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Migration, both within the European Union and from other countries, has been at historically high levels in recent years and there are now large numbers of foreign (ie non-national) workers in many countries. The comparative supplement in this issue of *EIRObserver* examines this issue from the perspective of industrial relations in 20 European countries - the 15 EU Member States, Hungary, Norway, Poland, Slovakia and Slovenia. It outlines briefly the labour market and employment situation of migrants before looking in more detail at at the views and activities of the social partners and the extent to which issues relevant to migration are dealt with in collective bargaining.

With regard to the social partners, the supplement finds that the key migration-related issues for employers' organisations and trade unions are, with varying emphases, labour shortages and equal rights for migrants. Activity in this area seems to be growing in importance for employers' organisations and unions in most (if not all) western European countries, though not in the generally low-immigration candidate countries. In terms of unilateral activities, there are some examples of action by employers' organisations, notably on the integration of migrants and tackling discrimination, and of an increased wish to ensure workforce diversity by some individual employers. Trade unions in most countries are increasingly active in working to combat racism and promote equal treatment, and provide assistance and support for migrant workers and their labour market and social integration. Bipartite and tripartite dialogue and consultation on migration issues appears to be in place in many countries and to play an important role in some cases. However, the topic has not achieved a significant place on the collective bargaining agenda in most countries, with some exceptions, principally in particular sectors.

EIRObserver presents a small edited selection of articles based on some of the reports supplied for the *EIROnline* database, in this case for March and April 2003. *EIROnline* - the core of EIRO's operations - is publicly accessible on the World-Wide Web, providing a comprehensive set of reports on key industrial relations developments in the EU Member States (plus Norway) and a number of candidate countries, and at European level. The address of the *EIROnline* website is:

http://www.eiro.eurofound.eu.int/

EIRO, which started operations in 1997, is based on a network of leading research institutes in each of the countries covered and at EU level (listed on p.12), coordinated by the European Foundation for the Improvement of Living and Working Conditions. Its aim is to collect, analyse and disseminate high-quality and up-to-date information on key developments in industrial relations in Europe, primarily to serve the needs of a core audience of national and European-level organisations of the social partners, governmental organisations and EU institutions.

Mark Carley, Editor

EUROPEAN FOUNDATION *for the Improvement of Living and Working Conditions*

TRANSNATIONAL

Working time developments in 2002

Between 2001 and 2002, average collectively agreed weekly working time across the EU and Norway remained relatively stable at around 38.2 hours, while agreed normal annual working time averaged around 1,710 hours.

Here we provide a broad, general indication of trends in the duration of working time in 2002 in the EU Member States and Norway - plus, for the first time, two of the candidate countries which will join the EU in 2004. This article is a brief summary of a full report on the *EIROnline* website, based on contributions from the EIRO national centres, which provides more detail, covers several other areas (such as statutory working time maxima and annual leave, and actual/usual weekly working hours) and outlines the sources of the information and the problems of comparison and the caveats that apply. The figures below should be treated with extreme caution, and readers should refer to the full *EIROnline* report and its various notes and explanations.

Average agreed weekly hours

Collective bargaining plays a key role in determining the duration of working time in all the countries considered here. However, the nature of this role differs widely between the countries, with different bargaining levels (intersectoral, sectoral, company etc) playing different parts, and bargaining coverage varying considerably (though 70% of employees or more are covered by collective bargaining in the majority of EU countries). Furthermore, the importance of bargaining differs considerably between sectors of the economy and groups of workers. Column A in the table opposite sets out the average normal weekly working hours in 2002 for full-time workers as set by collective bargaining, across the whole economy, for the EU Member States, Norway, Hungary and Slovakia. In most cases, the 2002 figures are identical to those for 2001. The overall average weekly hours for the 15 EU Member States plus Norway remained unchanged at 38.2. The range of normal weekly agreed hours across the EU and Norway was 4.3 hours - ie between 35.7 hours (France) and 40 hours (Greece). However, 13 countries have a normal working week of between 37 and 39 hours inclusive.

In 2002, as in the previous four years, major working time reductions were absent across the EU and Norway, with the notable exception of France, where a 35-hour week has been introduced progressively (reducing average collectively agreed normal weekly hours from 36.1 in 2001 to 35.7 in 2002) and, to a lesser extent, Belgium, where the 2001-2 national intersectoral agreement provided for a one-hour cut in the working week, from 39 to 38 hours, from January 2003. Even in France, the new conservative government which came to office in 2002 has sought to make the impact of the 35-hour week more flexible by increasing the annual overtime quota.

However, working time cuts were achieved in 2002 in some countries in particular sectors and companies (as in Greece, Italy, Luxembourg and Spain). Smaller reductions and shorter working time in the form of additional leave, often linked to the introduction of greater flexibility, were still common (as in Belgium and Denmark). Minor overall average reductions were seen in Spain, the UK and eastern Germany. Working time reductions remain on the agenda of many unions in the EU - eg in countries such as Austria, Germany, Greece, and Spain.

Turning to the candidate countries, agreed weekly working time appears to be above the average for the EU and Norway , if not dramatically so. Working time reductions seem high on the industrial relations agenda in some candidate countries. In Hungary, there was tripartite agreement in 2002 to support the reduction of working time in the long run, and to begin negotiations over the issue. In Slovakia, a new Labour Code which came into force in 2002 reduced the standard weekly working time from 42.5 to 40 hours, while collective agreements negotiated in 2002 for civil servants and public service employees reduced their weekly working time from 40 to 37.5 hours.

Agreed weekly hours by sector

We have examined average normal weekly working hours for full-time workers as set by collective bargaining in sectors selected to represent manufacturing industry (chemicals), services (retail), and the public sector (the central civil service).

Comparing the three sectors, in 2002 the highest average collectively agreed weekly hours in the EU and Norway were found in chemicals at 38.3 hours, followed by retail at 38.2 hours and the civil service at 37.5 hours (the same ranking as in 2000). Average hours were slightly above the overall whole-economy average of 38.2 hours in chemicals, at the average in retail, and appreciably below average in the civil service. In all three cases (and most notably in the civil service) there have been slight falls since 1999-2000, usually due mainly to reductions in particular countries: Greece, Luxembourg and Spain in the case of chemicals; Belgium, Germany, Italy, Luxembourg and the UK in the case of retail; and France and Spain in the case of the civil service. This confirms that, despite the overall standstill in the move towards shorter working hours in almost all countries, reductions (generally small) persist in particular sectors and countries.

With regard to the candidate countries, data are available from Hungary and Slovakia for chemicals and retail. In all cases apart from Slovakian chemicals, agreed weekly hours are above the EU/Norway average, though no higher than those found in some of the Member States with longer hours.

Annual leave

The annual duration of working time is strongly influenced by the amount of paid annual leave to which workers are entitled. Column C in the table opposite gives the average number of days of collective agreed annual leave for the countries where data are available (harmonised on the basis of a five-day working week). The figures apply generally to 2002, with the only significant changes from 2001 being a two-day increase in Norway and a half-day increase in Luxembourg. The effect was to increase the average entitlement across the EU and Norway slightly from 25.7 days in 2001 to 25.9 days in 2002 (the figure stood at 25.6 days in 2000). The different average given in the table results form the inclusion of statutory minimum annual leave figures for those countries where no figure is available for agreed leave. Agreed annual leave entitlement varies considerably, from 31.3 days in the Netherlands to 20 days in Ireland.

Annual working time

In order to arrive at a crude annual estimate for collectively agreed annual normal working time in all countries for 2002, we have taken the figures for average collectively agreed normal weekly hours and assumed a five-day working week and a 52-week year. From this total annual figure, we have subtracted the average collectively annual paid leave - or, where no data are available on this point, the minimum statutory annual leave - and the number of annual public holidays (for the EU as calculated by the UK Trades Union Congress in 2002 - using the mid-point where there are varying numbers of such holidays in a country - and for other countries from national sources). The resulting figures do not, of course, take into account factors such as overtime working, or other forms of time off and leave. They are only very rough estimates, but they

Average collectively agreed normal annual working time, 2002

Country	A. Weekly hours	B. Weekly hours (A)x52	C. Annual leave (days)	D. Public holidays (days)	E. All leave (C+D) expressed as hours	F. Annual hours (B-E)
Slovakia	40.9	2,126.8	20.0*	10.0	245.4	1,881.4
Hungary	40.0	2,080.0	20.0*	12.0	256.0	1,824.0
Greece	40.0	2,080.0	23.0	11.0	272.0	1,808.0
Ireland	39.0	2,028.0	20.0	9.0	226.2	1,801.8
Belgium	39.0	2,028.0	20.0*	10.0	234.0	1,794.0
Finland	39.3	2,043.6	25.0	12.0	290.8	1,752.8
Sweden	38.8	2,017.6	25.0	11.0	279.4	1,738.2
Portugal	39.0	2,028.0	24.5	13.0	292.5	1,735.5
Spain	38.5	2,002.0	22.0*	13.0	269.5	1,732.5
Luxembourg	39.0	2,028.0	28.0	10.0	296.4	1,731.6
Austria	38.5	2,002.0	25.0	13.0	292.6	1,709.4
Norway	37.5	1,950.0	25.0	10.0	262.5	1,687.5
UK	37.2	1,934.4	24.5	9.0**	249.2	1,685.2
Italy	38.0	1,976.0	28.0	12.0	304.0	1,672.0
Germany	37.7	1,960.4	29.1	10.5	298.6	1,661.8
Denmark	37.0	1,924.0	29.0	9.5	284.9	1,639.1
Netherlands	37.0	1,924.0	31.3	8.0	290.8	1,633.2
France	35.7	1,856.4	25.0	11.0	257.0	1,599.4
Average	38.5	2,002.0	24.7	10.8	273.4	1,728.6
Average EU and Norway	38.2	1,986.4	25.3	10.8	275.8	1,710.6

*Source: EIRO. * Statutory annual leave figure; ** Great Britain only - one extra day in 2002, norm is 8.*

allow some broad observations to be made.

In the EU and Norway, average collectively agreed annual normal working time ranged from just over 1,800 hours in Greece and Ireland to under 1,600 hours in France. Belgium also had notably long hours, while Denmark and the Netherlands also had notably short hours. Greek average annual hours are some 209 hours higher (over an eighth more) than those in France - the equivalent of over five working weeks in Greece.

Looking at the ranking of the 16 countries in terms of the length of their agreed working hours, the countries with the longest and shortest weekly hours are also those with the longest and shortest annual hours. However, the annual perspective results in rather different rankings for some countries than provided by the weekly hours figures. Some countries have a lower position in the 'league table' for normal annual hours than those for normal weekly hours because of the effects of relatively long annual leave (eg Germany and Luxembourg) or a relatively high number of public holidays (eg Finland and Portugal), or both (eg Italy). Conversely, some countries have a higher position in the table for normal annual hours than for normal weekly hours because of the effects of relatively low annual leave (eg Sweden) or both relatively low annual leave and a relatively low number of public holidays (eg Norway and the UK).

The total of agreed annual leave and public holidays varies in the EU and Norway from 40 days in Italy to 29 days in Ireland - a difference of nearly 40% or over two working weeks. Other notably high-leave countries include Germany, the Netherlands and Denmark, while other notably low-leave countries include Belgium (though the statutory annual leave figure is used here, due to an absence of figures on agreed leave), the UK and Greece. It is interesting to note the wide variations in the number of public holidays, with 13 a year in Austria, Portugal and Spain and only eight in the Netherlands and nine in Ireland and Great Britain.

Finally, data are available for two candidate countries - Hungary and Slovakia. The agreed annual normal working hours in these countries (and especially Slovakia) are higher than in any EU Member State or Norway (though in both cases the statutory annual leave figure is used here, due to an absence of figures on agreed leave), though not that much higher than countries such as Greece and Ireland. They exceed the EU/Norway average by about 10% in the case of Slovakia and 7% in the case of Hungary. The high figures result both from relatively high normal weekly hours and relatively low levels of leave.

