some gaps remain.

The European Commission indicated the possibility of its reviewing and simplifying the existing directives, i.e. with a possible consolidation or a recast of three directives (SWD(2013)293), and the European-level social partners were consulted and gave their responses. The REFIT Scoreboard 2016 (SWD(2016)400 final) mentioned that ‘the Fitness Check concluded that the benefits that the three directives on information and consultation of workers generate are likely to outweigh the costs of a possible recast’. Therefore, the REFIT Scoreboard 2017 announced that it was only evaluating the directive on the information and consultation of workers and the European Works Council.

The Written Statement Directive

In the first annual REFIT scoreboard (SWD(2014)192 final), the Commission had already announced the evaluation of the Directive on an employer’s obligation to inform employees of the conditions applicable to the contract or employment relationship – the so-called Written Statement Directive (91/533/EEC). According to the evaluation (SWD(2017)205), the current directive increases certainty for employers and employees, and contributes to the protection of workers and to transparency in labour markets. However, the directive’s effectiveness is hampered by gaps in its scope (for example, relating to some new forms of employment), gaps in the ‘information package’ to be notified, and enforcement issues. It also indicated how its effectiveness could be improved.

As required by the EU treaties, the Commission consulted the EU social partners in a two-stage approach: a first-phase consultation (C(2017)2611 final) and a second-phase consultation (C(2017)6121 final). In the second phase consultation, the Commission identified possible avenues for a revision of the directive and published an accompanying analytical document (SWD(2017)301 final). It explains its rationale for the options for action outlined in the second-phase consultation document, so as to enable the consultation process to be as concrete

and informed as possible. The Commission, therefore, requested the EU social partners’ views on the possible avenues for EU action and whether the EU social partners were willing to enter into negotiations with a view to concluding an agreement. Since the views of the social partners on the need for legislation were mixed, and they decided not to enter into negotiations to conclude an agreement at EU level, the Commission put forward a legislative proposal.

On 21 December, the Commission presented a proposal for this new directive on transparent and predictable working conditions in the European Union (COM(2017)797 final). The general objective of the directive, stemming from the Written Statement Directive, is to promote more secure and predictable employment, while ensuring labour market adaptability, improving living and working conditions and defining the core labour standards for all workers to reinforce convergence towards better performance. The scope of the new proposal was extended to cover more workers, as it will include additional workers on atypical contracts. Chapter 2 of the document establishes a new type of information to be offered by the employer and stipulates that a contract must be provided on the first day of the employment relationship, in the form of a written document, in paper or electronic form. Chapter 3 establishes new rights such as limiting the length of probationary periods to six months, the right to predictability of work and the ability to request a more stable form of employment, and to receive a justified written reply. Chapter 4 strengthens the legal enforcement, introducing two alternative procedures for addressing missing information: positive presumptions and an administrative procedure to issue an injunction. In addition, provisions based on the existing body of EU social law are introduced on compliance, the right to redress, prevention of adverse treatment, burden of proof on dismissal, and penalties.

Legal interpretation of the Working Time Directive

To protect workers’ health and safety, working hours must meet minimum standards applicable throughout the EU. The Working Time Directive (2003/88/EC) requires EU countries to guarantee the following rights for all workers: a limit to weekly working hours, minimum daily rest and break periods, paid annual leave entitlements and extra protections for night work.

Between 2004 and 2016, various discussions and initiatives were carried out, starting with a proposal for a revised directive discussed in the European Parliament and the, then negotiations between the EU social partners, ending with an in-depth review process. The conclusion

was that the directive remains a relevant instrument, without ignoring the fact that a number of challenges exist relating to its implementation. That was the main reason for the Commission to adopt, on 3 February 2017, an Interpretative Communication on Directive 2003/88/EC (following up on the European Pillar of Social Rights), which provides guidance on how to interpret various aspects of this directive, which will help Member States implement the *acquis* correctly and avoid further infringements. An implementation report (COM(2017)254 final) complemented the Interpretative Communication, and both formed a ‘comprehensive basis for concrete work towards stepped up enforcement of the Directive in the Member States’.

In 2015, an ECJ ruling on the travelling time to work for workers without a fixed place of work triggered an increased level of interest in this issue.

The Interpretative Communication brings together in a single document the provisions of the directive and the case law of the CJEU, which interpreted them. It also includes the Commission’s own interpretation. Its aim is to bring legal clarity and certainty to the Member States, social partners and other stakeholders when applying the Working Time Directive, including clarifying the scope for flexibility and derogations in the application of the directive, and assisting Member States in implementing the directive in a way that minimises the burden and avoids infringements. The communication clarifies the directive’s provisions (for example, personal scope, definition of working time/on-call time, timing of compensatory rest and paid annual leave) and the derogations permitted. The communication does not intend to create new rules and the elements presented therein, therefore, remain subject to further developments and complements by the Court. The implementation report reviews how Member States have implemented the Working Time Directive and highlights key issues and problems. It concludes that the compliance of the legislation of individual countries with the directive’s requirements is improving. Currently the main institutional efforts are primarily to ensure the best implementation possible of the directive. Case law evolves in parallel, also raising enforcement challenges.

Social dialogue developments at EU level

Social partners’ autonomous framework agreement on active ageing

On 8 March 2017, during the EU Tripartite Spring Social Summit, the European cross-industry social partners – BusinessEurope, European Association of Craft, Small and Medium-sized Enterprises (UEAPME), European Centre of Employers and Enterprises providing Public Services (CEEP) and the European Trade Union Confederation (ETUC) – signed the European social partners’ autonomous framework agreement on active ageing and an inter-generational approach, and handed it over to European Commission President Jean-Claude Juncker, European Council President Donald Tusk and Maltese Prime Minister Joseph Muscat. This framework agreement is an autonomous initiative and the result of nine months of

negotiations between the European social partners as part of their fifth multiannual work programme for 2015-2017 on ‘Partnership for inclusive growth and employment’.

