



European Foundation
for the Improvement of
Living and Working Conditions



European Commission
Directorate-General for
Employment and Social Affairs

Industrial relations developments in Europe 2003



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Foreword

2003 was an important year for industrial relations in Europe. Preparations for enlargement to embrace 10 new Member States in May 2004 sparked much activity in the area of social dialogue and significant legislative developments at national and EU level.

This report, *Industrial relations developments in Europe 2003*, provides a comparative overview of the most significant industrial relations developments at national level during 2003 and presents a review of the year's main activities in European social dialogue and employment legislation and policy. In particular, it provides a comprehensive insight into the issue of working time in the light of the Commission's recent re-examination of the EU Directive. The report is a joint initiative between the European Foundation for the Improvement of Living and Working Conditions and the European Commission's Directorate General for Employment and Social Affairs.

Drawing on the Commission's expertise in EU-level social dialogue and labour law and information and analysis from the Foundation's European Industrial Relations Observatory (EIRO) across the 15 EU Member States (pre May 2004), plus Norway, eight of the new Member States and two candidate countries, the report provides a timely insight into several key areas. These include issues covered by collective bargaining – pay, working time, job security, equal opportunities and diversity issues, and training and skills development – as well as legislative developments, the organisation and role of the social partners, industrial action, employee participation, stress at work, undeclared work, and new forms of work.

We trust it will provide a useful contribution to these debates.

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Introduction

The *Industrial relations developments in Europe 2003* report is divided into three chapters.

The first chapter reviews the main developments in European-level social dialogue in 2003 between trade union and employer organisations. It also highlights the year's most significant EU legislative developments and other activities of relevance to industrial relations.

The second chapter provides an overview of the main developments in industrial relations in 2003 in the countries covered by the European Industrial Relations Observatory (EIRO): the 15 EU Member States (pre-May 2004), Norway, eight of the new Member States (Cyprus, Estonia, Hungary, Latvia, Malta, Poland, Slovakia and Slovenia) and two candidate countries (Bulgaria and Romania). This chapter examines the key issues covered by collective bargaining – pay, working time, job security, equal opportunities and diversity issues, and training and skills development – as well as legislative developments, the organisation and role of the social partners, industrial action, employee participation, stress at work, undeclared work, and new forms of work.

A final thematic chapter looks at the regulation of working time, an issue which is particularly topical in 2003-4, given the European Commission's re-examination of the EU Directive on the subject (93/104/EC). This chapter outlines the re-examination exercise, highlights a number of aspects of working time regulation by law and agreement in the Member States (including the new Member States and candidate countries in many cases) and Norway, and finally traces legislative and collective bargaining developments in this area in 2003.

EU-level developments in 2003

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This chapter reviews 2003's main developments in the European-level social dialogue, and outlines the year's most significant EU legislative and other activity of relevance to industrial relations¹.

Social dialogue

Rooted in the history of Europe, the social dialogue between trade union and employer organisations and the 'quality' of industrial relations are widely acknowledged to be an essential component of the European model of society and development. Moreover, social dialogue is seen as the driving force for the achievement of successful economic and social reforms. This is why it has a key role within the Lisbon strategy for economic and social reform (adopted by the European Council in 2000 – EU0004241F) in addressing the main challenges facing Europe, such as enhancing skills and qualifications, modernising work organisation, promoting equal opportunities and diversity, and developing active ageing policies.

Social dialogue is also regarded as a key to better governance, owing to the unique position and influence which the social partners have, as the representatives of a whole range of interests and problems inherent in the world of work – from working conditions to the development of continuing training, and including the definition of wage standards. The European-level social dialogue acts as a complement to national industrial relations systems and has developed along with European integration and the efforts to build the European internal market, in order to ensure that it develops in a consensual manner.

The particular importance of the social partners also arises from the specific role which is assigned to them in the Treaty establishing the European Community (TEC). Articles 138 and 139 lay down procedures for the consultation of the social partners. These procedures have been followed 19 times from 1993 to 2003, and have led to the successful negotiation of four European intersectoral agreements, on: parental leave (TN9801201S); part-time work (EU9706131F); fixed-term work (EU9901147F); and telework (EU0207204F).

In their joint contribution to the working group on 'social Europe' of the European Convention (the body charged with reviewing the Treaties and proposing changes, which completed its work in July 2003), the social partners made a positive assessment of their special role in economic and social governance, 'based on the nature of their responsibilities, legitimacy, representativeness and capacity to negotiate agreements', and requested that explicit references be made to this in both part 1 and part 2 of the draft Treaty establishing a Constitution for Europe for policy areas falling within their competence (EU0308204F). Negotiations and jointly-agreed initiatives are seen as the most suitable way forward on questions related to modernisation and the effective and positive management of change.

The European social dialogue is becoming more diversified and broader in scope, particularly as a result of the implementation of the Lisbon strategy. EU enlargement (with 10 new Member States joining in May 2004) will further increase the number of different social partnership systems and

¹ The text of this report contains numerous references (e.g. EU0207103F) to records on the *EIROOnline* database/website. These provide fuller information on the events and issues in question and can be accessed at <http://www.eiro.eurofound.eu.int/>, using the Site map/Record ID search facility.

practices. On 26 June 2002, the European Commission published a Communication (COM(2002) 341 final) on the European social dialogue (EU0208203F), which sought to take stock of these developments, and to outline the steps needed to assist the continued strengthening of social dialogue as a force for innovation and change both at European level, and within the Member States.

The next section reviews the main developments in 2003 in dialogue between trade union and employer organisations at sectoral and cross-industry (or intersectoral) level. This is followed by a section outlining the development of the tripartite dimension of social dialogue.

Sectoral social dialogue

Since the Commission's 1998 Communication (COM (1998) 322 final) which defined the way in which sectoral social dialogue committees are set up and operate (EU9806110F), some 30 such committees have been established. A total of 52% of the EU economy and 88 million employees are now covered by these committees.

In 2003, three new committees were created, in

- the shipbuilding industry (EU0311203N);
- local public services;
- the audiovisual sectors.

Their experience of the practical realities of their sectors enables the social partners to make a constructive contribution to improving European governance through these committees. In the light of the constant reaffirmation of the importance of social cohesion within the EU, the Commission has developed its support for and involvement in the operation of these key social dialogue tools.

Developments in 2003 in individual sectors

Some of the year's most important developments in the sectoral social dialogue are outlined below.

Railway sector

The social partners in the railway sector – the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) – began negotiations in February 2003 on social framework conditions for the European common market for rail transport. These negotiations were concluded in October 2003 (EU0311202N). On 27 January 2004, CER and ETF officially signed two agreements: one on a European licence for train drivers; and one on the working conditions for mobile rail workers in cross-border railway services.

In the first agreement, the social partners agreed on the use of common documents for train drivers in cross-border services. This driving licence is based on common health and safety conditions and common competence standards. The signatory parties want the European Commission to take their agreement into account in respect of its legislative proposal on the certification of train drivers.

The second agreement, on certain aspects of the working conditions of mobile workers assigned to 'interoperable' cross-border services, sets minimum requirements for daily rest, breaks, weekly rest

periods and driving time. These minimum social standards have been negotiated in order to prevent competition from taking place mainly on the basis of working conditions. The signatory parties have jointly requested the Commission to implement this agreement by a Council decision in accordance with Article 139(2) of the Treaty establishing the European Community.

Construction sector

Since the early 1990s, the European social partners in the construction sector – the European Construction Industry Federation (FIEC) and the European Federation of Building and Wood Workers (EFBWW) – have been developing common projects to improve health and safety at the workplace and to reduce the economic cost of work-related accidents. In 2003, they decided to produce a guide to best practice to help the various actors in the construction process to implement the June 1992 EU Directive on mobile construction sites (92/57/EEC) more effectively and thereby reduce the number of occupational accidents – see Box 1 below. This was funded by the European Agency for Safety and Health at Work, based in Bilbao, Spain, within a Community-funded accident prevention scheme aimed at helping small and medium-sized enterprises (SMEs) to reduce accidents at work.

Box 1 Guide to best practice on mobile construction sites

The objective of the guide to best practice on mobile construction sites produced in 2003 by FIEC and EFBWW, with the help of the European Agency for Safety and Health at Work, is to raise awareness of accident risks as well as to alleviate the considerable economic consequences of accidents at work for SMEs in the construction sector. Due to the structure laid down for the organisation of occupational health and safety in the construction sector by the construction sites Directive, the target group for this guide is broad: all the actors of the construction process, ranging from the architect and the contractor to the health and safety coordinator and the workers.

