Wages and collective bargaining: high time for a new approach to wage policy

Introduction

Since the onset of the financial crisis in 2008, the European Commission’s approach to the issue of wages and collective bargaining has been based on a strategy of internal devaluation which primarily aims at the improvement of price competitiveness by lowering the relative prices of goods and services produced in a country vis-à-vis its trading partners. As such, internal devaluation has been a euphemism for driving down wages, decentralising collective bargaining systems and restricting trade union and workers’ rights. The result of this strategy has been a systematic depression of internal demand, increasing wage inequality and a sluggish economic recovery. More recently however, in its 2016 economic forecasts, the European Commission acknowledged the central role of internal demand for achieving economic growth in EU countries. Furthermore, the fact that the European Commission promised to focus more on social issues in its country-specific recommendations has raised hopes of a re-orientation in its approach towards the issues of wages, collective bargaining and trade union and workers’ rights. Against this background, one objective of this chapter is to assess whether this change in rhetoric has actually translated into a change of policies.

The focus of analysis will therefore be on the country-specific recommendations in the field of wages and collective bargaining and on the development of real and minimum wages. In addition to the analysis of wage developments, this chapter will provide an overview of trends in collective bargaining systems and strike activities. It will conclude with a review of the most recent judicial developments at international and national level and the implications for trade union and workers’ rights.

Topics

> Wage developments 38
> Minimum wage developments 41
> Trends in collective bargaining systems and strike activities 43
> Judicial developments and trade union rights 46
> Conclusions 48
Wage developments

The objective of this year’s country-specific recommendations (CSRs) was to place a stronger focus on social and employment issues and to have ‘more focused recommendations setting the policy objectives for the next 18 months’ (European Commission 2016a).

Concerning wages and collective bargaining, the announcement of this stronger focus raised hopes for a re-orientation of the European Commission’s approach from the usual supply-side view of wages as a cost factor towards a more demand-side oriented approach that recognises domestic demand as a key driver of economic growth and the important role of wages for fostering social cohesion. More concretely, the greater focus on social aspects should be reflected in CSRs that not only support increases in real and minimum wages but also strengthen multi-employer collective bargaining institutions.

As Figure 3.1 illustrates, the number of countries that received CSRs in the field of wages and collective bargaining decreased from eleven in 2015 to seven in 2016. However, as Clauwaert (2016a) points out, this reduction was achieved by moving some recommendations to the explanatory part that precedes the actual CSRs. Since this type of ‘implicit recommendation’ was addressed to an additional four countries, the number of countries which were subjected to EU-level recommendations remained the same. The CSRs – both formal and implicit – can be divided into three standard recommendations concerning (1) the alignment of wages with productivity, (2) the reform of wage-setting systems, and (3) the review of minimum wage-setting. The only exception is Estonia which received an ‘implicit’ recommendation to reduce the gender pay gap in order to make full use of the potential of women.

This overview of the broad issues addressed in the CSRs already illustrates that the underlying rationale remains the same: internal devaluation is still the order of the day even though it is by now abundantly clear that it did not deliver the intended results (Müller et al. 2015; Myant et al. 2016).

The European Commission’s main concern in recommending that wages should align with productivity is to keep unit labour costs under control in order to improve cost competitiveness. The key tool for achieving this is making wage-setting systems more flexible in order to facilitate adaptations to changes in the economic framework conditions. Against this background it is not surprising that the recommendations concerning the reform of wage-setting systems are aimed at further decentralisation of collective bargaining. It is noteworthy however that this very often controversial aspect is mainly dealt with in ‘implicit’ recommendations. That these ‘implicit’ recommendations carry some weight (as one element of the wider EU machinery of wage policy interventionism) can be seen in the case of France (Corporate Europe Observatory 2016). Here, the labour law reforms adopted in July 2016 are entirely in line with the recommendation to facilitate derogations from branch-level agreements and legal provisions.

Perhaps the most disappointing aspect is the treatment of minimum wages in the CSRs. Rather than emphasising the important role of minimum wages in combating inequality, the recommendations are concerned with ensuring moderate minimum wage developments in order to avoid upward pressure on overall wage developments.

Overall, a review of the CSRs in the field of wages and collective bargaining is sobering. Despite all the lip service paid to the importance of social issues, this does not show in the practical policy recommendations, representing yet another wasted opportunity for a re-orientation towards a more demand-side oriented wage policy.