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18 March 2003

AUSTRIA

Government calls for EUR 1,000 monthly minimum wage

In March 2003, the new Austrian government called on the social partners to agree on a nationwide minimum rate of pay of EUR 1,000 per month.

The coalition government of the conservative People's Party (ÖVP) and the populist Freedom Party (FPÖ) was reformed in February 2003 following elections in November 2002. On 6 March 2003, Chancellor Wolfgang Schüssel of ÖVP presented the government's programme in parliament. Alongside changes to the unemployment cover scheme, the programme's section on 'labour and social affairs' refers to minimum pay rates. It proposes that every worker employed in a full-time job should receive a minimum monthly pay rate of EUR 1,000. The government thus appeals to the social partners to conclude collective agreements to this effect. However, it should be ensured that, particularly in poorly performing branches, jobs should not be endangered.

Statements made by some government representatives suggest that this minimum pay rate should be established by a national cross-sectoral agreement, concluded by the top-level organisations of the two sides of industry. Such agreements are very rare in Austria, and have never dealt with pay. Furthermore, due to the principle of free collective bargaining, the government lacks any capacity for enforcing the introduction of minimum pay rates in this way. Therefore, several representatives of the Chamber of the Economy (WKÖ) employers' organisation have rejected the government's initiative, although most of them are linked to ÖVP.

It seems that this issue has not been clarified within the coalition parties, since several business-linked ÖVP representatives have also expressed reservations. Business has always argued that minimum wages distort the operation of the labour market. The government programme's point that the implementation of a minimum rate of pay should not endanger employment in poorly performing sectors appears to be an attempt to accommodate business interests. However, this hardly seems compatible with the idea of a general (cross-sectoral) minimum rate of pay.

Background

Austria has no minimum wage legislation. It is only sectoral collective agreements which set a floor for pay levels. Despite its extraordinarily high coverage, the Austrian bargaining system does not rule out extremely low pay. This is due to the unions' restricted bargaining power in certain sectors.

Several recent studies have found that the pay rates of well-paid and low-paid jobs are diverging. Estimates by the Austrian Association against Poverty suggest that in the period from 1995 to 2001, in terms of their average gross income, the best-paid decile of Austrian employees increased their share of total income from 28.8% to 29.3%, while the share of the lowest-paid 60% declined from 31.5% to 29.9%. In 2001, the best-paid 5% of employees had the same total income as the lowest paid 45% of employees.

In 2001, the number of employees earning less than EUR 1,000 (gross) per month amounted to about 70,000 to 80,000 full-time employees and more than 500,000 part-time employees. Expressing all full-time jobs and part-time jobs in terms of full-time equivalents, some 314,000 people had a gross income of less than EUR 1,000 monthly in 2001, about one 10th of all employees. Some 17% of female workers and 5% of male workers earn less than EUR 1,000. The 2002 *Social Report* of the Ministry of Social Affairs estimates that about 57,000 employees are 'working poor', with 178,000 people concerned when spouses and children are included. Notably, these figures do not take into account those poor people with no regular work.

Since the questions of poverty and the 'working poor' have become important subjects not only of expert debate but also in public opinion during recent years, FPÖ as well as parts of ÖVP have repeatedly used the popular slogan of a general EUR 1,000 minimum pay rate. However, critics state that such slogans are easy to make, as the introduction of such a minimum rate would be the responsibility of the social partners.

Responses

The basic idea of a cross-sectoral minimum wage of EUR 1,000 a month has been supported by the opposition Social Democratic Party (SPÖ) and the Austrian Trade Union Federation (ÖGB). ÖGB has called for a general EUR 1,000 minimum pay rate since 1999, but has always sought to rely on collective bargaining rather than seeking any statutory pay regulations, in order to preserve its bargaining domain.

The other opposition party, the Greens, considers the proposed minimum wage of EUR 1,000 too low and is calling for a statutory minimum monthly rate of EUR 1,100, with a flexible adjustment to the annual inflation rate. It opposes the idea of regulating minimum pay by a national cross-sectoral agreement, since even such an agreement would not cover all employees (eg those employed by employers outside WKÖ), and believes that the actual number of full-time workers paid less than EUR 1,000 per month is about 200,000. Therefore, the minimum pay rates should be fixed by law, since the social partners are argued to have failed to arrive at minimum wage rates which prevent growing numbers of 'working poor'.

Commentary

The plan to implement a national EUR 1,000 monthly minimum rate of pay is interesting. Such demands have been made by groups representing employees within ÖVP since 1999 and by FPÖ since 2000. However, since the coalition partners do not intend to introduce minimum wage legislation, a general EUR 1,000 minimum pay rate remains unlikely to be realised. Hence, the government's position on minimum pay appears to be 'symbolic politics'. It was only FPÖ which initially proposed a national general agreement on minimum wages in the course of the 2002 election campaign, without mentioning that collective bargaining falls within the purview of the social partners, whose legitimacy and competences have been challenged by several FPÖ representatives.

The social partners want to maintain control over pay. Therefore, they see any statutory pay regulation as an interference with their domain. Nevertheless, they differ widely on the question of a collectively agreed cross-sectoral minimum wage. As Reinhold Mitterlehner of WKÖ stated, any higher wages have to be paid for by business, and such a minimum wage would endanger low-productivity companies and – in the long run – distort the labour market. ÖGB, however, regards wages of below EUR 1,000 for a full-time job as inadequate. Therefore, it continues to seek a cross-sectoral minimum wage of EUR 1,000, since the minimum rate is still lower than this level in some sectors (eg agriculture, hotels/catering, textiles/leather production, and public and private services).

At any event, the introduction of higher minimum standards of pay cannot resolve the problem of growing pay inequality. This might be overcome only by a more 'solidaristic' union bargaining policy. The current process of union mergers may work into this direction. Similarly, the question of more equality is also linked to the willingness to include marginalised groups of employees as well as 'atypical workers' in the system of collective bargaining. (Georg Adam, University of Vienna)

AT0303202F (Related records: AT0002202F, TN0212102S, TN0208101S, AT0110205N, TN0205101S)

21 March 2003

Study examines employment effects of statutory dismissals protection

A recent study claims that there is no evidence that Germany's rules on statutory protection against dismissal present obstacles to increased employment.

In March 2003, the Institute for Economic and Social Research in the Hans Böckler Foundation (WSI) presented the findings of a study on the termination of employment relationships and the effects on employment of Germany's statutory protection against dismissal ('Die Beendigung von Arbeitsverhältnissen: Wahrnehmung und Wirklichkeit', Harald Bielenski, Josef Hartmann, Heide Pfarr and Hartmut Seifert, in *Arbeit und Recht*, 3/2003). The context was a recent government announcement of plans to reduce statutory protection against dismissal and claims by supporters of such amendments to the Protection Against Dismissal Act (Kündigungsschutzgesetz) that the law imposes too great a burden on employers, thus preventing the recruitment of additional personnel. The study finds that most terminations of employment relationships do not result in legal disputes and that there is no evidence that the current statutory protection represents a considerable financial risk for employers wishing to recruit additional personnel.

WSI conducted the study in cooperation with the Infratest Sozialforschung polling institute. It was based on a survey of 2,407 employees whose employment relationship ended between September 1999 and November 2000, and focuses on the terms under which employment relationships end and the effects of statutory dismissals protection.

Labour turnover

In response to claims that the current legal situation damages labour market flexibility, the study examines labour market data. Figures from the Institute for Employment Research (IAB) show that between 1996 and 2001 labour turnover in Germany ranged between 10% and 13% of overall employment, ie between 3.5 million and 4.5 million jobs were terminated and an equal number of employees were given new contracts.

As a general trend, labour turnover is linked to the size of the establishment. The greatest labour turnover is found in workplaces with up to five employees. Whether this is due to the fact that these establishments are below the current five-employee legal threshold for statutory protection against dismissal remains in question, because a somewhat lower but still above-average labour turnover is found in establishments with six to nine employees, which are above this threshold.

Reasons for termination

According to the survey: 38% of all terminations of employment result from resignations by employees; 32% result from dismissals; 10% follow a mutual agreement between employee and employer to terminate employment; and 20% are due to the expiry of fixed-term contracts. Fixed-term employment therefore plays a major role in the termination of employment.

Works councils and disputes

The law requires the employer to inform the works council (or, in the public sector, staff council) prior to any dismissal. The works/staff council then has the right to object to the dismissal under certain conditions. Only 10% of establishments in Germany have such representative structures, but they employ about 50% of the overall workforce.

Of those WSI survey respondents who had been dismissed, only 25% stated that the works/staff council had been consulted by the employer. In 56% of all cases, there was no such consultation because no such elected bodies existed. In establishments with works/staff councils: 60% of respondents reported that the works/staff council had been consulted by the employer; 30% did not know whether these bodies had been involved; and 10% declared that the works/staff council had not been consulted. Even where works/staff councils had been consulted, only 25% of dismissals had been followed by an objection.

Only 11% of all respondents who had been dismissed stated that they had filed an application for protection against dismissal at the relevant court. Given the 1 million dismissals per year, this suggests 100,000 such applications. This finding differs from figures issued by the former Ministry of Labour and Social Affairs, which indicate that some 250,000 applications are filed per year. This difference may partly be explained by the fact that cases which ended with reinstatement are not included in the WSI figures. Furthermore, respondents who eventually reached a mutual agreement with the employer to terminate their employment may have answered accordingly in the survey without indicating that they had filed an application for protection against dismissal previously.

Compensation

One argument in the discussion about statutory dismissals protection is that the current legal situation tends to result in high compensation for dismissals and therefore has a prohibitive effect on employers' willingness to hire personnel. The WSI study, however, found that only 10% of all terminations of employment involved compensation.

Of respondents who had been dismissed, only 15% stated that they had received compensation. This includes compensation as a result of a 'social plan' (a special works agreement to compensate or reduce economic disadvantages for employees in the event of a substantial alteration to the establishment or in cases of bankruptcy). Of the 10% of all respondents who had terminated their employment by mutual agreement, only 34% had been compensated. The level of compensation varies considerably, but in the majority of cases where compensation was paid (58%) it did not exceed six month's pay.

The study found that the level of compensation is primarily related to length of service. The likelihood of receiving compensation seems, however, to be associated with formal education. Employees with a university degree are six times more likely to receive compensation of over six month's pay than those without any formal training. The probability of receiving higher compensation is twice as high in western Germany as in eastern Germany.

Commentary

The Infratest/WSI survey does not lend support to the view that the current statutory protection against dismissal prohibits labour market flexibility. The number of terminations of employment remains consistently high. Furthermore, there is no indication that increasing the workforce-size threshold above which statutory dismissals protection is granted, and thus releasing small enterprises from the obligations involved, might stimulate their willingness to extend employment. From an employee's point of view, given the small proportion of cases where any compensation is granted and the modest average amounts involved, one could rather argue in favour of a reform of the current statutory protection against dismissal to strengthen employees' rights in the event of dismissal, thus helping more to keep their jobs. (Heiner Dribbusch, Institute for Economic and Social Research, WSI)

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18 April 2003

ITALY

Cgil presents package of four bills on labour market reform

In March 2003, Cgil, the largest Italian trade union confederation, presented four 'voter initiative' bills on labour market reform to parliament, having collected over 5 million signatures in their support.

Discussion has been in progress for many years on reform of the Italian labour market and of the system of 'social shock absorbers' - the measures which seek to protect workers affected by job losses and restructuring. The Italian system of social protection has serious shortcomings as regards the protection of dismissed workers, job-seekers and unemployed people. Today, the accumulation of legislation over the years has fragmented the various interventions and produced a 'dual' system whereby protection is provided for certain categories of firms and workers (those in large-scale manufacturing industry) and not for others (small firms and the services sector).