The guide is composed of three parts. Part 1 gives a short description of European and international laws and regulations as well as a summary of the activities undertaken by the European social partners with regard to this Directive. Part 2 provides a set of strategies for the successful coordination of safety on construction sites as well as practical prevention measures for specific work situations. It also includes basic information on the incidence of accidents and sickness in the sector. Part 3 is composed of a series of photographs illustrating the good practices outlined in Part 2 and taking into account the specificities of the diverse construction methods and techniques across Europe.

The guide contains many drawings, pictures and technical diagrams, in order to ensure that it is as clear and user-friendly as possible and can serve as a practical daily tool on construction sites. The guide has been printed on high-quality grade paper which is suitable for intensive use. Constructors interested in this tool will be able to use it in its existing form or can adapt it to the needs and specificities of their companies.

On 2 March 2003, EFBWW and FIEC adopted a joint recommendation aimed at facilitating the implementation of the June 2001 Directive on working at heights (2001/45/EC), due to be transposed into national law in the various EU countries by 19 July 2004 at the latest.

With a view to ensuring the uniform implementation of the Directive, the social partners have concentrated on the problem relating to the interpretation of the term ‘competent person’ and have

drawn up some recommendations in this respect. Three checklists have consequently been produced relating to the minimum skills which should be possessed by the persons referred to in the Directive, namely the person responsible for supervising the assembly of a scaffold, the scaffold fitters themselves, as well as the users. They must all possess the competence to manipulate and use a scaffold safely. Each of these three actors must have at least a minimum knowledge of safety instructions, and be able to assess risks properly and take safety measures – for instance relating to safe passage on the scaffolding – in order to be able to comply with load limits and take account of related or consecutive activities on the construction site.

These recommendations seek to facilitate the transposition and implementation of the Directive in the Member States. They can therefore be used from now on by FIEC and EFBWW's member federations for the purpose of assisting their respective governments in transposing and implementing the Directive on a uniform basis.

In 2003, the European social partners in the construction sector took the decision to encourage the development of 'tutorship' in building and public works companies. A brochure has been produced in order to provide the sector's social partners and businesses with information and tools to help them develop and promote tutorship.

The context is that a large number of young people leave the sector either during training or after just a few years of work, representing a serious waste of the resources of the various vocational training systems and a correspondingly lower return on companies' investments in human resources. The high number of experienced workers aged over 50 who are leaving the industry implies that businesses are losing a considerable number of qualified and skilled people. Furthermore, the sector has serious image problems and, as a result, young people and qualified employees are not encouraged to apply for jobs.

The construction sector's European social partners believe that setting up tutorship systems within businesses might offer a response to some of these concerns. Companies that are already involved in tutorship are aware of the benefits to both employees and companies. Tutorship helps to improve all of the following:

- inducting new recruits;
- adapting to a new work situation;
- promoting/developing workers' skills;
- raising workers' productivity, because people who are satisfied with their work tend to stay with the company and be more productive;
- communication within the company; and
- behaviour and commitment to the company culture.

The first part of the brochure describes the essential points which need to be dealt with in order to set up tutorship effectively within a company. It provides details about what makes a 'good' tutor, the skills they need to have and how to manage a tutorship relationship. The second part contains five examples of national tutorship systems from five Member States: Belgium, France, Germany,

Italy, and the UK. Each national case study shows the reasons why the tutorship system was set up and how it functions in practice.

Agriculture sector

The social partners in the agriculture sector – the Employers Group of the Committee of Agricultural Organisations in the European Union (GEOPA-COPA) and the European Federation of Trade Unions in Food, Agriculture, Tourism and Allied Branches (EFFAT) – signed a European agreement on training for the sector in December 2002 (EU0301203N). This agreement was negotiated and adopted within the European sectoral social dialogue committee for agriculture.

Accepting the challenge of improving employment and raising the level of vocational qualifications for agricultural workers, the signatory parties advocate a joint approach to validation and recognition of formal and non-formal education throughout the EU. This agreement aims at raising the level of qualifications for agricultural workers and facilitating mobility and free movement of workers within the Union. It proposes a number of initiatives relating to the vocational training of agricultural workers and seeks to promote the recognition of qualifications.

The agreement recommends a set of measures aimed at national organisations representing agricultural employers and employees, and the relevant authorities in the Member States and the Commission, for the benefit of both agricultural holdings and workers. These include:

- the involvement of social partners in the organisation of vocational training;
- the establishment of skills assessment;
- the recognition of non-formal training and qualifications;
- transparency of diplomas and certificates;
- the establishment of an ‘occupational reference’; and
- the development of an agricultural worker’s booklet of vocational qualifications and skills.

In this agreement, the social partners tackle subjects such as mobility and the validation and recognition of non-formal learning. Mobility is not only essential for adapting to structural changes – and the challenges are presently considerable – but it could also present a solution to the persistent lack of a skilled workforce in the agriculture sector.

Sugar sector

On 7 February 2003, the social partners in the European sugar industry, EFFAT for trade unions and the European Committee of Sugar Manufacturers (Comité Européen des Fabricants de Sucre, CEFS) signed a joint code of conduct establishing minimum standards on corporate social responsibility (CSR) in eight areas (EU0302204F). The European sugar industry is the first sector to agree voluntarily on minimum CSR standards on a broad scale.

Recognising that CSR is becoming increasingly important, the code of conduct was developed in the sectoral social dialogue committee for the sugar industry. It reflects the commitment of the social partners to develop progressively and demonstrate the overall sustainability of the industry: ‘Our vision is to create added human and social value by incorporating corporate social

responsibility into all our activities.’ The code of conduct came into effect on 1 January 2004. The period between the signature and the coming into effect of the agreement was devoted to preparing for its implementation by providing adequate national and local structures. Regular follow-up of the code of conduct will be ensured through joint monitoring and reporting on an annual basis within the framework of the sectoral social dialogue committee.

Underlining the necessity to ensure that their sector remains sufficiently competitive to enable it fully to assume its responsibilities to the different ‘stakeholders’, the social partners commit themselves in the code of conduct to comply with eight minimum standards and to promote them beyond the area of activities for which CEFS has a mandate. The code of conduct is a first step in an ongoing process, and the eight areas mainly cover social aspects: human rights; education and training; health and safety; the relationship between the social partners; fair pay; working conditions; restructuring and business relations; and choice of suppliers.

An annexed set of examples of good practices in the eight areas will be regularly updated, with the aim of serving as a source of inspiration for improvement for companies in the sector.

Private security sector

The social partners in the private security sector – the Confederation of European Security Services (CoESS), representing employers, and UNI-Europa, the European regional organisation of Union Network International (UNI), representing trade unions – signed a ground-breaking code of conduct at the European Commission on 18 July 2003 (EU0308203F). The code is the result of negotiations between the social partners. It aims to raise standards and guarantee a high level of professional ethics in private security firms throughout the EU, including the new Member States.

The code contains a set of basic standards of professionalism and quality which must be applied by all employers and employees in the sector. All firms must meet the basic conditions imposed by national legislation, complying strictly with both the spirit and the letter. Under the code, where there are gaps in national rules, employers and employees must work to improve them. The code covers a wide range of areas, ranging from the selection and recruitment of workers and vocational training to health and safety at work and it includes non-discrimination and relations with clients, the police and other security firms.

The signatory parties believe that the rules governing their sector need to be harmonised across the EU. At the moment, national regulations and practices vary widely between Member States and are sometimes inadequate or even non-existent. This means that there are huge variations in the quality of service provided and the sector is prevented from taking full advantage of European integration.

CoESS and UNI-Europa also agreed to ensure the regular follow-up of the code, including monitoring and evaluation at company, national and EU level. They stressed that national employer and trade union organisations must promote the code and its application as widely and as fully as possible.

Electricity sector

The social partners in the electricity industry – the European Federation of Public Service Unions (EPSU) and the European Mine, Chemical and Energy Workers’ Federation (EMCEF) for unions,

and EURELECTRIC for employers – adopted a joint declaration on equal opportunities and diversity in the sector on 5 June 2003 – see Box 2 below.

Box 2 Joint declaration on equal opportunities and diversity in the electricity sector

The June 2003 EPSU/EMCEF and EURELECTRIC joint declaration on equal opportunities and diversity articulates the social partners' commitment to upholding the principle of non-discrimination in the recruitment process and in working conditions and opportunities. It recognises the value of diversity in the workforce, welcomes the inclusion of equality issues in the EU's European employment guidelines, and lists intended action both to promote equality between women and men and to encourage diversity at work within the electricity industry.

