Democracy at work

Introduction

This chapter investigates 'democracy at work' in theory and presents some empirical evidence of it in practice in today's European Union. Beginning with a conceptual discussion of how we can understand the meaning of democracy at work across a range of different approaches, we go on to explore its beneficial impact on civic democracy, economic performance, the reduction of inequalities, sustainability, and job quality. Turning then to existing EU and national-level policies, we assess the current state of play of democracy at work as it is articulated and implemented across a wide range of EU and national policy instruments. We look at some concrete outcomes, such as the instruments put in place for the protection of occupational health and safety. We critically address shortcomings of the proposed Company Law Package regarding workers' participation in corporate governance. We identify unequal access to democracy at the local workplace level and assess the state of play of gender equality. Finally, we examine different democratic aspects of European Works Councils and board-level employee representation. We conclude that although there is clearly a positive and beneficial relationship between various instruments of democracy at work, there are still marked deficiencies in the provision and exercise of democratic rights at the workplace and at company level across the European Union.
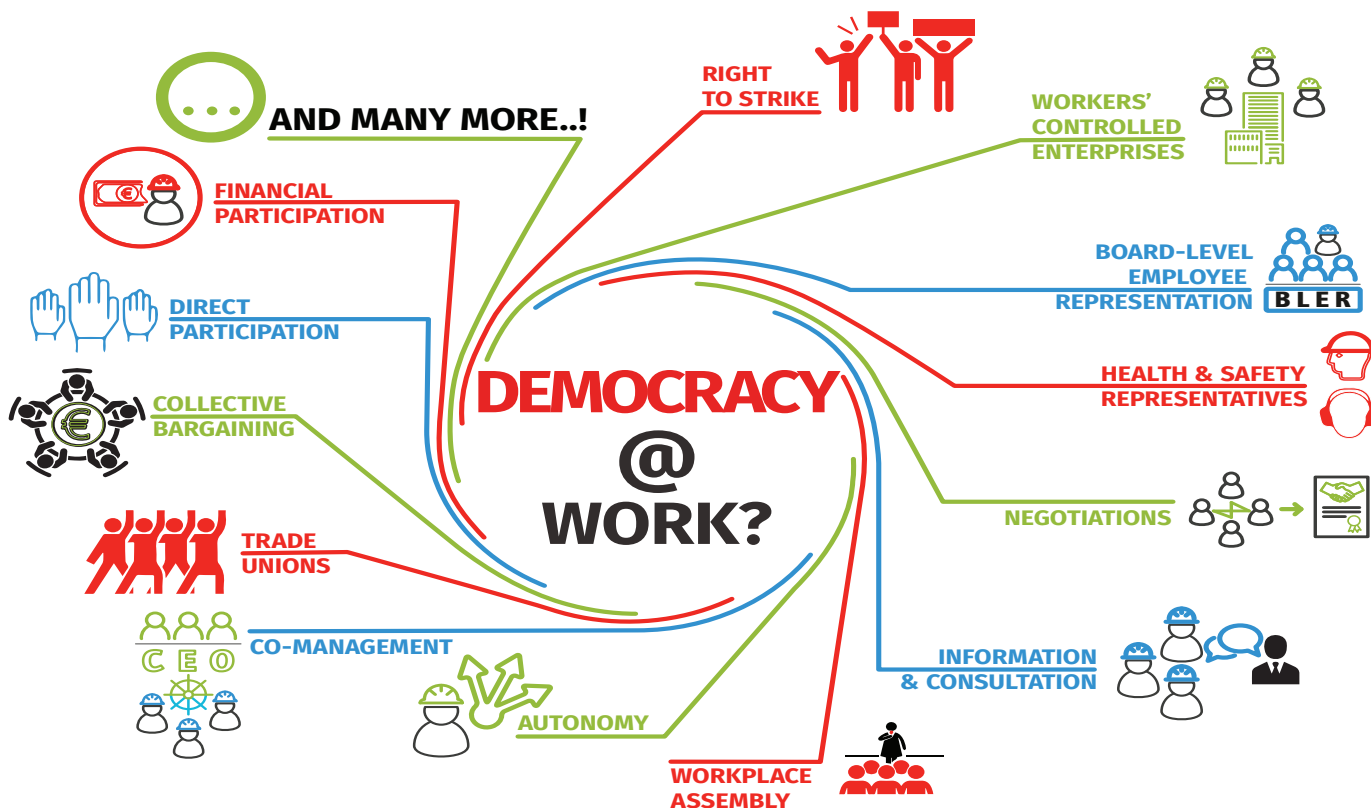
Topics

Authors

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Democracy at work: what, why and how?

AND MANY MORE..!

FINANCIAL PARTICIPATION

DIRECT PARTICIPATION

COLLECTIVE BARGAINING

TRADE UNIONS

CO-MANAGEMENT

AUTONOMY

WORKPLACE ASSEMBLY

RIGHT TO STRIKE

WORKERS' CONTROLLED ENTERPRISES

BOARD-LEVEL EMPLOYEE REPRESENTATION

HEALTH & SAFETY REPRESENTATIVES

NEGOTIATIONS

INFORMATION & CONSULTATION

DEMOCRACY @ WORK?

Source: Authors' own compilation.

The many reasons for democracy at work

Self-determination, personal autonomy, and emancipation are all fundamental human aspirations. Yet despite decades of attempts to develop industrial democracy institutions, employees still experience alienation at work under advanced capitalism at levels that would scarcely be accepted in other arenas of democratic societies.

Democracy, with all its ambiguities and varieties, is largely considered a *universal* value; moreover, it is a 'demanding system, and not just a mechanical condition' of self-government of human communities (Sen 1999: 7). But as a rule, the working world is mostly ruled by employers and shareholders, with little or no involvement of employees and their representatives. Democracy currently stumbles at the factory gates and the office doors. The difficulty of crossing those thresholds is one of the major broken promises of democracy (Bobbio 1987).

This contradiction calls for resolute change, particularly in times where democracies are under threat. Work may be only one dimension of life, but it is one that occupies most of the active hours of a large part of the working-age population. It is thus no surprise that the labour movement has historically held the banner high in demanding stronger

democracy at work. But as will be seen in the following pages, the quest to foster more democracy at work should not only be a universal aim but should actually be a top priority for democrats from all arenas of public life.

But what do we mean by 'democracy at work'?

'Democracy at work' (or 'industrial democracy', 'economic democracy' or any of the various terms proposed over the years) means different things for different people, depending in part on highly varied national and historical contexts. The term may convey specific conceptions of democracy, society and the economy, as well as specific views about the relationship between capital and labour. The different notions also usually imply different expectations and goals to be pursued, which in turn determine the ways in which these could be achieved.

However, most people associate democracy at work with specific institutions, systems and processes. An (inevitably incomplete) selection of these are presented in the image above.

> For our understanding of democracy at work, the specific instrument is of secondary importance: what is essential is what the instrument seeks to achieve.

Democracy at work: what, why and how?

What this very wide range of instruments and processes have in common is that they are all in some way oriented towards substantially enhancing workers' voice and democratic oversight in their work, their organisations (whether publicly or privately owned) and the economy at large. They seek to increase workers' control and power over work processes, their working environment, and the functioning, direction and goals of the organisation and the economy. In a zero-sum conception, to increase workers' power means, conversely, limiting managers and/ or shareholders' scope for action (Coates 2003: 35). Hence, measures which seek to somehow involve workers, but without discernibly redistributing authority in their favour, or which only rely on the employer's goodwill without any guarantee of laws or enforceable agreements, should not be understood to constitute the democratisation of work.

Essentially, then, a call for more democracy at work is a radical call for rethinking how companies and the economy function, as well as how power is unequally distributed at the workplace, in the economy and in society.

Why more 'democracy at work'?

An array of theoretical, normative and empirical arguments has been developed in different areas of the social sciences, legitimising and intellectually supporting demands for more democracy at work. The following pages explore a host of empirical and efficiency-related considerations about how democracy at work contributes to our societies in terms of job quality, political democracy or economic prosperity, to name just a few.

To this end, this section reviews a selection of core theoretical arguments based on philosophical concepts that are rooted in political liberalism and embedded in Western political systems, such as freedom, justice and equality.

Human rights

The first category of arguments focuses on workers' inherent value as individual human beings with legitimate aspirations and rights; these concepts mainly arise from moral philosophical theories of human rights and labour law. Employers may use labour instrumentally, but labour should not be considered a mere commodity (Polanyi [1944] 2001). Workers have responsible human agency and consequently the right to exercise human rights and civil liberties, such as autonomy, freedom from domination, freedom of expression, dignity and equality (Collins *et al.* 2018: 21). Contractual theories of the employment relationship assume that the parties signing an employment contract are equal partners; yet this is clearly not the case in the labour market: workers are subject to the employer's prerogative without having genuinely consented to it. Faced with the risk of unemployment, workers are clearly not free to escape this subordinated position (Landemore and Ferreras 2016). Therefore, rather than remain subject to economic authoritarianism, they should have a moral right to democratic participation in economic decisionmaking (Dahl 1985). Finally, the main function of constitutional labour law is to protect fundamental rights in the workplace; by definition, it serves to counteract the unequal nature of the employment relationship by conferring collective rather than solely individual rights to workers.

Democratic pluralism

A second group of arguments refers to democracy as a form of community representation that protects a plurality of interests against oligarchic rule. Political theorists have highlighted the resemblance between the state and the firm as political institutions and, accordingly, between the citizen and the worker in an industrial polity (Marshall 1950; Dahl 1985; Ferreras 2017). Therefore, if political democracy is justified for the wider society, it must also be so at the workplace. The principles of justice, the rule of law, the separation of powers constraining arbitrary powers and governing the public sphere should equally apply to private social and economic institutions (Rawls 1999; Cohen 1997). Workers should be able to exert control in their firms' government and benefit from similar democratic procedures as at the state level. Democratic theory puts forward different conceptions of democracy, each of which rests on a specific fundamental quality – be it representative, deliberative or direct/participatory. These concepts require either formal control rights or procedural frameworks, and arguably reinforce each other by contributing to a more robust democratic culture. The educative role of workplace participation could particularly support democratic practices in the wider political sphere of democracy (Pateman 1975: 44; Cohen 1989: 25).

Stakeholder approaches

For the 'stakeholder approach', which has been developed in corporate governance debates, more democracy at work can serve to legitimise and improve internal decision-making (Vitols and Kluge 2011). In large joint stock companies with very dispersed ownership, control is often concentrated in the hands of managers. By involving various stakeholders in strategic deliberative processes of the firm's government, oligarchic control by managers can be counteracted, and the quality of decision-making is likely to improve. Workers have privileged knowledge of the organisation, they 'invest' their labour in the firm (Ferreras 2017) and therefore have a significant stake in its development and success, since generally their very livelihoods depend far more directly on the company than the employer's does. This is especially true in large companies, where employers tend to diversify their investment to protect their entrepreneurial risks. It has thus been argued that workers should logically be

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entitled to rights of control, at least in equal measure as enjoyed by the owners of capital (Pinto 2017: 129).

Ownership and control

A fourth realm of arguments concerns the issue of ownership and control. Ownership does not automatically confer exclusive rights of control; on the contrary, property rights can be decoupled from full control rights. For example, the existence of non-voting shares (which provide shareholders with property over a part of the stock but deprive them of voting rights on corporate matters) illustrates this point. Control rights are also limited in practice when other legal goods are at stake or deserve protection, as in the field of inheritance law (where the children of a deceased person can inherit the ownership of a house, while the partner of the deceased may retain the rights of use and control for a certain time). With the rare exception of those cooperatives in which labour not only owns but also controls capital, workers or their representatives do not usually exert control over the firm (Dow 2003: 103), despite investing their labour and having a large stake in its future. Giving workers a higher degree of control would not only be fair, but also fully compatible with property rights.

Equality

Finally, a coherent stream of arguments is based on the notion that political and economic equality between members is a condition for a fair society. The concern here is not the individual, but the collective redress of imbalances in the world of work. Politically, workers' collective association rights (collective rights designed to ensure workers' voice, or the competence to contest employers' discretionary power, such as the right to strike) and collective bargaining and labour relations systems ensure a countervailing force to capital (Bogg and Estlund 2018). Trade unions can contribute to political equality by preventing or reversing oligarchic managerial power in the firm (O'Neill and White 2018: 252). Economically, they can also promote redistributive and egalitarian policies and attitudes inside and outside the workplace.