In this context, in November 2001 the centre-right government approved a proposal for a 'proxy law' (No. 848) on the labour market - a proxy law means that parliament delegates to the government the power to legislate on a particular issue. However, the government's bill brought harsh criticism from the trade unions, especially with regard to the parts concerning: amendments to Article 18 of law 300/70 (the Workers' Statute), which provides for reinstatement of workers dismissed without 'just cause' or 'justifiable reason'; the reform of the social shock absorbers; and unemployment benefits and incentives. As a result of these protests, the government proposed removing the most controversial aspects from the draft proxy law and transferring them to another bill (No. 848bis), which was to be discussed separately. After this initiative, trade unions took diverging positions. Cgil refused to resume negotiations, while both Cisl and Uil considered the changes to the bill as a sign of the government's willingness to engage in dialogue

Negotiations thus continued without Cgil until July 2002, when the government and all the social partners but Cgil signed the 'Pact for Italy', a national agreement on the labour market, the tax system and the South of Italy (*EIRObserver* 5/02 p.5). Cgil, however, organised protests against the measures proposed in the Pact and held a unilateral general strike on 18 October 2002. Proxy law No. 848 on the reform of the labour market was finally approved by parliament on 5 February 2003 (see box opposite), while law No. 848bis is still under discussion.

As an alternative to the draft law No. 848bis, Cgil decided to promote its own 'voter initiative bills' - whereby legislative proposals may be made to parliament if a certain number of citizens' signatures are collected - on labour market reform. On 10 March 2003, the union confederation presented a package of four such bills in parliament, after collecting 5,122,000 signatures since the summer of 2002 – an undertaking which Cgil described as 'the greatest collection of signatures ever made in Italy'.

The voter initiative bills

Cgil's package of proposed legislation consists of four bills with two main objectives: to extend employment protection to cover the overwhelming majority of workers; and to rationalise the system of social shock absorbers by removing all thresholds related to sectoral differences, type or size of firm or type of contract. The key points of the four proposals are as follows.

Employment protection

The voter initiative bill on employment protection sets out a complex system of 'defensive' measures with respect to collective dismissals, focusing first on the use of 'job-security agreements'. This is a scheme introduced by a national agreement in 1983, which provides for the reduction and rescheduling of working hours and pay during company crises in order to avoid job losses, with financial assistance for the workers affected. This provision (the only proposed measure which imposes an access threshold determined by firm size) should, according to the bill, be extended in its scope to include all enterprises with five or more employees. The proposal fixes the maximum amount of reduced working time allowable as hours worked in excess of 20 per week (ie workers' hours may not be cut below 20 per week), for a maximum period of 24 months which is renewable for another 24 months (36 in the South). The supplementary benefit paid to workers under job-security agreements should amount to 75% of their lost pay. Firms using these contracts would be entitled to a 35% reduction in the social security contributions paid for the workers concerned, provided that no staff cuts are made in the following 12 months.

The next stage in the proposed sequence of measures would be use of the wages guarantee fund (Cig), a scheme which currently pays a state benefit to some workers whose employment is suspended by firms undertaking restructuring. The use of the Cig would be extended to all workers (including 'freelance workers coordinated by an employer' - see below) and it would provide total benefit amounting to 80% of the worker's previous remuneration. All categories currently excluded from the Cig would be entitled to supplementary benefit of 60% of their lost pay, up to a maximum of EUR 1,000 per month, and index-linked on an annual basis.

It is proposed that when the alternatives (ie job-security agreements and the Cig) have been exhausted, an extended 'mobility allowance' scheme (with standardised procedures, forms, times and communication methods) would apply. Mobility schemes provide for redundant workers to receive a state allowance and benefit from various measures to help them find work. Under the Cgil proposal, all workers on job-security agreements or receiving income support for more than six months, and workers who have lost their jobs because of collective redundancies or for 'justifiable reasons', would be entitled to enrol on the mobility scheme's 'availability lists' and to use its facilitated job redeployment scheme. The new mobility allowance would be equal to the basic supplementary benefit (60% of previous pay, subject to maximum amounts) and payable for 18 months, extended to 36 months for workers aged over 50. Employers hiring workers 'in mobility' would be entitled to 100% relief on social security contributions for 18 months.

As regards unemployment benefit, compulsory insurance against unemployment would apply to all workers (including freelance workers coordinated by an employer). Two years of insurance payments would be necessary for entitlement to benefit, and the duration of the benefit would be 12 months, with a monthly benefit equal to 60% of the worker's previous wage (with a maximum of EUR 1,000).

Finally, the bill proposes the full-scale introduction of a 'minimum integration income' scheme, already tried out on an experimental basis by previous centre-left governments, in order to combat poverty and social exclusion.

Extension of protection against unfair dismissal

The bill on unfair dismissal proposes an increase in the compensation paid to workers who cannot be reinstated in their jobs if they are unfairly dismissed, ie those working for firms with fewer than 16 employees. Should a court

decide that a worker in a firm with fewer than 16 employees has been unfairly dismissed, it would order the worker's immediate reinstatement in their job. At this point the employer could lodge an appeal with the court asking for the definitive dismissal of the worker. The court could then declare the employment relationship terminated, but order the employer to pay compensation worth 15 to 24 months of the worker's previous remuneration.

Disputes over dismissals and transfers

The bill on this issue mainly consists of procedural rules intended to 'fast-track' the most sensitive and important labour law disputes, namely those which concern dismissals and transfers. The aim is to deal with the problem of the long-drawn-out procedures that make it difficult to reinstate workers after a long time has elapsed since their dismissal. The bill therefore envisages a simplified fact-finding procedure so that rulings can be made more rapidly.

Extension of rights to coordinated freelance workers

The bill proposes that the rights and protections enjoyed by dependent employees (particular as regards pensions, but also maternity, sickness, holidays, workplace injury and dismissal without just cause) should be granted to all workers engaging in continuous 'freelance work coordinated by the same employer' – sometimes known as 'economically dependent workers' – a common form of 'atypical' work in Italy.

The proposal is to revise Article 2094 of the Civil Code, which defines the nature of contracts for dependent employment in a firm. The new text of Article 2094 as proposed by the bill extends the contract of dependent employment to cover both dependent employment relationships and 'semi-dependent' ones (ie 'economically dependent workers'), thereby eliminating the distinction between the two types. The automatic effect would be to grant to semi-dependent workers all the rights and guarantees now granted by labour law to dependent employees.

Commentary

The four bills proposed by Cgil will be examined by the labour committees of the Chamber of Deputies and the Senate. However, although Cgil's voter initiative has involved more than 5 million Italians, its conversion into law will be extremely difficult. The centre-right coalition, which enjoys a large majority in parliament, is committed to labour market reforms which lean more towards liberalisation and the increased flexibility of employment contracts. Moreover, one cannot take for granted that the centre-left opposition will be united in its adoption of Cgil's proposals, neither as regards their technical contents nor in providing political support for them.

As regards the extension of protection against unfair dismissal, the proposed two-stage judicial procedure will only prolong an already extremely lengthy process. The system proposed by Cgil appears to be excessively cumbersome.

To be judged positively, however, is the proposal to unify worker protection provisions by establishing equivalence between dependent employment and continuous freelance work, given that the majority of so-called 'semi-subordinate' workers are effectively dependent employees subject to a single employer. It will then be the task of the legislature to rewrite the relative rules. (Livio Muratore, Ires Lombardia)

IT0304307F (Related records: IT0205204F, IT0201277F, IT0112127N, IT0205101N, IT0205204F, IT0206102N, IT0207104F, IT0212104N, IT0303103N, IT9807176N, IT0011273F, TN0205101S)

18 April 2003

Labour market reform law adopted

The government's proxy law No. 848 on the reform of the labour market (see main text) was finally approved by parliament on 5 February 2003. The main innovations introduced by the law, which will apply only in the private sector, are as follows.

• The public monopoly on **job placement services** has been ended. Employment consultants, temporary work agencies, universities and joint bodies established by the social partners will be allowed to provide these services. The reform will also allow for the creation of a 'continuous labour exchange', an employment service which will involve the collaboration of public and private bodies in continuously updated information provision on labour demand and supply.

• **New forms of employment contract** will be introduced, as follows: 'on call jobs', whereby workers are available to work on a discontinuous or intermittent basis - the workers will be able to chose whether or not to respond obligatorily to a call to work from the employer and, if they do so, the employer is obliged to pay them an allowance; job-sharing, whereby two workers share the same position, has been simplified and given a legal basis, with workers able to organise sharing the job between them without constraints from the company; and 'additional work' has been simplified and will be tried out for jobs involving personal care.

• Companies will be able to use **outsourcing** to a greater extent, but only if the unit to be outsourced is already established and working autonomously.

• **Staff leasing** will be allowed - ie the establishment of companies which hire workers on a regular basis and post them on open-ended contracts to other companies.

• The regulation of the employment relationship between workers and members in **cooperatives** has been changed.

• **Apprenticeship and training contracts** will be reviewed by the government in order to improve their training element.

• **Social security and labour inspection** activities which are at present entrusted to the Ministry of Labour and the National Social Security Institute (Inps) will be reviewed and decentralised.

• Flexible forms of **part-time work** will be introduced and part-time employment will be allowed in the agricultural sector. Greater flexibility in part-time work will be achieved by new rules on 'extra hours' (ie work exceeding normal part-time hours but below full-time hours), while there will be better opportunities for workers to switch between part-time and full-time work.

The government will now have to issue implementing decrees for the 'proxies' contained in the law and has committed itself to completing the whole legislative process by June 2003, in order to have the new rules in force before the end of summer 2003.

IT0303103N

NETHERLANDS

New collective agreement concluded for teaching staff

In April 2003, following difficult negotiations, a new collective agreement was concluded for the Dutch primary and secondary education sector.

According to a 2003 survey carried out by the education sector social partners under the aegis of the Sectoral Board for the Education Labour Market (SBO), relatively little public money is spent on education in the Netherlands. Recent decades have seen successive cutbacks, with the proportion of GNP spent on education falling from 7.5% in 1972 – when the first cuts occurred – to 4.7% today. Other western countries spend an average of 5.7% of GNP on education. Furthermore, student numbers have risen dramatically. Calculated as the amount spent per student, expenditure has fallen since 1972 by 11.3% in higher vocational education and by 54% in university education.

There have long been calls for increased investment in education - in infrastructure (including buildings, ICT facilities and teaching material) but especially in teaching staff. While the previous government invested in reducing class sizes, ICT and facilities to cater for increased numbers of students, substantial investment in teachers' terms and conditions of employment was lacking. According to commentators, pay and conditions for teachers do not compete with those elsewhere, exacerbating the sector's serious and growing staff shortage.

Staff shortages

The growing staff shortage is an important factor which contributes towards what is widely regarded as the diminishing quality of education in the Netherlands. Furthermore, improvements arising from investments in other areas of education are sometimes cancelled out as a result of staff shortages. For example, in 2001 the Education Inspectorate asserted that quality gains arising from smaller classes in primary education were being undermined by a lack of staff. A 2002 report from the Social and Cultural Planning Office (SCP) pointed to a high number of classes cancelled due to an absence of teachers. Staff shortages in secondary education are especially chronic. According to forecasts by the Ministry of Education, Culture and Science, the 2002-3 school year will witness 2,750 teaching vacancies and the shortfall may rise to 6,000 in 2006 and 10,000 in 2011. Teaching staff shortages in primary education also fluctuate between 1,500 and 2,500. The Randstad conurbation is especially hard hit.

According to the Abvakabo public sector trade union affiliated to the Dutch Trade Union Federation (FNV), the key precondition for the quality of education is investing in sufficient qualified staff. In 2002, the unions and employers' organisations represented in SBO presented an integrated plan to reduce existing and future staff shortages. At the start of 2003, SBO again attempted to draw attention to the plan in political circles, within the context of the formation of a new government. In addition to an inadequately equipped working environment, SBO identifies bottlenecks in education staff's overly heavy workload and below-par terms and conditions of employment. To solve such problems, the government would have to increase education spending by 1% of GNP.