The declaration, which follows on from earlier studies and positions issued by EURELECTRIC and EPSU/EMCEF, recognises that equal opportunities between women and men at work are a fundamental principle of the EU enshrined in the Treaties and several Directives. It underlines the fact that achieving equal opportunities and diversity in working life is one of the main goals in the work of the electricity industry's sectoral social dialogue committee.

The declaration states that the industry 'shall not practice discrimination against employees on the basis of age, health, national or ethnic origin, sex or any other comparable circumstances' and that diversity in the workforce should be considered an asset which brings in new ideas and perspectives.

The notion of equality includes the principle of equal pay for work of equal value and equal treatment in terms of working conditions in employment, career prospects, education, access, and rights at dismissal or conclusion of employment. Recognising that 'the equality agenda continues to change', the declaration mentions among its basic principles that the implications of equality of opportunity between women and men in working life means that women and men should be present in approximately the same proportions in different occupations and levels of hierarchy; and that workplaces, organisational methods and working conditions should be adapted to both women and men.

The declaration further states that the social partners are committed to a 'cooperative approach, recognising the complex nature of questions and issues that arise' and recognise that the equality and diversity principle is a long-term goal to be addressed at national, regional, sectoral and company level.

Various sections of the declaration refer to: the acute problem of an ageing workforce and a potential skills gap in the electricity industry; the need for training and development; the implications for work organisation; creating a suitable work-life balance; and combating sexual harassment.

Postal sector

Within the framework of its 2003 work programme, the European social dialogue committee in the postal sector – involving UNI-Europa and the Association of European Public Postal Operators (Posteurop) – with the support of the European Commission, decided to develop a website. It aims to present the results of the committee's work on training and identify the best practices collected over the past three years in the field of lifelong training and skills development. Favouring exchanges and information sharing, the site should facilitate the integration of new members during 2004.

This website, www.postsocialdialog.org, was developed in order to build on and highlight the work of the social dialogue committee. It presents the good practices and ideas collected within post offices and trade unions on training and skills development, equal opportunities, enlargement and corporate social responsibility. It also aims to encourage and facilitate continuous exchanges between the social partners at European level. It should therefore serve as a genuine working tool for the future programmes of the European social dialogue committee. An online questionnaire allows a direct gathering of experience concerning training on the topics selected for 2004. In addition to a presentation by the social dialogue committee and its workgroups, the website also contains a schedule of the main meetings with their agendas and reports. It also includes a database with more than 50 contacts in European post offices and trade unions, as well as their contact details.

Mining sector

The social partners in the mining sector – EMCEF for unions and the European Solid Fuels Association (CECSO) and European Potash Producers Association (APEP) for employers – adopted a joint position in April 2003 which highlighted: the importance of training for economic and social development; the need for new social skills in addition to the more traditional technical occupational skills; and the need for the content of training to adapt to the needs of the information society.

Local public services

At their first meeting, in January 2004, the European social partner organisations in the local and regional government sector – EPSU and the Council of European Municipalities and Regions' Employer Platform (CEMR-EP) – signed a joint statement on telework. EPSU and CEMR-EP will encourage their members to use the European agreement signed by the central social partners at cross-industry level (see table opposite) in July 2002 (EU0207204F) when discussing the introduction or management of telework, devising policies or concluding agreements on telework in the local and regional government sector, in accordance with the national procedures and practices specific to management and labour. CEMR-EP and EPSU will monitor developments and undertake a first assessment in 2005.

Diversity of agreements

The diversity of sectoral social dialogue agreements reflects the variety of situations. They arise sometimes at the initiative of the social partners and sometimes from a consultation process launched by the Commission, or from the application of Community decisions or Directives. The Treaty establishing the European Community provided a sufficiently flexible framework for implementing these agreements, in order to accommodate the practices and procedures specific to the social partners and Member States. The social partners, at cross-industry and sectoral levels, have, for example, used this method for their agreements on teleworking. The signatory organisations are free to define the nature and degree of their commitments. Some agreements are limited to laying down general recommendations, while others stipulate precise obligations or actions, accompanied by monitoring mechanisms, at national and European levels.

Table 1 lists the main joint texts – which may take the form of agreements, codes of conduct, or joint statements, declarations, positions, recommendations, etc. – agreed in the context of the sectoral social dialogue in 2003.

Table 1 Sectoral social partners' joint texts adopted in 2003

Sector	Title of agreement
Civil aviation	Joint letter to Commissioner de Palacio 'supporting the bottom-up approach for functional blocks of airspace' in the Single European Sky policy (May)
Commerce	Joint statement on corporate social responsibility (November)
Construction	Recommendations to national federations regarding implementation of Directive 2001/45/EC on working at heights (March)
Electricity	Joint statement and final report on the study on lifelong learning in the electricity sector (July)
	Joint declaration on equal opportunities and diversity in the electricity sector (June)
Mines	Joint position on training and continuing training (April)
Private security	Code of conduct and ethics for the private security sector (July)
Public services	Joint statement on telework (January 2004)
Railways	Agreement on certain aspects of the working conditions of mobile workers assigned to interoperable cross-border services (January 2004)
	Agreement on the European licence for drivers carrying out a cross-border interoperability service (January 2004)
Road transport	Joint declaration on the Road Safety Action Programme (September)
	Joint declaration on post-enlargement in the road transport sector (September)
	Joint recommendations of the European social partners to the representatives of management and trade unions in local public transport companies in the EU on insecurity in local public transport (November)
Sugar	Code of conduct on corporate social responsibility in the European sugar industry (February)
	Joint position paper on the Commission Communication relating to reform of the CMO in sugar (December)

Other activities

The activities of the social partners are not confined to the adoption of joint texts. The partners undertake many transnational joint projects, often with financial assistance from the Commission under its social dialogue and education and training budget headings. These projects consist of a large variety of activities, including the organisation of conferences, roundtables, studies and publications, and the production of practical tools, such as vocational training and health and safety manuals, or guidance on procurement practices.

Study on representativeness

Representativeness is essential for the legitimacy of the social dialogue. For that reason, whenever an application to set up a sectoral social dialogue committee is made, the Commission sends the social partner organisations concerned a questionnaire to evaluate the extent to which they meet the criteria for establishment, particularly their capacity to negotiate agreements or the representativeness which determines the relevance of the social dialogue. The requirement for representativeness will vary depending on the nature of the measures. For example, it will be stricter in the case of a negotiated agreement than for a simple consultation.

In December 2002, the Commission launched a new study on the representativeness of the social partners, to examine those sectors not analysed during the first study carried out in 1998 by the Institute of Labour Sciences at the Université Catholique in Louvain. The Commission has produced monographs on the situation of the social partners in the candidate countries at cross-

industry and sectoral level. The central public services and private security sectors have been surveyed in the current 15 EU Member States. Two monographs on the situation of the social partners in the textile and commerce sectors in the acceding and candidate countries have also been drawn up. In 2004, it is planned to conduct representativeness studies in the EU15 in the sectors of industrial cleaning, temporary agency work and culture/media. Sectoral monographs for the candidate countries will cover road transport, construction and electricity.

Study on the results of sectoral social dialogue

The European social partners have adopted numerous joint opinions, statements and declarations and recommendations. In total, more than 230 such joint sectoral texts and some 40 cross-industry texts have been issued. However, in most cases, these texts did not include any provision for implementation and monitoring. They are often not well known and their dissemination at national level has been limited. There is, therefore, considerable scope for improving their effectiveness. Thus, on 10 July 2003, a call for tenders was launched for a study to research, report and classify all the outcomes (agreements, guidelines, recommendations, etc.) of the sectoral social dialogue committees. The final study is due to be completed in mid-2004.

Cross-sector social dialogue

The European social partners at cross-sector level are:

- for the employers, the Union of Industrial and Employer Confederations of Europe (UNICE), the European Association of Craft, Small and Medium-Sized Enterprises (UEAPME); and the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP); and
- for the trade unions, the European Trade Union Confederation (ETUC), the Council of European Professional and Managerial Staff (EUROCADRES) and the European Confederation of Executives and Managerial Staff (CEC).

Social partners' 2003-5 work programme

In line with their desire to develop a more independent dialogue, expressed in their joint contribution to the Laeken European Council in December 2001 (EU0112262F), the European cross-sector social partners adopted a joint multiannual work programme for the period 2003-5 at the social dialogue summit held in Genval on 28 November 2002 (EU0212206F) – see Table 2 opposite. Rather than merely taking their lead from the consultations of the Commission, in the framework of the Commission's own Social Policy Agenda 2000-5, issued in June 2000 (EU0007266F), and other programmes of work such as the Community Strategy on Health and Safety 2002-6, adopted in March 2002 (EU0204203N), the social partners will also pursue their own bipartite initiatives established in their programme. The Commission aims to encourage and support the implementation of this work programme, while continuing to pursue its own priorities in the social affairs field.