In brief, while there are many approaches which promote democracy at work as a positive value for democratic societies and individual citizens, we have not seen enough of this principle in action in our workplaces and economies. It therefore makes sense for democratic arrangements at work to be extended (in geographical, material and personal scope), broadened (by increasing the number of institutions and better linking them to reinforce each other) and deepened (by promoting sounder practices and the exercise of political rights and civil liberties at work).

The many paths towards workers' empowerment

How is democracy at work implemented, and can it be assessed?

There exist myriad means to strategically pursue the goals of democracy at work, understood here to mean (in its most general sense) a modification of the distribution of authority and power in favour of the workers and their representatives. Figure 4.1 provides an overview of some of the many available means, rights, instruments and institutions for exercising democracy at work. Each mechanism in any given context exhibits a range of characteristics; the interplay between these features can be more easily visualised using the framework of the 'democracy at work diamond' (see Figure 4.2), which synthesises how they can vary according to the following axes:

Degree

How deep is democratic participation in the company? Are the employees only informed and/or consulted? Or is there a form of co-decision or negotiation, or even autonomous decision-making, for the employees?

Domain

In wich domain is the institution or mechanism focused? Does it cover the workplace or team level, the establishment, the national company or an entire multinational company? Is a particular sector or the whole economy concerned?

Topics

What is the content or subject of the democratic process? Are the issues addressed only job- or task-related; are they operational; do they concern employment conditions, the financial situation or even the strategic choices and orientation of the company?

Coverage

Does the mechanism cover only a few or very specific groups of employees, or does it apply to and engage all workers, including for example atypical workers?

Timing

At which point in the decision-making process are the workers involved? Is it prior to the decisions, during their implementation or only afterwards for the purposes of evaluation?

Democracy at work: what, why and how?

Figure 4.2 The diamond of democracy at work
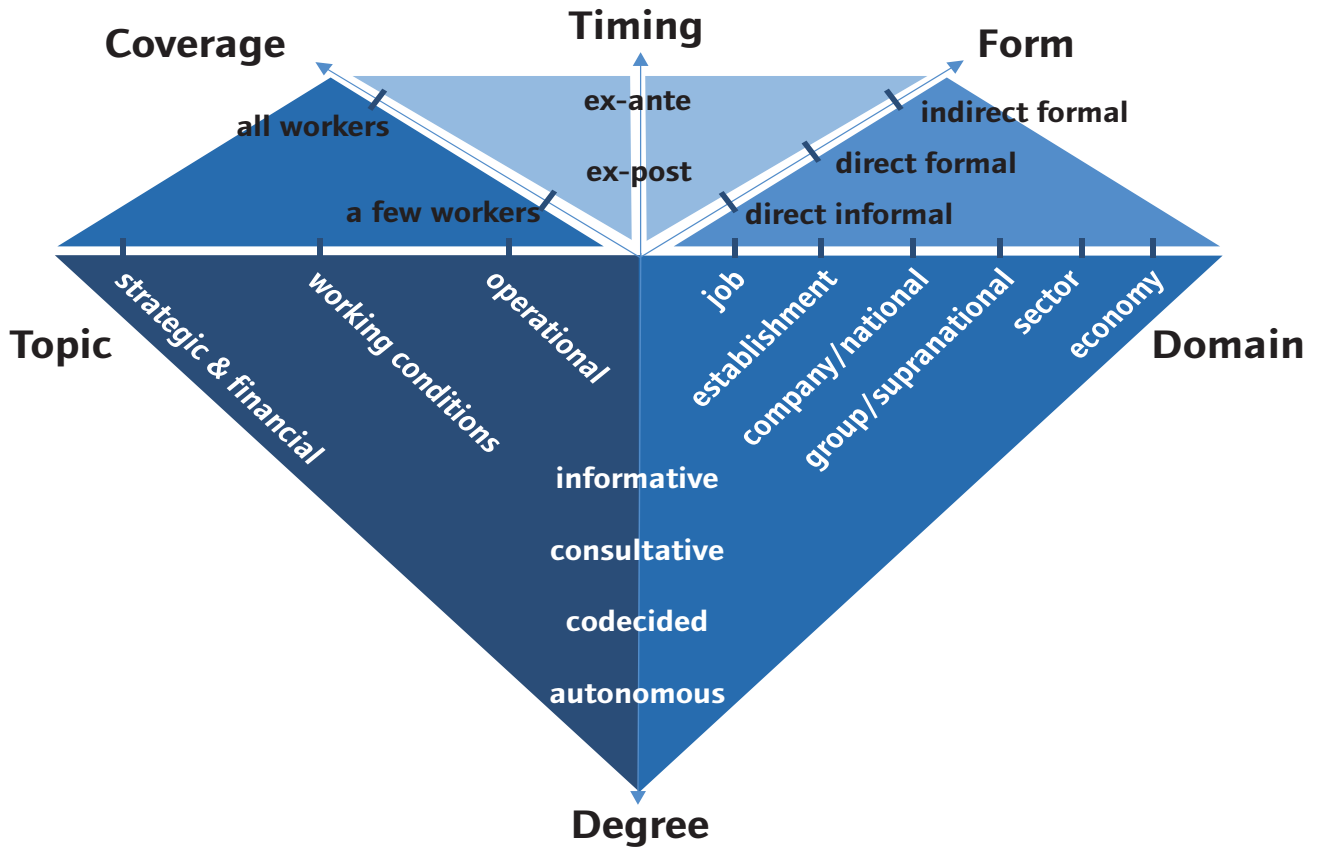
Source: Authors' own representation based on Van Gyes 2006; Marchington, 2005:26-29, Knudsen, 1995:9, Gold and Hall, 1990:25, Davis and Lansbury, 1986:2; Conchon, 2014: 72-97.

Form

How is the democratic process organised? Is it in a direct process which mobilises individual workers, or is it collective and indirect, involving representatives? What is the degree of formalisation of these processes?

The diamond figure should not be seen as a blueprint, but rather as a means to facilitate thinking about the institutions which foster or implement democracy at work, and to explore how each could empower workers and enhance their voice, both within their organisations and in the economy at large.

Ultimately, democracy at work does not exist in a vacuum: the broader institutional, political and economic context crucially affects the potential for any mechanism in the workplace, company or organisation to increase workers' power.
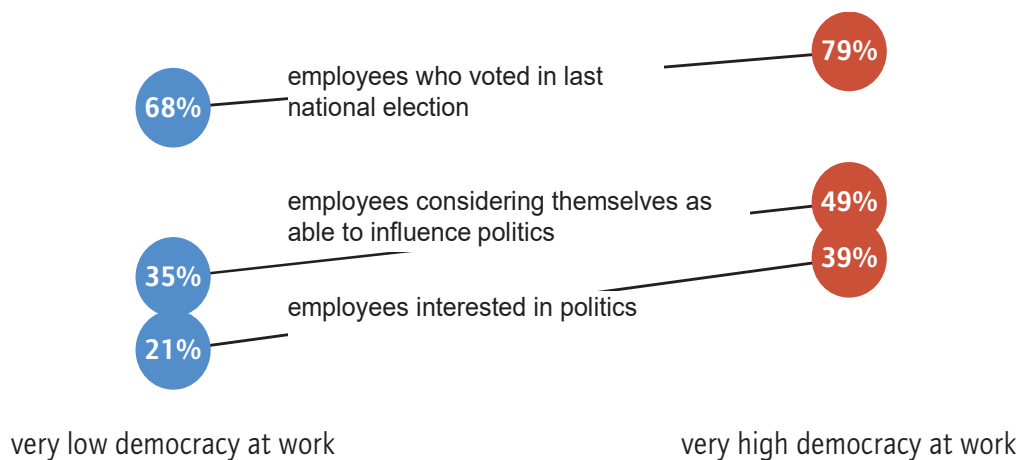
Shining brightly

The Lisbon Treaty established democracy as one of the guiding principles of the European Union. All citizens should have the right to participate in the democratic life of the Union. What happens in companies, public services and the economy at large, however, is all too often considered to be beyond the scope of democratic life.

Yet there are plenty of theoretically grounded reasons for more democracy at work; this principle is based on fundamental rights, democratic theory, legitimate corporate governance, and economic and political equality, all of which are also fully compatible with respect for property. It is high time to nurture and polish our representative and participatory workplace institutions, so that democracy at work 'shines bright like a diamond' (Rihanna 2012).

Democracy at work and civic democracy: mutually reinforcing

68% — employees who voted in last national election — 79%

35% — employees considering themselves as able to influence politics — 49%

21% — employees interested in politics — 39%

very low democracy at work   very high democracy at work

Source: European Social Survey 2016 (ESS 2016). Democracy at work scale based on mean scores of wkdcorga (allowed to decide how daily work is organised) and iorgact (allowed to influence policy decisions about activities of organisation). Reported differences between mean score less than 2.5 and more than 7.5 on a scale of 0 to 10. 'Ability to influence politics' based on psppsgva cumulating the responses 'completely', 'very' and 'quite'. 'Interested in politics' based on polintr, cumulating the responses of 'very' and 'quite'.

Civic democracy and democracy at work are two sides of the same coin

There is another side to the work-life balance: what happens at work does not stay there. Experiences and activities at work influence those outside the workplace and vice versa. Privately gained competences are used professionally; frustrations experienced at the workplace are likely to affect private interactions as well. This same interdependence is also evident in the relationship between democracy (or the lack of it) at work and in society.

Political democracy thrives on the participation of citizens. The electorate need to become informed about politics and engage through voting, standing for elections or other ways of making their voice heard politically.

Whether citizens actually engage, however, is shaped by their opportunities to do so. Fundamental rights such as freedom of speech, freedom of association and the right to vote, ensure and stimulate citizens' involvement in politics.

However, the places where most working-age adults spend most of their active time are rarely arenas of democratic involvement. Companies, organisations and public services are organised along clear and largely immutable hierarchical lines. Workers need to do what they are told by their supervisors, who are in turn usually themselves subordinate to someone else. Freedom of speech is limited and, at least in the vast majority of organisations, there is no right to vote on who should be the manager(s) in charge.

At the same time, even though democracy in society may enjoy better conditions to flourish, many recent trends show that there is cause to worry about the robustness of political democracy (Streeck 2016).

Strengthening democracy at work strengthens civic democracy

Considering the interdependence between the spheres of public life, work life and private life, one of the potential keys to strengthening civic democracy is to enhance democracy at work. In 1970, Carole Pateman argued that democratic work organisation could have positive spill-over effects on the political arena: people who work in non-hierarchical structures gain experience and competences when they engage in collective decision-making; they understand how political processes function; and they learn how to voice their views and engage constructively with others. By contrast, in strictly hierarchical organisations, workers exhibit passivity and political apathy (Pateman 1975). Accordingly, Pateman expected that those employees working in more democratically organised workplaces would have a stronger belief in the value of democracy and would participate more actively in the processes of civic democracy.

Two more recent studies have borne out this argument, showing that, indeed, employees in jobs with greater autonomy and involvement are more politically active and have more trust in democracy (Budd *et al.* 2018; Timming and Summers 2018). The figures above show the same positive relationship: employees with greater voice, influence, and democracy at work vote more, consider themselves more able to influence politics, and also more often report that they are interested in politics. The message is clear: political democracy and democracy at work are mutually reinforcing. By consequence, failing to foster democracy at work risks jeopardising the future of our political democracies. Policies to strengthen political democracy should thus not limit their focus to the political but should take into account the way in which the economy, companies and public services are organised.

Democracy at work: economic advantage

Figure 4.4 Democracy at work and productivity
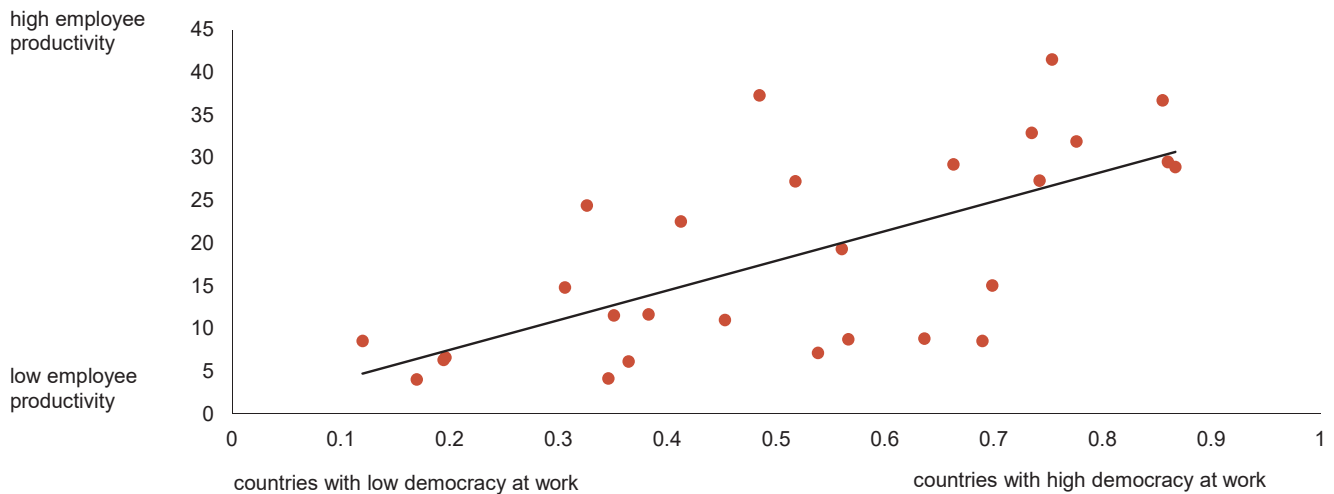
Source: x-axis: European Participation Index (Vitols 2013). Y-axis : OECD (2013): GDP per hour worked in USD, 2010 PPPs.