The aim is to ensure a healthy, safe and productive working environment and work organisation, to enable workers of all ages to remain in work until legal retirement age. It is also to facilitate the transfer of knowledge and experience between generations in the workplace, and takes into account the changing national demographic and labour market realities. With this autonomous agreement, European social partners establish a general action-oriented framework, aimed at:

- increasing the awareness and understanding of employers, workers and their representatives of the challenges and opportunities deriving from demographic change
- providing employers, workers and their representatives at all levels with practical approaches and/or measures to promote and manage active ageing in an effective manner
- ensuring and maintaining a healthy, safe and productive working environment
- fostering innovative life-cycle approaches with productive and quality jobs to enable people to remain in work until legal retirement age
- facilitating exchanges, mutual cooperation and fostering concrete actions to transfer knowledge and experience between generations at the workplace

Social partners contribute to the Framework of Action on Youth Employment

In the framework of the EU Social Dialogue Integrated Project 2016–2018, the EU Social Partners (ETUC, BusinessEurope, UEAPME and CEEP) organised a Joint Conference on the Framework of Actions on Youth Employment, Achievements and Challenges Ahead, on 20 June 2017. The conference objectives were:

- to take stock of national developments and exchange information on the activities held at national level
- to discuss the preliminary findings of the final evaluation report of this Framework of Actions highlighting the main trends under its four priorities: Learning, Transition, Employment and Entrepreneurship
- to encourage national social partners to report on the follow-up activities at national level, especially in the countries where there has been a lack of reporting in the annual follow-up reports.

This conference facilitated the drafting of the final evaluation report of the Framework of Actions on Youth Employment, adopted in September 2017 (ETUC et al, 2017).

European Mobility and Transport Package – working life elements

In May 2017, the European Commission presented its mobility and transport package, ‘Europe on the Move’

(COM(2017)283 final). The aim is to help the sector to stay competitive in a socially fair transition towards clean energy and digitalisation. ‘Europe on the Move’ is:

a wide-ranging set of initiatives that will make traffic safer, encourage smart road charging, reduce CO2 emissions, air pollution and congestion, cut red-tape for businesses, fight illicit employment and ensure proper conditions and rest times for workers. The long-term benefits of these measures will extend far beyond the transport sector by promoting growth and job creation, strengthening social fairness, widening consumers’ choices and firmly putting Europe on the path towards zero emissions.

The package includes, amongst others, proposals aimed at improving the application of social legislation in road transport. The cooperation on enforcement among Member States would also be strengthened. Other proposals are the following: the revision of Directive 2006/22/EC addresses the risks of inadequate working conditions for drivers (COM(2017)278 final), including terms and conditions of employment and specific rules on posting of workers in the road transport sector, including specific enforcement measures. In addition, the revision of Regulation (EC) No 561/2006 on driving and rest periods and of Regulation (EU) No 165/2014 on tachographs addresses the scheduling of transport drivers’ working time (COM(2017)277 final). It sets out the principle that rests should be taken in an appropriate place outside the vehicle (not in the cabin), and that the costs of rests should be borne by the employer when they are not taken at the driver’s home. Finally, revision has been made of the Regulations on Access to Road Haulage Market and to the occupation of road transport undertaking (1071 and 1072/2009) (COM(2017)281 final).

The Commission proposal tries to address the shortcomings of the rules such as the fact that some of the rules leave room for Member States to develop their own measures. In particular, the proposed amendments aim to address the inconsistent practices regarding the following four topics:

- the definition of stable and effective establishment of the undertakings, namely the place where these have a continuous activity
- the period of time before good reputation is suspended further to infringements of national tax rules and EU rules on posting workers
- ruling out the possibility that Member States can impose additional conditions on the access to the occupation of road haulier
- clarifying that cabotage operation can involve several loading and delivery points.

As part of the package, the Commission has also launched a first-phase consultation of the social partners (C(2017)3815 final) on a possible revision of the Road Transport Working Time Directive (Directive 2002/15/EC).

The European Transport Workers’ Federation (ETF) issued a statement criticising the fact that the proposed changes to driving and rest time have not been subject to any

consultation process recently. In particular, they claim that the prolongation of reference periods will result in inadequate rest times for drivers and an intensification of driving times, impacting drivers’ levels of fatigue, work-life balance and pay. They also criticise the fact that the employers’ obligation to pay for accommodation of drivers has not been made mandatory. In a letter to Commissioner Bulc from 22 June 2017, BusinessEurope expressed businesses’ concerns about ongoing national measures affecting international transport, referring also to the infringement procedures against Germany and France. It also said the issue of paying for adequate provision of accommodation would require secure parking spaces, so that freight would not be left unattended.

Many MEPs welcomed the proposals, but stressed it was vital to ensure good working conditions for drivers while trying to avoid fragmentation of the internal market. Some MEPs expressed concern about the delay in publishing the proposals and the need to complete the work during the current legislative term to ensure benefits for the sector. They welcomed the proposal to eliminate letterbox companies and many MEPs welcomed the clarification on how to apply posting of workers’ rules to road transport. Others expressed concern that the proposed changes in cabotage rules (for non-resident hauliers) would worsen the conditions for workers.

Framework of Actions on Youth Employment

In June 2016, the European Commission presented its New Skills Agenda for Europe (COM(2016)381 final), which included 10 key initiatives as part of a long-term strategy to ensure that people acquire the skills they need to thrive both in the labour market and in wider society. These initiatives include: the Skills Guarantee, a review of the European Qualifications Framework, Digital Skills and Jobs Coalition, a Blueprint for Sectoral Cooperation on Skills and a Skills Profile Tool for third-country nationals. Launching the agenda, the Commission called on Member States and stakeholders to improve the quality of skills and their relevance for the labour market, noting that 70 million Europeans lack adequate reading and writing skills, and even more have poor numeracy and digital skills, placing them at risk of unemployment, poverty and social exclusion. The Commission believes that increasing skills levels, promoting transversal skills and finding ways to better anticipate the labour market’s needs, including ways based on dialogue with the industry, are essential to improve people’s chances in life and support fair, inclusive and sustainable growth as well as cohesive societies.

In December 2016, the European Commission proposed a renewed effort to support young people with better opportunities to access employment, more opportunities through education and training, and enhanced opportunities for solidarity, learning mobility and participation, in a communication called Investing in Europe’s Youth (COM(2016)940 final). The Youth Package proposes the following three strands of action.

Tackling youth unemployment: To facilitate the roll-out of the Youth Guarantee, the Commission proposed to supplement the original allocation of the Youth Employment Initiative by €1 billion until 2020. Matching funds of €1 billion were also proposed to be provided from the European Social Fund.