This work programme represents a relaunch of the autonomous bipartite social dialogue, and a move away from an agenda dictated solely in response to Commission consultations (EU0303101F). It also constitutes a vital step towards enhancing the contribution of the social partners towards the achievement of the Lisbon strategy and is centred around three themes: employment, mobility and enlargement.

Table 2 Work programme of the European social partners 2003-5

Chapters	Themes	Actions	Timetable
Employment	Employment guidelines	Reports on social partners' actions in Member States to implement the employment guidelines (taking into account the cycle of three years).	2003-5
	Lifelong learning	Follow-up of 'framework of actions'.	2003, 2004 and 2005
	Stress at work	Seminar with a view to negotiating a voluntary agreement.	2003
	Gender equality	Seminar on equal opportunities and gender discrimination aiming at a framework of actions.	2003
	Restructuring	Identify orientations that could serve as a reference to assist in managing change and its social consequences on the basis of concrete cases.	2003
	Disability	Update of joint declaration of 1999 as a contribution to the European year on disability.	2003
	Young people	Promoting young people's interest in science and technology to help address the skills gap through a joint declaration and/or awareness-raising campaign.	2003-5
	Racism	Updating joint declarations of 1995 (with participation of candidate countries).	2004
	Ageing workforce	Seminar to discuss case studies and explore possible joint actions.	2004
	Harassment	Seminar to explore possibility of negotiating a voluntary agreement.	2004-5
	Telework	Monitoring of follow-up to framework agreement.	2003-5
Undeclared work	Seminar aiming at a joint opinion.	2005	
Enlargement	Industrial relations	Joint seminars on industrial relations (case studies on different ways of linking different levels of negotiations).	2003-5
	Social dialogue	Two enlarged social dialogue committee meetings per year.	2003-5
	Restructuring	Study on restructuring in candidate countries.	2003-4
	Lifelong learning	Include candidate countries in follow-up to framework of actions.	Seminar in 2004, inclusion in reporting 2005
	Implementation of legal <i>acquis</i>	Joint seminar on European Works Councils.	2004
	EU social and employment policies after enlargement	Prospective reflection to identify issues that will arise in the EU after enlargement, such as the increase in diversity, migrations, transborder work, etc.	Starting in 2004
Mobility	Action plan on skills and mobility	Seminar to identify areas where joint actions by the social partners at EU level could help address obstacles to mobility (notably for managerial staff), including supplementary pensions.	2003-5

The social partners have made an encouraging start to implementing the initiatives foreseen in the work programme for 2003, in the following areas:

- **Disability.** In January 2003, the social partners presented an updated version of their 1999 joint declaration on the employment of disabled workers, as a contribution to the European Year of People with Disabilities in 2003 (EU0209201N). Its aim is to promote equal opportunities and access to employment for disabled people and it identifies some key factors for success.

- **Stress.** Following a seminar held on 25 February 2003, the social partners called on their member organisations to grant them a mandate with which to begin negotiations, with a view to concluding a voluntary agreement on stress at work. Negotiations began on 18 September 2003.
- **Gender equality.** Following a seminar on equal opportunities and gender discrimination which took place on 13-14 March 2003, the social partners have asked their member organisations to provide concrete examples and case studies as a basis on which to begin working towards an agreement on a framework of actions. The first meeting to begin work on the framework of actions took place on 1 December 2003.
- **Restructuring.** In the conclusions to the European Council summit at Barcelona in March 2002 (EU0203205F), following the launch of the first stage of consultation of the social partners in January 2002 on the anticipation and management of change (EU0201235F), the Council called upon the social partners to undertake their own initiative on restructuring. The discussions among the European social partners on restructuring ended on 12 June 2003 with a text, entitled 'Orientations for reference in managing change and its social consequences' (EU0307203F). This text, together with an annex containing the 10 case studies upon which the orientations were based, was sent to the Commission with a joint letter on 29 October 2003.
- **Enlargement.** Social dialogue committee meetings, including representatives of the social partners from the 10 acceding countries took place on 30 January and on 1 October 2003. The social partners have embarked on the organisation of a series of five national seminars (a 'tour des capitales') in the acceding countries, which will take place between January and May 2004, with Commission support from budget line B3-4000. Since 1 May 2003, representatives of the social partners from the 10 acceding countries have been invited to take part in all the plenary cross-industry and sectoral social dialogue committees. In addition, a large conference on social dialogue in an enlarged Europe took place in Ljubljana, Slovenia, on 9-10 January 2004, involving 250 participants including 180 social partner representatives from the EU and the acceding countries. The aims of the conference were to:
 - demonstrate that social dialogue is a key dimension of EU governance and a valuable mechanism for developing social policy and achieving the Lisbon objectives;
 - foster a better balance between tripartite and bipartite social dialogue, particularly with regard to the European employment strategy;
 - reinforce the representativeness and the capacity for negotiation of the social partners in the acceding countries by identifying good practices and underlining the importance of social partner autonomy as a crucial element of a well-functioning social dialogue.
- **Mobility.** A joint seminar on mobility was held on 13 February 2003, and the social partners are currently reflecting on what measures they could usefully take at Community cross-sectoral level, particularly with regard to the issue of the transferability of supplementary pensions (see next point).
- **Supplementary pensions.** A second consultation of the social partners by the Commission, according to the provisions of Article 138 of the Treaty establishing the European Community, on the desirability and the possible content of Community-level action in the field of transferability of occupational pensions, was launched on 12 September 2003 (EU0310205F).
- **Telework.** Implementation of the framework agreement of the social partners on telework, signed on 16 July 2002 (EU0207204F), is progressing. The social partners have three years in

which to implement the agreement – until July 2005 – and they then have a further year – until July 2006 – to produce a follow-up report.

- **Lifelong learning.** In March 2002, ETUC, UNICE and CEEP adopted a joint framework of actions for the lifelong development of competencies and qualifications (EU0204210F). The text stresses the importance of the principle of the shared responsibility of all players for lifelong learning (e.g. the social partners at national, sectoral and company level, public authorities, employers and individual employees) and emphasises the implementation of the following four priorities: identification and anticipation of competencies and qualifications needs; recognition and validation of competencies and qualifications; information, support and guidance; and resources. This framework of actions is also significant as it is the first time that the cross-industry social partners have decided to implement one of their texts via the ‘open method of coordination’: the text will be implemented by the national members of the signatory parties. The social partners have agreed to monitor progress towards achieving the four priorities on an annual basis (reporting in February-March each year) and will, after three annual reports, evaluate the impact on both companies and workers. This evaluation can if necessary lead to an update of the priorities identified, which will be presented in March 2006. The first annual evaluation was undertaken in March 2003 (EU0306205F).

The tripartite dimension

The Commission Communication on the European social dialogue of 26 June 2002 (EU0208203F) stressed the importance of rationalising and improving tripartite concertation between the social partners and the public authorities. As a result, some important changes have taken place in the organisation of such concertation during the course of 2002-3, in particular the decision to set up a ‘tripartite social summit for growth and employment’ which meets on the eve of the spring European Council summit on economic and social issues.

The European Council Presidencies have been inviting the social partners to meet with the ‘troika’ of Presidencies (the current Presidency and its immediate successor and predecessor) on the eve of European Council meetings since 1997. The conclusions of the Nice European Council in December 2000 (EU0012288F) provided for an annual meeting with the social partners before the spring European Councils. Such meetings were organised in March 2001 in Stockholm (EU0104208F), in December 2001 in Laeken (EU0201231N) and in March 2002 in Barcelona (EU0203205F).

The Council’s decision to formalise this arrangement with the establishment of a tripartite social summit for growth and employment followed from the social partners’ joint contribution to the Laeken summit in December 2001 (EU0112262F), in which they proposed that a ‘concertation committee on growth and employment’ be set up, which would serve as the forum for consultation between the social partners and the public authorities in the framework of the Lisbon strategy. The aim of the decision was to send a strong political signal to the social partners that the Council recognises the importance of their involvement in the process of economic and social modernisation of Europe.

The decision to formalise the tripartite social summit was adopted at the Employment and Social Affairs Council on 6 March 2003 (EU0303203F), and the first formal tripartite social summit took place on 20 March 2003 (EU0304201N), on the eve of the spring European Council held in

Brussels on 21 March. The discussions at the social summit centred on the social partners' contributions towards the implementation of economic and social reform, and their achievements since the Barcelona Council in 2002. This includes the initiatives upon which they had made a start within the framework of their first joint multiannual work programme 2003-5 (see p. 12). The social partners also presented the first annual report (EU0306205F) on the implementation of their framework of actions for the lifelong development of competencies and qualifications which was presented to the Barcelona Council in 2002.