Democracy at work: more productive employees, a higher labour force participation rate and more innovative companies

A typical criticism of democracy at work is that, according to economic theory, it is by definition inefficient. According to this line of thinking, workers will use any power they have within the firm to increase their own well-being at the expense of the company and its shareholders (Jensen and Meckling 1979; Gorton and Schmid 2004). Therefore, companies will be most efficient if control of the firm is left to shareholders and managers.

A contrasting view is provided by the industrial democracy approach (Freeman and Lazear 1995; Klemsdal *et al.* 2017). According to this view, worker participation increases the ability of companies to use the experience, tacit knowledge and on-the-spot improvisation of the employees that make 'planned work' possible despite the unpredictability of the 'real world'. Workers are more motivated and committed when they can exercise 'voice' and power within the firm. Therefore, companies with worker participation are more productive and innovative than companies without it.

In the current policy debate on the performance of the EU economy, three indicators of economic success play a central role: (1) employment rates, (2) productivity, and (3) innovativeness. The first one refers to the proportion of the population between the ages of 20 and 64 which is actually employed (employment rate). The European target for this is 75% but many countries have significantly lower employment rates. The second is labour productivity, which measures the amount of goods and services (in euros) created by each member of the labour force. The third refers to the ability of countries to introduce new products, services and production methods. In all three cases more democracy at work is associated with a better outcome.

Higher productivity with more democracy at work

In Figure 4.4 we observe that those countries which have high levels of democracy at work also tend to have higher productivity rates. Democracy at work is measured by the European Participation Index (EPI), which takes into account collective bargaining coverage, trade union membership rates, worker representation at the plant level and board-level employee representation. The level of democracy at work, as measured by the EPI, a country-level measure of participation in the mid-2010s, is shown on the horizontal axis. The productivity level per worker is taken from Eurostat for the same time period. The fact that the line in the figure is upwardly sloped indicates that countries with a low level of industrial democracy tend to be less productive than more democratic countries.

Democracy at work therefore does not mean an inefficient economy. On the contrary, the relation seems to be quite the opposite. Explaining this relation is complex as there is no clarity on the direction of the causal path (i.e. does democracy cause higher productivity or are more productive economies more democratic?) and there are many other factors at play.

However, two factors seem particularly relevant. First of all, having a voice at work is likely to increase the efficiency of the work done (and thus the productivity per employee). If workers can voice their concerns, then problems are more likely to be addressed. Workers' knowledge is essential for the effective and productive functioning of companies; when employees share their knowledge, and identify and

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Democracy at work: economic advantage

(where possible) solve problems, the whole organisation learns and develops. This is what Freeman and Medoff have termed 'employee voice', which is needed for effective organisational learning (Freeman and Medoff 1984).

Higher employment with more democracy at work

Another argument used against workers' participation is that countries with greater democracy at work are less open to lower-quality and low-paid jobs. Indeed, where employees have a strong voice, they tend to push for higher wages and better-quality jobs which could, according to some, decrease the number of available jobs in the economy.

This second argument suggests that those countries with more democracy at work and high productivity would also have generally lower employment levels. According to this argument, if low-paid and low-productivity jobs are eliminated, one would expect those employees with low productivity to not find suitable jobs, resulting in overall lower employment levels.

However, the graph on the relation between democracy at work and the employment rate (Figure 4.5) shows that the opposite is true. As in the case of the previous figure, the horizontal axis indicates the level of democracy in different EU countries in the mid-2010s. The vertical axis indicates the labour force participation rate in the same time period. The upwardly sloped line shows that, on average, those countries with more democracy at work also have more people in work.

Democracy at work and innovation

For companies (and economies) to develop, innovation is key. And many innovations in companies come from employees who develop ideas about how to work better or improve the quality of the goods and services. Where employees enjoy democracy at work in the form of greater autonomy, they are more likely to develop and share such innovative ideas. The relation with more collective forms of democracy at work, such as trade unions and works councils, is less clear cut. But several studies have observed that where there is a union or works council present, there is an overall safer climate for workers to share ideas (even disruptive ones) about how to work better (De Spiegelaere *et al.* 2014).

Similarly to the previous two cases, a comparison of the EPI with country innovativeness (as measured by the World Economic Forum's Global Competitiveness Index) shows a positive relationship between the two variables (Vitols 2018a). Countries with more democracy at work tend to be more innovative than countries with less workplace democracy.

These figures suggest that democracy at work goes hand in hand with higher productivity, a higher labour force participation rate, and more innovation. A triple win.
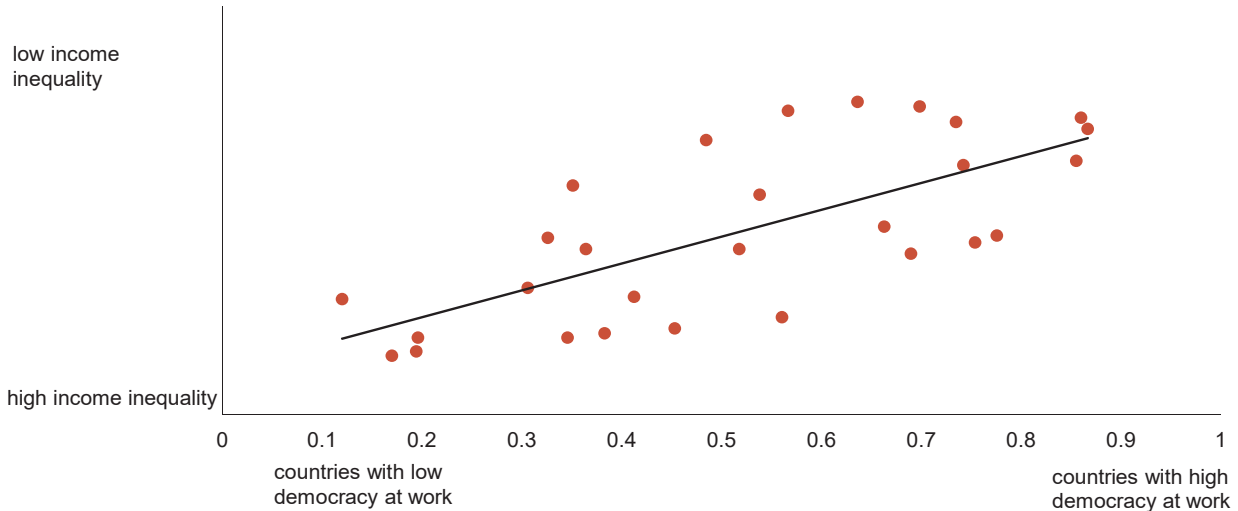

Figure 4.5 Democracy at work and national employment rates
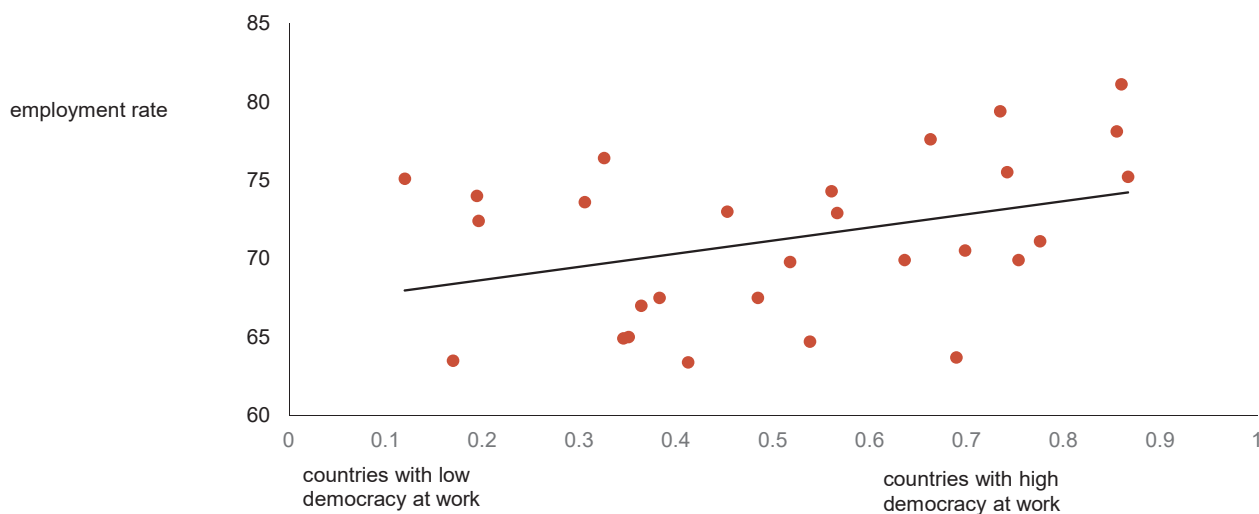
Source: x-axis: European Participation Index (Vitols 2013); y-axis: employment rate (20-64 years), figures for 2013, Eurostat (lfsa_ergan).

Democracy at work: less inequality

Figure 4.6 European Participation Index and GINI coefficient of income inequality, by country (mid-2010s)

Source: x-axis: European Participation Index (Vitols 2013); y-axis : Gini coefficient 2013 (inversed), Eurostat (ilc_di12).

Greater worker involvement at the workplace means more equal societies

The 2018 World Inequality Report found that in 'recent decades, income inequality has increased in nearly all countries, but at different speeds, suggesting that institutions and policies matter in shaping inequality' (Alvaredo *et al.* 2018: 5). Even though in Europe the rise of inequalities has been relatively moderate compared to other regions of the world, from a historical perspective, the consistent rise in the past years marks an end to the post-war egalitarian era that characterised the continent.

How ownership of capital interacts with inequality

Economic inequality is largely driven by the unequal ownership of capital, whether or not it is privately or publicly owned.

As the authors of the 2018 World Inequality Report show, 'since 1980, very large transfers of public to private wealth occurred in nearly all countries, whether rich or emerging. While national wealth has substantially increased, public wealth is now negative or close to zero in rich countries. Arguably this limits the ability of governments to tackle inequality; certainly, it has important implications for wealth inequality among individuals. Left alone, companies tend to exacerbate existing inequalities by maximizing managements' pay out and shareholders' profits while minimising wages' (ibid.). That the rise of inequality needs to be contained is illustrated by the development over time of the employee-to-CEO pay ratio: in 2016, CEOs took home 271 times that of the average American worker (the same figure was 20-to-1 in 1965 and 59-to-1 in 1989). From 1978 to 2016, CEO compensation increased by 937%, while typical employees earned a dismal 11% raise over the same nearly four decades (Hansen 2018). In Europe, these discrepancies are less stark, yet still striking: the 2014 records show that in Germany the ratio between CEO and average worker pay was 147:1, in Spain 127:1, in Czechia 110:1 and in France 104:1 (Statista 2014).

Without a doubt, regulatory measures can be applied to contain the development of pay inequalities; however, legal frameworks in this area do not suffice. Furthermore, they are not the sole countermeasure that can be employed to rein in corporate excess. As the authors of the World Inequality Report argue, '[o]rganized employee voice on all levels is a strong antidote for inequality as it reduces management and shareholder greed and ensures higher (and equal) wages' (Alvaredo *et al.* 2018: 5). The reason is simply that companies operate differently when they are obliged by consultation procedures to share information, respond to critical questions and justify their decisions and actions; where board-level employee participation is in place, this scrutiny of top-level strategic and financial decision-making is even closer. Workers' participation thus not only limits corporate greed, but it also serves to make companies more sustainable (Vitols and Kluge 2011; Vitols 2010b; Vitols 2017).