The European Commission has been developing definitions of ‘quality’, with regards to offers of employment. A first distinction relates to the intrinsic quality of an offer (whether it is a personalised offer based upon an assessment of individual needs) and an outcome-based dimension (sustainable integration). Further aspects of quality have been summarised in a guidance paper adopting the approach from the Youth Employment Initiative. As the situation is very diverse in the Member States, the Commission is cooperating with the ILO to develop quality aspects at a conceptual level and with the Employment Committee (EMCO), to develop quality criteria at the level of monitoring (see COM (2016)646 final). The aim is to identify ‘the main elements that constitute a quality offer under a Youth Guarantee’. This is still ongoing within the context of the EMCO indicators group.

Better opportunities for solidarity, learning mobility and participation: The Commission proposed an increase of €200 million in the Erasmus+ budget until 2020. In order to encourage young people’s participation in society and solidarity work, the Commission revised the European Youth Strategy and launched the first phase of the European Solidarity Corps. The European Solidarity Corps are rooted in the core EU values of engagement and solidarity and will offer socially minded young people under 30, benefiting from the Youth Guarantee or not, the opportunity to help and support others and acquire new skills and experience, either in their home country or in another Member State. The European Solidarity Corps will offer a single, easily accessible entry point through its portal, and will aim for the widest possible outreach to participating organisations and to the young people involved.

Better opportunities through education and training: In 2017, the Commission launched ‘ErasmusPro’, a new dedicated activity within the Erasmus+ programme to support long-duration placements of apprentices abroad, and a Quality Framework for Apprenticeships setting out key principles for the design and delivery of apprenticeships at all levels. A demand-driven apprenticeship support service will be set up in 2017, supporting countries introducing or reforming apprenticeship systems. In June 2017, as part of the EU Social Dialogue integrated project for 2016–2018, the European social partners organised a joint conference to look at the achievements of, and future challenges for, the Framework of Actions on Youth Employment (June 2013). Preliminary findings of the final evaluation of the framework of actions were discussed, highlighting the main trends in learning, transition, employment and entrepreneurship. The final evaluation report of the Framework of Actions on Youth Employment was adopted by the Social Dialogue Committee on 27 September 2017. It describes the main trends that can be identified

through the different national reports submitted to the ETUC (and the liaison committee EUROCADRES/CEC), BusinessEurope, CEEP and UEAPME, and compiles the members’ contributions into one document.

Promoting the work–life balance of parents and carers

Following the withdrawal of a proposal for a new maternity leave under REFIT in 2015, and the social partners’ decision not to enter into negotiations on a new agreement in 2016, the Commission presented a work–life balance package for working parents and carers within its European Pillar of Social Rights in April 2017.

The package comprises a set of legislative and non-legislative action, with the specific objectives to improve access to work–life balance arrangements, such as leave and flexible working arrangements, and to increase men’s take-up of these. The proposal aims at repealing the entire 2010 Parental Leave Directive and replacing it with the provisions contained in its text, while preserving the existing rights and obligations.

Key legislative provisions include, for instance, a 10-day paternity leave, paid at the same level as the sick pay minimum; each parent being guaranteed a minimum of four months of parental leave which cannot be transferred between parents; provisions on carer’s leave; five days of leave per year to care for dependents or ill parents; the right to request flexible working arrangements; and the right to return to the same or an equivalent job.

The Communication on the initiative to support work–life balance for working parents and carers (COM(2017)252 final) contains complementary legal and policy measures, with the Commission’s proposal for a directive on work–life balance (COM(2017)253 final) providing more details. The Commission also issued a statement alongside the proposal explaining the process and its background. Examples of non-legislative measures the Commission committed itself to implement include ensuring the better implementation of legislation and promote compliance, a continued monitoring of the design and gender-balanced take-up of family leave through the European Semester, the provision of funding for employers for the development of innovative, family-friendly and flexible working arrangements, and the crediting of family leave related periods in the pension systems.

The European Parliament Committees on Employment and Social Affairs (EMPL) and Women’s Rights and Gender Equality (FEMM) held a joint hearing on work–life balance in June 2017, where EU social partners’ reactions to the work–life balance package were divergent. The employer side believes that these changes create the risk of making leave counterproductive for the economy and creating obstacles for innovation and employment in SMEs, whereas the trade union side broadly welcomed the Commission’s package and the mixed policy approach and launched supporting campaigns. The European Parliament presented its draft report in March 2018. The vote and mandate to negotiate with the Council was to be adopted in July 2018.

The Polish Senate and the Polish Sejm as well as the Netherlands House of Representatives and Senate sent reasoned opinion on the aforementioned proposal for a directive, stating why they considered that the draft in question does not comply with the principle of subsidiarity.

The Employment, Social Policy, Health and Consumer Affairs (EPSCO) Council reached a general approach on 21 June 2018. Negotiations between the European Parliament and the European Council are underway during the course of writing.

Posting of workers

In 2016, the European Commission announced a ‘targeted revision’ of the Posting of Workers Directive (96/71/EC), whereby a key provision of the new proposal included the equal treatment principle and provided that the same work at the same place should be remunerated in the same manner. This evoked resistance from parliaments in several Member States and the triggering of the ‘yellow card procedure’. By 10 May 2016, 10 Member States had criticised the proposed changes on the grounds of conflict with the right to subsidiarity. Thus, the Commission had to review these opinions, after which it could decide to maintain, amend or withdraw the proposal.

In July 2016, the Commission adopted a Communication (COM(2016)505 final) re-examining its proposal for a revision of the Posting of Workers Directive in the context of the subsidiarity control mechanism that several national parliaments triggered in May. After careful consideration of their views, the Commission confirmed that it maintained its proposal for a revision of the Posting of Workers Directive as originally presented. Against this background, both the European Council and the European Parliament started discussing this legislative proposal with a view to start negotiations after summer 2017.

The EMPL Committee published a draft report on 2 December 2016, aiming to ‘establish a balance between ensuring a level playing field for undertakings and granting social protection for workers’, the emphasis being on transparency of information, ‘due entitlements’ for posted workers’ remuneration, and same conditions for workers hired by subcontractors or temporary employment undertakings.