A decision to hold an extraordinary tripartite summit on 11 December 2003 was taken at the European Council meeting in October. Concern was expressed by some Member States about the current economic and employment situation in Europe, and it was agreed that the views of the social partners would play a vital role in restoring the potential for economic and employment growth, looking towards the 2010 targets on employment. There had been two major initiatives of direct relevance: the Commission's proposal for a European Initiative on Growth, designed to stimulate economic recovery within Europe; and the presentation by the Employment Task Force, set up in March 2003 (EU0304205F), of its final report. The Kok report, as it is known, takes stock of the present situation of the EU labour market, analyses the main reasons why the EU risks not meeting all of its employment targets and identifies concrete reforms.

The December 2003 extraordinary social summit (EU0312207F) reflected the partnership approach, regarded as crucial in order to fulfil the objectives of the Lisbon agenda, which requires joint initiatives by public authorities, businesses and the social partners at all levels. The summit brought the key actors together in order to discuss the main challenges, and confirm their respective responsibilities in addressing them. The EU-level cross-industry social partners issued a joint statement to the meeting, expressing their concerns regarding the performance of the EU's economy and labour markets, welcoming recent initiatives in the areas of growth and employment and setting out their future actions.

Anna Diamantopoulou, the Commissioner for Employment and Social Affairs, declared: 'These tripartite summits confirm the importance of the social dialogue at European level. Social partners now need to ensure that they play their part in tackling the challenges posed by the current economic situation, and the forthcoming enlargement of the European Union.'

The Council Presidency and the Commission, with the involvement of the social partners, have been preparing the spring 2004 social summit, which will be held on the eve of the spring European Council. Its principal themes are likely to be 'active ageing' and 'sustainable growth', and a variety of subthemes are being considered, including competitiveness and productivity, social protection and mobility.

Legislative developments

In 2003 there was legislative activity in two main areas of labour law: the involvement of employees in transnational companies (relating to the European Cooperative Society, cross-border mergers and discussions on the possible revision of the European Works Councils Directive); and provisions for the individual protection of workers (debates on working time, temporary agency work and data protection). During the year, the EU has had the additional task of helping the new Member States develop legislation which is in line with the Community *acquis communautaire* (the

body of EU law which all new Member States must adopt and implement), including all Directives in the employment and social field.

European Cooperative Society

After 10 years of negotiations, the Council of Ministers adopted on 22 July 2003 two pieces of legislation: Council Regulation (EC) No. 1435/2003 on the Statute for a European Cooperative Society (SCE); and Directive 2003/72/EC supplementing the Statute for a European Cooperative Society with regard to the involvement of employees. Adoption followed political agreement in the Council in June 2003 (EU0306201N). The Regulation lays down rules on the establishment and operation of SCEs, while the Directive provides rules on employee involvement in this new (optional) form of European-scale cooperative business. Both texts closely follow the lines of the model laid down for the European Company (SE) Statute by Regulation (EC) No. 2157/2001 and Directive 2001/86/EC (EU0206202F).

The arrangement for involving employees in the SCE must be negotiated, in conjunction with the process of establishing the SCE, between the managements of the participating entities and representatives of their employees in the different Member States. If the parties fail to reach an agreement before the SCE is registered, it will be governed (in terms of employee information and consultation and, when appropriate, board-level participation) by a set of subsidiary rules based on those of the SE worker involvement Directive. However, provision has been made for a few adjustments to take account of certain ways of setting up an SCE which have no parallel in the European Company Statute, notably where an SCE is set up from scratch without the involvement of 'physical persons'.

The European Parliament opposed the Council's decision to adopt the Directive using as the legal basis Article 308 of the Treaty establishing the European Community, rather than Article 95, thus limiting the Parliament's power to simple consultation rather than co-decision. The Parliament referred this matter to the European Court of Justice.

Cross-border mergers – employee participation

The European Company (SE) Statute allows the merger of companies from October 2004 onwards, if they are public limited companies and only if they merge to a SE. A different proposal, for a 10th company law Directive, aims at facilitating such transnational mergers between all companies with share capital. An original proposal by the European Commission, which dates from 1984, was almost immediately blocked in the European Parliament, because there was no proposal addressing the issue of worker participation in the boards of the companies concerned. As there were similar discussions when adopting the European Company Statute, the solution reached on this issue for the SE has paved the way to unblocking the 10th company law Directive. The Commission therefore decided to withdraw its 1984 proposal and presented in November 2003 a new proposal, for a Directive on the cross-border mergers of companies with share capital (COM (2003) 703). This is currently being reviewed by the Parliament.

When companies from different Member States merge, some of those involved may disappear and the new, merged company may freely decide where to locate its registered office. These facts can constitute a threat to existing systems of worker participation on the boards of companies. Such systems exist in most of the existing 15 Member States either in both public and private sector companies or in state-owned companies only, although Belgium, Italy, Portugal, Spain and UK have no such board-level participation rules. Therefore, a cross-border merger poses a threat to the

existing board-level participation system if the company that results from a transnational merger or its registered office is transferred to a 'non-participation' Member State. Both operations are allowed by the SE Directive and the proposed 10th company law Directive.

The solution found in the SE employee involvement Directive concerning board-level participation (see previous page under 'European Cooperative Society') includes a system of such participation on the basis of European law. The problem facing the 10th company law Directive is different, as companies falling under its scope are governed by existing national regimes concerning employee involvement.

It may well be that, following a cross-border merger, the registered office of the company created by the merger is situated in a Member State which does not have a board-level participation system, whereas one or more of the companies taking part in the merger were subject to rules of this type before the merger. To deal with this eventuality, provision is made in the draft Directive for extending to employees of companies finding themselves in this situation the same protection of rights acquired with respect to participation as is granted under the system set up by the SE Regulation and Directive. The Commission's view is that the protection of acquired rights of participation is entirely justified in this case. Where the national law of the Member State under whose law the company created by the merger is governed has rules on employee participation, such specific protection is unnecessary as the company in question will be subject to those rules. Therefore, the application of the 'SE solution' to companies merging under the 10th company law Directive is strictly limited to rare situations where participation could be jeopardised as a result of a merger.

Another fundamental difference between the two texts consists in not creating in the 10th company law Directive a specific system of transnational information and consultation, in contrast to what is the case for all SEs. As the company resulting from the cross-border merger is a national company, it will be treated in this respect exactly as any other multinational company: it will be governed by such a system only if the requirements provided for in the European Works Councils Directive are met, notably the requirements relating to employee thresholds.

European Works Councils

A possible revision of the European Works Councils (EWCs) Directive (94/45/EC) remains on the Commission's agenda and a first-stage consultation of the social partners is envisaged for early 2004, with a follow-up consultation later in the year. On 24 September 2003, the European Economic and Social Committee adopted an Opinion on the practical application of the EWCs Directive and on any aspects of the Directive that might need to be revised (EU0310204F). The Opinion draws on a wide range of research and experience with EWCs, reflecting both employer and employee perspectives on the application of the Directive, and presents a comprehensive and balanced view of progress to date. The Opinion provides a useful insight into issues such as:

- progress to date in creating EWCs;
- the negotiation of EWC agreements;
- the mode of operation of EWCs;
- their evolving and dynamic nature;
- their contribution to social dialogue;
- the implications of EU enlargement.

Working time

On 4 November 2003, a consolidated version of the Directives on certain aspects of the organisation of working time was adopted by the European Parliament and the Council (Directive 2003/88/EC), combining Directives 93/104/EC and 2000/34/EC. It enters into force on 2 August 2004 and makes no substantive amendments to existing law.

The Directive includes provisions which will be subject to re-examination in 2004. Following this mandate and taking into account recent judgments of the European Court of Justice regarding

Box 3 Working time consultation

In its Communication adopted in December 2003, the European Commission calls on all interested parties to contribute to a consultation on working time, following a report on the workings of current EU legislation in this area. The report focuses on the issue of the so-called 'opt-out', which allows individuals to waive their rights under the working time Directive's provisions on the maximum 48-hour week, and the definition and calculation of working time. As a result of recent ECJ rulings, more Member States are beginning to use the opt-out. The aim of the Commission consultation is to examine how the Directive could be revised in the future

The Commission document has three aims:

- analysis of the implementation of the opt-out and derogations to the period over which average working time is calculated (the 'reference period');
- analysis of the impact of recent case law concerning the definition of working time and the qualification of time spent 'on-call' – whether it should be 'working time' or a 'rest period';
- consultation of interested parties on possible future modification of the Directive.