Pay and conditions

A study carried out by the University of Amsterdam in 2002 finds that teachers in the Netherlands earn less than their counterparts abroad. Furthermore, on average, Dutch teachers earn less than other highly-qualified employees outside the education sector to a greater extent than in other western countries. Teachers in the Netherlands also have to work longer hours than their colleagues abroad - compared with 868 teaching hours a year in the Netherlands, teachers in Germany teach for only 685 hours and in France for only 589. Workloads are higher for Dutch teachers because of larger classes (an average of 18 pupils per teacher, compared with 15 elsewhere). According to the report, countries in which teachers' wages are comparable with those of highly-qualified employees in other sectors, such as Germany and France, do not have a general shortage of teaching staff. Apart from wage levels, high unemployment in these countries is cited as a possible explanation.

New agreement

On 1 April 2003, following difficult negotiations, a new collective agreement for the primary and secondary education sector was reached by the Minister of Education and the union federations representing civil servants and teaching staff.

In the central 'social agreement' for 2003 concluded in November 2002, trade unions and employers' organisations agreed a maximum pay increase limit of 2.5% for the bargaining round. In education, the Minister initially proposed a wage increase of 2.2% and agreement was finally reached on 2.25%, while the year-end bonus will be increased by a one-off amount of EUR 100. Critics state that the education sector's position in competing for staff has thus worsened - other sectors have agreed increases of 2.5% - doing little to improve the situation regarding staff shortages or heavy workloads.

Other measures in the new agreement are directed at greater 'job differentiation' - ie creating a wider range of different teaching jobs and pay levels - initially by making more resources available. For example, funds will be released for support staff in primary schools, while upper-secondary vocational education – where shortages are most pronounced – will receive additional funds for differentiating the jobs of teachers. A second approach to job differentiation is to offer schools more leeway to develop their own employment and staffing policy, by increasing information related to school budgets and by pursuing a policy of deregulation and decentralisation. While the latter relates to 'secondary' conditions of employment, opportunities for decentralised employment regulation and evaluation will also be examined.

Finally, there are also measures directed at: better using incumbent staff (encouraging them to work more than the standard annual 'package'); retaining new and more experienced teachers; and recruiting staff through 'cross-promotion' (ie classification on the teaching scale corresponding to a worker's last-earned salary outside the education sector).

Commentary

Despite arguments put forward by the education sector social partners that teachers' wages should be increased to help attract highly educated individuals, wage moderation seems to have won in the new collective agreement. The agreed pay increase falls below the ceiling of 2.5% set in the central agreement. Consequently, the education sector now lags even further behind other sectors.

A solution has thus not been sought to staff shortages through a general wage increase, but instead through job and wage differentiation, in a drive both to retain incumbent employees and attract new staff. Support staff numbers will be increased, the opportunity for differentiating between various types of teachers will be expanded and the option of competence-linked pay is being studied at decentralised level. Wage differentials will also creep in through specific classifications for 'cross-promotions' and making it more attractive for full-time teachers to work overtime.

The approach based on job and wage differentiation in education is certainly worthy of study, considering the past lack of career opportunities. However, the unions warn against the danger of transferring teaching tasks to support staff. Additionally, care should be taken to avoid a potential negative gender effect by, for example, giving full-time teachers greater rewards. (Marian Schaapman, HSI)

NL0304102F (Related records: NL0302101N, NL0212101N)

18 April 2003

Important changes made to working time legislation

Norway's legislation regarding the use of overtime work was liberalised in February 2003, while in April the Opening Hours Act, which regulates the opening hours of shops, was abolished.

Two important legislative developments have taken place in early 2003 which may have a significant impact on the working time of Norwegian employees. New overtime rules were introduced on 28 February, extending the possibility for individual employees to engage in overtime work. On 1 April, the controversial Opening Hours Act was abolished, and new rules regarding shop opening hours on weekdays (including Saturdays) came into force. The changes to the legal framework, in particular that governing overtime, met with significant criticism from both trade unions and opposition parties in parliament. Both changes form part of the centre-right coalition government's efforts to simplify the legal framework and provide greater working time flexibility for employees and employers.

Overtime

On 28 February, the Act on Workers' Protection and Working Environment (AML) was amended to allow for greater flexibility in the use of overtime. The weekly and four-weekly restrictions on overtime work have thus been abolished. A more general rule regarding the total number of working hours allowed per week has been introduced. The use of overtime work must be distributed in such a way that the total working week (including overtime) does not exceed 48 hours, averaged over a four-month reference period. This four-month period may under certain conditions be extended to six months or, in companies with a collective agreement and based on agreement with trade union representatives, up to a year. The introduction of this framework allowing for a maximum 48-hour working week should be seen in light of efforts made to harmonise the Norwegian legal framework with the EU working time Directive.

Although the general ceiling of 200 hours' overtime per employee per year remains intact, new opportunities have been introduced to work 'individual voluntary overtime' (between 200 and 400 hours per year). Previously, overtime beyond 200 hours per year was allowed only on the basis of an agreement with the relevant trade union or of a permit from the Labour Inspection Authority. Now (voluntary) overtime of between 200 and 400 hours a year may be based on a written agreement between the enterprise and each individual employee. Thus neither unions nor the Labour Inspection Authority need be consulted on such matters.

The rules regarding the conditions under which overtime may be used have not been changed and the employer must thus discuss overtime with union representatives before implementation. No changes are made relating to the employers' right to impose overtime on employees (during the first 200 hours per year), or to the employees' right to refuse such overtime work.

Opening hours

The legislative framework regarding shop opening hours has been changed on several occasions in recent years, and has been a constant source of controversy. In recent years, opening hours have been restricted by the Opening Hours Act, which prevented most retail outlets from opening after 21.00 on weekdays and after 18.00 on Saturdays. It also stipulated that outlets had to close on Sundays, with some exceptions. On 1 April 2003, the Act was abolished. There are now no limitations on the opening hours of retail outlets on ordinary weekdays (including Saturday). The general ban on trading on Sundays and religious holidays remains in place, but the provisions on this issue have been moved to the Act on Holidays and Holiday Tranquillity. Thus outlets will have to close on Sundays and religious holidays, and have restricted opening hours on public holidays. Previous exemptions to this general ban continue - ie outlets of a certain size may open on Sundays and religious and public holidays.

Commentary

Despite the controversy caused by these changes in working time legislation, their effects on the working time of the ordinary Norwegian employee remains to be tested. The greatest criticism has so far been directed at the changes made to the overtime regime. Trade unions are unanimous in their opposition to the government's changes. They contend that by relieving union representatives and the Labour Inspection Authority of their monitoring responsibilities, the government is preventing an effective regulation of overtime. Furthermore, the government's own monitoring agency, the Labour Inspection Authority, has expressed some reluctance over the amendments. The Authority argues that such changes may create arduous working time arrangements in companies that are subject to extreme work or production peaks, or suffer from significant labour shortages, and will thus endanger employees' health and well-being.

The government emphasises the voluntary aspect of its amendments, in that it is only the voluntary part of the general framework (overtime between 200 and 400 hours a year) that has been changed. However, critics doubt that overtime will be voluntary, arguing that pressure from employers will often force employees into more overtime work. With the control mechanisms now abolished, the critics argue, employers will have an incentive to put pressure on individual employees.

Employers have long called for changes to the legal framework and thus welcome the changes. Flexibility in the form of increased overtime is not necessarily the desired objective of the Confederation of Norwegian Business and Industry (NHO), but in the absence of what it regards as reasonable opportunities for the annualisation of working hours, a softening of overtime regulations will suffice. NHO is, however, disappointed that no changes have been made in relation to the conditions under which overtime may be used.

The changes in the legal framework regarding overtime have been implemented despite the fact that a public committee deliberating the AML, including working time, has not yet completed its work. Its report is due on 1 December 2003. As such, many critics argue that the changes are premature and ill-founded. Several parties in parliament called for a postponement in order to review these regulations in light of the rest of the legal framework. The supporters of the initiative argue that previous deliberations by committees have recommended such a simplification of the legal framework.

The consequences of the legal changes to shop opening hours are still uncertain. The unions have long been fighting to prevent an extension of opening hours, and won a significant victory in 1999 when rules were introduced restricting shops from opening in the evening and at night. The abolition of these rules has so far received limited attention, despite the fact that the unions were greatly opposed to the changes. Neither the unions nor the employers' organisations believe that this will lead to an extension of opening hours in the short term. This is because many shops do not regard it as profitable to remain open longer than at present, not least because they will have to pay their workers extra for working during evenings and nights, and because the customer base is limited during these hours. (Håvard Lismoen, FAFO Institute for Applied Social Science)

NO0304103F (Related records: NO0110108F, NO0203101N, NO0209102N, NO9707116F, NO9804160N, NO9901108F, NO9903122N, NO9906138N, NO0209102N, NO9912167F)

18 April 2003

SWEDEN

New agreement signed for blue-collar temporary agency workers

A new collective agreement covering 10,000 blue-collar temporary agency workers has been signed by the Swedish Service Employers' Association and trade unions affiliated to the Swedish Trade Union Confederation (LO). The agreement increases the guaranteed minimum monthly wage and improves the position of newly recruited workers, as well as dealing with matters such as the geographical area within which workers can be expected to work and the use of fixed-term contracts.

A new collective agreement on pay for about 10,000 blue-collar workers in the temporary agency work sector was signed on 11 December 2002, by the Swedish Service Employers' Association (Tjänsteföretagens Arbetsgivarförbund) and trade unions affiliated to the Swedish Trade Union Confederation (Landsorganisationen, LO). The new agreement runs from 1 November 2002 (backdated) until 30 April 2004. The accord will be provisional and not regarded as formally concluded until all the trade unions involved have signed.

Guarantee wage

The level of the 'guarantee wage' - the minimum income that temporary agency workers should be guaranteed every month, even if they have not been assigned to any work that month - was an important issue in the negotiations. The parties agreed that the guarantee wage should be increased immediately to 90% of the ordinary wage after a continuous period of employment of three months. During the first three months of employment the guarantee pay will be 85%. From 31 April 2004, the guarantee wage will stand at 90% from the first day of employment. If workers work a certain number of days, but not all working days during the month, their final monthly wage will be adjusted accordingly. The actual wage for temporary agency workers should be set according to the relevant pay agreement and in the light of the average income of a comparable group of employees in the user company. This is a basic principle secured by LO in earlier negotiations.

The new agreement for LO temporary agency workers also contain rules on pay revision and overtime hours.

'Service area'

Another issue in the negotiations was if employed temporary agency workers should be obliged to work at user company workplaces which are far away from their home, or when transport links between their home and the user company's workplace are inadequate. The parties agreed that the possible geographical 'service area' within which the temporary agency worker should work should be noted on their employment card. In every individual case, the agency must consider what would constitute a normal travel or commuting distance, in the light of the area's transport facilities. A trade union may, after negotiations, cancel the right for a particular agency to decide the service area for the workers concerned. If an agreement cannot be reached, the municipality in question, or the three metropolitan areas of Stockholm, Göteborg and Malmö, plus their suburbs, should be considered as service areas.

The bargaining parties also examined the issue of 'availability' - ie the extent to which temporary agency workers may leave their homes or otherwise not be contactable by the employer during periods when they are not booked for a job. The parties agreed that at the time of recruitment the issue of availability should be regulated in the employment contract, and that the employee's freedom of movement may not be limited more than necessary.

Form of employment

Earlier collective agreements for blue-collar temporary agency workers provided that they could be employed by an agency on a fixed-term contract on one occasion only - at the end of this term, the employment either came to an end or was transformed into open-ended employment. If the employment ceased, the employer could not employ the same person for another fixed term. This rule was established in order to provide a greater degree of security for workers in a relatively insecure and irregular business. However, some of the social partners considered that this rule was unreasonable as a person, having been employed once as a temporary agency worker, could never again return to the same agency for a new period of fixed-term employment.