Democracy at work: less inequality

Figure 4.7 The CEO-to-worker pay ratio evolution in western Europe and the US
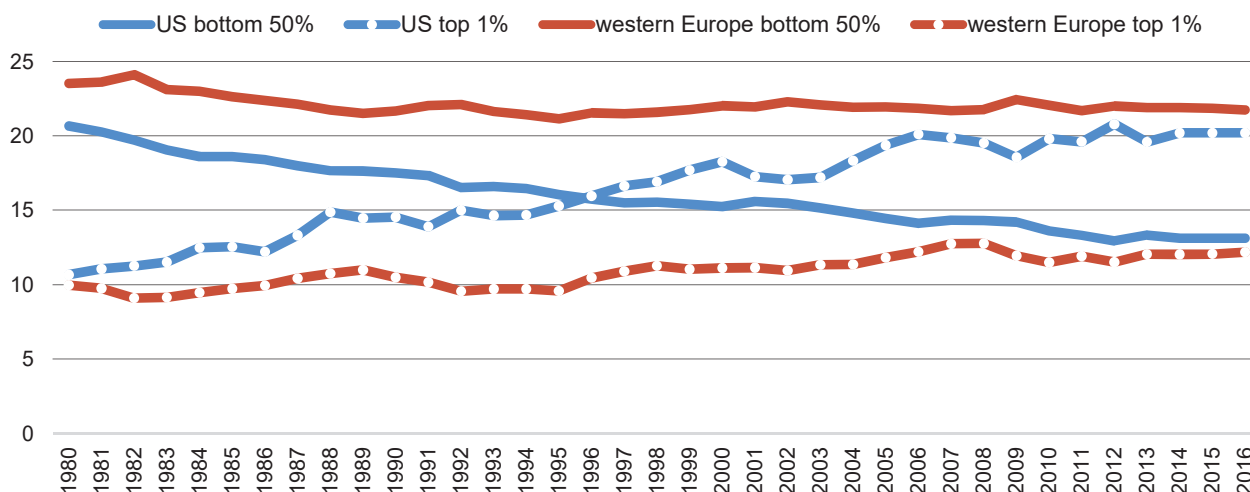
Source: ETUI's own compilation based on Alvaredo *et al.* 2017 (p. 8).

Worker participation as an antidote to inequality

The equalising and moderating capacity of democracy at work cannot be ignored in the current world where skyrocketing disparity in pay between CEOs and their employees impacts not only workers, but also society at large. Available research indicates several advantages of introducing greater worker participation.

First and foremost, the effects of workers' participation at company level were found to affect income distribution at the macroeconomic level and to lead to generally higher income equality (Hörisch 2012). Secondly, workers' participation has been found to improve company performance: it translates into improved productivity (Mizrahi 2002; Grimsrud and Kvinge 2006; Martes 2012) and increased investment in research and development (Krieger 1992). Moreover, there are numerous studies which demonstrate the significant positive impact of board-level codetermination rights on corporate policy and corporate performance (Hörisch 2012: 7). A recent study on the German stakeholder system of co-determination shows how workers' participation at company level helps to keep short-termism in corporate decision-making at bay and to move away from the shareholder-oriented corporate governance that fuels rising inequalities (Holmberg 2017; Prasnikar and Gregoric 2002).

The above-mentioned studies are complemented by the ETUI's own research on workers' participation. EU Member States which performed better on the Lisbon Strategy indicators had significantly stronger arrangements for worker participation (ETUC and ETUI 2009); they also consistently performed better on all five Europe 2020

targets (comprising, amongst others, employment rates, investment in R&D, and climate and poverty goals).

The above research findings do not necessarily prove causality between worker participation and better performance on the above indicators, nor do they identify workplace democracy as the decisive factor. Obviously, a complex web of factors is involved in explaining cross-national economic and social differences. Nevertheless, these results suggest that strong worker participation, at the very least, does not weaken company performance (Vitols 2010a) and represents a powerful set of institutions and practices which both support a better economic and social performance and foster equality. Research shows that through more workers' involvement in corporate strategic decisions, the uncontrolled corporate behaviour that fuels inequalities can be contained and enriched by considerations of social sustainability (Vitols and Kluge 2011; Vitols and Kluge 2013; Vitols and Heuschmid 2013).

Since rising inequalities have continued to plague societies for decades now, and because classic legislative tools and any redistributive effects of tax systems have failed to contain these processes, all available resources need to be deployed to stop the rich getting richer at the expense of the wider society, where workers do not benefit equally from rising GDP. Workers' participation is all the more necessary as the advent of artificial intelligence is expected to bring new challenges to workplaces (Ponce Del Castillo 2017) and deepen existing inequalities as well as introduce new ones (Harari 2018). Working life needs to become more democratic in order to foster more equality, both within companies as well as in society. If democracy is justified in governing the state, it must also be justified in governing economic enterprises (Dahl 1985).

Democracy at work and company sustainability

Figure 4.8 Board-level representation and sustainable company policies
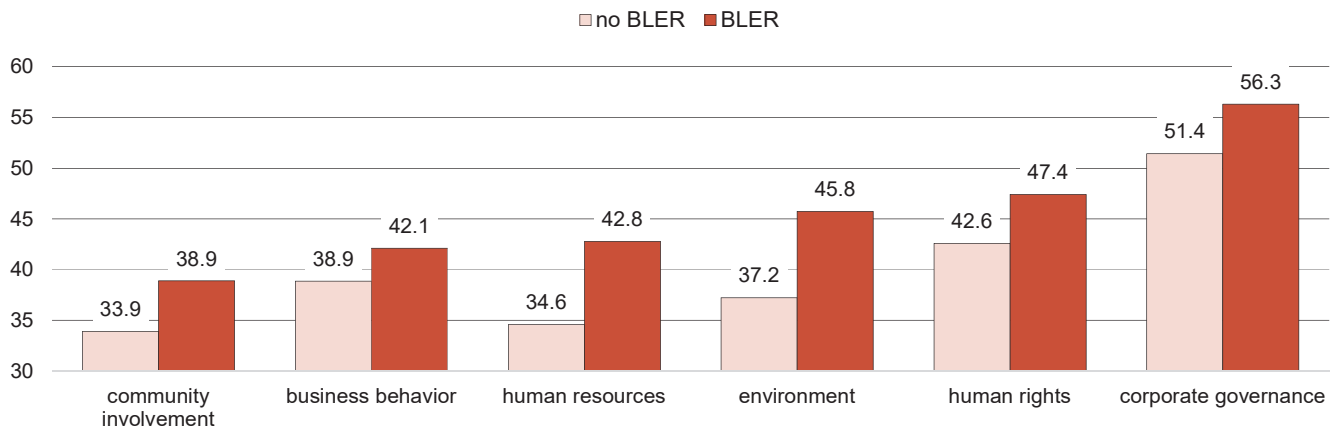
Source: Vitols (2019).
Note: y-axis: average score of companies based on an analysis of data gathered by the sustainability ratings firm Vigeo Eiris on 607 of the largest European companies for the years 2017-2018.

Democracy at work makes companies more sustainable

When workers are represented on a company's board, their company is generally more sustainable vis-à-vis workers, the environment, and society as a whole (Vitols and Kluge 2011). Companies with board-level employee representation (BLER) score better than companies without it across six different sustainability domains; these include not only human resources but also policies on the environment, human rights, responsible business behaviour, community involvement and corporate governance. This conclusion is based on an analysis of data gathered by the sustainability ratings firm Vigeo Eiris on 607 of the largest European companies for the years 2017–2018. Based on information gathered from company reports, a detailed survey filled out by company managers, media reports, and alerts from stakeholders regarding company practices, Vigeo Eiris rates companies on a scale from 0 (worst score) to 100 (best score) on each of these six areas (Vigeo Eiris 2018). This number is based on the average score of different criteria within each of the six domains. The data is supplemented with data on BLER from the European Federation of Employee Share Ownership.

The graphic shown above (Figure 4.8) clearly shows that companies with workers on the board score significantly higher in all six domains. With a statistical method known as multivariate regression, this analysis takes account of other factors, such as company size, sector of activity, headquarters country and ownership structure. For example, and taking into account all these other factors, companies with BLER have an average score of 43 on human resources policies, compared with a score of 35 for companies with no BLER. To name another example, companies with BLER on average score higher on environmental policies than do companies without (46 versus 37).

Why should workers care about sustainability?

There are many reasons why workers want their companies to be more sustainable (Gold *et al.* 2010). Firstly, workers tend to have a longer-term interest in their company than do managers and shareholders. Whereas the median tenure for workers in Europe is about 10 years (Eurofound 2015), the average tenure of CEOs of large listed European companies is about 5 years (PwC 2017) and the average holding period for company shares is less than one year (Anginer *et al.* 2017). Secondly, workers are directly affected by company policies and thus have an interest in their improvement. This is clearly the case for human resources policies, which directly influence job quality, but also environmental policies (e.g. pollution at the workplace), human rights (e.g. company policies towards organising in a trade union), and community involvement (as workers are also members of the community which hosts the company). Thirdly, workers are concerned about their company's reputation. Companies are increasingly scrutinised by consumers, investors and the media regarding how responsible their behaviour is.

The analysis presented above shows that worker participation can make a valuable contribution to company sustainability. It is thus in the interest of workers, the environment and society to not only protect worker participation where it already exists but also to strengthen and extend it.

EU policy instruments

Responding to the growing concern about the impact of companies on the workforce, environment, and society, policymakers have launched a number of initiatives. For example, the EU now requires large listed companies to publish reports on their environmental and social performance. To name another example, in March 2018 the European Commission approved an Action Plan on Sustainable Finance, which among other things aims at promoting transparency and a longer-term sustainable orientation in the economic sector.

Democracy at work: better pay and life satisfaction

Figure 4.9   Democracy at work and average wages (euros)

countries with low democracy at work   countries with high democracy at work
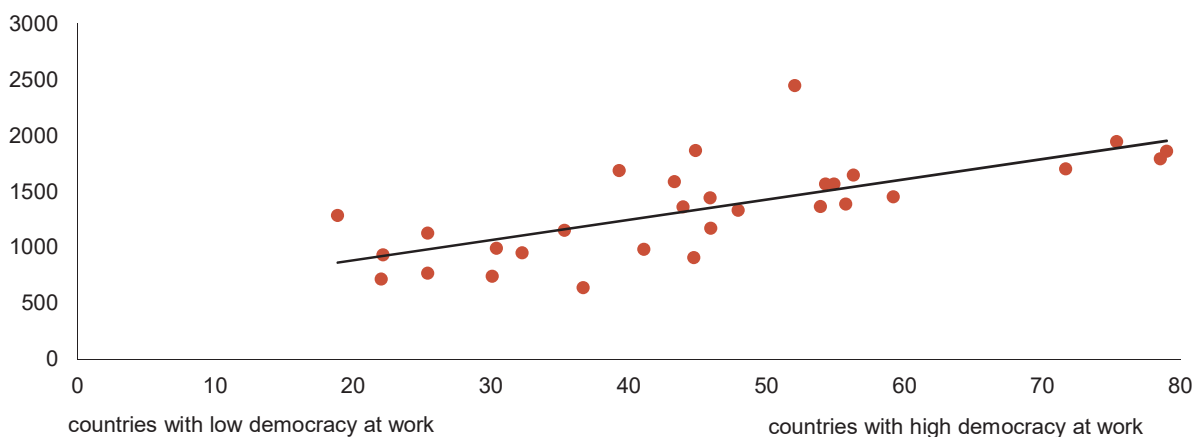
Source: Piasna (2017). Democracy at work originally titled 'collective interest representation'.
Note: x-axis: collective bargaining coverage, trade union density and employees covered by a works council or similar institution. Y-axis: average net monthly wage from main paid job, adjusted for PPP, in euros.

Democracy at work, pay and working life

Quality jobs have been identified as a policy priority for the European Union on several occasions. The goal is not only about getting people into employment; these jobs should also be feasible and safe, they should increase the competences of the employee, and they should provide enough income. They should, in other words, be good-quality jobs. Much thinking has gone into seeking ways to improve the quality of jobs. Countries have introduced minimum wages, regulated working times, limited precarious employment, and much more.

Notwithstanding these efforts, recent ETUI research has shown that the overall job quality in the EU has seen a deterioration in the aftermath of the 2008 crisis, despite the modest recovery which followed (Piasna 2017). Interestingly, this report also identified where one can expect to find the best-quality jobs: where there is real democracy at work. In countries where employees have access to collective interest representation (such as a works council, a trade union or a similar institution), workers are much more likely to have a high-quality job. This can be seen in the limitation of physical risk factors (noise, danger, chemicals), and better career prospects, job autonomy, and wages. To illustrate just one aspect, as can be seen in Figure 4.9, where employees have better collective interest representation, wages tend to be higher. See also the outcomes in terms of health and safety protection (Fig 4.12).