The working time Directive plays a vital role in protecting the health and safety of workers from the effects of working excessively long hours, having inadequate rest and disruptive work patterns. It can also contribute to improved productivity and a better reconciliation of work and family life. In 1993, the UK negotiated an opt-out, which allows Member States not to apply the 48-hour weekly limit on working hours under certain conditions: prior agreement of the individual; no negative fall-out from refusing to opt out; and records kept of working hours of those who have opted out. France, Germany, Luxembourg, the Netherlands and Spain are preparing or have passed legislation to make restricted use of the opt-out, in certain sectors. The Commission's report finds that not all the guarantees laid down within the Directive are being provided. It is a concern, for example, that workers are frequently asked to sign the opt-out agreement at the same time as signing their employment contract, which acts as a constraint to freedom of choice.

The consultation asks for responses on five main issues, with a view to a future revision of the Directive:

- the length of reference periods, which are currently four months, with certain provisions allowing for six months or a year;
- the definition of working time following recent ECJ rulings on time spent on call;
- the conditions for the application of the opt-out from the maximum working week;
- measures to improve the balance between work and family life;
- how to find the best balance of these measures.

working time, the Commission adopted on 30 December 2004 a Communication on the re-examination of the working time Directive (COM(2003) 843 final) (EU0402203F). The Communication seeks to launch a wide-ranging consultation process which could result in a possible amendment of the Directive – see Box 3 on the previous page. It is therefore aimed at the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the social partners at Community level. As regards the European social partners, this Communication also constitutes the consultation provided for in Article 138(2) of the Treaty establishing the European Community, as the first phase of the consultation process. Further details about the Directive are given in chapter 3.

Temporary agency work

An amended Commission proposal for a Directive to ensure the principle of non-discrimination for temporary (agency) workers (COM (2002) 701 final) was the subject of continuing debate during the year (EU0303203F and EU0204205F). On 2-3 June 2003, the Greek Presidency presented a compromise solution on the text to the Council (EU0306206F), including a transitional implementation period to address the concerns of many Member States. However, due to continuing divergences of views among national delegations, no consensus was reached and the proposal remained blocked at the end of the year.

Data protection

In accordance with its social policy agenda, the Commission has undertaken a consultation of the European social partners on the subject of data protection. A Directive on the protection of individuals with regard to the processing of personal data and on the free movement of such data (95/46/EC) already exists, but it was felt that the position of employees needs to be looked at more closely.

The first stage of consultation of the social partners on the protection of workers' personal data was launched in August 2001, and the second stage of this consultation was launched in October 2002 (EU0211206F), concluding in January 2003. In the latter exercise, the social partners maintained in general the positions which they presented in the course of the first-stage consultation (TN0307101S). They did not begin negotiations aiming to reach a European agreement in this area, given that most of the employer associations did not wish to engage in such talks.

However, the Commission has pursued this issue further and has consulted, in this context, a wide range of stakeholders, in particular government and independent experts, the EU's advisory Article 29 Data Protection Working Party and the European Group on Ethics in Science and New Technologies. The Article 29 Data Protection Working Party delivered an opinion on envisaged EU action on 24 September 2003. It concluded that the issue of workers' data protection could be addressed by a new Community legal framework, which might provide an opportunity for the development of the general principles laid down in Directive 95/46/EC. The European Group on Ethics issued an opinion on the ethical aspects of genetic testing in the workplace on 28 July 2003.

In this context, the Commission is expected to decide on the follow-up to its consultation of the social partners during the first half of 2004.

Health and safety

On 6 February 2003, the European Parliament and the Council adopted Directive 2003/10/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise). The adoption of this 17th individual Directive within the meaning of Article 16(1) of the 1989 'framework' health and safety Directive (89/391/EEC) followed a European Parliament/Council conciliation agreement in late 2002 (EU0212202N).

Directive 2003/18/EC of the European Parliament and of the Council, amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work, was adopted on 27 March 2003.

In October, the Council reached political agreement on a common position on a proposal for a Directive establishing minimum health and safety requirements regarding the exposure of workers to the risks arising from electromagnetic fields (EU0311206F).

'Para-subordination'

Recent years have seen the emergence of a group of workers that falls into a 'grey area' between the traditional notions of 'employees' on the one hand and 'self-employed workers' on the other (TN0205101S). These 'para-subordinate workers' may be economically dependent on a single client, but at the same time lack any labour law protection. Following a request from the European Parliament, the Commission launched a study on 'Economically dependent/quasi-subordinate (para-subordinate) employment: legal, social and economic aspects'. The results of the study and this question in general were debated at a public hearing of the Parliament and the Commission on 19 June 2003.

Equal treatment

The European Commission issued a proposal on 5 November for a Directive on equal treatment between men and women in access to and supply of goods and services (EU0312201N). Although this proposal does not apply directly to the workplace, it has implications in areas such as pensions.

The proposal is based on Article 13 of the Treaty establishing the European Community (which enables appropriate action to combat discrimination based on grounds including sex), and seeks to prohibit discrimination in access to and the supply of all available goods and services. It allows for justified exceptions, such as where a good or service is intended exclusively or primarily for members of one sex or where the skills required for its delivery are different for each sex.

The proposal explicitly sets out to tackle the issues of premiums and benefits in the insurance sector. For example, in a majority of cases, women pay higher premiums for pensions and annuities, or their plans pay out less per year, whereas men pay high premiums for life insurance. These differences are justified by the insurance industry on the grounds that women live longer on average than men. However, the Commission states that this justification is not necessarily valid as there are a number of factors that are not linked to sex that are equally important in establishing life expectancy, such as socio-economic or marital status, the region in which a person lives and levels of smoking. When these factors are removed from the equation, the difference in life expectancy between men and women may be between zero and two years.

The Commission acknowledges that the requirements of its proposed Directive would have a major impact on the working methods of the insurance industry, as it would have to introduce changes in order to take the principle of equal treatment into account. It is therefore proposing a six-year transitional period, in order to allow the insurance industry to adapt.

Implementation of Community labour law

In 2003, Commission services prepared reports on the implementation of the part-time work Directive (97/81/EC) and the posted workers Directive (96/71/EC) Communication COM (2003) 458 final) in the 15 current EU Member States. Another important aspect of the procedure of implementing Directives in 2003 was monitoring of the acceding EU Member States. These countries have had to change or redraft their labour laws in order to transpose correctly the *acquis communautaire* in this area. The 10 new Member States were obliged to comply with EU law by 1 May 2004.

Other developments

2003 witnessed a number of other EU-level developments outside the strict social dialogue and labour law areas.

Notably, in July 2003, the European Convention presented a draft Treaty establishing a Constitution for Europe (EU0308204F). The proposed new Treaty has a number of implications for the future social and employment policy of the EU. For example, specific reference is made to the role of the social partners in the EU, with Article I-47 stating that: 'The European Union recognises and promotes the role of the social partners at Union level, taking into account the diversity of national systems; it shall facilitate dialogue between the social partners, respecting their autonomy.' The Charter of Fundamental Rights of the European Union (which deals, among other issues, with employment and industrial relations rights) is incorporated into the draft Treaty, which would give it legal status. In concrete policy terms, the main innovation is arguably the extension of qualified majority Council voting to the area of social security for migrant workers and the possibility of extending it, by unanimous Council decision, to: the protection of workers where their employment contract is terminated; the representation and collective defence of the interests of workers and employers, including co-determination; and conditions of employment for third-country nationals legally residing in Union territory. Qualified majority voting could also be extended to a range of social policy areas in future if a group of Member States decided to use the Treaty's new 'enhanced cooperation' provisions. The European Council had not agreed on the draft EU Constitutional Treaty by the end of the year (EU0312209F).

During the year, there were numerous European Commission initiatives and studies on equality and diversity issues - see Box 4 opposite.