The new agreement will make matters easier for employees and give more opportunities for agencies to hire the same workers more than once, with breaks - eg for seasonal work. The employer and the employee may agree upon fixed-term employment, in writing, for up to six months. However, such contracts can be concluded for 12 months if this is accepted by the worker's trade union. A new fixed-term contract may be concluded 12 months after the expiry of the last fixed-term contract, or earlier under the terms of a local agreement.

The parties also agreed to establish a working group of representatives, with a brief to come up with solutions to certain issues prior to the next bargaining round in 2004. For example, it should produce proposals on: the long-term development and further simplification of the collective agreement; addressing the problem of 'unserious' temporary work agencies; and the experience of working time cuts in other sectors and the possible consequences for temporary agency work.

Commentary

There are separate collective agreements for the 50,000 or so white-collar temporary agency workers. These agreements expire in 2004, at the same time as the new agreement for 10,000 blue-collar agency workers described above. The labour market for temporary agency workers is still rather small in Sweden, compared with the total workforce of more than 4 million employees. The temporary agency sector is hard to assess, with many small companies spread over the country and with workers belonging to all kinds of trade unions. Most of the temporary agency workers who are members of LO are hired out to user companies in industry. Lately, however, the use of agency workers in the building and catering sectors has increased. The issue of a possible system for authorising temporary work agencies has been discussed in earlier negotiations between the parties. The government is currently working on a proposal to register temporary work agencies. (Annika Berg, Arbetslivsinstitutet)

SE0303102F (Related records: SE0011163N, SE0003127N, SE0112101N)

21 March 2003

New rules on flexible working come into force

From April 2003, working parents in the UK are entitled to request flexible working for childcare reasons and to have their request seriously considered by their employer.

On 6 April 2003, new legislation came into force which gives parents of children aged under six or of disabled children aged under 18 the statutory right to request flexible working and to have their request seriously considered by their employer. The government's aim is to facilitate dialogue between working parents and their employers about working patterns that meet parents' childcare responsibilities as well as employers' business needs. The new provisions are based on recommendations made by the Work and Parents Taskforce, which included representatives of the Confederation of British Industry (CBI) and the Trades Union Congress (TUC).

Key points of the new legislation

The legislation is contained in the Employment Act 2002 and two associated sets of regulations. The Act provides that parents of children aged under six (or disabled children aged up to 18) have the right to apply for changes in their working patterns for childcare purposes. Such changes may relate to: the hours and times the employee works; working at home; and other aspects of the employee's terms and conditions as specified in regulations by the secretary of state.

According to guidance from the Department of Trade and Industry (DTI), the kind of working patterns that can be applied for include annualised hours, compressed hours, flexitime, homeworking, job-sharing, self-rostering, shiftworking, staggered hours and term-time working.

The Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002 restrict the entitlement to request flexible working to employees who have worked for the employer for at least 26 weeks and who are the mother, father, adopter, guardian or foster parent of the child, or the partner or spouse of any of these relatives, and who have responsibility for the child's upbringing. The Act allows employers to refuse requests to work flexibly on one or more of the following grounds:

- the burden of additional costs;
- detrimental effect on ability to meet customer demand;
- inability to reorganise work among existing staff or recruit additional staff;
- detrimental impact on quality or performance;
- insufficiency of work during the periods the employee proposes to work;
- planned structural changes; and
- such other grounds as the secretary of state may specify by regulations.

The Flexible Working (Procedural Requirements) Regulations 2002 elaborate on the Act's provisions by setting out how employers should deal with employee applications for contract variations, as follows:

- employers must either hold a meeting to discuss the application or agree to the contract variation in writing within 28 days of the application;
- employers must inform the employee of their decision within 14 days following the meeting, and the employee has a further 14 days to appeal;
- if an appeal is made, employers must hold a meeting to hear the appeal within 14 days, and notify the employee in writing of their decision within 14 days of the hearing; and
- the employee has the right to be accompanied by a companion at the meeting to discuss the application or appeal. The companion must be a worker employed by the same employer.

The employee may complain to an employment tribunal where the employer has either failed to comply with the statutory procedure or decided to reject the application based on incorrect facts. The tribunal cannot impose a flexible work arrangement, but may order reconsideration of the application or award compensation. Tribunals may award compensation of up to eight weeks' pay.

Reactions

The TUC has welcomed the statutory provisions as a significant advance for working parents and has published a guide to the legislation. However, there is some concern among unions and their legal advisers that the new measures lack teeth and that employers will have extensive scope to reject employee requests for flexible working.

Employers' groups have expressed a range of views. The CBI accepted the 'right to request' compromise reached via the Work and Parents Taskforce, having lobbied strongly against any unconditional right to work part time for parents with young children. The CBI says that 'flexibility in working patterns can benefit both employees and business, but the scope for it depends on such factors as production processes and whether employees can substitute for each other.' The CBI also points out that employees with responsibilities of a non-parental nature (eg for an elderly or disabled relative) may feel aggrieved if they are afforded less flexibility than colleagues who are parents.

The Institute of Directors (IoD) has been forthright in its condemnation of the new legislation. According to Ruth Lea, the IoD's head of policy: 'The extensions to family friendly policies, including the right for parents to request flexible working patterns, may seem progressive but they will hurt businesses, cause resentment in the workplace and are redolent of discredited 1970s feminist ideology.'

Mike Emmott, employee relations adviser at the Chartered Institute of Personnel and Development (CIPD), says that 'given the business benefits to be gained from helping employees take better control of their lives, we think the new law deserves a broad welcome. It should not present serious problems to employers once they have understood what it means ... In fact we would have liked to see the right extended to all employees - not just those with young children.'

Commentary

The right to request flexible working is one of a range of enhanced rights for working parents which came into force on 6 April. Others include increased statutory maternity pay, increased maternity leave, a new right to two weeks' paid paternity leave and similar rights for adoptive parents, but the flexible working provisions have proved the most controversial element of the package. The government has been keen to stress the positive impact that a better work-life balance can have both for working parents and for their employers. Trade and industry secretary Patricia Hewitt argued that: 'Thousands of businesses around the country already recognise that work-life balance policies can improve their business and help their staff ... Our new legislation is moving with the tide of business and employee opinion and will ensure awareness and take up of flexible working spreads across the UK workforce.' However, employers' organisations remain largely sceptical of the case for statutory intervention. The acid test of the legislation will be how it works in practice, including: the extent to which working parents seek to invoke their new legal rights; whether employers, particularly small businesses, readily accommodate requests for flexible working; whether it generates a significant level of employment tribunal claims; and how far the ostensibly wide grounds on which employers may legitimately reject employee requests to work flexibly will limit the new legislation's impact. (Mark Hall, IRRU)

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18 April 2003

eiro observer
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EIRObserver

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An advisory committee for industrial relations has been set up to monitor EIRO as well as all the Foundation's other industrial relations activities. The advisory committee has a tripartite structure: employers, trade unions, governments and the European Commission are represented.

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Other Relevant European Commission Observatories
Employment Observatory
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Migration and industrial relations

For many years, the migration of people from country to country has been a major issue on the policy agenda of the EU and its Member States, and its importance has increased in recent times. Notably, in 1999, the Treaty of Amsterdam gave the EU competence for immigration from outside the Union and the Tampere European Council in October of that year agreed on the basic elements of a common immigration policy (covering all Member States apart from Denmark, Ireland and the UK, though the latter two may opt in on a case-by-case basis). This included a commitmenrt to fair treatment for third-country nationals, aiming as far as possible to give them comparable rights and obligations to those of nationals of the Member State in which they live. A key element of the emerging strategy is the view that the EU needs migrants in certain sectors and regions as one element of the policies to deal with its economic and demographic needs.

At the same time, the EU has been increasingly keen to promote the free movement of workers within the Union, both as an 'essential element of European Union citizenship' and to promote the creation of a genuine European labour market. Efforts are increasingly being made to break down the barriers which still prevent full free movement in areas such as access to employment and social security.

Migratory flows have long occurred between the countries of Europe. The period since 1945 has been one of continuous international migration in Europe. Migration into Europe from other parts of the world also increased substantially in the post-war years. The numbers of migrants have recently been high in historical terms, and the 1990s were Europe's most 'migratory' decade since the Second World War. The recent period has been characterised by new migrations, particularly involving central and eastern Europe and the former Soviet Union.

Migration is of course closely connected to the labour market, with many people migrating for purposes of work. It can play a role in meeting employers' needs for labour, in the light of demographic change or skills shortages, while at the same time raising questions such as the relationship between migrant workers and nationals who are unemployed, or the fair treatment of migrant workers in employment, both on grounds of equity and related to concerns about 'social dumping' in the form of a pool of migrant workers employed on a low level pay and conditions, or willing to accept employment on such terms. In this context, it can be expected that migration will have major effects on industrial relations systems and become an issue for the social partners and in dialogue and bargaining between them, as well as a theme in government employment policy and legislation.

The aim of this comparative supplement is to analyse the effects of migration on industrial relations in the EU Member States, Norway and four candidate countries (Hungary, Poland, Slovakia and Slovenia). The supplement - based on the contributions of the EIRO national centres - is an edited version of a full comparative study available on the *EIROnline* website and in printed form in the joint EIRO/European Commission report on *Industrial relations developments in Europe 2002*. The full study provides more details on many points and covers a number of additional areas - such as the problems of definition in this area, statistical information on migration and migrants, and government policy and legislation on migration-related issues. The main focus in this supplement is on the views and activities of the social partners and the extent to which migration-related issues are dealt with in collective bargaining.

Migration and the labour market

According to data from the European Commission and Eurostat, there are around 19 million non-nationals (ie people resident in a country of which they are not a national) living in the 15 EU Member States, accounting for 5.1% of the Union's total population. Some 30% of these (around 6 million people) are nationals of other Member States, representing 1.6% of the total EU population. EU citizens have the right to move and reside freely within the Union. They have access to employment in any Member State, with an accompanying right of residence for themselves and their family members, and they must not be discriminated against on grounds of nationality. Such free movement rights also apply within the European Economic Area (EEA) - the EU Member States plus Iceland, Liechtenstein and Norway.

The remaining 13 million non-nationals, 3.4% of the total EU population, are non-EU nationals. The share of the total population made up of EU citizens living in other Member States has changed very little over the last two decades, remaining close to 1.5%, while the share of non-EU nationals is increasing (from 2.3% in 1985 to 3.4% in 1999). Unlike EU citizens, 'third-country' nationals do not enjoy the right to free movement in the European Union. A considerable number of people enter or stay within the EU illegally and carry out undeclared work, often in sectors and regions where the 'underground' economy is more developed.

Over 65% of the total foreign population in the EU and EFTA states lives in Germany, France and the UK. Other countries with notable shares of the total foreign population in the EU/EFTA are Switzerland and Italy. The share of foreign nationals in the total population varies considerably from country to country, although proportions have been rising generally.

The most recent research available from Eurostat suggests that in western Europe there were about 7.46 million recorded foreign (ie non-national) workers in 1996. This represented an increase of about 27% on the 1988 figure (6.2 million), but only 1% on that for 1994. The majority of *foreign workers* in western Europe in 1996 was concentrated in Germany and France, followed by the UK. The proportions of workers from other EU Member States among all foreign workers varies considerably, from 70% or more in Luxembourg, Belgium and Ireland to 20%-30% in Germany, Denmark, Italy and Portugal. Statistics on foreign workers in central and eastern European countries are limited, but generally the numbers recorded are low in comparison with western Europe.

Foreign workers enter the full spectrum of *occupations*, but seem to be concentrated largely at the top and bottom of the labour market. At one end of the scale, in the UK, for example, many migrant workers are in professional or skilled occupations. However, a far larger group works at relatively low skill levels, especially in labour-intensive sectors such as catering and cleaning. Overall, migrants are more likely than average to be found in blue-collar jobs and less likely than average to be found in white-collar jobs or in public employment, with certain areas of governmental/state employment to a large extent closed to migrants in countries such as France. However, a distinction should be made between different countries of origin: migrants from western countries invariably tend to be found in higher-skilled jobs to a greater extent than the national average. The polarisation of the labour market position of migrant workers seems strongest in the candidate countries examined.