### CSRs 2016/2017: yet another disappointment

<table>
<thead>
<tr>
<th>Formal recommendations</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Align wages with productivity</td>
<td>Keeping unit labour costs under control; improvement of competitiveness and export performance</td>
</tr>
<tr>
<td>More transparency in minimum wage-setting</td>
<td>Lack of transparency and objective criteria creates uncertainty</td>
</tr>
<tr>
<td>Reform of wage-setting system</td>
<td>In order to improve competitiveness and export performance, the wage-setting system should allow more local wage bargaining</td>
</tr>
<tr>
<td>Ensure sustained labour cost reductions through moderate minimum wage development</td>
<td>Minimum wage increases induce overall wage increases; indexation of minimum wage hampers wage adjustment and employment of low-qualified people</td>
</tr>
<tr>
<td>Reform public sector wage-setting</td>
<td>Lack of coherent criteria for wage-setting in public sector limits government control over wage developments</td>
</tr>
<tr>
<td>Align minimum wage development with objective of promoting employment and competitiveness</td>
<td>High minimum wage increases create upward pressure on overall wages, harming employment and competitiveness</td>
</tr>
<tr>
<td>More transparency in minimum wage-setting</td>
<td>Lack of transparency and objective criteria creates uncertainty</td>
</tr>
<tr>
<td>Reform of wage-setting system</td>
<td>Wage norm of social partners should ensure closer link between wages and productivity</td>
</tr>
<tr>
<td>Address gender pay gap</td>
<td>Making full use of the potential of women</td>
</tr>
<tr>
<td>Reform of wage-setting system</td>
<td>Increased possibilities to derogate from branch-level agreements and legal provisions increases employers’ flexibility for company- and firm-specific solutions</td>
</tr>
<tr>
<td>Reform of wage-setting system</td>
<td>Insufficient development of second-level bargaining hampers innovative solutions at firm level</td>
</tr>
<tr>
<td>Align wages with productivity</td>
<td>Wages in excess of productivity poses threat to cost competitiveness</td>
</tr>
<tr>
<td>Reform of wage-setting system</td>
<td>Wage indexation limits the possibility of wage variation across sectors and economic diversification more generally</td>
</tr>
</tbody>
</table>

Source: author’s own compilation.
According to the AMECO database, real wages grew dynamically in 2016. Against the background of a fairly modest development of nominal wages, this increase can in large part be attributed to very low inflation rates. Figure 3.2, which compares the development of real compensation per employee to the development of productivity (defined as changes in gross domestic product per person employed), illustrates the great diversity in real wage developments in 2016. Overall, three different groups can be identified.

The first group, which includes countries with real wage increases of over 3%, ranges from 3.01% in Czechia to 8.94% in Romania. The fact that this group exclusively comprises central and eastern European countries shows that countries like Czechia, Hungary, the Baltic states, Bulgaria and Romania continued their catching-up process in the area of real wages. The second group consists of the 13 countries with real wage increases between 1% and 3%. This group ranges from the UK (1.55%) and Germany (1.61%) at the bottom of the scale to Poland (2.91%) and Ireland (2.93%) at the top. The third group comprises the eight countries with stagnating or very modest real wage developments of 1% or less. More or less stagnating real wages are reported in Italy (0%), Greece (0.1%) and France (0.25%), while the countries with an extremely modest real wage increase range from Austria (0.43%) to Finland (0.81%). This group also includes Belgium, which is the only country where real wages actually decreased, by 0.94%.

The reasons for the weak development of real wages in this last group are manifold and highly country-specific. However, one overarching phenomenon that applies to all countries in this group is weak economic growth and productivity. In Greece (-2.44%) and Italy (-0.53%) productivity even decreased. In other countries such as Finland, France and Belgium there was considerable political pressure to ensure moderate wage developments which put the trade unions in a less powerful negotiation position and reduced their scope for negotiating higher wage increases.

Figure 3.2 also illustrates the general weak development of productivity in the EU Member States. In addition to the already mentioned cases of Italy and Greece, productivity decreased in Estonia (-0.08%), Portugal (-0.12%), Lithuania (-0.32%), Denmark (-0.49%) and Hungary (-0.61%). Only three countries reported productivity increases of more than 2%: Poland (2.01%), Bulgaria (2.3%) and Romania (3.34%).

The good news for employees and the economy as a whole is that only in Austria, Luxembourg and Belgium did real wage growth lag behind productivity growth. In all the other Member States the trend of real wages outstripping productivity, which on a broader scale started in 2015 (ETUC and ETUI 2016: 41), gathered momentum. Overall, the gap between the development of real wages and that of productivity remains modest. However, compared to 2015, the number of countries in which real wages outstripped productivity by a margin larger than 2% increased from four to eleven, with rates ranging from 2.06% in the Netherlands and 2.17% in Slovakia up to 5.38% in Estonia and 5.6% in Romania. From a macro perspective, this means that in the majority of EU countries at least part of the wealth has been redistributed from capital to labour, which in turn increases aggregate demand. Since the majority of EU countries follow a wage-led growth model (Onaran and Stockhammer 2016), this improves the chances for growth and a more sustained economic recovery.