Similarly, employees who enjoy a high level of democracy at work (measured here as being involved in decision making and work organisation) tend to show much higher levels of general life satisfaction (see Figure 4.10). In short, democracy at work is clearly linked to good-quality, well-paid jobs and a high degree of life satisfaction.

And this makes sense. If people are given a voice in how their work is done, have opportunities and mechanisms to address problems, and are allowed to propose solutions, then the likelihood that the job will be workable, well organised and aligned to workers' own requirements, expectations and needs will be much higher.

Figure 4.10 Democracy at work and life satisfaction

7.9   **very high democracy at work**

life satisfaction (0-10)

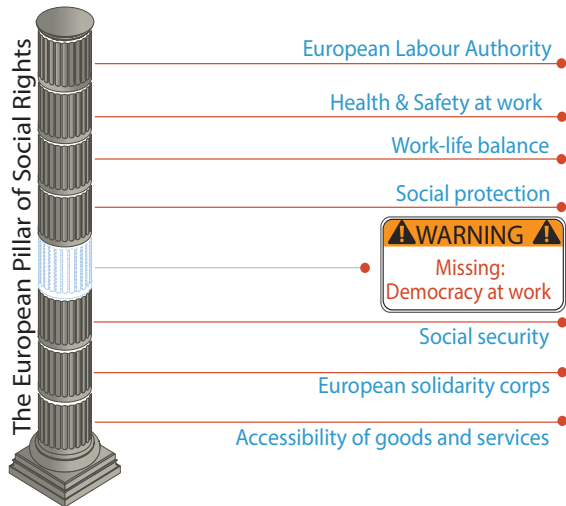**7.0**   **very low democracy at work**
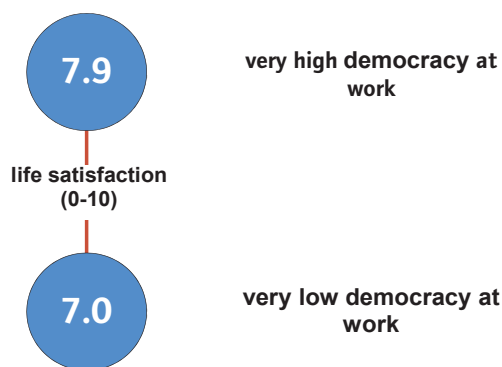
Source: European Social Survey (ESS 2016).
Note: Democracy at work scale based on mean scores of wkdcorga ('allowed to decide how daily work is organised') and iorgact ('allowed to influence policy decisions about organisational activities'). Reported differences between mean score less than 2.5 and more than 7.5 on a scale of 0 to 10. Life satisfaction score based on self-scoring on a 0-10 scale (stflife).

How it works: how trade unions improve work-life balance

A recent study by Bryson and Forth (2017) shed some light on how democracy at work (expressed as trade union presence) improves work-life balance in UK firms. Comparing unionised and non-unionised firms, they observed that where unions are present, the employer provided more policies aimed at improving work-life balance, employees were less likely to work long hours (over 48 hours a week), and the employer viewed work-life balance more as a shared responsibility and not only something the worker has to address alone.

The Social Pillar and democracy at work

Figure 4.11 Democracy at work and the European Pillar of Social Rights

The European Pillar of Social Rights

European Labour Authority
Health & Safety at work
Work-life balance
Social protection

⚠WARNING⚠
Missing:
Democracy at work

Social security
European solidarity corps
Accessibility of goods and services

Source: authors' own compilation.

Who knocked Principle 8 out of the Pillar?

The announcement of the European Pillar of Social Rights (EPSR) seemed to herald a way out of the impasse which had stalled European social policy for the past decade (see Chapter 2). It has been more than a year since the EPSR was proclaimed, and many new initiatives have been announced promising to strengthen workers' rights. Two prominent examples are the proposed Directive on transparent and predictable working conditions and the proposal for a Council Recommendation on access to social protection for workers and the self-employed.

There are, however, no new initiatives related to democracy at work. When it comes to strengthening workers' voice in their relationship with employers, the *status quo* is maintained. Instead of buzzing activity, there is complete silence from the European Commission.

Democracy at work in the Social Pillar

Principle 8 of the EPSR defines two rights which are fundamental to the democracy at work agenda. It states that a) the social partners have a right to be consulted on the design and implementation of economic, employment and social policies; and that b) workers and their representatives have a right to be informed and consulted in good time concerning matters relevant to their interests (notably company restructuring, mergers and collective redundancies). In addition, the EPSR encourages social partners' negotiations and calls for support to increase their capacity. It should be noted, however, that unlike other principles in the EPSR, Principle 8, for the most part, merely repeats the status quo of the EU *acquis*, failing to chart any new, more progressive, course.

So, lofty proclamations notwithstanding, it should perhaps come as no surprise that despite repeated requests over the years to improve the legal framework on the involvement of workers, the EPSR has failed to trigger any such action.

The only two activities the Commission launched to implement Principle 8 were, firstly, the stocktaking exercise on the application of the EU Quality Framework for anticipation of change and restructuring (European Commission 2018b) and, secondly, the publication of the REFIT-based Evaluation of the Recast European Works Council Directive (COM(2018) 292 final). However, even though both evaluations identify ample scope for improvement in policy and practice, their conclusions fail to propose adequate remedies (Jagodziński and Dorssemont 2018).

A missed opportunity

It is not as though the Commission has lacked opportunities to implement Principle 8.

It should be noted that Principle 8 explicitly refers to workers' rights to both information and (effective) consultation in the merger and restructuring process. The Company Law Package launched by the Commission in spring 2018 would have been an excellent opportunity to implement these rights. The 2005 Merger Regulation ((EC) No 139/2004, Article 18(4)) and the Cross-border Merger Directive (Directive 2005/56/EC, Article 7) both provide for a rudimentary right to be heard. Since the Pillar and the existing rights to information and consultation go further than this, the Commission should have aligned workers' rights in its 2018 company law proposals and hence implemented Principle 8 more fully. Instead, the Commission's proposals remain silent on all aspects of information and consultation which would have matched the level achieved in the EU *acquis.* For its part, the European Parliament's report proposes to close precisely these gaps by clearly anchoring the Company Law Package in the information and consultation *acquis* (see p. 81 on CLP). It remains to be seen whether these improvements will find their way into the final legislation.

Perhaps the Commission felt that workers' rights have no place in company law, but the Pillar was intended to foster joined-up thinking.

It is to be hoped that the next Commission will take the task of implementing the Pillar's principles on democracy at work more seriously and holistically than does the current one.

Democracy at work: better occupational health and safety protection

| Figure 4.12 Democracy at work and percentage of companies with health and safety policies in place |
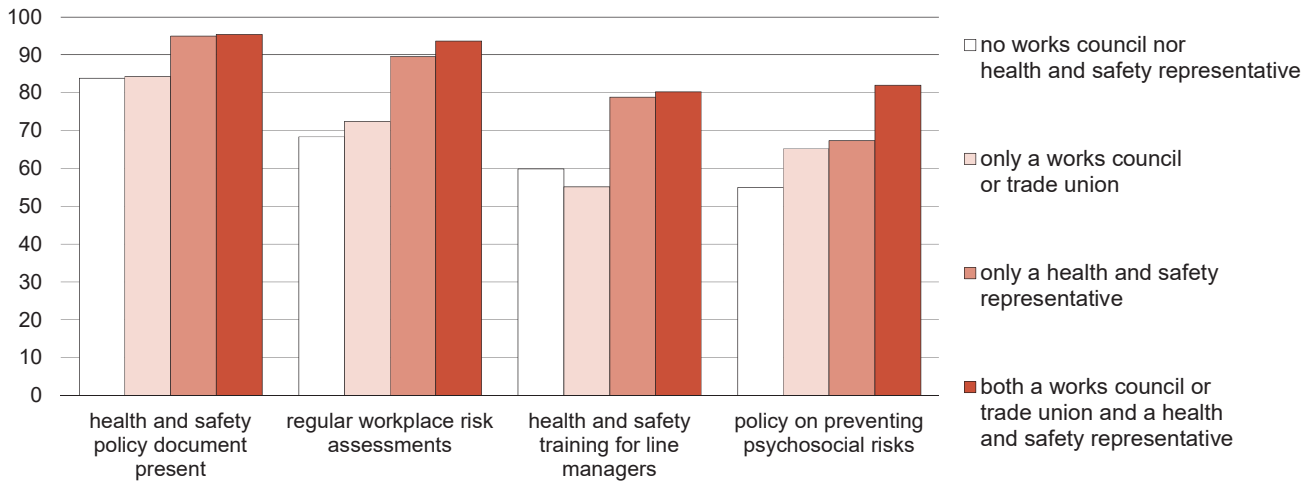
Source: Second European Survey of Enterprises on New and Emerging Risks (ESENER-2) (EU-OSHA 2016).
Note: authors' calculations based on Q166 (representation), Q155, Q250, Q163 and Q303. Weighted data.

Democracy at work ensures occupational health and safety protection

For the past three decades, workers in the EU have held wide-ranging rights to information and consultation on health and safety issues; indeed, since the adoption of the Community Charter of Fundamental Social Rights for Workers in 1989 (Art. 19) these rights form part of the general framework of workers' rights. This form of democracy at work is exercised by health and safety representatives as well as by trade unions and works councils active in the workplace. An ETUC study (ETUC 2013) identified a widespread presence of health and safety representation across the EU.

The 1989 Framework Directive on health and safety at work requires all Member States to ensure that employees and their representatives are informed and consulted about occupational health and safety (OSH) matters at the workplace. Employees and their representatives can voice their opinion on health and safety issues, and are also entitled to submit their own proposals for improvements and changes.

The 1989 Framework Directive on Health and Safety at Work has provided the context for 24 more detailed and targeted Directives, in which a specific participative role is foreseen for employee representatives in addressing issues such as handling heavy loads, chemical agents or drilling equipment, or in improving the situation of specific groups of workers (see also ETUI and ETUC 2014: Chapter 7).
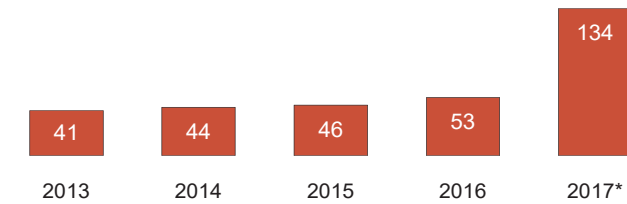
New research by the European Agency for Safety and Health at Work (EU-OSHA) in Bilbao presents compelling evidence of the strong impact that democracy at work has on the existence of crucial instruments to safeguard employees' health and safety at the workplace.

Around 84% of the companies surveyed had a document, available to the workforce, in which the basic occupational health and safety protection policies were described, whether or not there was a works council in place; this rate jumped to 95% where there was also formal health and safety representation in place. New technologies, materials and forms of work cause new hazards and risks that both the legislator and individual companies need to prevent. EU legislation therefore prescribes regular and formal risk assessments for workplaces. Regular risk assessments were, however, only found to have been carried out in 68% of companies which did not report any form of employee representation, and only in 72% of companies in which there was a trade union or a works council in place. However, risk assessments were carried out in fully 89% of companies where there was (only) health and safety representation in place, and where there was both health and safety representation and a works council or trade union, nearly 94% of companies had conducted the required risk assessments. Training for line managers and team leaders about health and safety protection was reported in just under 60% of companies in which there was no workplace democracy, yet where there was both health and safety representation in place and a works council or trade union, this rate jumped to 80%. Psychosocial risk assessment has only more recently received the attention it deserves in workplace health and safety protection. Here too, democracy at work has had a marked impact: where there is no democracy at the workplace, just under 55% of companies reported that they had introduced specific measures to address psychosocial risks, whereas in 82% of companies in which there was health and safety representation, specific policies to address psychosocial risks had been implemented.