Recent figures from the European Commission confirm that, across the EU, non-EU nationals are disadvantaged compared with EU nationals in terms of *employment and unemployment*. In the EU in 2001, their labour market participation rate (62%) was

significantly lower than that of EU nationals (69%), as was their employment rate (52%, compared with 64%), though with some exceptions.

The differences between EU nationals and non-EU nationals are even more striking when the employment rate is disaggregated by *skill level*. The employment rate for high-skilled EU nationals (those having completed tertiary education) was about 83% across the EU in 2001, compared with 66% for non-EU nationals. The overall employment rate for the low skilled (less than upper secondary education) is lower than for the high skilled, and the difference between EU and non-EU nationals is small, at only 4 percentage points higher for the former. This seems to reflect the concentration of non-EU nationals in low-skilled sectors and occupations.

In *sectoral* terms, the pattern of use of foreign labour predominantly reflects the economies of the receiving countries. Agriculture is important only in countries which still have a significant agricultural sector, mainly the Mediterranean and candidate countries. Manufacturing is significant in Germany, Belgium, Ireland, France and the Netherlands, and construction in Slovenia, France and Luxembourg. The most important sectors for the employment of migrants include distribution, hotels and catering - eg in Greece, Belgium, Germany, Spain, Luxembourg, the Netherlands and the UK - and 'other services' - especially in Denmark, the UK and Ireland. These sectors have many low-paid jobs with flexible contracts and unfavourable working conditions.

Foreign workers are more vulnerable to *unemployment* than nationals. However, a distinction should be made between workers from other EU Member States and those from outside the Union - the situation for the former group is much better than for the latter. In most countries, unemployment rates among foreign women are higher than those among foreign men. Overall in the EU, the unemployment rate for non-EU nationals is about twice as high as that for EU nationals (at around 16% in 2001). Non-EU nationals are very vulnerable to cyclical downturns, because a large proportion are employed on fixed-term contracts. Statistics for the candidate countries are scarce, but the evidence available suggests that unemployment disproportionately affects non-nationals even more than in the EU.

Employment conditions

Migrant workers tend to face a more precarious and less advantageous position in terms of employment conditions than nationals of the country in which they work. Some key areas of difference are outlined below

Employment status

Migrants are more likely than average to have 'flexible' and fixed-term contracts. To take the example of fixed-term contracts, across the EU these were held by over 20% of non-EU nationals in 2001, compared with 13% of EU nationals. In Belgium, Denmark, the Netherlands, Portugal and Sweden, non-EU nationals are more than twice as likely to have a fixed-term job as EU nationals.

Part of the explanation of the high incidence of fixed-term and flexible contracts among non-nationals is that in some countries this is the only type of contract available for migrants from outside the EEA. Examples are Austria, France and Poland. In the UK, the work permit scheme under which most migrant workers enter the national workforce, by definition, initially provides a form of temporary contract, although it is often extended into an open-ended employment contract later.

In many countries, a relatively large proportion of migrants are self-employed. An example is the UK, where the self-employment rate is 13.8% for foreign-born people, compared with 10.7% for UK-born people.

Pay

The relatively unfavourable situation of many migrants on the labour market - ie many (though, as noted above, by no means all) are concentrated in low-skilled jobs and sectors and/or are employed on an 'atypical' basis - is understandably reflected in their wage level (and illegal immigrant workers are likely to be in an even worse position). A recent EIRO comparative study on low pay found that migrants tend to be among the low-paid groups in a number of countries (*EIRObserver* 6/02). Detailed information on this point is rarely available, but widespread low pay is reported from countries such as Belgium, Norway and Spain, while migrant workers may be vulnerable to problems such as unauthorised deductions from pay (eg as reported for the UK).

Working conditions

Overall, it appears that migrant workers are often worse off than nationals where working conditions are concerned. In many countries, there is a hierarchy, ranging from nationals via western/EU/EEA-born migrants to those from the rest of the world. At the bottom are illegal immigrants. The problems or practices faced to a greater extent by foreign workers than nationals may include: working on weekends, holidays, at night or in alternating shifts (as in Germany); less job security (Spain); inadequate training (the UK); excessively long working hours (the UK); and poor health and safety conditions or accident rates (Austria, Spain and the UK). A distinction can be drawn between types of health and safety problem, with migrants more likely to be exposed to 'classical' hazards, such as noise and lifting weights, than 'new' risks such as work stress and repetitive strain injury.

Much of these poor conditions can be explained by the job and sectors in which many migrants are employed. Furthermore, in countries with a large 'shadow economy', the illegal immigrants who make up much of the workforce generally face highly unfavourable and unregulated working conditions. The 'accident-prone' construction sector is frequently mentioned as an example - eg in Portugal almost all fatal accidents in this sector involve migrant workers.

Social partners' involvement in migration policy

With few exceptions, the social partners in the countries examined are consulted by governments on issues relating to migrant workers. The level of consultation varies, however, from consultation on specific issues such as quotas to involvement in the drafting of all relevant policies. A brief summary of the relations between governments and social partners specifically relating to migration and associated issues is presented in table 1 on p.iii. This excludes cases where the social partners are consulted on all legislative proposals and/or policies with employment and social implications (which are likely to include migration) through standing bipartite and tripartite bodies.

Social partners' positions and activities

In two of the countries examined, it appears that migration is not a significant issue for the social partners and that they have seen no need to develop a policy on the matter. At one extreme is Slovakia, where the number of migrants is negligible, and at the other is Luxembourg, where there are so many (mainly EU) immigrants and migrant workers that no specific policy has been developed. In Slovakia, immigrants make up only 0.17% of the labour force (a figure comparable with Poland and, to a lesser degree, Hungary). In Luxembourg, by contrast, half of the labour force is made up of foreign residents and cross-border workers from neighbouring countries. In the Luxembourg economy, the demand for labour exceeds supply. Employers' organisations have developed no special policy towards migrants and trade unions have done so to only a limited extent.

Between these extremes lie all the other countries. Here, two issues appear to determine to a large extent the principles and positions of employers' organisations and trade unions - labour shortages and equal rights for migrants. These two issues may be closely linked, especially in the underground economy (as reported, for example, from Greece). The particular views of the social partners related to these two

Table 1. Specific involvement of social partners in legislation and government policy related to migrant workers

Austria	Government tends to consult the social partners on migration policy, including fixing quotas and other restrictive measures. However, there has recently been a tendency partially to ignore the views of the social partners (especially trade unions) - eg on quotas for seasonal workers.
Denmark	A notable example is a May 2002 agreement between the social partners, municipalities and government on stronger measures to integrate immigrants and refugees into the labour market. The accord establishes a three-stage integration procedure, involving work experience and training as a preparation for normal employment.
Finland	Tripartite consultation on migration policy.
France	No real involvement on migration policy, though some involvement in areas such as combating racial discrimination.
Germany	Social partners were involved in the 'immigration commission' which drew up a report which formed the basis for a recent Immigration Act (yet to be implemented).
Greece	Social partner involvement in committees monitoring labour market programmes, which affect migrants.
Hungary	Very low level of involvement.
Ireland	Little formal involvement on migration policy, some involvement in government anti-racism initiatives.
Italy	Social partners consulted in the drafting of migration policies and may be invited to meetings of the Coordination and Monitoring Committee on immigration. The social partners are represented on national bodies dealing with immigrants and their integration and on local committees dealing with immigration.
Luxembourg	Involvement (mainly by employers) in bilateral 'labour force agreements' with other countries, and (by all social partners) in regularisation policies for illegal immigrants.
Netherlands	Close involvement in almost all government policies related to the labour market, including migration policy.
Norway	Consultation and involvement in almost all legislation and government policies related to migration, and representation in a new ethnic diversity forum.
Poland	Consultation on migration policy with social partners and other NGOs.
Portugal	Cooperation on dealing with illegal immigration, especially in the hotels, building and metalworking ndustries.
Slovenia	Consultation on immigration quotas.
Spain	Consultation (in theory at least) on setting migrant worker quotas. Government subsidises integration activities of social partners.
Sweden	Consultation on migration policy.
UK	Consultation before changes to migration policy, including issues such as work permits. Social partners are represented on a new working group on illegal immigration.

Source: EIRO

themes, and their inter-relationship, vary from country to country, but before proceeding to examine them, it should be mentioned that one country seems to stand out in terms of social partner positions on the equal rights issue.

In Austria, the social partners appear to agree on the principle that Austrian citizens should be favoured in the national labour market. 'Positive discrimination' in favour of Austrian nationals is given some legal and collectively agreed support - as well as a ban on non-EEA nationals standing in works council elections, another example is that a legal hierarchy of categories of employee (starting with Austrian nationals, followed by other EEA nationals, then non-EEA nationals etc) has been used in some collective agreements as an order of priority for dismissal and recruitment. Although the demand for labour exceeds domestic supply, employers' organisations do not tend to oppose recent government regulations restricting immigration, not least because the authorities are flexible in applying the rules, usually meeting companies' requirements by adjusting quotas. The Austrian Trade Union Federation (ÖGB) generally appears to support the restrictive government policy on immigration.

Employers' organisations

Present and future labour shortages seem to be the main reason for employers' organisations in western Europe to develop stances and policies on migration and immigrant workers (in the candidate countries examined, there is very little in the way of employers' organisations' policies or activities in this area). Employers' organisations in countries such as Germany, Belgium, the Netherlands and the Scandinavian countries point to long-term demographic developments, with a declining number of young people and an increasing number of older people. As well as reducing the size of the workforce, this may weaken the basis of the social security and pensions system. Now and in the near future, the entry into the labour market of migrant workers is widely perceived as necessary by employers in the great majority of countries. In particular, employers in Sweden and Finland are emphatic on this point, with Finnish employers' organisations stating that present standards of living cannot be sustained without migrant workers. France is something of an exception, as - given current high unemployment - employers' organisations do not tend to believe that labour immigration is necessary, and give priority to addressing labour shortages from among the existing unemployed (including immigrants). However, French employers in sectors such as private

healthcare and information technology (IT) consultancy face particular recruitment problems which lead them to take a different view.

With few exceptions, the idea of a free market in trade and people, especially within Europe, is widely embraced by employers' organisations, which thus press governments to reduce and simplify regulations, as is the case in countries such as Norway, the Netherlands and Germany. However, in most countries considered, confronted as they are with specific labour shortages, their interest in such a free market in people is conditioned by their own demands for labour.

The majority of employers' organisations in western Europe are thus of the same opinion on the necessity of immigration to meet labour shortages. In many countries, employers criticise governments for being too slow, bureaucratic and ponderous on these subjects, and have made proposals to the government to tackle these problems. Examples include the following.

• Spanish employers' organisations have developed plans for the creation of national immigration services by setting up 'integrated units'. These units, based on tripartite collaboration, would deal with immigration procedures, vocational training, accommodation, transport and childcare. Employers stress the importance of concerted action with countries such as Morocco or Ecuador on identifying potential candidates for immigration into Spain and establishing training and recruitment programmes in their country of origin. This would facilitate these workers' integration in the Spanish labour market and provide them with a legal status. Employers also argue for autonomy for companies in their recruitment policies. They believe the company to be fundamental to the integration of immigrants.

• In the UK, the Confederation of British Industries (CBI) emphasised in a March 2002 policy document the important contribution that migrants have made to the UK economy. It argues that measures to improve and augment existing entry routes for migrants must be concentrated in areas of real skill shortage - such as highly-skilled professionals in advanced IT, engineering, the health service and teaching, as well as lower-skilled jobs in hotels and catering, construction, transport and retail distribution. The CBI supports most aspects of current government policy, with the exception of proposed charges to be levied on work permit applications.