Real wages picking up again

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Despite the recovery of real wages in the last two years, the picture looks far less impressive over the long run. Figure 3.3, which compares the average yearly growth of real wages in the pre-crisis period (2001-2008) with that in the crisis period (2009-2016), illustrates how the crisis, and in particular the crisis management policies based on austerity and internal devaluation, changed the dynamic of real wage growth.

The pre-crisis period was characterised by a pronounced increase of real wages in most EU countries. This applies in particular to the central and eastern European (CEE) countries as part of their economic catching-up process. The three Baltic states and Romania had particularly high average growth rates of 8% or more. The CEE countries are followed by a second group with an average growth rate of around 2%, which comprises a diverse selection of countries including Greece, Ireland, the UK, Croatia and Sweden. The odd one out is Germany, which is the only country which had a negative average growth rate.

With the start of the crisis in 2009, the pattern of real wage development changed completely. Stagnating or even decreasing real wages became the dominant feature in the crisis period. A total of seven EU countries show negative annual growth rates. The fall in real wages is particularly pronounced in Greece (-3.12), followed by Croatia (-1.06), Hungary (-0.89) and Portugal (-0.74). In another 14 EU countries the annual average growth rate of real wages is below 1% and only seven countries show a fairly strong real wage development of 1% or more on average per year during the crisis period.

The economic implications of this development are apparent today. The prolonged weakness in real wage development throughout the EU systematically curbed internal demand and fostered a disinflationary development of prices (Schulten 2016a). By now even the European Commission acknowledges that domestic demand is the most important component of economic growth in Europe (European Commission 2016b). Against this background it is not surprising that the economic recovery in the EU lags far behind that in the US. Some economists even expect a long-lasting period of stagnation and weak economic growth in Europe (De Grauwe 2015). However, help seems to come from unexpected quarters: as Schulten (2016a) points out, even economic and financial market analysts emphasise the importance of a more dynamic development of wages. The same point was also made by the president of the European Central Bank, Mario Draghi, who declared at the European Parliament that ‘The case for higher wages is unquestionable’ (Draghi 2016: 19).

Concrete steps in this direction have been taken by the European Trade Union Confederation (ETUC) which declared ‘2017 the year of the pay rise for European workers’ (ETUC 2017). In order to support its affiliates in their push for wage increases in 2017 the ETUC launched a campaign, ‘Europe needs a pay rise - It’s time for our recovery’ (ETUC 2017), that will last throughout 2017. A key objective of this campaign is to change the attitudes of policymakers, employers and the general public and promote a more positive view of a demand-side oriented approach to wage policies.

Nevertheless, the above analysis of this year’s CSRs (see page 38) has illustrated that despite all the lip service paid to the importance of a more dynamic wage development there is still a long way to go.
As regards the absolute level of (statutory) minimum wages, Europe remains divided into three country groups. As Figure 3.4 illustrates, the first group with relatively high minimum wages is comprised exclusively of western European countries. Luxembourg is leading the table with €11.27 per hour, followed by France (€9.76), the Netherlands (€9.52), Belgium (€9.28) and Ireland (€9.25). At the bottom of this group we find Germany (€8.84) and the UK (€8.79). However, the figure for the UK is heavily distorted by exchange rate effects; without the almost 13% devaluation of the British pound vis-à-vis the euro in 2016, the hourly minimum wage for the UK would be €9.92 and therefore the second-highest in Europe (Schulten 2017).

The second group with minimum wages between €3 and €5 contains Slovenia with €4.65 and the southern European countries Malta, Spain, Greece and Portugal with minimum wages between €3.35 and €4.29. The third group with minimum wages below €3 comprises ten exclusively central and eastern European countries, and even within this group it is possible to distinguish two sub-groups, because Romania (€1.65) and Bulgaria (€1.42) lag far behind the remaining eight countries, which range from Latvia (€2.25) to Estonia (€2.78).

Despite the persistent geographical cleavages between the western, the southern and the central and eastern European countries, the overall development of minimum wages in 2016 was encouraging. After the already dynamic developments during the last two years (ETUC and ETUI 2016: 43), the growth of real minimum wages in the EU as a whole accelerated even further in the context of very low inflation rates and showed the strongest increase since 2000 (Schulten 2017).

However, this EU-wide trend hides very different national developments. Concerning the development of real hourly minimum wages, three groups of countries can be distinguished. The first group with a growth rate of 8% or more comprises Spain and seven central and eastern European countries ranging from Lithuania with 8% to Romania at the top of the table with 20.5%. The high growth rate in this country group is partly a statistical effect because most of the countries (with the exception of Spain) belong to the group with the lowest absolute minimum wages. However, it is also an indication of the general catching-up process of wage developments in the central and eastern European countries. The fact that real minimum wages grew substantially faster in the countries of this first group than real wages more generally also means that an internal catching-up process took place for low-paid workers (although it should be emphasised that wages still remain at a very low level).