Box 4 European Commission initiatives and studies on equality and diversity issues, 2003

- The Commission issued its seventh annual equal opportunities report in March (EU0303204F). It outlined the main progress towards gender equality made in the EU in 2002 and looked at the gender equality state of play in the acceding countries. While significant steps have been taken in the area of gender-related legislation, the Commission highlighted improved women's participation in decision-making as the priority theme for 2003.
- In June, the Commission launched a campaign to increase awareness of discrimination (EU0307202N). It believed that there was a need for such awareness-raising, given that two new anti-discrimination Directives came into force during 2003 – the Directive implementing the principle of equal treatment between persons, irrespective of their racial or ethnic origin (2000/43/EC) (EU0006256F) and the framework Directive for equal treatment in employment and occupation (2000/78/EC) (EU0102295F) – and that a recent survey had found that the majority of EU citizens are not aware of their rights in this area.
- A report entitled *The costs and benefits of diversity* published by the Commission in November 2003 looked at the issue of workforce diversity policies, assessing their costs, their benefits and the obstacles to the establishment of such policies (EU0311208F). It made a variety of recommendations aimed at encouraging the promotion of workforce diversity. The report was drawn up in the context of the implementation of the two new EU anti-discrimination Directives (see previous point).
- In October, the Commission published an independent report entitled *Equality, diversity and enlargement* on the progress made in putting into place anti-discrimination legislation in the countries due to join the Union in the coming years, in response to the EU Directives on the issue (EU0310207F). The study finds signs of progress with regard to the drafting and adoption of anti-discrimination legislation in many countries, but notes that all of the countries must do more before accession.
- In March, the Commission announced the 100 best workplaces in the EU and the winners of three special awards for excellence in the fields of diversity, gender equality and lifelong learning (EU0305202N).
- In January, the Commission issued a Communication (COM(2003)16 final) setting out its support for the development of a legally binding United Nations instrument to promote and protect the rights and dignity of people with disabilities (EU0302203F). The Commission wants to contribute actively to the development of such an instrument.
- An action plan (COM(2003) 650 final) aimed at promoting equal opportunities and social and labour market integration for people with disabilities was issued by the Commission in October. The plan, which will run from 2004 to 2010, hopes to build on the progress made by the 2003 European Year of People with Disabilities.

Finally, other important social and employment policy developments during 2003 included the following.

- Representatives of the Member States and candidate countries met in Brussels in March 2003 for a large-scale conference to review the progress of the EU five-year social policy agenda since its launch in 2000 (EU0303205F). Wide-ranging debates were held on the themes of employment, social protection, industrial relations and equal opportunities. As a contribution to discussions, the Commission published a memorandum entitled *Costs of non-social policy: Towards an economic framework of quality social policies – and the cost of not having them*

(EU0304203N). The document concluded that ‘most critics of the EU model fail to take account of the counter-factual alternative – what would happen without social policies? And here the evidence shows that the absence of adequate social policies can bring significant economic costs – hence the cost of non-social policies.’

- The 2003 EU employment guidelines and employment policy recommendations to the Member States were adopted by the Council in July (EU0308205F). Following changes to the European employment strategy, the timing of the process and the contents of the guidelines and recommendations were modified in 2003. Notably, the employment guidelines have been revised so as to: ensure a stronger link with EU economic policy coordination (through streamlined timetables); lay down fewer guidelines with a broader perspective; provide a medium-term time horizon in order to achieve an increased emphasis on results and outcomes; and strengthen the involvement of the social partners, local authorities and other stakeholders. The employment guidelines now focus on 10 policy priorities, rather than grouping a larger number of guidelines under four pillars as was previously the case, and set concrete targets for most of them.
- In June, the Commission presented a Communication (COM (2003) 336 final) on immigration, integration and employment. The Communication reviews integration policies, at both national and EU level, and then goes on to suggest ways in which integration of immigrants could be promoted. It also looks at the potential impact which immigrants are likely to have on employment and economic growth, in the context of the ageing European workforce.
- In May, the European Parliament adopted a resolution on corporate social responsibility (EU0306203N), in response to the Commission’s 2002 Communication on this issue (EU0207205F). Parliament calls on the Commission, the Council of Ministers, Member States, companies and other involved parties to work to promote corporate social responsibility.
- The European Agency for Safety and Health at Work launched the ‘first pan-European campaign to reduce the risks of chemicals, biological agents and other dangerous substances at work’ in May (EU0306202N). The campaign formed the core of the Agency’s annual European Week on Safety and Health at Work in October 2003 (EU0311204F).
- The Commission issued a Communication, entitled ‘Strengthening the social dimension of the Lisbon strategy: streamlining open coordination in the field of social protection’, in May (EU0306204N). The proposal aims to improve, simplify and make more visible the work of the EU in coordinating Member States’ social protection policies in the areas of: pensions; social inclusion and combating poverty; healthcare and care for the elderly; and social security systems, with particular emphasis on how these encourage people to seek work rather than remain on social benefits. The aim is to integrate, by 2006, coordination of policies in these areas into one single framework, using the ‘open method of coordination’. In September 2003, the EU-level cross-industry social partners issued a joint statement in response to the Commission’s proposal (EU0310203N). The social partners welcomed the moves to rationalise the reporting system on social protection and to synchronise the timetables for employment, social protection and economic policy coordination, which they feel will contribute to better articulated and mutually supportive policies. The social partners, however, also expressed a number of concerns.
- On 9 September 2003, the European Court of Justice (ECJ) issued an important ruling concerning on-call working (case C-151/02, *Landeshauptstadt Kiel v Norbert Jaeger*)

(EU0310202N). It ruled that time spent by a doctor working in a hospital on an on-call basis constitutes working time in its entirety, even if the employer provides a place of rest for the employee to use when not actively engaged in their duties.

- In October, the Council adopted a Resolution on undeclared work (EU0311206F). It is estimated that between 7% and 16% of the EU's GDP is accounted for by the informal economy. The Resolution calls on Member States to address this issue, using this Resolution as a reference framework, and to work together to improve the situation. Suggested actions include preventative measures and sanctions aimed at eliminating undeclared work. The Resolution also invites the social partners at European level to address this issue within the context of their current multiannual work programme (see p. 12) and to deal with it in the context of the sectoral social dialogue committees. It calls on the social partners at national level to promote the declaration of economic activity, to engage in awareness-raising and to promote the simplification of the business environment, particularly in relation to small and medium-sized enterprises. Finally, the Resolution calls on the European Commission to highlight developments on the basis of the experience of Member States, in the context of the European employment strategy, and to assess methodological improvements in the description of the problem of undeclared work and monitor progress in this area.

Comparative overview of industrial relations in 2003

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This chapter reviews the main developments in industrial relations in 2003 in the countries covered by the European Industrial Relations Observatory (EIRO) – the 15 EU Member States, Norway, eight of the 10 new Member States which will join the EU in May 2004 (Cyprus, Estonia, Hungary, Latvia, Malta, Poland, Slovakia and Slovenia) and two candidate countries (Bulgaria and Romania). First, the economic and political context for industrial relations in Europe in 2003 is briefly outlined. Then the key issues covered by collective bargaining – pay, working time, job security, equal opportunities and diversity issues, and training and skills development – are examined, in addition to aspects such as legislative developments, the organisation and role of the social partners, industrial action, employee participation, stress at work, undeclared work, and new forms of work.

Economic developments

Economic growth continued to slow across the EU during 2003 – see figure 1 overleaf. Eurostat figures relating to the third quarter of 2003 show that GDP growth in the 12 countries of the ‘euro-zone’ was 0.3%, compared with the same period in 2002. GDP growth for the EU15 was slightly higher, at 0.6%. This compares with GDP growth of 0.9% in the euro-zone and 1.1% in the EU15 during the year to the third quarter of 2002. However, there were, as always, wide variations across the individual EU Member States. The country with the strongest economic growth was Greece, where third quarter 2003 GDP growth was 5.0% over 12 months, followed by Spain, where growth was 2.4%, and the UK, where growth was 2.1%.