• Controlled immigration is the key issue for employers in Germany. The two largest employers' and business organisations - the Confederation of German Industries (BDI) and the Confederation of German Employers' Associations (BDA) - argue for a systematic immigration and integration policy. Controlled immigration should follow the demands of the labour market and be supported by integration measures, primarily language courses. In their view, there is a large demand on the labour market for qualified employees. In addition, demographic developments and the resultant weakening of the social security system demand more labour than is currently available. On the other hand, employers also want to restrict misuse of asylum law and accelerate asylum procedures. On the EU's enlargement to the east, the employers recommend a rapid introduction of free movement of labour. According to BDA, free movement of labour will result in more growth, and the integration of workers will become both feasible and desirable. Employers' organisations argue for a 'cosmopolitan society' without discrimination; on a more practical level, they support arrangements at company level to tackle discrimination against migrants.

A brief summary of the actions of employers and employers' organisations on migration issues is provided in table 2 on p.v. In some countries - as in the German case mentioned above - employers' activity is first and foremost aimed at central government. In other countries, action is also taken (often in cooperation with trade unions and other parties) at lower levels, such as sectors, local areas or companies.

For example, Dutch employers' organisations see immigration is a fact of economic life. For the two largest organisations - the Confederation of Netherlands Industry and Employers (VNO-NCW) and the Dutch Federation of Small and Medium-sized Enterprises (MKB-Nederland) - the Netherlands is and will remain a country of immigration. Employers are very specific about which kind of employees (especially IT workers and other specialists) are needed from other countries. With regard to migrants already living in the Netherlands, explicit employers' policies started around 1990 when, in the bipartite Labour Foundation, employers' organisations agreed with trade unions on principles and practices in this area. The principles were to recruit and retain more migrant workers, reintegrate (together with the authorities) unemployed migrants in the labour market, and develop a multicultural personnel policy.

On a practical level, the Dutch social partners agreed to attempt to reduce unemployment among people from ethnic minorities to the national average by creating 60,000 jobs before 1996. When these efforts proved unsuccessful, a decentralised approach was developed. VNO-NCW and MKB-Nederland reached two 'covenants' on recruitment from ethnic minorities, for very large companies and - at sector level - SMEs respectively. In cooperation with local authorities and in an expanding economy, these measures have succeeded in more closely matching labour demand with supply, with unemployment among migrants reduced from four times as high as that for Dutch nationals in 1996 to twice as high in 2002.

Italy offers another example of decentralised policies, in this case at the 'territorial' level. Various aspects of the working and living conditions of migrant workers (eg training, housing, social inclusion and employment services) have been addressed in a number of territorial agreements, concluded between the social partners and the local authorities at the regional, provincial or more local levels. Furthermore, individual employers and their organisations have taken various initiatives aimed at assisting the integration of migrant workers in the workforce, and also in society more widely, taking the view that social inclusion may help to improve the reliability of workers and the stability of the employment relationship. Thus, some employers offer training to upgrade skills and Italian-language courses, or help ensure the availability of proper housing.

Another area where individual employers may act to support migrant workers is by addressing discrimination and operating 'diversity management' practices. Ireland offers several interesting examples of such action. At IBM's sales and service centre in Dublin, 70% of the 1,350-strong workforce are non-Irish nationals. With this in mind, the company emphasises the importance of diversity. The centre runs diversity education programmes, in which trainers conduct short courses where diversity issues are explored. According to management, apart from the moral imperative to treat all workers equally, there is a real economic and market imperative for such measures. The Eircom telecommunications company cites the same argument for its diversity strategy and 'dignity at work' programme - ie it wants to capitalise on a diverse workforce.

Trade unions

Cooperation between the social partners on issues relating to migration issues is widespread in the EU countries and Norway, as indicated above. Trade unions and employers' organisations share many views and in some cases even jointly oppose government policy. At the same time, on the issue of the desirability or level of further labour immigration, in many countries unions adopt policies and viewpoints that are critical of the 'liberal' viewpoints of employers' organisations, seeing the idea of a free market for people as misleading. For example, in Norway and Belgium, unions are opposed to open borders for the purpose of 'importing' further foreign workers. Unions in countries such as Denmark, the

Table 2. Activities of employers' organisations and trade unions on migration issues

Country	Employers' organisations	Trade unions
Austria	No specific initiatives.	Some involvement in anti-racist initiatives; support by some unions for migrants' rights (eg to stand for election to works councils).
Belgium	Declaration on anti-discrimination and equal opportunities in recruitment of immigrants; Flemish tripartite agreement on recruitment of immigrants, providing for annual action plans for better labour market orientation.	Activities (training etc) against discrimination and racism; creation of immigration committees and services; recruitment as representatives; cooperation agreements with equal opportunities bodies.
Denmark	Larger companies operating 'diversity-oriented' recruitment policy; involvement in bipartite and tripartite initiatives on integration of migrants.	No specific activities apart from involvement in bipartite and tripartite integration initiatives.
Finland	Organisation of surveys and seminars on migration issues; participation in programmes to improve labour market participation and position of migrants; participation in tripartite working group on managing diversity.	Information material and courses for migrants in several sectors; activities seeking to engage migrants in unions; information office in country of origin (Estonia).
France	No specific initiatives except involvement in tripartite anti-discrimination initiatives.	Anti-racism campaigns; research activities; solidarity actions in some cases.
Germany	No specific initiatives except involvement in preparation of migration policy and support for company-level anti-discrimination measures.	Campaigns against illegal employment conditions for migrants in construction; organisation of/ involvement in campaigns against racism, discrimination and far-right; creation of migration departments; support for migrants.
Greece	No specific initiatives.	Campaigns for legalisation of illegal migrants; support for migrants and migrant organisations.
Hungary	No specific initiatives.	No specific initiatives.
Ireland	Involvement in round tables on immigration and campaigns against racism; diversity policies in several larger companies.	Campaigns against racism and abuse of migrants.
Italy	Activities by individual employers and associations to foster social inclusion; initiatives in the field of training and education, housing and facilitating visits by migrants to home countries.	Campaigns and activities on equal treatment and against racism and exploitation; specific recruitment campaigns; special departments, courses, assistance and services; measures to improve migrants' representation in union structures; support of migrants' organisations.
Luxembourg	No specific initiatives.	Campaigns on regularisation of illegal immigrants, creation of special immigrant departments.
Netherlands	Activities in many fields, all in cooperation with unions and/or the government.	Recruitment activities; creation of special migrants departments; research; measures to improve representation in internal structures; cooperation with migrant organisations.
Norway	No specific initiatives.	Recruitment and union involvement efforts in some sectors; support for anti-racist campaigns; project to remove barriers to employment for existing migrants; joint work with NGOs.
Poland	No specific initiatives.	No specific initiatives.
Portugal	Activities in some sectors (notably metalworking) to coordinate labour migration and combat illegal immigration.	Campaigns to promote integration, combat racism and illegal work; training, seminars, conferences and publications, cooperation with migrants' organisations and unions in countries of origin.
Slovakia	No specific initiatives.	No specific initiatives.
Slovenia	No specific initiatives.	No specific initiatives.
Spain	Proposals to set up an integrated system for immigration, covering all issues.	Recruitment efforts (including illegal immigrants); creation of information, advice and support services; campaigns on integration and non-discrimination.
Sweden	Projects on diversity management and migrant workers; policy on integration of migrants; cooperation with local authorities on placement of migrants.	Special education and integration projects; some recruitment efforts; special union officials for migrant issues.
UK	Growing interest in diversity management (though not specifically relating to migrants); policy statement on migrants.	Wide range of activities to further integration and combat racism; some recruitment activities; guidance to workplace representatives on migrants' issues; special campaigns on distinct categories of migrants; cooperation with unions in countries of origin.

Source: EIRO

Trade union membership among migrants

Although there is a lack of statistical information for most of the countries examined, trade union density among migrant workers seems to be lower than average. Examples of below-average overall density for migrants (often based on estimates) are Belgium, Denmark, Hungary, Ireland, the Netherlands, Norway and the UK. However, even if migrant workers have a relatively low density in national terms, this may still be high when compared with unionisation rates in many other countries, as in Belgium for example.

Furthermore, there are often considerable sectoral variations within countries where the overall density for migrants is below average. For example, in Norway, the overall union density for 'non-western' migrants is 36% compared with an average of 56%. However, density for the two groups is equal in private manufacturing (at 54%), but much lower for non-western migrants in private services (21%, compared with 36% for all workers) and the public sector (45%, compared with 77%). In the UK, the unionisation of foreign workers is thought to be lower than the (low) average in hotels/restaurants and wholesale/retail, but nearer the (high) average in public education and health services. Similarly, in Denmark, unionisation of migrant workers appears to be lower than average in sectors such as hotels/catering and cleaning, but nearer average levels elsewhere. Overall, it seems that an important factor explaining their below-average union density in many countries is that many migrants work in such service sectors, where unionisation is traditionally low.

However, the picture of notably low relative unionisation among migrant workers is not universal. In Sweden, for example, union density among foreign workers is only marginally lower than the 80% figure for Swedish nationals. Even more notably, in the Emilia Romagna region of Italy, research indicates that union density among migrants is significantly higher (45%) than the average (36%).

Netherlands, Belgium and Ireland stress the problem of unemployment among migrants already in the country. Specific worries about the effects on national labour markets of the EU's eastward enlargement are reported from countries such as Austria, Finland and Germany. In the candidate countries, unions in Hungary are concerned about the import of cheap labour from neighbouring eastern European countries. Less concern about a possible 'threat' to their members from new migration seems to be the case in countries such as Italy and the Netherlands.

To take the example of Belgium, the two largest union confederations - the Confederation of Christian Trade Unions (CSC/ACV) and the Belgian General Federation of Labour (FGTB/ABVV) - would like to control migratory flows as much as possible and see economic migration as solution of last resort to labour market shortages. CSC/ACV believes that solutions to labour shortages should first be sought in the domestic labour market and that integration efforts should be stepped up, as earlier immigrants have not yet been fully absorbed into the labour market. New immigration should be on primarily humanitarian rather than economic grounds. In the UK, unions are generally in favour of migration to meet labour shortages, but seek to ensure that the government and employers do not try to solve shortcomings in pay, working conditions and training with short-term measures that rely on 'poaching' workers from overseas.

In terms of the actions of unions on topics relating to migrant workers, there seems to be some activity in most countries with the exception of the candidate countries, where migration does not appear to be a significant issue. In western Europe, migration seems to be an important topic, generating considerable trade union activity, in countries such as Belgium, Germany, Italy, the Netherlands, Portugal, Spain, Sweden and the UK, but arguably to a lesser extent in countries such as Austria, Denmark, France and Luxembourg. Major types of trade union action include the following.

• One common area of union activity of relevance to migrant workers is involvement in, or the instigation of, campaigns and initiatives to *combat racism and promote equal treatment* for migrants. Such actions are reported from the majority of western European countries. For example, all the main French unions run anti-racism campaigns, while the German unions participate in government-led programmes against racism and intolerance and coordinate a network of NGOs against racism and for equal rights. Specific campaigns to promote equal rights for migrant workers - often in non-employment areas (such as housing and political rights) as well as in employment - feature in many countries, such as Belgium, Greece, Italy, Portugal and Spain. Unions have also conducted campaigns on the position of particular groups of migrants - such as people from the Philippines working in private sector nursing homes and private households in the UK.

• *Practical trade union assistance and support* for migrant workers and their labour market and social integration are reported from countries such as Belgium, Finland, Germany, Greece, Italy, the Netherlands, Norway, Portugal, Spain, Sweden and the UK. This may take the form of advice, information, special services and involvement in integration programmes. For example, Italian unions have set up special services to meet migrants' needs, which provide assistance in many areas, such as obtaining residence permits. Unions in countries such as Greece, Italy, the Netherlands, Norway and Portugal provide support for, and/or cooperate with, organisations representing migrants.