The second group with an increase between 2% and 8% is a mixed bag, with countries from all geographical regions. This group ranges from Slovakia at the top of the table with a 7.8% increase to Latvia with an increase of 2.2%. This group also contains the UK, where real hourly minimum wages increased by a substantial 6.8% as a consequence of the introduction of the so-called ‘National Living Wage’ for all employees above the age of 25 in April 2016.

The third group with a growth rate below 2% consists of the countries with the highest relative level of minimum wages measured as a percentage of the national median wage (see Figure 3.5). However, this group also includes Greece (0.8%), where since 2012 no minimum wage increases are allowed without the explicit permission of the Troika (consisting of the Commission, the ECB and the IMF) (Koukiadaki and Grimshaw 2016).
From a comparative perspective, a more appropriate way to assess the minimum wage level is the so-called ‘Kaitz Index’, which sets the minimum wage in relation to the overall wage structure as a percentage of the national full-time median. The median wage is the wage that divides the overall wage structure into two equal segments; i.e. it marks the boundary between the highest paid 50% and the lowest paid 50% of all employees.

However, the figures shown in the Kaitz Index can be attributed to entirely different sources. They could, on the one hand, represent a comparatively high minimum wage level, for instance in France and Slovenia. On the other hand, they may be the (statistical) result of an extremely polarised income distribution with a high concentration of wage-earners at the bottom of the wage scale, for instance in Portugal, Hungary and Romania (Schulten 2017). Thus, in order to get a clearer idea of the relative level of the minimum wage, it is helpful to also measure the Kaitz Index as a percentage of the national full-time average wage. The difference between these two measures of the Kaitz Index provides an indication of the general wage inequality in the various countries (Schulten 2017). Figure 3.5, which is based on the OECD Income Database, therefore shows both measures for 2015.

One of the key messages to take from Figure 3.5 is that despite the more dynamic minimum wage development over the last three years, the relative level is still low. In all EU countries the statutory minimum wage remains below the low-wage threshold which the OECD and other international organisations set at two thirds of the national median (Grimshaw 2011). This illustrates the limited impact of minimum wages at the current levels in preventing low-wage work, and also chimes with the most recent Eurostat findings that in 2014 in the European Union one out of six employees (or 17.2%) was a low-wage earner (Eurostat 2016).

Assuming that one key objective of minimum wages is to ensure that workers are kept out of poverty without receiving any additional help from the state through tax credits, social benefits or other in-work benefits, it is particularly worrying that in 10 out of the 19 EU countries for which the OECD provides data, the relative level of the minimum wage is below 50% of the national full-time median wage. Even though in-work poverty can be attributed to a variety of factors – such as insufficient working hours or the number of household members to be supported – the low level of minimum wages is another factor that contributes to many people across Europe not being able to make a living from the money they earn (Schulten 2016b: 70).

The large difference between the two measures of the relative level of minimum wage in both Portugal and Romania illustrates that the fairly high minimum wage level in relation to the median is the result of unequal wage distribution, with a high concentration of wage earners at the bottom of the wage scale. In other words, in these two countries the whole wage scale is so low that the seemingly high minimum wage level in relation to the median is still not enough to make a living; 57% of a very low median wage in Portugal is still a very low minimum wage in absolute terms even though statistically it seems fairly high. This is why it is very important to take into consideration both measures of the relative level of minimum wages when discussing the appropriate level needed for preventing in-work poverty.

Limited impact of real minimum wages on low-wage sector

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There is considerable variation across EU Member States in terms of collective bargaining coverage rates and the degree of bargaining coordination. These differences emerged gradually in relation to other elements of the countries’ political-economic systems (Hall and Soskice 2001), but they also reflect more recent economic trends and policy choices.

For the following analysis of recent developments in collective bargaining in the EU, five country clusters identified by Visser (2009) are used. The ‘Northern European’ group, which includes Denmark, Finland and Sweden, has a high degree of bargaining coordination. Social partners actively participate in the policymaking process and collective bargaining takes place mainly at the sectoral level. Despite the absence of legal extension mechanisms (except in Finland), all Nordic countries have preserved high bargaining coverage rates thanks to the significant extent of union mobilisation and strong bargaining culture.

The industrial relations systems of the ‘Central-Western European’ countries (Belgium, Austria, Germany, Luxembourg, the Netherlands and Slovenia) are based on a complex set of legal rules. With the exception of Belgium, all cluster members have experienced a considerable decline in trade union density rates in recent decades, but the corresponding fall in bargaining coverage has been less pronounced due to the high degree of bargaining coordination.

In the ‘Southern European’ countries (Greece, Spain, France, Italy and Portugal), industrial relations had traditionally been politicised and employee interest representation fragmented, but bargaining coverage rates had remained high due to the presence of statutory extension mechanisms or their functional equivalents. As a result of crisis-era reforms and EU-imposed conditionality, however, bargaining coverage rates in Portugal and Spain dropped substantially, and in Greece they nearly halved.