The European Parliament Employment and Social Affairs Committee adopted its report on the targeted revision of the posting of workers in the framework of services on 16 October 2017 (A8-0319/2017). The main changes agreed by MEPs concerned remuneration and improving working conditions, duration of the posting and temporary agencies. This adopted text gave the Parliament the mandate to negotiate with the Council.

On 23 October 2017, the Council reached an agreement on its position (general approach) (13612/17) on the Posting of Workers Directive. With this agreement, the Council started negotiations with the European Parliament.

On 1 March 2018, co-legislators reached a common understanding on the contours of a possible agreement

on the revision of the directive and they issued a joint statement (PE-CONS 18/18). And on 20 March 2018, they reached an agreement on the two remaining issues: pay and working conditions. This agreement was subsequently endorsed by the European Parliament on 29 May 2018 and on 21 June 2018 by the Council.

The main objectives of the adopted directive include a ‘social legal base’: Article 1 of the directive was amended to reflect that it is about the protection of workers in the context of the provision of services. This is to ensure the rights granted by the Charter of Fundamental Rights can in no way be undermined by this directive and to strengthen the position of workers in possible court cases. The principle of ‘the same pay for the same work at the same workplace’ was accepted by both co-legislators. Their common aim is for posted workers to benefit from the same rules as local workers from Day 1. It is the overall amount of remuneration received by a posted worker that must meet the level of remuneration laid down in the host Member State, with the provision that the reimbursement of expenses cannot be counted towards this amount. Article 3 was amended to indicate that the mandatory elements that constitute remuneration in a Member State must be available on a single official national website (the same website as the one in the Enforcement Directive of 2014). There is also a clarification that expenses made for travel, board and lodging are to be seen separately from remuneration, paid for by the employer and not deductible from workers’ salaries, and a clarification of the different allowances regimes, with some precisions on what has to be paid according to the rules in the host country. In addition, if there are national rules about the conditions of accommodation in the host country for a local worker away from home for work, then these same rules must be applied to the posted workers.

In the adopted text, the maximum duration a posted worker can work under only the ‘hard-core’ conditions of the Posting of Workers Directive, before all provisions of the labour law of the host country must be met, is 12 months, with a possible extension of six months via a notification of the company to the competent authority in the host country. Member States can choose to ensure that posted workers are covered by representative collective agreements in all sectors. Member States must ensure that posted workers are protected, at least, by the conditions of the Posting of Workers Directive in the case of a fraudulent posting made, for instance, by a letterbox company.

The proposal made by the Commission was amended with a review clause to assess, five years after the date of entry into force, whether new measures in the field of subcontracting are necessary and on posted drivers in the road transport sector.

The new elements of this directive will apply to the transport sector once the sector-specific legislation (currently under negotiation) enters into force. Until that moment, there is a clear understanding by the three institutions and the Member States that the rules of the 1996 Posting Directive shall apply.

The period of transposition would be two years with an application in all Member States at the end of this period.

Coordination of social security systems

In December 2016, the European Commission issued a proposal on the revision of the regulation on the coordination of the social security system (COM(2016)815 final), as the final part of its Labour Mobility Package. The proposal modernises the current rules to ensure that they are fair, clear and easier to enforce. It is characterised by the Commission as a balanced proposal that facilitates free movement of workers and protects their rights, while reinforcing tools for national authorities to fight risks of abuse or fraud. It makes a closer link between the place where contributions are paid and where benefits are claimed, ensuring a fair financial distribution of burden between Member States. The proposal updates EU rules in the following areas: access to social benefits claimed by economically inactive intra-EU migrants (mobile EU citizens), long-term care benefits, unemployment benefits

in cross-border cases, family benefits intended to replace income and social security coordination for posted workers.

In April 2017, the European Parliament held a hearing on social protection and the coordination of social security systems. Some EU-level social partners published position papers on some of the European Commission's main components of the European Pillar of Social Rights. Preliminary social partner responses on the first consultation indicate that both sides of industry agree that gaps in social protection should be addressed. Some social partners encourage the Commission to make a proposal and others consider that the decision should be left to Member States.

On 21 June 2018 the Council agreed a general approach (10052/18). On the basis of this mandate, the Council Presidency will start negotiations with the European Parliament once it has adopted its position.

Annex 3: Overview of new national regulations on employment status

Standard employment contracts

Employment contracts for young workers

Czech Republic: The conditions under which young people negotiate an employment relationship have been changed. Previously, only those who had reached the age of 15 and, at the same time, had completed compulsory school attendance could perform dependent work. As of 27 February 2017, the condition concerning the completion of compulsory schooling no longer has to be fulfilled (amendment to Act No. 89/2012 Coll., the Civil Code, introducing a change to Section 35). The change also applies to the role of legal guardians of minors, who no longer have the right to veto the employment relationship of minors over the age of 15. Section 56a and Section 77 Paragraphs 5 and 6 of Act No. 262/2006 Coll., the Labour Code were abolished.

Estonia: In April, parliament approved changes to the Employment Contracts Act, making the employment relationship with minors more flexible. For children in compulsory schooling, the allowed working time is now different during the academic period (up to 2 hours per day and 12 hours per week) and holidays (up to 7 hours per day and 35 hours per week). For 15–17 year-olds not in compulsory schooling, the allowed working time increased to 8 hours per day and 40 hours per week. The number of jobs available for children was also increased. To hire a minor younger than 15, it is no longer necessary to obtain written permission from the labour inspectorate.

Equal treatment of categories of workers

Austria: Harmonisation between blue- and white-collar workers: A vote on equal treatment between blue- and white-collar workers passed in parliament on 12 December 2017. Harmonisation on periods of notice, continued remuneration during sick leave and in the acknowledged reasons for paid absence from work were agreed but not yet implemented (earliest changes were expected in July 2018).

Termination of employment

Finland: Re-employment after redundancies: Changes introduced in the Employment Contracts Act 55/2001 in 2006, and in force in January 2017, aim at increasing flexibility in the labour market. They stipulate that the maximum duration of a trial period is extended from four to six months and may be further extended if the employee is absent from work during the trial period due to sickness or family leave. The employers are given the right to conclude a fixed-term employment agreement with a duration of up to 12 months with a new employee if the employee has been continuously unemployed for

the preceding 12 months. The employer's obligation to reemploy an employee whose employment has been terminated due to redundancy is limited from the current nine months to four months for employees who have been employed by the employer for less than 12 years prior to the termination, and to six months for other employees.