Clearly, democracy at work goes hand in hand with a much stronger compliance with health and safety protection measures.
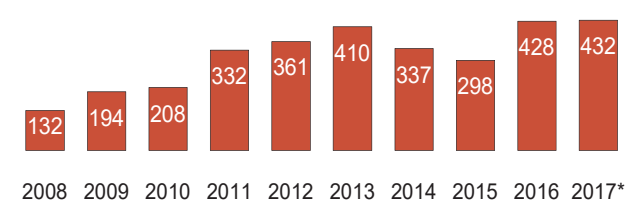
Democracy at work in the proposed Company Law Package

Figure 4.13 Cross-border transfers of seat (2013–2017)

41	44	46	53	134
2013	2014	2015	2016	2017*

Source: Biermeyer and Meyer (2018: 6).
* preliminary figure

Fig 4.14 Cross-border mergers (2008–2017)

132	194	208	332	361	410	337	298	428	432
2008	2009	2010	2011	2012	2013	2014	2015	2016	2017*

Source: Biermeyer and Meyer (2018: 6).
* preliminary figure

One step forward, two steps back for democracy at work in the Company Law Package

Research conducted at the University of Maastricht for the ETUI indicates that cross-border corporate reorganisations are becoming increasingly widespread, despite the lack of an EU legal framework for cross-border conversions or divisions, and the existence of fundamental inconsistencies between Member States' legislation on these matters (Figures 4.13 and 4.14) (Biermeyer and Meyer 2018).

Democracy at work: information, consultation and board-level employee participation

At the time of writing, the Commission's proposed Company Law Package is being discussed intensively, with a view to being passed before the European Parliament elections in May 2018. The European Parliament has put forward important amendments to improve workers' rights to democracy at work in the Company Law Package.

> Information and consultation prior to and during the legal reorganisation of the company and workers' involvement in the future reorganised companies must be ensured in the Company Law Package.

The Commission's proposal skirts existing EU provisions on democracy at work or ignores them entirely; in line with the fundamental concept of the *acquis communautaire*, where the intersection between company law and workers' rights is evident, each new piece of legislation should take prior

legislation into account in order to ensure the cumulative coherence of the whole EU regulatory framework.

A summary analysis of the implications of the Company Law Package, along with a set of recommendations to improve worker involvement rights, strengthen procedures for discouraging abusive behaviour such as tax evasion, and reduce the potential for fraud through online company law tools, can be found in Hoffmann and Vitols 2018. There are two dimensions of workers' involvement rights which must be strengthened: firstly, employees and their representatives at all levels of the company need to be adequately informed and consulted about the company's plans: they must be involved in addressing the potential implications for employment and the strategies of the company.

Secondly, where the resulting company is of a European scale, information and consultation within the company must be complemented by transnational information and consultation arrangements, as is already the case for the formation of European Companies (SEs). Equally, where employee representatives have the right to representation within the governing bodies of the company, this form of representation must not only be maintained, it must also be extended to the workforces on a Europe-wide scale.

There is no need to reinvent the wheel: where the company law package intersects with workers' rights, it must be more explicitly embedded into existing employment law, thereby not only strengthening workers' rights in practice, but also increasing legal certainty for all parties.

However, the lessons from the application of the SE Directive and the Cross-Border Mergers Directive have not been learnt. ETUI research shows that both Directives have been misused to freeze out employee representation, even where a company later reaches thresholds above which representation rights would apply (Cremers and Vitols forthcoming; see also Sick 2015). Rather than cementing these current conditions, in which the new legal form is applied, there is a clear need for a dynamic instrument that is able to address changes over time.

> **The ETUC's demands for safeguards to be included in the Company Law Package include:**
>
> Prior to and during the cross-border legal reorganisation:
> — embed the company law package explicitly into the EU acquis on information and consultation rights at national and transnational levels;
> — ensure application of standard rules for employee involvement.
>
> After the cross-border legal reorganisation:
> — ensure adequate European-scale information, consultation and board-level employee representation and protect acquired rights;
> — ensure the existence of genuine and competent management;
> — introduce new dynamic elements, including the right to renegotiate;
> — impose a moratorium on legal reorganisations that would erode employee representation arrangements for at least ten years.

Employee representation in company boards
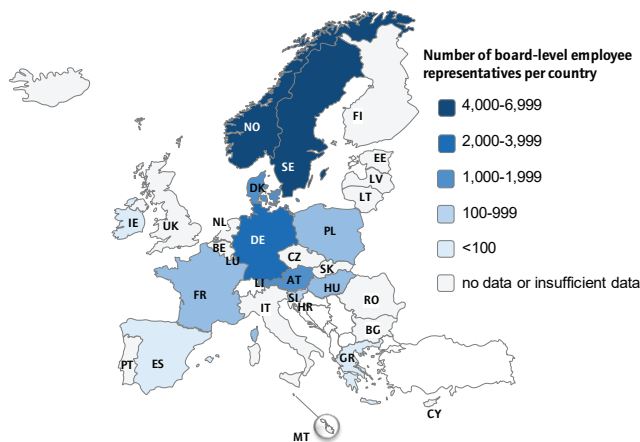
Source: based on Waddington and Conchon (2016).
Note: DE data exclude companies subject to 'Drittelbeteiligungsgesetz' of 2004.

Squaring a circle?

In many countries of the European Economic Area (EEA), democracy at work involves mandatory employee representation in company boards, with a right for worker representatives to vote about top-level strategic matters. The democratic potential of board-level employee representation (BLER) depends not only on the institutional arrangements underlying it, but also on a strong coordination with other institutions of workers' voice, such as works councils or trade unions (Waddington 2018:204).

However, not only do workers in many countries still lack access to this form of democracy at work, but even among those countries which do have such regulations, the institutional design and implementation vary widely. Thus, the extent of influence and power that board-level employee representatives can exercise depends on their specific societal context (Waddington 2018).

Uneven scope and coverage of board-level employee representation

Mapping the existence of individual employee representatives with mandates in company boards reveals to what extent such representative rights are established and embedded in practice. An ETUI research conducted between 2009 and 2012 identified at least 17,333 board-level employee representatives serving on company boards of thirteen EEA countries (excluding representatives in SEs or SCEs) (Waddington and Conchon 2016: 228). This, however, is an underestimate: for the purposes of this 'census', no specific individual board-level employee representatives could be identified in the Czech Republic, Finland, Slovakia, or Portugal, and it was not possible to identify those appointed under the German one-third

participation system. Furthermore, Croatia and the Netherlands were beyond the scope of this study.

Most of these board-level employee representatives (around 88%) were concentrated in only five countries, holding seats in company boards governed by Norwegian, Swedish, Danish, German or Austrian law. Conversely, only 11% were members of boards governed by French, Polish, Slovenian or Hungarian legislation. The remaining 1% had their mandate in the other countries with BLER regulation.
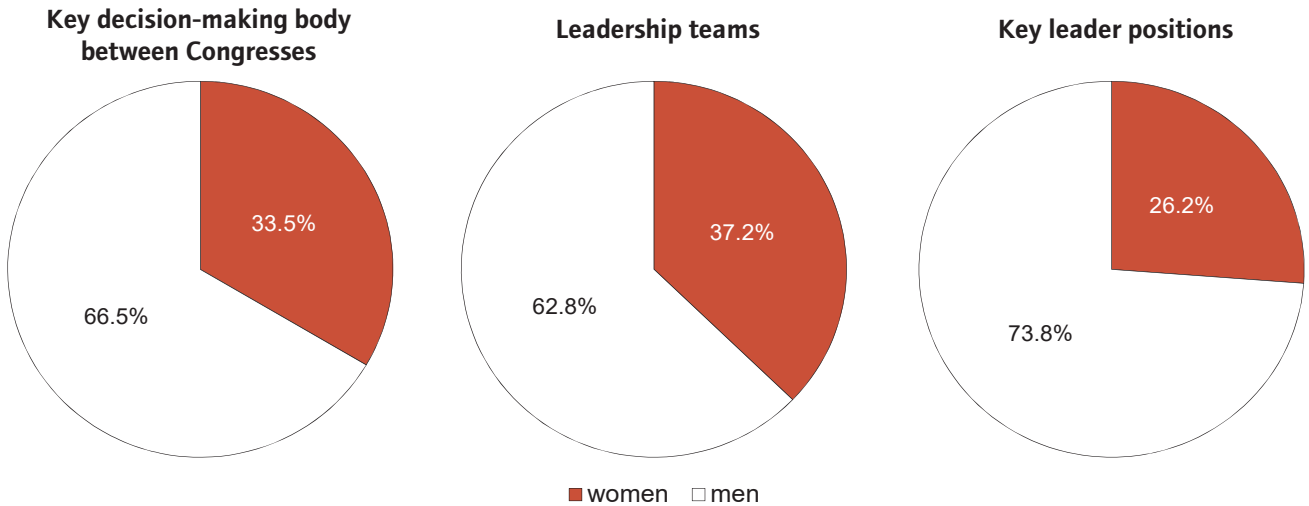
BLER: a well-kept secret?

The survey results identified possible discrepancies between existing regulations and the actual practice and implementation of BLER rights, but it remains extremely difficult, if not impossible, to even estimate real company coverage rates per country. There is generally no official data or public registry tracking board-level employee representatives or identifying companies or boards which are subject to employee representation. France is a case in point. Since 2013, BLER rights may depend on the size of a company's global workforce. Although several estimates point at more than 200 French multinationals covered by BLER rights (Victoria 2017), this data cannot be verified. Overall, companies are not obliged to report whether they are subject to participation rules or not, and only occasionally do corporate official statistics allow clear-cut disaggregate company categories that align with the very specific criteria for the application of BLER rules, such as employee figures, capital or asset thresholds, form and ownership, or corporate governance structure.

It is usually left to trade unions to help employee representatives to first identify then claim their participation rights. However, it would be a folly to expect trade unions, with their limited resources and uneven access to the workforce, to fill the gap left by the lack of clear, publicly accessible information about whether the criteria to install or expand BLER have even been met.

National variation notwithstanding, employees and their trade unions must have the means of knowing whether BLER rights apply to them, if the democratic potential of board-level employee representation is to be leveraged.

Women's access to representative institutions

Figure 4.16 Women in trade union leadership positions

Key decision-making body between Congresses

33.5%

66.5%

Leadership teams

37.2%

62.8%

Key leader positions

26.2%

73.8%

■ women □ men

Source: ETUC 11th Annual Gender Equality Survey (ETUC 2018).

A gender-inclusive democracy ahead

Persistent gender inequality in corporate decision-making and society at large (ETUC and ETUI 2018: 77) is also reflected in women's limited access to leadership and representative positions in democratic workplace institutions. Despite unions' efforts to secure adequate representation, not least in response to their increasingly feminised membership demographics (such as in German, Nordic or UK unions), women are still not sufficiently recognised as leaders, often remaining excluded from the unions' centres of power and mainstream strategies (Ledwith 2012: 190-191). Demanding more democracy at work should thus include demands for more gender inclusiveness in these forms of democratic representation (Young 1990).

Women in trade union leadership

The ETUC's 11th Annual Gender Equality Survey (ETUC 2018), to which 39 affiliated confederations responded, revealed slight improvements compared with previous years.

The ETUC's active promotion of gender balance in trade union leadership and decision-making structures thus seems to be slowly paying off. However, a significant gender gap persists in formal political representation, which is unrelated to membership and employee gender distribution (women account for around 46% in both cases) (ETUC 2018: 29). As figure 4.16 shows, for the 39 confederations examined, women hold, on average, 33.5% of the representative positions in decision-making bodies that act between congresses (key committees), and 37.2% of the positions of leadership teams (senior positions including vice-presidents, deputy general secretaries and treasurers), but only 26.2% of the 42 key political leadership positions
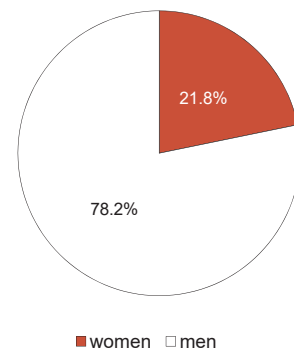
(i.e. presidencies, co-presidencies or general secretariats) are held by women (ETUC 2018: 20-29).

Women in board-level employee representation

Waddington and Conchon point out that, overall, employee representatives have significantly contributed to feminising company boards: more than half of all women found in boards (i.e. including shareholder members) were board-level employee representatives (Waddington and Conchon 2016: 231). Yet in the extensive ETUI survey of 4,155 board-level employee representatives from 16 countries conducted between 2009 and 2012, the authors found a glaring gap in women's access to these key employee representative positions within companies.
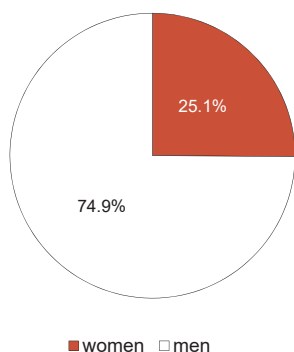
Women occupied only 21.8% employee seats in this sample of company boards (which included representatives in SE boards) (see Figure 4.17). The Germanic group of countries

Figure 4.17 Gender composition of employee seats (n=4133) in boards across EEA

21.8%

78.2%

■ women □ men

Source: Waddington and Conchon (2016: 79).