In the ‘Liberal-Western European’ cluster (the UK, Ireland, Malta and Cyprus), social partners are periodically engaged in socioeconomic discussions but their input is not always reflected in policy outcomes. With the partial exception of Ireland, single-employer bargaining has prevailed but bargaining coverage rates have remained fairly stable, with a more pronounced decline discernible only during the last decade.

The industrial relations systems of ‘Central-Eastern European’ countries (Poland, Czechia, Slovakia, Hungary, Romania, Bulgaria, Croatia, Estonia, Lithuania, Latvia and Croatia) have been characterised by an absence of bargaining traditions, low levels of bargaining institutionalisation and the considerable weakness of social partner organisations. Collective bargaining coverage rates in the former socialist states had been low and declined even further during the recent crisis. In Romania, the relatively well-developed bargaining system has been dismantled as a result of Troika-inspired reforms (Trif 2013).

According to Visser and Kaminska (2009: 19), ‘a degree of solidarity wage setting based on coordination at the sectoral level or above’ was an important factor behind the unprecedented economic growth in west European countries after the Second World War. Coordinated bargaining has brought tangible benefits to its participants, providing workers with a collective voice and guaranteeing high wages and decent working conditions. Against this background, the recent decline in collective bargaining coverage, particularly pronounced in southern and central-eastern Europe, is a matter of concern, especially as regards job quality and industrial democracy. It is also unclear whether the weak collective bargaining systems in these countries will be able to generate the wage-driven demand stimulus that is badly needed for their economic recovery.
Trends in collective bargaining systems and strike activities

No limits to de-unionisation?

The bar graph (left-hand scale) in Figure 3.7 depicts the slow but almost continuous decline in trade union density in the EU28 countries and Norway and Switzerland from 2000 until 2013 (the latest year for which data is available for most countries). On average, probably less than one worker out of three is unionised today (an aggregated figure masking, for instance, occupational and sectoral differences). The figure is in fact even lower, as the denominator, based on the number of wage and salary earners, does not take into account all workers relevant for unions, such as the solo self-employed and workers in the ‘shadow economy’. Furthermore, the lower weighted average confirms that den-

union density (averages) (%)

left-hand scale:

right-hand scale:

2000-2007

2008-2015

av

weighted average

FI

SE

DK

BE

NO

MT

cy

IE

LU

HR

av

AT

RO

UK

SI

GR

wa

PT

NL

DE

BG

ES

CH

CZ

SK

LV

PL

HU

LT

FR

EE

0

10

20

30

40

50

60

70

80

90

100

2000 (24)

2001 (24)

2002 (23)

2003 (28)

2004 (24)

2005 (26)

2006 (28)

2007 (30)

2008 (26)

2009 (26)

2010 (27)

2011 (29)

2012 (21)

2013 (21)

Source: ICTWSS (2016) and own updates.

The line graph (right-hand scale) in Figure 3.7 depicts the slow but almost continuous decline in trade union density in the EU28 countries and Norway and Switzerland from 2000 until 2013 (the latest year for which data is available for most countries). On average, probably less than one worker out of three is unionised today (an aggregated figure masking, for instance, occupational and sectoral differences). The figure is in fact even lower, as the denominator, based on the number of wage and salary earners, does not take into account all workers relevant for unions, such as the solo self-employed and workers in the ‘shadow economy’. Furthermore, the lower weighted average confirms that den-

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av

weighted average

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SE

DK

BE

NO

MT

cy

IE

LU

HR

av

AT

RO

UK

SI

GR

wa

PT

NL

DE

BG

ES

CH

CZ

SK

LV

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HU

LT

FR

EE

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10

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30

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50

60

70

80

90

100

2000 (24)

2001 (24)

2002 (23)

2003 (28)

2004 (24)

2005 (26)

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No limits to de-unionisation?

The bar graph (left-hand scale) in Figure 3.7 depicts the slow but almost continuous decline in trade union density in the EU28 countries and Norway and Switzerland from 2000 until 2013 (the latest year for which data is available for most countries). On average, probably less than one worker out of three is unionised today (an aggregated figure masking, for instance, occupational and sectoral differences). The figure is in fact even lower, as the denominator, based on the number of wage and salary earners, does not take into account all workers relevant for unions, such as the solo self-employed and workers in the ‘shadow economy’. Furthermore, the lower weighted average confirms that density is rather low in some larger countries, although this is not due to country size or the dominance of particular industries as such (Visser 1993). Rather it is labour-friendly labour market institutions (Schnabel 2013), together with union membership itself and how it is understood, that matter for explaining country differences in the level of unionisation.