France: Unfair dismissal – compensation: The Labour Law reform saw a change regarding compensation due in the case of unfair dismissal, with the aim of increasing legal security for employers; Ordinance 2017-1387 reduces the power of judges to determine the level of compensation. The scale of payment is according to the seniority of employee, from a minimum of half a month to 20 months. The maximum is calculated irrespective of size of company while the minimum depends on it. This is applicable in cases where dismissals are null and void and in cases of violation of fundamental rights. The ordinance also clarifies and secures procedures on redundancy. Now, a pro forma dismissal template allows employers to provide additional information before court. The goal is to reduce the number of cases where employers have to pay compensation for dismissal that is legitimate. The ordinance reduces the period for bringing an action against a contract termination from two years to one year.

Latvia: Termination of employment contract: No major changes in the regulation of employment status were made in 2017, but some details were introduced by amendments in the Labour Law. Employers now have the right to terminate an employment contract while an employee is suspended from work. Restrictions on competition after termination of employment legal relationships are detailed. In the regulation of supplementary work in parallel to the employment with employer on the basis of employment contract, the Labour law legalises the term 'to be otherwise employed'. Finally, employers are required to justify the restriction they place on their employee having a second job, with reference to the fundamental, protected interests of an employer.

Precariousness

Slovenia: Combatting precariousness and unfair working conditions: The National Assembly adopted an act amending the Labour Inspection Act: if the Labour inspectorate finds that an employer did not pay wages under the provisions of payment day twice within a year, the inspectorate may halt the business processes until the irregularities are abolished. A second measure was introduced to prevent the illegal use of atypical forms of work. If an inspector finds out that a worker works under a civil law contract, and with elements of a working relationship, they must get an employment contract within three working days.

Self-employment

Entitlements and contributions

Estonia: Registration for unemployment benefits for non-remunerated members of boards: In December, there were changes to taxation for sole proprietors whose permanent activity is the sale of goods and services. The purpose of the amendment to social tax and income tax is to create a tax environment for sole proprietors similar to that of companies; for example, sickness leave benefit for the first eight days of sickness is usually paid by an employer to an employee. In December, parliament approved changes to the Labour Market Services and Benefits Act: members of management, or a supervisory body of a legal entity, who do not receive remuneration for their role as board member, and who have been employed and paid unemployment insurance tax for 180 days during the past 12 months, have the right to register as unemployed and receive unemployment insurance benefit. Until 2014, they did not have the right to receive unemployment benefits.

Finland: New sick leave rule for the self-employed: Entrepreneurs' deductible sick leave was reduced from four days to one day. The changes were approved in 2017 and in force in January 2018.

Ireland: Extension of the State Invalidity Pension to self-employed workers: The government extended the State Invalidity Pension scheme to self-employed workers from 1 December 2017. The payment of €198.50 a week is for people who cannot work because of a long-term illness or disability. Those who work for themselves and pay social insurance at Class S will be able to apply for the State Invalidity Pension on the same basis as an employee.

Lithuania: Insurance and pension contributions for the self-employed: An amendment to the Law on State Social Insurance (No. XII 2508) came into force on 1 January 2017 extending the scope of social insurance for the self-employed. The amendments establish sickness social insurance coverage for persons engaged in individual business activities, while persons working on the grounds of business certificates are now covered to receive the full amount of pension contributions, which are calculated on the basis of the monthly minimum wage.

Latvia: Social contributions from self-employed: No changes in the regulation of the employment status was made, except the requirement that self-employed people should individually pay state social insurance contributions if the income less expenses per month reaches the minimum wage threshold of €380 for the year 2017.

Italy: New entitlements for non-entrepreneurial self-employed workers: On 10 May 2017, the parliament approved Act No. 81/2017 concerning the entitlements of non-entrepreneurial self-employed workers; now, self-employed workers may ask for a written contract. Such a contract cannot include conditions that allow clients to unilaterally modify contractual conditions, to terminate the working relationship without observing a notice period or to impose terms of payments exceeding

60 days from the date of invoice. Moreover, self-employed workers gained the right to suspend work without risking termination of the contract in cases of pregnancy, illness or accident. However, this is only allowed if it does not affect the client's interest. The new provisions also give self-employed workers some social security rights, which differ depending on the worker's category.

'Bogus' self-employment and platform workers

France: Employment conditions of self-employed platform workers: Since 1 January 2017 (Labour Law reform of 2016), platforms such as Uber and Deliveroo have to reimburse workers the insurance costs covering risk of work injuries subscribed by their self-employed workers and take over their contribution to vocational training. Otherwise, self-employed workers have the right to enter a 'concerted refusal to provide their service' without incurring contractual liability, without being subject to sanctions and without breaking off relations with the platform, with the exception of abuse in the exercise of this right.

Portugal: Combatting precarious employment: Law 55/2017 of 17 July modifies the existing legal framework to recognise the existence of an employment relationship and combat 'bogus' self-employment and other forms of undeclared work, including false internships and false volunteering. This law approves the extension of the competences of the Authority for Working Conditions in case of inadequacy of the labour bond. Decree-Law 2/2018 of 9 January amends the social security regime of self-employed workers. Under the new rules, the contribution rate of the self-employed drops from 29.6% to 21.4%, being applied to 70% of the average income of the last three months. A minimum monthly contribution of €20 shall be made, in order to guarantee the stability of the contributory career for future pension or other social benefits (unemployment benefit and sickness benefit). The new scheme stipulates that sick pay is to be awarded from the 11th day onwards rather than the 31st day, as it currently stands, and that the unemployment allowance will require 360 days of discounts instead of the current 720. The contracting entities will increase their discounts (to 10% in situations in which economic dependence exceeds 80% or 7% when economic dependence is below this threshold).