25.1%

74.9%

■ women □ men

Source: EWPCC Database on SE board-level employee representatives, accessed December 2018.

displayed the least gender-balanced results (10.4%) while Nordic countries had the most feminised representation (24.1%) (Waddington and Conchon 2016: 79).

Since the survey, mandatory rules on gender quotas for board-level composition have been adopted in Germany (2015) and Austria (2017), so the scores may well have risen in these countries since then. Recent research indeed suggests that the share of women in company boards has increased in EU Member States which adopted legislation or other forms of governmental action towards gender quotas (EIGE 2018).

However, EIGE data and gender quota rules refer to boards overall and not necessarily to employee representatives within the board (with the exception of France and Norway), and even exclude them sometimes (Waddington and Conchon 2016: 78). Thus, we cannot assume that mandatory gender quota had a similarly positive impact in 'feminising' board-level employee representation.

Currently, seven of the Member States where workers have rights to be represented in company boards also have hard

public regulations on gender quotas in company boards: Austria, Germany, Finland, France, Luxemburg, Norway and Slovenia (ETUC and ETUI 2018: 78).

However, it was not possible to assess whether the combination of these two policies contributed to increasing the proportion of female employee representatives on the boards of companies governed by national law in the EEA, because a detailed country-by-country breakdown of the survey data was not available.

Rising representation of women in SE boards

Waddington and Conchon found that women were less often represented on SE boards than in other companies (2016: 81), but the number of SEs has increased and new laws on gender quotas have been passed since the original survey, so it is worthwhile taking another look at this. In fact, more recent and comprehensive data on SE board-level employee representation still indicate the existence of a gender gap, but a less pronounced one. Of a sample of 227 board-level employee representatives identified in SEs for which the number of BLER members and the sex of at least one of them was known (namely, 65 SEs based in France, Austria, Germany and Hungary (ECDB 2018)), 170 were men (74.9%) and only 57 were women (25.1%), as shown in Figure 4.18.

The mandatory gender quota rules adopted in Germany in May 2015 seem to have accelerated the nomination of women as board-level employee representatives in German SEs. As Figure 4.19 shows, of the nominations recorded in the period 2015–2018 in German SEs (50 nominations altogether), 18 were women (36%) and 32 were men (64%). In comparison, between 2000 and 2014, out of 73 nominations in German SEs, there were only 14 female nominations (19.18%), compared with 59 male nominations (80.82%). A positive trend is thus perceptible for German SEs; hard law on gender quotas seems to be contributing to the achievement of more diversity and equality in representative positions in German SE boards.

Figure 4.19 Nominations of board-level employee representatives in German SEs, by gender and period
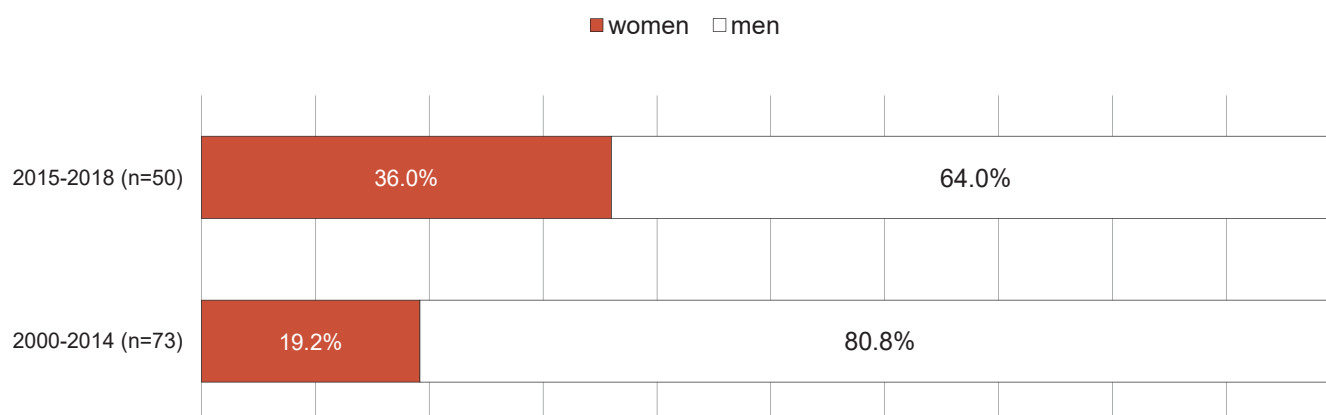
■ women □ men

	women	men
2015-2018 (n=50)	36.0%	64.0%
2000-2014 (n=73)	19.2%	80.8%

Source: EWPCC Database on SE board-level employee representatives, accessed December 2018.

Democracy at work: inequality within and between countries

Figure 4.20 Employees covered by trade unions, works councils or other institutions
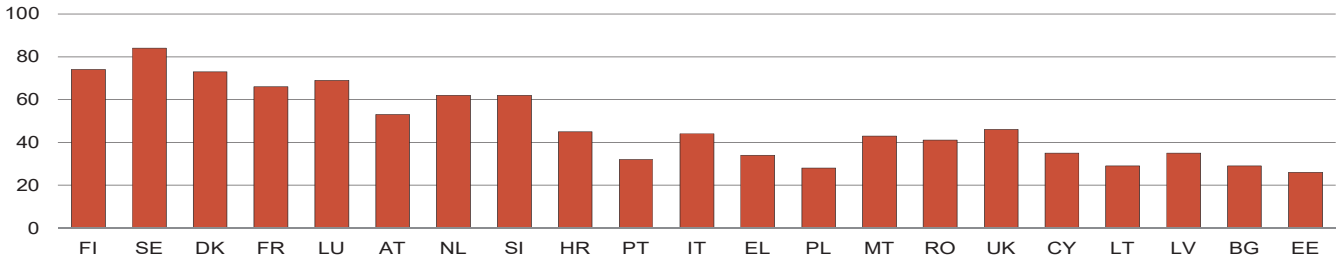
Source: European Working Conditions Survey 2015 (Eurofound 2018) and European Participation Index (Vitols 2013).
Note: the figure shows the weighted percentage of employees represented by a trade union, works council or similar committee.

No equal access to democracy at work

The collective representation of employees is a cornerstone of democracy at work. Where workers' voice is expressed collectively, the range of their interests can be more effectively aggregated, balanced, and defended. Furthermore, collective forms of representation also serve to shield individuals from possible retaliation for having expressed their concerns or grievances in the first place.

A comparison across EU Member States demonstrates that access to democracy at work is unequally distributed, both within and between countries. In other words, although workers' rights to information, consultation and participation are fundamental rights in the EU, in reality, these rights are far from being universally implemented.

Inequality between countries

That access to collective interest representation varies between countries is readily apparent in Figure 4.20 above.

The broader European Participation Index (EPI) depicted in Figure 4.21, below, takes into account different levels of collective representation (see box).

The EPI shows that in some countries, the overall level of democracy at work is quite high (Finland, Sweden and Denmark being the prime examples), while in others, such as in Latvia, Bulgaria and Estonia, this type of democracy is available for only a very few workers.

Inequality within countries

In the figure above, we show the percentage of employees who have access to collective interest representation, be it via a works council, a trade union or another kind of workplace-based representative body. The picture is sobering: about one in two employees in Europe do not have any access to such a representative structure. Even in countries with a high level of representation, like Sweden, Finland and Denmark, a considerable minority still has no access to any kind of collective workplace representation. In the countries with the lowest level of representation, such as Estonia, Poland and Lithuania, as many as three in four employees are not represented at the workplace. In no Member State are all workers covered by collective representation at the workplace. Generally, it is employees from smaller companies who lack access. However, whether or not a fundamental right can be exercised should not depend on the number of employees working at an organisation. This means that employees in many countries have far less opportunities and rights to speak their mind in (and about) the organisation they work in. And, as we have seen in these pages, the degree of democracy at work in a country is strongly related to many other important issues such as job quality, economic performance, inequality and much more.

The EPI combines data on
(1) the proportion employees who are members of a trade union,
(2) the proportion employees covered by a collective agreement,
(3) the proportion of employees who have access to some kind of workplace representation, and (4) the strength of employee rights to board-level representation.
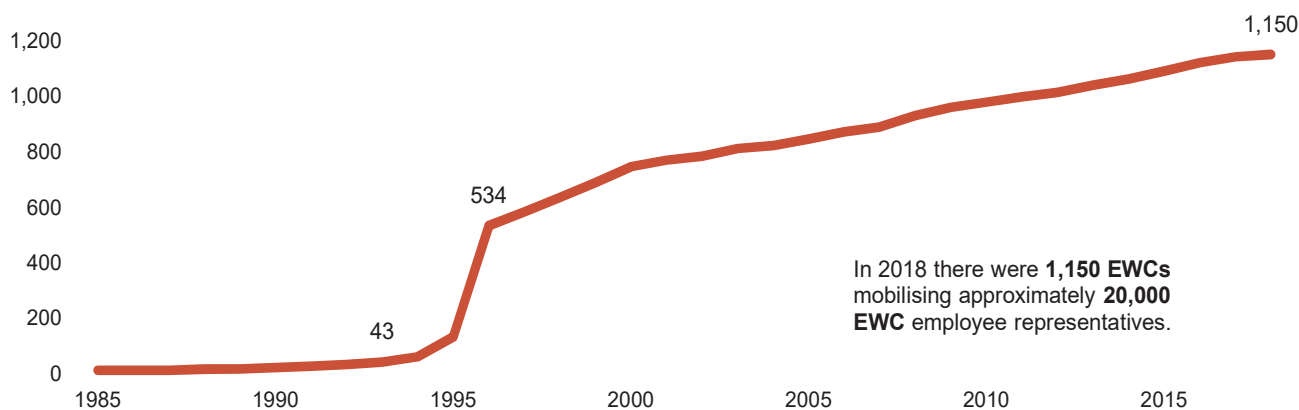
Fig 4.21 European Participation Index
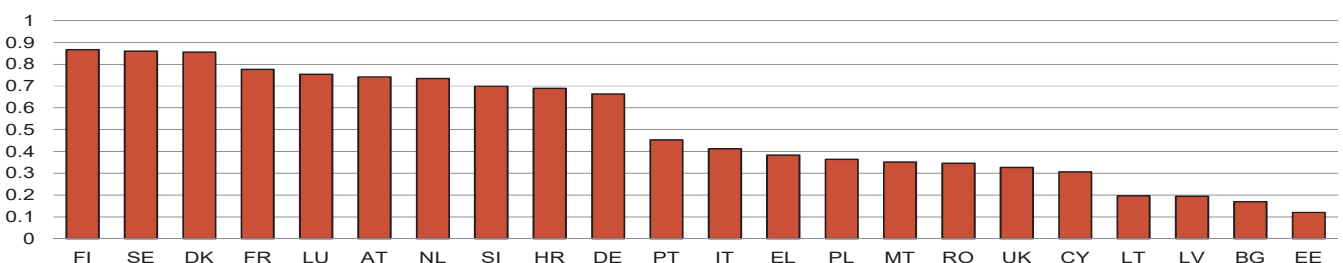
Source: European Participation Index (2013).

Democracy at work: the European level

Figure 4.22 Evolution of the number of active EWCs and SE-WCs over time

In 2018 there were **1,150 EWCs** mobilising approximately **20,000 EWC** employee representatives.

Source: ETUI database of European Works Councils (www.ewcdb.eu) (2019).

Cross-border management needs cross-border democracy at work

Article 27 of the European Charter of Fundamental Rights is very clear: 'Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Community law and national laws and practices'.

Moreover, the Charter specifies that this right must be exercised 'at the appropriate level'. In multinational companies, the relevant level is therefore the European (or even global) one, which means that effective European-level institutions are needed to put this fundamental right into effect. As shown in Figures 4.20 and 4.21, there is a great deal of variation in the exercise of democracy at work, both between and within countries.

At the same time, we know that the number and share of companies operating across borders (see box) has been rapidly increasing. For employees in these multinational companies, engaging with local or national-level management seldom suffices for them to be meaningfully informed and consulted. If decisions are taken by the transnational management, information and consultation must be organised at that level too. Otherwise, employees will not have the necessary information, and by consequence any consultation will be meaningless, if not outright impossible.