The line graph (right-hand scale) ideally compares average union density in the 2000-2007 period with a period of (almost) equal length (since the beginning of the Great Recession). However, such a comparison is fully possible for only a few countries; the data is missing or not yet available for most countries. Nonetheless, considerable divergence in unionisation rates remains, with Finland, Sweden and Denmark still at the top of the ‘unionisation league’. While unions’ involvement in voluntary unemployment insurance (the ‘Ghent system’) is an important explanation for this (Hagedahl and Kongshøj 2017), union access to the workplace is also key (Toubøl and Jensen 2014; see Chapter 4). At the bottom of the league we find most CEE countries; Croatia and Slovenia are exceptions, but decline has recently also set in in these countries too. Union density has fallen in most countries, and primarily in most CEE countries, ‘supporting the notion that to some degree European integration has served as a neoliberal project to advance the interest of capitalists’ (Vachon et al. 2016: 13). Density remained relatively stable in four countries: Belgium, Norway, Ireland and low-unionised France, and it increased in Italy and Spain. However, the stability in Ireland and increase in Spain are not the result of union growth, but of membership falling at a slower pace than employment. Likewise, the Italian density is the result of a slight increase in union membership and a decrease in the number of wage and salary earners. The case of France, with its low membership, illustrates that workers’ power can also be based on their mobilisation capacity (Sullivan 2010).

Nevertheless, individual unions are still able to grow their membership; some of them have increasingly been inspired by a US-style ‘organising model’. Yet this policy transfer from the English-speaking world to continental Europe might risk unions losing sight of class and societal issues, even in the case of organising vulnerable, precarious and marginalised workers (Martínez Lucio et al. 2017). However, if unions want to reduce inequality and promote a high level of employment, addressing both class and societal issues continues to be essential (Crouch 2017). Moreover, the engagement of unions with ‘democratic experimentalism’ (Murray 2017) seems a prerequisite for going beyond the management of union decline, which is often based on a toolbox of practices inspired by the ‘organising model’ (Simms and Holgate 2010). Unions might consider whether restoring the prominence of strike action, ideally relying on the mass participation of ordinary people, should be a part of their endeavours in democratic experimentalism (McAlvey and Holgate 2010). Indeed, evidence from Germany (Dribusch 2016) and the UK (Hodder et al. 2016) reveals how strike action has helped to highlight perceived injustices, demonstrate union effectiveness and increase union membership.
Trends in collective bargaining systems and strike activities

Figure 3.8. Relative strike volume in Europe since 2000 and country comparisons between 2000-2007 and 2008-2015

Strike action: stability after the 2010 peak?

The bar graph (left-hand scale) in Figure 3.8 depicts the weighted average of the strike volume in most EU28 countries together with Norway and Switzerland since 2000. It displays a relative peak in the volume in 2010, mainly resulting from ‘national days of action’ (including strikes) against pension reforms in France (Ancelovici 2011). After that, the volume falls to a level below that of 40 days not worked due to industrial action per 1,000 employees. However, the post-2008 strike development is underestimated, in particular as it overlooks several general strikes linked to anti-austerity protests, especially in southern Europe (Dribbusch and Vandaele 2016). The European weighted average of the strike volume would rise if missing data about general strikes (especially in Greece, Italy, Portugal and Spain) had been considered (Vandaele 2016). Additionally, the strike picture at the country level is far more differentiated in its details than the line graph suggests.

Notably, the structural crisis of the finance-dominated accumulation regime has affected the European economies differently. However, economic hardship has only provided a general context for grievances and feelings of relative deprivation: the social protest cycle should be studied in relation to austerity programs, as they made it more likely for blame to be attributed to political authorities (Bermeo and Bartels 2014). Besides the austerity drive’s timing and severity, the organisational cohesion between unions, and the institutional access for negotiations between them and political authorities, have also been of a varying nature, all of which has generated nation-specific dynamics of resistance (Ancelovici 2015). Finally, nationally embedded repertoires of action also explain the sustained cross-national variation in the strike volume and its uneven development. In particular, general strikes are barely or not at all part of the action repertoire of workers in several countries as they are deemed unlawful. Those general strikes together with generalised large-scale strikes in the public sector tend to dominate the data. They help to explain country differences in the volume as shown in the line graph (right-hand scale), which compares the average volume in the period 2008-2015 (i.e. in the aftermath of the 2007-2008 financial crisis) with a period of equal length running up to 2008.

In most countries for which data is available for the two periods, the volume either declined or has been relatively stable. The drop in the volume is naturally most prominent in those countries with a relatively high level in the previous period, like Spain, Finland and Austria. Still, there are exceptions, of which Cyprus and Denmark are the most prominent cases. Cyprus skyrockets to the top of the ‘strike league’ due to an open-ended conflict that erupted in the construction industry in 2013. Large-scale strikes in the public sector in 2008 (Scheuer et al. 2016) and a general lock-out in the public sector in 2013 dominate the strike data.