Clarification of status

Cyprus: Independent work and fixed-term employment – clarification of contracting for services: Circular No. 1767 of 16 June 2017 on the conclusion of contracts for the purchase and leasing of services was addressed to all government departments and services that still publish calls or renew contracts for purchase and leasing of services where an employment relationship could be created. The circular describes three situations.

a) When possible, the service should be defined as an independent work without reference to any rights and/or benefits which may in any way point to an employment relationship between the contracting parties (e.g. provision of office room, equipment, rest

leave, obligation to be present in the premises of the contracting authority).

b) In cases where the above is not possible and the service is required to be delivered at the premises of the contracting authority, it should be ensured that the required preconditions and selection criteria for the concessionaire point to an organised company.

c) When neither a) or b) applies, the procedure for acquiring a permission for the recruitment of fixed-term employee(s) should be activated, as provided for by the law on fixed-term and indefinite employees in the public service of 2016.

UK: Platform workers – legal cases on employment status: Some successful legal cases for self-employed workers of platform companies: following the GMB’s employment tribunal win for Uber drivers in 2016, two other cases have subsequently secured similar rulings. In March, an appeal by Pimlico Plumbers was dismissed, and a former ‘contractor’, Gary Smith, was confirmed in the courts as having the employment status of ‘worker’. The case continued in 2018. Furthermore, the Independent Workers Union of Great Britain (IWGB) has won a similar tribunal case against courier firm Citysprint, which had classified couriers as independent contractors, denying workers basic rights.

Conversely, another case brought by the IWGB, representing Deliveroo couriers working in Camden, London, was unsuccessful. The IGWB had lodged a statutory recognition claim with the Central Arbitration Committee which deemed that the couriers were not workers. It should also be noted that the Taylor Review rejected calls to replace the current three-tier system of employment status (employee, worker, self-employed) with a binary distinction between employee and self-employed. However, it suggests that clearer distinction be made between the three, proposing a new definition of ‘worker’ or ‘dependent contractor,’ with this resting almost exclusively on how much control the company exerts over the person (‘dependent contractors’ would have greater rights). The review proposes amendments to existing legislation, so that it definitively states the tests for employment status. However, to reiterate, the government has yet to respond.

Netherlands: Postponement of regulation on the use of self-employment relationship in contracts: The Deregulation Assessment of Employment Relationship Act (DBA), a regulation whereby freelance workers can assess whether a contract concerns a self-employment relationship (hence no employee benefit contributions to pay by the employer), had to be held until clarification. The Cabinet wants to replace the DBA on 1 January 2020. Until then, the enforcement of the DBA will be suspended.

Bargaining rights

Ireland: New bargaining rights for the self-employed: Under the Competition (Amendment) Act 2017, workers who were previously prohibited from acting collectively by a decade-old decision of the Competition Authority, which concluded that such arrangements were anti-competitive,

can now bargain collectively with employers in relation to their working conditions and terms of employment. These include voiceover actors, session musicians and freelance journalists. The Act also provides a mechanism to enable other groups of workers that were also exempted to bargain collectively in the future.

The Act introduces also new categories of a ‘false self-employed worker’ and a ‘fully dependant self-employed worker’ and provides that trade unions may apply to the Minister for Jobs, Enterprise and Innovation to permit groups of self-employed workers who come within these categories to act collectively.

Fixed-term contracts

Limiting the conversion of contracts fixed-term to indefinite in education

Cyprus: No conversion for teachers from fixed-term to indefinite contracts: A new system for the appointment of teachers in public education, introduced in June 2017, does not recognise the right of teachers who are serving, or have served, as replacements to convert their fixed-term contracts to indefinite contracts after the employment of 30 months.

Netherlands: No more conversion to permanent contract for temporary replacement in education: The obligation in the Work Security Act to offer a permanent contract after three temporary contracts has been relieved for seasonal workers and in the educational sector. Previously, schools were obliged to offer teachers a permanent contract after temporary replacement of permanent teachers who were sick or on maternity leave. Schools did not want to take this financial risk, and were sometimes not able to find temporary teachers, and therefore had to send children home when a permanent teacher was sick or on leave.

Harmonisation of severance payments for workers with fixed-term contracts

Spain: Same severance payments for all types of contract: Legislation foresees severance payments for dismissed employees according to contract types (temporary vs permanent). The judicial decision of September 2016 from the European Court of Justice established that both categories should receive the same amount based on the principle of non-discrimination. However, by the end of 2017, despite court decisions, the government had not taken a definitive position, so the regulation on severance payments remained the same. But in December, the CJEU decided that severance payments may be offered depending on type of contract. This is not a definitive decision.

Re-regulating fixed-term contracts

France: Provisions on fixed term contracts included in branch level collective agreements: Ordinance 2017-1387 of 22 September 2017 changed the rules around fixed term contracts. Now a branch-level agreement may include provisions on the length of the contract, on the number of renewals and on minimum length of two fixed-term contracts. The condition is that the duration

of the contract stipulated in the agreement cannot be set up as a way to lead to a permanent job contract in the company. If the branch-level agreement does not regulate the fixed-term contract, the former provision of the Labour Code (2014) and the maximum legal contract duration will apply. An extension is possible for permanent employment contracts (CDI) on construction sites, which allows recruiting for the duration of the construction site in all sectors. Therefore, collective agreements at branch level can include provisions on the 'permanent employment contract of construction site and operation' to offer a framework to employers to recruit under this type of contract.

Use of fixed-term contracts

Finland: Easing the hiring of workers on fixed-term contracts: Employers hiring long-term unemployed people (registered as unemployed with the public employment service for 12 consecutive months) on fixed-term employment contracts do not need to justify the fixed-term duration. This entered into force in January 2017.

Lithuania: Fixed-term contract of two or more years and severance compensation: The new Labour Code regulates that from 1 July 2017 a fixed-term employment contract may be concluded for work of a permanent nature. Fixed-term employment contracts may not exceed 20% of the total number of employment contracts concluded in the company. The maximum term for a fixed-term employment contract is two years (with several exceptions where the maximum duration is five years). Upon expiration of fixed-term contracts exceeding two years, employees will be entitled to severance compensation of one average monthly salary.

Slovenia: New Sports Act validating employment rights in successive fixed-term contracts: The new Sports Act, valid from May 2017, covers the rights of athletes and conditions for the employment of athletes and professional workers in sport in general and the highest ranked athletes in the public sector. The act also introduces provisions allowing an athlete or a person with a suitable education and competences to carry out work in the sport sector to conclude several successive fixed-term contracts, within an uninterrupted period of no longer than 10 years.