European Works Councils (EWCs), and later also SE-WCs, were specifically introduced as institutions for cross-border, company-level information and consultation in a bid to address the mismatch between the location of decision-making centres across companies' (increasingly supranational) structures and the level of dialogue with workers (traditionally national or local).

As can be seen in Figure 4.22 above, the number of EWCs has been steadily increasing over the years; each of these

EWCs represents one of a wide range of ambitious attempts to bridge the gaps between national traditions of employee participation by installing tailor-made and meaningful transnational social dialogue at the company level.

In 2018, the European Commission finally released its long-delayed Evaluation of the Recast EWC Directive (European Commission 2018a), which confirmed what researchers and practitioners have been pointing out for years: the EWC legislation, and hence the EWCs themselves, do not function as intended, but rather are hampered by a wide range of legal and practical hurdles. Most worryingly, EWCs are only rarely meaningfully consulted in good time about important transnational decisions. It is obvious that the implementation and enforcement of workers' fundamental rights to information and consultation at the appropriate level is not currently being achieved.

Unfortunately, while the diagnosis is correct, the cure offered is a mere placebo (Dorssemont and Jagodziński 2018). Given that the EU has been undergoing an ever-deepening democratic legitimacy crisis, it is folly to ignore the democratic potential of EWCs as well as workers' participation in general. While in the 1990s the EU was a pioneer in creating transnational institutions of information and consultation, 25 years later it is not fulfilling its duties as a warden of that right: many problems remain and few steps are being taken to strengthen EWCs as the only European institutions enabling a truly European voice for employees in MNCs.

More and more multinational companies in Europe

According to the data of the EuroGroups Register (EGR) there are over 47,000 multinational enterprise groups active in the EU. These are companies of which at least two enterprises or legal units are located in different countries (of which at least one should be in the EU or in the EFTA). Compared to 2015, the register observed an increase of 25%. Taken together, these companies employ over 43 million employees.

Democracy at work: when subsidiarity leads to inequality
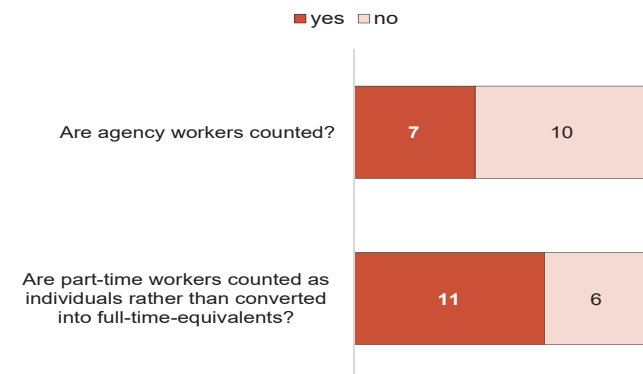
Source: ETUI own research 2019 (ongoing), Worker Participation Europe network.
Note: N =17.

One worker, one vote?

The notion that every citizen's voice should count equally is, of course, fundamental to democracy. Indeed, this principle was first brought into the trade union political discourse by the British trade unionist George Howell (1880). Despite the wide variation in national systems of industrial relations across the EU, this principle still holds true for European-level arrangements for democracy at work. However, it turns out that when different national systems of industrial relations are applied to determine membership of a single transnational institution, the principle of subsidiarity trumps that of equality. European Works Councils (EWCs) or SE works councils (SE-WCs) are transnational worker representation institutions introduced by the EU to give workers the ability to engage in company-level information and consultation on cross-border matters. In these transnational bodies, each national workforce is generally represented by one or more representatives: the allocation of seats among the different countries is usually done according to the relative size of each workforce. It stands to reason then, that in order to accurately determine the relative size of each workforce, the same method of calculating workforces should apply.

A closer look at the implications of national diversity

An ongoing research project by the ETUI reveals that in the transposition of the EWC and SE Directives, there are stark differences in how EWC and SE-WC members are elected to the same body. Based on the data for 18 EU Members States collected so far, the way in which part-time employees are counted, and whether or not agency workers are counted at all, amount to substantially different calculations of the size of each national workforce.

It should be noted that, notwithstanding the default rules laid down in national legislation about the distribution of mandates, alternative arrangements can be agreed between the company's central management and the special negotiating body. Here it may be agreed, for example, that the common method of workforce calculation is applied or rather that the seats are allocated according to criteria other than relative workforce size, such as company divisions.

Part-time workers

Firstly, we look at how part-time workers are accounted for when calculating workforce size for the purposes of setting up an EWC and distributing mandates. While 11 EU Member States use a straightforward headcount, six Member States convert part-time workers to 'full-time equivalents' when calculating workforce size: e.g. two part-time employees working 50% amount to one full-time employee.

Agency workers

Secondly, we looked at whether or not agency workers are included in the workforce totals in the calculations for EWC thresholds. Here too, there are clearly different approaches: in seven countries, agency workers are included in the total (occasionally subject to certain conditions), while in ten countries, agency workers are specifically excluded.

Why does it matter?

Imagine workers' delegates from several European countries sitting in the same EWC; where each country is attributed a different number of seats as a result of different national methods of counting the same employees, this subverts the very notion of equal access to representative workplace democracy.

With a consistently increasing share of part-time work and temporary contracts in Europe (see Chapter 2) this is an issue of growing importance. In sectors such as retail, in which part-time work is widespread, the fact that workers in some countries literally count as only a fraction of those in other countries raises serious questions about the equity of the distribution of mandates. Similarly, in sectors such as construction and manufacturing, where the proportion of agency workers easily amounts to nearly half of the workforce which is physically present, their exclusion from proportional representation results in an arbitrary and unequal representation of each workforce in the same transnational body.

The above findings on formal rules of representation are just the tip of the iceberg. Due to variations in national law, workers' representatives sitting on the same EWC or SE-WC often have access to quite different resources, ranging from access to legal support and protection to resources such as office equipment, meetings and communication facilities, etc. Such variation creates new inequalities and has also been found to contribute to an east-west divide (ETUI and ETUC 2018: 73).

4.

<u>Conclusions</u>

Democracy at work: from slogan to reality?

The founding documents of the European Union established democracy as one of the EU's guiding principles. Furthermore, certain areas of EU legislation clearly apply this principle of democratic participation to the world of work. However, all that this has yielded so far are fragmented strands of workers' rights to involvement, information, consultation and participation woven into the EU *acquis communautaire*. Furthermore, the effect of the legal gaps, loopholes and lack of enforceability which plague workers' participation in particular is compounded by the lack of any innovations in other areas which foster democracy at work, such as collective bargaining, board-level representation, or the right to strike.

It is against this rather unpromising backdrop that we take the declared aspirations of the Union as a call to explore the ways in which democracy at the workplace may be realised. In light of the great variety of models and cultures of workplace relations, it is necessary to acknowledge that democracy at work means different things to different people. It is therefore useful to at least sketch out what is or can be meant by 'democracy at work', in order to explore how democratic participation at the workplace might indeed be extended to more workers and issues, broadened and reinforced by multiplying and linking existing institutions, and deepened by promoting the exercise of political rights and civil liberties at work. In short, how can democracy be more firmly embedded in the workplace?

Why more 'democracy at work'?

An array of theoretical, normative, and empirical arguments has been developed in different areas of the social sciences, serving to legitimise and intellectually support demands for more democracy at work. What this very wide range of instruments and processes have in common is that they are all in some way oriented towards substantially enhancing workers' voice and democratic oversight of their work, their organisations (whether publicly or privately owned), and the economy at large. They seek to increase workers' control and power over work processes, their working environment, and the functioning, direction and goals of the individual enterprise and the economy. In essence, seeking to promote more democracy at work amounts to a call for rethinking how companies and the economy function, and how power is unequally distributed at the workplace, in the economy and in society.

At the time of writing in the run-up to the 2019 elections to the European Parliament, decades of austerity politics have eroded what were once more robust structures of social inclusion and support, and European society has become increasingly polarised. The time is thus ripe to revisit some ideas of democracy at work. Accordingly, the ETUC has also launched an initiative across its affiliates in support of policies that promote more democracy at work.

Anything goes?

This chapter has approached democracy as a universal value, based on fundamental rights, democratic theory, legitimate corporate governance, and economic and political equality. However, most people associate democracy at work with specific institutions, systems and processes. Ultimately, of course, democracy at work does not exist in a vacuum: the broader institutional, political and economic context crucially affects the potential for any mechanism in the workplace, company or organisation to increase workers' power.

As depicted in the first image of this chapter, there exist myriad practices with which to pursue the goals of democracy at work. While most of the instruments shown are likely to be generally accepted by readers as legitimate forms of democracy at work, a few of them, such as direct or financial participation, may well be vehemently rejected by some readers. Yet for others, it is precisely these more individualised means of exerting influence which provide the platform for larger democratic aspirations. We do not shy away from these often divergent conceptions, but rather seek to foster a debate and shared appreciation of this rich diversity. For our understanding of democracy at work, the specific instrument is of secondary importance: what is essential is what the instrument achieves, and how it does so in its particular context.

How is democracy at work implemented, and can it be assessed?

We defined democracy at work in this discussion in its most general sense: democracy at work amounts to a modification of the distribution of authority and power in favour of the workers and their representatives.

To try to make sense of the diversity of forms, we have developed a framework which is depicted in the opening section of this chapter as the 'diamond of democracy at work'. This framework provides a means of grasping the impact and interplay of the many available means, rights, instruments and institutions for democracy at work. It synthesises these aspects to demonstrate how work-related democratic institutions or mechanisms can vary along six axes: degree, level, topics, proportion, and form. The diamond figure should not be seen as a blueprint, but rather as a means to facilitate thinking about the institutions which foster or implement democracy at work, and to explore how each could enhance the voice of workers and empower them, both within their organisations and in the economy at large.

Building upon this conceptualisation which embraces diversity, the chapter goes on to explore a host of empirical and efficiency-related considerations about how democracy at work contributes to our societies in terms of job quality, political democracy or economic prosperity, to name just a few.

Our findings confirm that democracy at work and political democracy are mutually reinforcing: if workers are more empowered at work, they will carry this engagement into civic life, and vice versa. General life satisfaction is also linked to higher levels of democracy at work. Furthermore, we found that more workers' involvement at the workplace means more equal societies. It also comes with a higher labour force participation rate and greater innovation in companies. Democracy at work also promotes company sustainability because when workers have a voice in the workplace or on the company board, the company has been found to generally pursue more sustainable policies towards the workers, the environment, and society as a whole. Using only the presented figures in this chapter, we cannot establish a direct causal relationship, but the observable correlation between democracy at work and many beneficial outcomes remains a strong signal in favour of giving employees more voice.

Where are we now?

We have taken a critical look at various instruments and institutions with which democracy at work has been implemented across the EU. The transnational dimension deserves specific attention, since cross-border company mobility and transnational company management needs the effective counterbalancing influence of cross-border democracy at work. Yet despite the EU's accelerated facilitation of economic and business integration across borders, any concomitant strengthening of workers' democratic rights in fulfilment of the goals proclaimed in the Treaties persistently lags behind. We highlight the generally acknowledged positive impact that various directives, such as those fostering information and consultation rights at the local, national, and cross-border company levels, and take a critical look at the lack of democratic instruments proposed in the Company Law Package, which is, at the time of writing, subject to negotiation by EU lawmakers.

We argue that in line with the fundamental concept of the *acquis communautaire*, where the intersection between company law and workers' rights is evident, each new piece of legislation should take prior legislation into account in order to ensure the cumulative coherence of the whole EU regulatory framework.

The contribution of democracy at work is also identifiable in promoting gender equality: policy innovations and political commitments have increased the shares of women in leadership positions within the trade union movement, and the share of women among employee representatives in particular has been growing too. Furthermore, the evidence demonstrates that the implementation of health and safety protection policies at the workplace is more robust and coherent where there are democratic arrangements in place for a greater involvement of workers.

Still a long way to go...

In summary, we find that while there are many approaches which promote democracy at work as a positive value for democratic societies and individual citizens, and despite its demonstrable social, political and economic benefits, democracy at work is not sufficiently developed in the workplace and the economy. Despite exhortations in the founding documents of the European Union to foster democracy, and even its most recent inclusion in the Social Pillar, we conclude that progress remains woefully inadequate. The Social Pillar has so far failed to yield any new impetus in this field. Although there is clearly a positive and beneficial relationship between various instruments of workplace democracy, there are still marked deficiencies in the provision and exercise of democratic rights at the workplace and company levels across the European Union. This means that there is plenty left to do for many actors, from policymakers at the EU and national levels to trade unions and their activists in the workplace.