The varying use of the strike weapon, across sectors, countries and time, reflects its context-dependent character and the variation in the legal recognition of labour rights (Gentile and Tarrow 2009). However, this recognition (also regarding the right to strike (Clauwaert 2016a; Xhafa 2016)) has been increasingly hollowed out by political authorities, especially since the Great Recession. As a result, the capacity of workers to voice their support for a more ‘moral economy’ through institutionalised corporatist channels in the economic arena has been undermined (Vlandas and Halikiopoulou 2016). Moreover, as unions’ return to the streets has only resulted in limited political exchange (Hyman 2015), the electoral revolt against political elites in the post-democratic era should come as no surprise.
Judicial developments and trade union rights

Are the courts on the side of trade unions?

Trade union (TU) rights have been litigated before various European courts in 2016. In the majority of cases the courts have sided with workers and also the trade unions, revealing a trend different to that in the shipping sector (analysed below). Nevertheless, some worrying trends remain.

In joined cases C-25/14 and C-26/14 UNIS, the Court of Justice of the European Union (CJEU) ruled that when a collective agreement that is universally applicable in the sector appoints a single body to manage a supplementary social insurance scheme, there needs to have been a degree of publicity sufficient for opening up the competition and ensuring the impartiality of the award procedure. The transparency principle under Article 56 TFEU has to be obeyed by the social partners.

The European Court of Human Rights (ECHR), is the court of the Council of Europe system, issued three judgments of interest in 2016. First, in the case Eğitim Ve Bilim Emekçileri Sendikası v. Turkey, where a teachers’ TU had been dissolved for including the words ‘receive education in their mother tongue’ in its constitution, the ECHR found a violation of Article 11 of the European Convention on Human Rights (ECHR) (the right to freedom of assembly and association).

Second, in Geotech Kancev GmbH v. Germany a company considered that the obligation to participate in the social welfare fund set up by social partners breached its right not to join an association. The ECHR ruled that while the obligation to contribute to the fund might be creating a de facto incentive for the applicant company to join the employers’ organisations, it was too remote to strike at the substance of the right to freedom of association (no violation of Article 11 ECHR).

Third, in Naku v. Lithuania an employee who had also been the chairperson of the TU for locally employed staff at the Swedish embassy in Vilnius challenged her dismissal and requested compensation. The applicant had inter alia urged the signing of a collective agreement by the Swedish embassy, but the latter had refused, arguing that it does not need to adhere to Lithuanian labour law, even though the employment contract had indicated that as the applicable law. The Lithuanian court had refused access to courts on the basis of diplomatic immunity. The ECHR found a breach of Article 6(1) ECHR (the right to a fair trial), but since the applicant had not properly voiced her complaints of having been discriminated on account of her TU activities, the Court regretfully did not look at the potential violation of Article 11 ECHR. The troubling aspect of this case is the Swedish embassy’s unwillingness to adhere to Lithuanian collective bargaining practices, implying that high labour standards and collective bargaining rights end at the border. Finally, in January 2016 the European Committee of Social Rights adopted a decision concerning exclusion of the Gendarmerie from the scope of TU rights. The Committee distinguished between when the Gendarmerie performs tasks that are civilian in nature, and when it performs military tasks. In the former situation the French system did not provide the employee representatives with sufficient protection from potentially harmful consequences of their TU activities. In the latter situation a blanket prohibition on professional associations of a TU nature was not proportional and breached Article 5 of the European Social Charter (the right to organise).
Judicial decisions play an important role in constraining or supporting trade unions' (TU) capacity to act in the field of wages and collective bargaining. One particularly important case in this respect was the famous *Viking* case in 2007 whose legacy still haunts the trade unions. In *Viking* the CJEU ruled that freedom of establishment can be invoked against a TU to prevent collective action aimed at obtaining an agreement on decent wages for workers. Lately this relatively old case law has grown in influence. *Viking* was followed by *Fonnship* (C-83/13), where the CJEU expanded its approach to cover the situations falling under the EEA agreement. In November 2015, the Swedish labour law court delivered the final judgment in the case and ruled that the industrial action by local TUs, which included preventing the loading and unloading of a vessel owned by a Norwegian company and demanding that it enter into a collective agreement, was unlawful. The requirement to pay the crew wages equitable to the Swedish wages went beyond what was allowed under the EEA Agreement and the primary objective was actually to prevent Holship from establishing itself as a provider of unloading and loading services.

Finally, the European Committee of Social Rights also looked at a case involving Norwegian ports (complaint No. 103/2013). A Danish business association (Bedrifterforbundet) had challenged the practice at the Norwegian courts requiring that the employees have to be members of the dock workers’ union in order to be hired and to continue to be employed (alleged closed shop practice). The Committee, however, found no violation of Article 5 of the European Social Charter (the right to organise), delivering an outcome in tune with the TUs’ position in the case.