Temporary employment agency contracts

Prolongation of the term of temporary agency workers

Belgium: Indefinite period of employment for temporary agency workers: The Peeters Law of 5 March 2017 creates the possibility of temporary employment for an indefinite period for agency workers. The change was implemented as Article 8 (third addition) in the *Uitzendarbeidswet* of 24 July 1987.

Germany: Prolongation of length of temporary work if agreed by sectoral collective agreement: Dating back to April 2017, revisions regarding the Temporary Employment Act became effective. The law stipulates a maximum assignment time of 18 months, which can only

be prolonged if unions and employers have negotiated a collective bargaining agreement in the applicable sector.

Temporary employment agencies – recruitment policies

Czech Republic: Temporary work agencies and posted workers – permit valid for indefinite period: Reimplementation of the possibility to post foreign workers (who obtained a so-called employee card, a blue card, or a work permit) to the Czech Republic via temporary work agencies: agencies no longer need to file applications for a permit every three years in order to offer their services; the first permit will be valid for only three years, but the following permit will be issued for an indefinite period, provided that it was not revoked during the previous period. Act No. 206/2017 Coll., amending Act No. 435/2004 Coll., on Employment, as amended, and other related Acts, removed the prohibition of temporary assignment of holders of employee cards by a job agency to perform work for a user with effect as of 29 July 2017. However, there has been no change made to the Act on the Residence of Foreign Nationals and in the definition of illegal work contained in Section 5(e) of the Employment Act (Act No. 435/2004 Coll.).

Denmark: Clarification on hiring temporary agency workers in the private sector: In the collective agreement of 2017, concluded in the private sector, new procedural rules were agreed and attached in a protocol regarding temporary agency workers. The background is that the member unions of the Central Organisation of Industrial Employees (CO-industri) have experienced difficulties deciding whether companies coming from outside that bring their own labour act as a temporary agency – according to which rules, the employees are covered by the collective agreement on temporary agency workers – or whether there exists a contractual relationship, in which case the unions will request a collective agreement with the company.

Harmonisation of rights between temporary agency workers and core staff

Poland: Equal treatment for female temporary agency workers: The Labour Code has been revised to secure equal treatment of female temporary agency workers with other workers (with standard employment contracts) in terms of employment protection during pregnancy.

Lithuania: Working conditions similar for all types of workers for the same employer: As of 1 July 2017, temporary agency employment is regulated by the new Labour Code. It retains the same obligations of temporary employment agencies and user undertakings, but provides an additional condition requiring information from the user undertaking to be submitted to the temporary employment agency, covering measures to ensure safety and health of workers, and working conditions that would apply if the temporary worker had been hired under a contract of employment at the same workplace. A new procedure for providing information to the State Labour Inspectorate on started temporary agency employment activities and the number of temporary workers was approved by the Chief State Labour Inspector and came into effect on 1 July 2017.

The intention is to ensure appropriate work and rest time regimen of temporary workers and adequate payment for work.

UK: Consultation launched on the enforcement of temporary agency workers' employment rights: Greater transparency on the working conditions of temporary agency workers are at the core of the consultation of the proposals made in the Taylor Review of Modern Working Practices (2017). The Taylor Review has called for a scrapping of the 'Swedish Derogation' (where agency workers receive pay between assignments) which, in the UK context, allows employers to avoid equal pay provisions. The government finally published its response on 8 February, in which it pledges to launch a consultation into the extent of abuse around the Swedish Derogation and to establish greater transparency around payment and hours for agency workers. It also stated its intention to creation a right to request a permanent contract after a 12-month assignment at a hiring firm.

Posted workers

Harmonisation of working conditions

Hungary: Slow move on regulation of posted workers in transport sector: The regulations on the employment of posted workers have been on the agenda since 2016. This particularly affects freight transporters in the transport sector. Thus, discussions took place with the involvement of their representatives. No modifications were made in the legislation, but a package of proposals has already been implemented, which will be discussed in 2018.

Transposition of Enforcement Directive on posting of workers

Austria: Social and wage dumping and harmonisation of wages in construction sector: An update of the law against social and wage dumping came in effect on 1 January (for the first time as a standalone law) transposing Directive 2014/67 (enforcement directive). Cross-border administrative prosecutions for employers posting workers to Austria were improved and accelerated to facilitate enforcement of penalties. In the construction sector, a customer liability was implemented to secure wage entitlements for posted employees. This enables posted workers to claim wage differences not only from their foreign employer but also from their Austrian customer.

Bulgaria: Harmonisation of working conditions for posted workers: The Ordinance on the Conditions and Procedure for posting of employees within the Framework of Provision of Services transposes and implements some of the requirements of Directive 96/71/EC as well as Directive 2014/67/EC and Regulation 1024/2012. It regulates the working conditions of workers posted to another EU Member State, to a country in the European Economic Area, or to the Confederation of Switzerland, and the working conditions of workers posted to Bulgaria. It establishes that the posting of Bulgarian workers is based on agreement between worker and employer and provides for obligatory content of this agreement: type and place of work, duration of posting, and basic and additional labour remuneration. Working conditions may

not be less favourable than those applicable in the country where workers are posted; they should be the same as Bulgarian workers: working time, minimum wage, health and safety at work, protection of minors, pregnant woman and protection against discrimination. Requirements, though, are not applicable in the construction industry.

Cyprus: Transposition of EU Enforcement Directive into national law: A new law (Law on the posting of workers in the framework of provision of services) was enacted in June 2017 transposing into national law the EU Directive 2015/67/EU on the enforcement of Directive 96/71/EC. The Law replaced the previous law on the posting of workers.

Portugal: Liability for remuneration of posted workers hired via sub-contracting chain: Law 29/2017 of 30 May transposed the Directive 2014/67/EU of the European Parliament and Council of 15 May 2014 concerning the posting of employees in the framework of the provision of services. According to this Law, in subcontracting chains the contractor of which the employer (service provider) is a direct subcontractor can, in addition to or in place of the employer, be held liable by the posted worker with respect to any outstanding net remuneration corresponding to the minimum rates of pay, provided by law or employment contract, to the worker posted by the service provider.