• Connected to the previous point, *special departments and services* to deal with migrants and migration issues have been set up by unions and/or their confederations in countries including Belgium, Germany, Italy, Luxembourg, the Netherlands, Spain and Sweden. Educating union officials and members on the issues affecting migrant workers receives attention in a number of countries, such as Sweden and the UK.

• Union *recruitment initiatives* directed specifically at migrant workers are reported only from a minority of countries, such as Finland, Italy, the Netherlands, Norway, Spain, Sweden and the UK. However, in Sweden these are limited, given high union membership levels among migrant workers, while in Norway they are generally limited to sectors with large numbers of migrants and low overall union density. In some cases, efforts are being made to improve the involvement of migrant members in trade union work - eg Finland and Norway - and their representation in union structures and among union officials - eg Belgium, Italy and the Netherlands.

• A few trade unions have taken measures to improve *cooperation* with trade unions in migrants' countries of origin - eg some unions in Portugal and the UK - or provide information to workers in these countries - eg the Central Organisation of Finnish Trade Unions (SAK) has opened an information office in Estonia to inform potential migrants to Finland of employment conditions and rights there.

• Finally, much of the above refers to unions' views and actions with regard to legal migrant workers. In countries with large numbers of *illegal immigrants*, these seem to be a major issue for unions. Thus unions in countries such as Greece, Portugal and Spain devote considerable attention to supporting illegal foreign workers (and recruiting them in some cases) and seeking to regularise their situation and defend their rights. Regularisation is also, if to a lesser extent, an issue for unions in countries such as Belgium and Luxembourg.

Table 3. Collective agreements on migration-related issues

Austria	A number of sectoral agreements lay down an order of priority for dismissal or recruitment which discriminates against foreign workers. For example, the current hotels sector agreement states: 'When it comes to the engagement of new employees, skilled workers and Austrian citizens have to be favoured.'
Belgium	Intersectoral agreements contain special training and employment measures for migrants, while specific national agreements cover equality and anti-discrimination issues. Notable sectoral agreement on preventing racial discrimination in temporary agency work sector signed in 1996.
Denmark	Cooperation Agreement between Confederation of Danish Trade Unions (LO) and the Danish Employers' Confederation (DA) provides for equal treatment for migrants at work. DA and LO reached agreement in 2002 on the labour market integration of immigrants and refugees.
Finland	National intersectoral agreement for 2003-4 contains a provision asking the government to improve monitoring of the working conditions of migrant workers. Not an issue in lower-level bargaining.
Germany	Not an issue in collective bargaining at sector and company level. Works agreements on equal treatment and non-discrimination on grounds of race in a number of companies (covering about 1 million workers).
Greece	The intersectoral National General Collective Agreement includes provisions on equal treatment and non-discrimination on grounds of race, and one respect for racial, national, religious and cultural diversity. Otherwise, not an issue in collective bargaining.
Ireland	National tripartite agreement for 2000-2, the Programme for Prosperity and Fairness, contains provisions on matters such as equality and non-discrimination on racial and ethnic grounds and the inclusion of migrants and refugees. Not a significant issue in company-level bargaining.
Italy	8% of sectoral agreements (mainly covering smaller firms) and under 1% of company agreements (in Emilia-Romagna region) include provisions on migrant workers - topics include language and training courses, special holidays and time off, equal opportunities, social inclusion measures (eg housing) and monitoring committees. Various territorial agreements in particular regions, provinces, cities etc include support and assistance for migrants
Netherlands	Around a fifth of major sectoral and company-level collective agreements contain provisions on migrant workers, especially regarding employment (sometimes including targets for job creation for migrants).
Norway	Some sectoral agreements contain clauses encouraging employers to recruit migrant workers and take measures to facilitate this. Otherwise, not a major issue in collective bargaining.
Spain	Some provisions in collective agreements in sectors where many migrants are employed, such as hotels/catering, construction and agriculture, covering issues such as equal pay and flexible hours for religious purposes.
UK	Not a significant issue in bargaining. Probably some company-level consultation on recruitment where union presence is strong, while success of union efforts to promote 'access to work' agreements where migrant workers are recruited (covering matters such as induction and equal treatment) is unknown.

Source: EIRO

A brief summary of the activities of trade unions (and employers/employers' organisations) on migration issues is provided in table 2 on p.v. The table excludes employers' recruitment of migrants and (in most cases) involvement in bipartite or tripartite dialogue and collective bargaining.

Collective bargaining

Across the 20 countries examined here, the issue of migrant workers has not achieved a significant place on the social partners' collective bargaining agenda - see table 3 on p vii for a summary of the current position in those countries where there is any activity. In many countries, issues relating to migrant workers are not seen as an issue for collective bargaining, but for bipartite and tripartite dialogue - an area where there has been considerable activity in some countries (see above). There is no evidence of any bargaining activity of specific relevance to the matter in France, Luxembourg, Portugal, Sweden and the four candidate countries considered. A common view in such cases is that collective agreements apply to all workers, whether migrants or nationals.

In the other countries, there is some - though rarely very much - bargaining activity on migrant worker-related themes. In Austria, this is purely negative, in that a number of sectoral agreements allow discrimination against migrant workers in recruitment and dismissal. Elsewhere, the approach varies, with agreements at various levels dealing in various ways with a number of key themes, mainly non-discrimination/equal treatment on grounds of race and ethnic origin (which is relevant to many migrant workers, as well of course to many nationals) and integration.

At intersectoral level, the Belgian social partners have reached agreements both on equality and non-discrimination on racial grounds, and on special training and employment measures for 'at-risk' groups, including migrants. Equal treatment for migrants is established as a theme in company-level employee-management cooperation by a national agreement in Denmark, while the largest social partner organisations have also reached an agreement on the integration of migrants. Non-discrimination and equal treatment is also dealt with by intersectoral agreements in Greece and Ireland. The narrower issue of monitoring the working conditions of migrant workers has been addressed by a Finnish central agreement. In most cases, there is no evidence that such intersectoral provisions are reflected in any significant bargaining on migration issues at lower levels.

The countries where migrant workers probably receive most attention in bargaining are probably those where the issue is dealt with in sectoral agreements - Italy, the Netherlands, Norway and Spain. Around one in 12 Italian sectoral agreements deal with relevant matters, as do around a fifth of major Dutch agreements (most of which are sectoral) and a significant number of Norwegian agreements. The practice appears less common in Spain. In Italy, the relevant agreements - often

Commentary

Here we have examined a few aspects of the extremely broad and multifaceted subject of migration from the perspective of industrial relations, concentrating mainly on migrants from outside the EEA.

In most countries, migrants are concentrated at the top and bottom ends of the labour market. Because governments are increasingly developing a policy of controlled immigration to resolve labour shortages, and because these shortages are mainly to be found at the extreme ends of the labour market, this polarisation might become even more pronounced in future.

Although overall the views of employers' organisations and unions on migration are not fundamentally opposed, there are some marked differences. Moreover, there are definitely national nuances within the ranks of both sides. In France and Austria, for example, employers seem less keen on allowing more labour migration than in many other countries. However, employers and their organisations generally stress the importance and advantages of the free movement of labour, though there are obvious national nuances in their views. Although trade unions and their federations/confederations acknowledge that to fill certain jobs (new) migrants are 'unavoidable', the general attitude towards migration is hesitant. Many unions mistrust the employers' discourse on the free movement of labour. Instead, they stress the need to improve the situation of migrants already in the country, improving their situation whether employed or unemployed.

Given demographic factors in the current EU Member States, the enlargement of the EU to the east and - last but not least - the gap between the wealth of the EU and the (relative) poverty of large parts of the rest of the world, migration will remain a fact of life. A recent study by the Organisation for Economic Cooperation and Development confirms this. Despite the very strict measures that many countries have taken to curb immigration, migration to the 30 richest countries in the world has increased in recent years. The United Nations also expects a rise in migratory pressure, especially to Europe. Therefore, immigration will remain an important subject for the both the government and the social partners.

Notwithstanding many 'success stories', on average migrants, and especially non-EEA migrants, are in a disadvantaged position when compared with nationals in terms of employment and unemployment rates, type of jobs and contracts, and pay and employment/working conditions. In trying to improve the situation of migrants in these areas, the extent to which governments cooperate with the social partners varies, as does the extent to which governments try to integrate the different policy fields related to migrants. The national evidence seems to indicate that an integrated approach and cooperation with social partners, while perhaps not guaranteeing success, still offers the best chances. The same might be true for a decentralised approach, be it at regional or at company/sector level.

Given the mounting importance of migration, it is unsurprising that activity on this issue seems to be growing in importance for employers' organisations and trade unions in most (if not all) western European countries, though not in the generally low-immigration candidate countries. However, the priority given to the matter varies substantially between countries, doubtless reflecting their particular experience of immigration. In terms of unilateral activities, there are some examples of action by employers' organisations, notably on the integration of migrants and tackling discrimination, and of an increased wish to ensure workforce diversity by some individual employers. Trade unions in most countries are increasingly active in working to combat racism and promote equal treatment, and provide assistance and support for migrant workers and their labour market and social integration. Specific recruitment efforts targeted at migrants seem less common, even though union density among this group is generally lower than average.

Bipartite and tripartite dialogue and consultation on migration issues appears to be in place in many countries and to play an important role in some cases. However, the topic has not achieved a significant place on the collective bargaining agenda in most countries, with some exceptions, principally in particular sectors and, in more general terms, at intersectoral level in a few countries. This may be surprising, given the rising importance of migration issues, and it is possible that the situation will change in the years to come. (Marianne Grünell and Robbert van het Kaar, HSI)

signed by employers' organisations for SMEs, crafts and cooperatives - cover matters including: support for employment and social inclusion (housing, transport etc); language courses and, less frequently, vocational training; the creation of special monitoring committees on migrant workers' labour market situation; equal opportunity measures; and special longer holidays for migrant workers (ie to visit their countries of origin) and time off for religious purposes. Unions are pushing for similar provisions in other agreements (eg in the influential metalworking sector). In the Netherlands, the focus is more specifically on the employment of migrant workers, with a majority of relevant agreements containing target figures for new jobs for this group. One agreement in retail provides for language training for migrants and courses in multicultural personnel management for managers.

The relevant Norwegian sectoral agreements also deal with the employment of migrant workers. They state, fairly uniformly, that efforts must be made to encourage immigrants to take up work in the sector concerned and that the parties at the company level should discuss issues relating to migrants that are of relevance to the individual enterprise, such as adaptations of the workplace and attitudes towards immigrants. Individual employers should discuss with the unions concerned measures that may ease the introduction and participation of immigrants within the enterprise. The agreements emphasise the importance of providing training for migrants that is adapted to the need of the enterprise while at the same time providing 'knowledge of the culture and traditions of Norwegian business and industry'. In Spain, collective agreements in sectors with large migrant workforces - eg hotels/catering, construction and agriculture - include provisions on issues such as equal pay and (as with some Italian agreements) flexible working time for religious purposes. Finally a notable sectoral agreement on preventing racial discrimination has been signed in the Belgian temporary agency work sector.

Company-level bargaining on migration issues seems rare, with some exceptions in Germany, Italy, the Netherlands (see previous point) and possibly the UK. A few company agreements in Italy (eg at Electrolux Zanussi) provide for special working time and leave arrangements for migrant workers. In Germany, works agreements on preventing racial discrimination and ensuring equal treatment have been signed by works councils and management in a number of companies, such as Deutsche Bahn, Thyssen Stahl, Satorius, Opel, Volkswagen, Jenoptik and Aventis. Around 1 million employees are covered by such agreements which, in line with trade union recommendations, include complaints procedures and give work councils or other representatives the right to intervene where unequal treatment or discriminatory practices occur.

In Italy, some issues of relevance to migrants are covered by territorial agreements concluded by the social partners, local authorities and other parties in a number of regions, cities etc (see above).

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