In sum, the recent cases show that the legacy of the *Viking* judgment lives on and continues to affect TU rights to take collective action and also to bargain collectively concerning wages in situations where the freedom of establishment applies. Moreover, the case law from the EFTA Court also significantly restricts the long-existing Albany exemption of collective agreements from competition law.
Conclusions

The need for wage-led growth instead of internal devaluation

This chapter’s analysis has shown that last year’s trend of real wages growing faster than productivity gathered further momentum. Even though in the majority of countries real wage growth is attributable in large part to very low inflation rates in the EU, this trend nevertheless indicates a redistribution from capital to labour income. Wage growth also applies to real minimum wages which in most EU countries exceeded the general growth in real wages. This in turn indicates that wages at the bottom of the wage scale grew faster than those higher up the scale. However, despite this growth, statutory minimum wages in the majority of EU countries are still very low, prompting the European Parliament to call for minimum wages ‘attaining at least 60% of the respective national average wage ... to avoid excessive wage disparities, to support aggregate demand and economic recovery and to underpin upward social convergence’ (2016: 17).

The analysis furthermore demonstrated that this real wage growth took place in a context of not very favourable political and institutional framework conditions that comprised the following elements:

1. The country-specific recommendations in the field of wages and collective bargaining, which for 2016/2017 were a déjà-vu experience. Despite all the rhetorical commitments to the importance of social cohesion and a more dynamic wage development, the actual recommendations continued with the same old strategy of internal devaluation. The Commission’s key objective therefore is still to improve cost competitiveness by ensuring moderate wage developments through more flexible (meaning more decentralised) wage-setting mechanisms.

2. The long-lasting trend of a decrease in collective bargaining coverage which was particularly pronounced in the southern and central-eastern European countries as a consequence of the crisis and the ‘structural reforms’ that were implemented as part of its management.

3. The continuing trend of de-unionisation in many EU countries which indicates a decline in trade unions’ organisational power resources and capacity to act.

4. Continuing restrictions on trade union activities by international and national labour courts which, following the example set by the famous Viking case, give the freedom of establishment priority over trade union rights.

The question that remains, therefore, is whether the recovery of real wages over the last two years indicates a general re-orientation towards a more wage-led growth model. Given the current political and institutional framework conditions described above, the answer is most likely negative, particularly as the components of such a re-orientation would be exactly the opposite of, for instance, those promoted in the CSRs.

As Onaran and Stockhammer (2016) illustrate, re-orientation towards a wage-led growth model comprises a complex set of measures in different policy areas such as fiscal and tax policy as well as macroeconomic and industrial policy. However, one essential building block of such a re-orientation is the Europe-wide coordinated pursuit of a new form of solidaristic wage policy, which goes beyond the classical notion of a productivity-oriented wage policy in which wages develop in line with both productivity and price developments (Schulten et al. 2017). A solidaristic wage policy, as proposed by Chagny and Husson (2015) with their ‘optimal wage regime’, would also supply remedies for the increased pay differentials between individual sectors, and in doing so seek ways to disproportionately increase the wages of low-paid workers.

However, there are three fundamental prerequisites to pursuing such a solidaristic wage policy: appropriate minimum wages, all-encompassing collective bargaining systems and strong trade unions (Schulten et al. 2017). As regards minimum wages, there were some positive developments in 2016. However, the task of a Europe-wide coordinated minimum wage policy would be to guarantee adequate wage levels above the ‘risk of poverty’ threshold for workers in all countries. Concerning collective bargaining systems, the analysis has shown that there are still large cleavages in the coverage rates. A solidaristic wage policy requires high coverage rates based on multi-employer bargaining systems. In the context of decreasing union density in many countries, this in turn requires support from the state, for example through the establishment of extension mechanisms that ensure the universal application of collective agreements. Support could also come from the European level; instead of weakening or even dismantling multi-employer bargaining systems, the EU should, together with European trade unions and employers’ federations, initiate a broad-based campaign to strengthen collective bargaining systems and coverage (Schulten et al. 2015). Finally, even the IMF by now acknowledges that an inclusive growth model on the basis of a more egalitarian distribution of income requires strong trade unions (Jaumotte and Buitron 2015). Although it is obviously first and foremost up to the trade unions themselves to strengthen their organisational power base and reverse the trend of falling membership levels, institutional support could also come from the European and national level by reversing the policies which, in an attempt to get rid of labour market rigidities, restrict trade unions’ capacity to act.

Under the current political circumstances, the implementation of such a solidaristic wage policy as part of a broader macroeconomic re-orientation towards a wage-led growth model may sound utopian. However, with the launch of the ETUC campaign ‘Europe needs a pay rise - It’s time for our recovery’ (ETUC 2017) a first important step has been taken in mobilising for such an alternative approach.