Romania: Partial transposition of the Enforcement Directive: In March 2017, the Romanian parliament adopted Law No. 16/2017 on the posting of workers within the framework of the transnational provision of services, transposing the Enforcement Directive on Posting of Workers. In February 2017, the European Commission sent a reasoned opinion regarding the failure to notify the complete transposition of the directive into their national legislation. The new law transposes most of the provisions of the directive, and, as a result, the transposition of the directive is incomplete for now.

Prevention of undeclared work

France: Measure to prevent undeclared work in construction sector: With a view to tackle undeclared work, pursuant to the Macron law (Décret n° 2016-175 of 22 February 2016), construction workers will have to wear an ID card when at work. The obligation covers posted workers, temporary agency workers, and posted temporary agency workers. The legislation has again been reinforced to avoid abuse of the posting of workers.

Posting companies and industrial action

Sweden: There were no major changes in the regulation of posted workers in 2017: There were, however, changes made regarding trade unions' abilities to take industrial action against posting companies. This has been further explained in the section on collective disputes on p. 22.

Protection for posted workers

Croatia: Support available for posted workers and working conditions rights from host country: The Union of Autonomous Trade Unions of Croatia in 2017 established a counselling centre for posted workers who work in another EU country and have an employment contract concluded with Croatian employer, or with an agency for a temporary employment registered in Croatia. Posted workers remain

in the system of the Croatian labour law, but they also have some rights of the host county regarding working hours, duration of yearly holidays, protection of health and security on working place, etc.

Slovenia: Cross-border provisions protecting posted workers: On 17 February 2017, parliament enacted the Cross-border Provision of Services Act (Official Gazette of Slovenia, No.10/2017). The Act covers the cross-border provision of services of employers by using posted workers and cross-border provision of services by self-employed persons, whereas posted workers and self-employed remain covered by the compulsory social insurance in their home country. The basic purpose for which the law was passed was the prevention of abuse in the posting of workers abroad and the transposition of EU directives and regulations, which requires more stringent conditions for the issuing of A1 certificates.

Lithuania: Information provision to labour inspectorates: There were no major changes in the regulation of posted workers in Lithuania in 2017. Law No XIII-382 of the Republic of Lithuania Amending the Law on the Legal Status of Aliens came into force on 1 September 2017, binding the companies hosting posted workers from third-country companies to provide information about such workers to the local offices of the State Labour Inspectorate.

Seasonal workers

Working conditions of seasonal workers

Finland: EU directives 2014/36 and 2014/66 on conditions of entry and stay of third-country nationals as seasonal workers and in the framework of an intra-corporate transfer were integrated in legislation, giving them equal treatment to Finnish nationals. This entered into force in January 2018.

Lithuania: By Resolution No 496 on the Implementation of the Labour Code of the Republic of Lithuania of 21 June 2017, the government has approved the description of the specificities of the conclusion, amendment and termination of seasonal work employment contracts, work and rest time and payment for work, as well as the list of seasonal works in effect as of 1 July 2017. The description retained the same principles: a seasonal work employment contract shall be concluded for the performance of seasonal work during one season not exceeding 8 months in the period of 12 successive months or during several seasons or on a non-term basis.

Romania: Emergency Ordinance No. 3/2017 amending Law No. 227/2015 on the Fiscal Code stipulated that seasonal workers, who are employed throughout the entire year and who work in hotels and catering services, benefit from an exemption from income tax.

Zero-hour contracts

Legal provisions on use of zero-hour contracts

Finland: A legislative proposal from the government to regulate contracts outlines correct use of such

contracts, with employers required to estimate needs and provisions regarding sick leave and unemployment security.

Ireland: In December, the government published the Employment (Miscellaneous Provisions) Bill 2017. The bill provides that employers must give employees five core terms of employment within five days of commencement of employment; employers who have not provided this statement after one month will be open to prosecution. It will also be an offence for an employer to deliberately misrepresent the information required in the statement of five core terms. The bill prohibits zero-hour contracts in most circumstances except in cases of genuine casual work or where they are essential to allow employers to provide cover in emergency situations or to cover short-term absences. The bill provides for a new minimum payment for low-paid workers who may be called in to work but sent home again without the promised work or any meaningful compensation. Under the bill, such employees will be entitled to be placed in a band of hours that better reflects the hours they have worked over a reference period.

Other contracts

Occasional work

Belgium: A law of 6 November 2017 sees the expansion of flexi-jobs into a small number of sectors where they were previously prohibited (other than small retail, department stores, etc), as well as to retired persons. Flexi-job workers do not have to pay income tax and employers pay lower social security contributions.

Italy: On 15 June 2017, the parliament approved new provisions governing voucher-based work to cover occasional working activities. This appears to be a turning point in the long standing debate on the regulation and use of voucher-based work. The new legislation introduces two types of voucher-based schemes. One is tailored to private individuals who wish to use vouchers to pay workers who provide domestic and care services, and the other is tailored to 'other clients' such as self-employed workers, professionals, entrepreneurs, associations and NGOs, and public administrations. This second scheme sets out special provisions for clients in the public administration and agriculture sectors.

Agreement to complete a job while unemployed

Czech Republic: Amendment to Act No. 435/2004 Coll., on Employment came into effect on 1 July 2017 and introduced a change in the regulation of so-called non-conflicting employment. The new legislation precludes the option of being registered as unemployed at the employment office while employed on the basis of an agreement to complete a job (as was previously possible). The aim is to create conditions under which jobseekers are more motivated to secure employment positions that will include their full participation in the sickness insurance system and provide a level of income sufficient to secure their basic living needs.

New types of employment contracts

Lithuania: The new Labour Code established four new types of employment contracts in Lithuania: a project-based employment contract is a fixed-term contract whereby an employee undertakes to carry out their job functions for the particular project; a job-sharing employment contract is for when two employees agree with an employer to share one job position. The third type is an employment contract for several employers allowing for an employee to work for two or more employers by performing the same job function.

The last type is the apprenticeship employment contract; a fixed-term contract concluded when a person is employed for the purpose of either acquiring qualification and skills or gaining competences required for the profession.

Minimum wages for workers on civil law contracts

Poland: From 1 January 2017, the regulation providing for hourly minimum wage for persons working on the basis of civil law contracts entered into force.

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