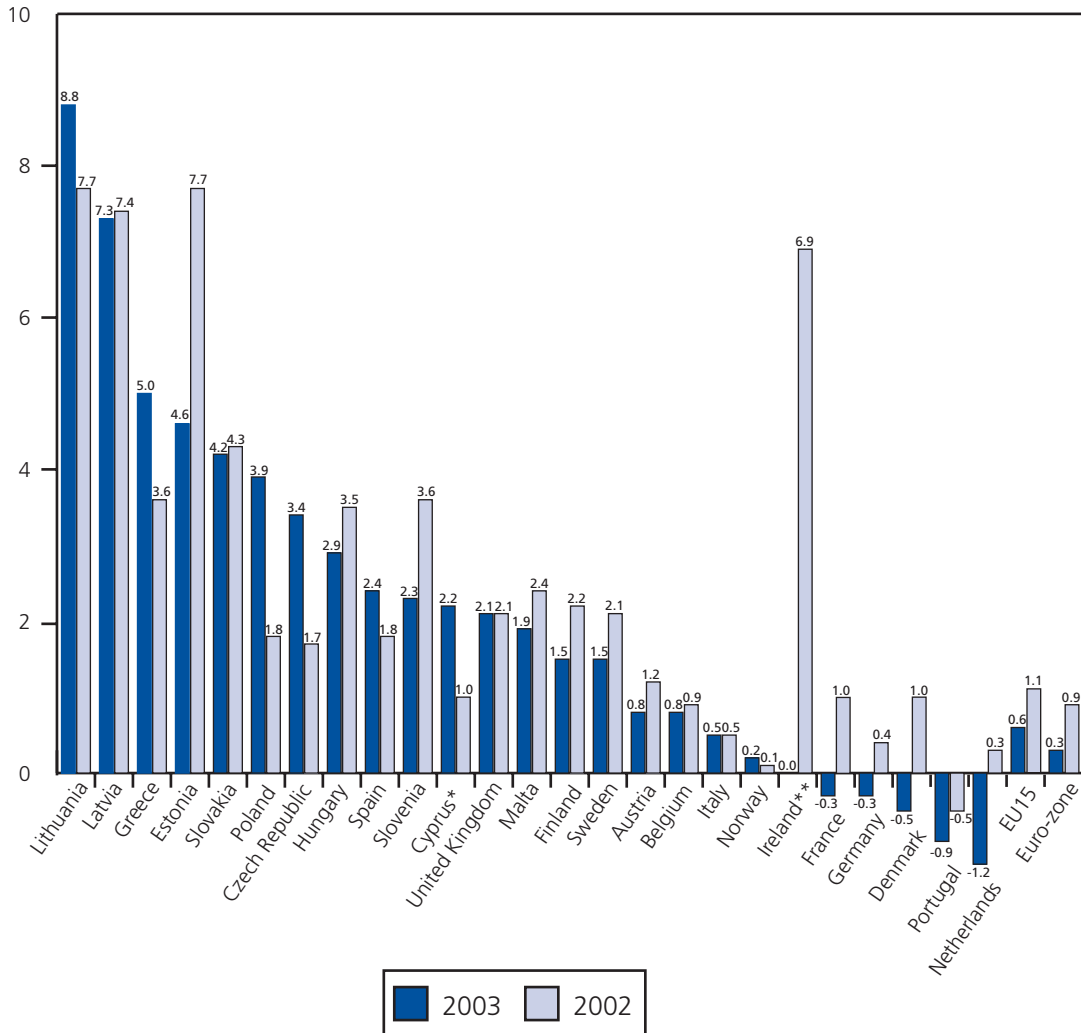
Ireland experienced zero growth in the year to the third quarter of 2003, according to Eurostat, after many years of strong economic growth. A number of countries experienced negative growth: the Netherlands (-1.2%); Portugal (-0.9%); Denmark (-0.5%); and Germany and France (both -0.3%).

GDP growth was much stronger in the acceding countries. It averaged 3.7%, based on non-seasonally-adjusted data, in the 12 months to the third quarter of 2003. This is an increase on the 2.7% registered in the year to the third quarter of 2002. Growth rates in individual countries ranged from 8.8% in Lithuania and 7.3% in Latvia, to 1.9% in Malta and 2.2% in Cyprus.

Inflation appears to be slowing in the EU. The rate for the EU15 over the period from December 2002 to December 2003 was 1.8% and for the euro-zone 2.0%, according to Eurostat – see Figure 2 on p. 29. This compares with 2.2% in both the EU15 and the euro-zone for the period December 2001 to December 2002. Greece was the Member State with the highest rate of inflation, at 3.1%. Inflation in Ireland was also high, at 2.9%, although this is down significantly on the 4.6% recorded the previous year. Inflation was also relatively high in France (2.4%), Portugal (2.3%) and Spain (2.7%).

The acceding countries present a rather mixed picture, with inflation varying considerably in the year to December 2003. Rates range from 9.5% in Slovakia and 5.6% in Hungary to -1.3% in Lithuania and 1.0% in the Czech Republic.

Figure 1 GDP growth in the EU, Norway and the acceding countries, third quarter 2003 and 2002 (% change compared with the same quarter in the previous year)



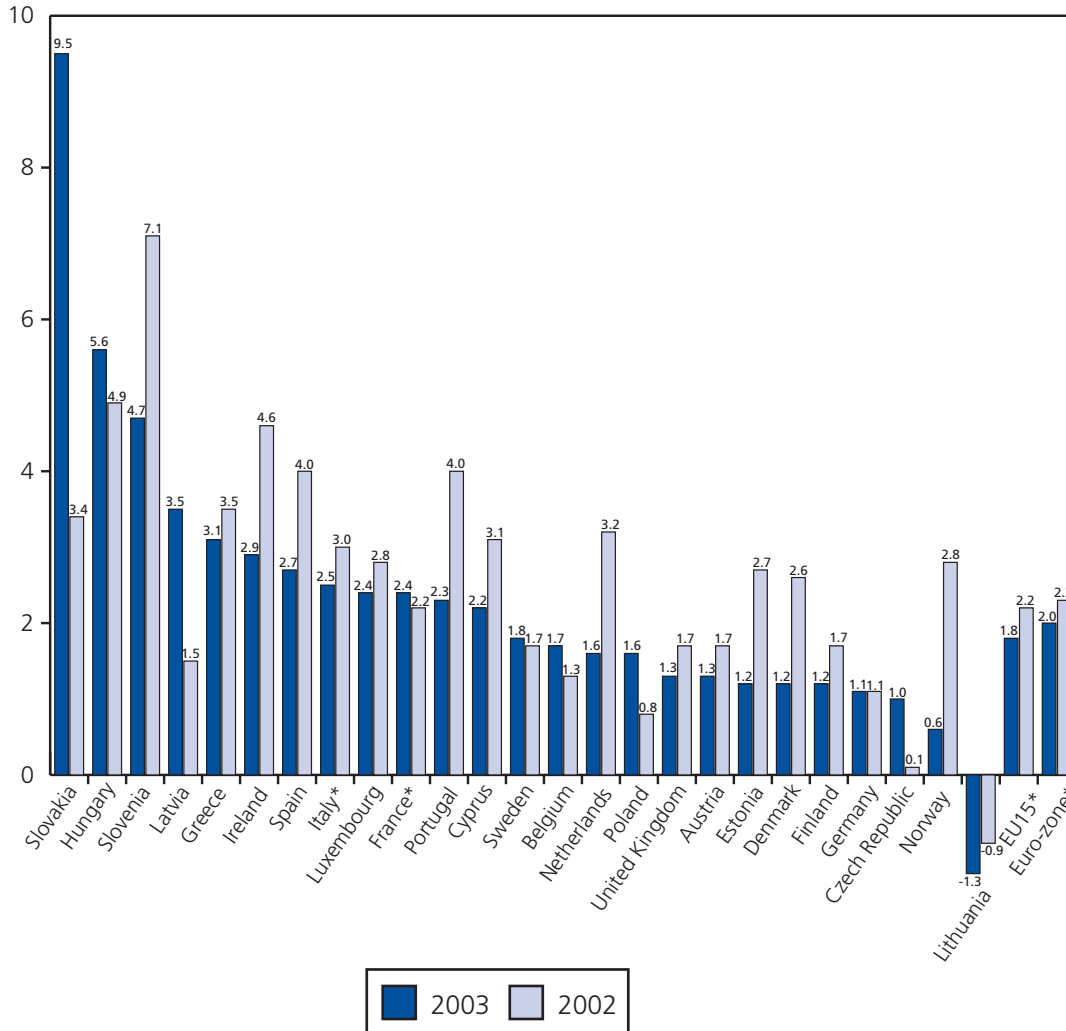
* 2002 figure provisional, ** 2002 figure not seasonally adjusted.

Source: Eurostat.

Unemployment is continuing to rise in the EU in general, despite the efforts to improve labour market performance taken at EU level and in individual Member States. The overall rate of unemployment for the EU15 was 8.0% as at December 2003, compared with 7.8% in December 2002, according to Eurostat – see Figure 3 on p. 30. The rate of unemployment in the euro-zone was 8.8% in December 2003, compared with 8.5% in December 2002.

As is always the case, the rate of unemployment varied considerably between EU countries, from 11.2% in Spain (although this is a decrease on the 11.5% recorded in December 2002), 9.5% in France and 9.2% in Germany, to 3.9% in Luxembourg (although this is higher than the 2.7% recorded in December 2002) and 4.1% in the Netherlands (November 2003 figure). Spain continued to experience problems in controlling unemployment, although the rate came down over the year. Unemployment in the majority of EU Member States increased during the year to December 2003. The exceptions were Finland, Italy, Spain, and the UK.

Figure 2 Inflation in the EU, Norway and the acceding countries, annual % increase, to December 2003 and December 2002



* 2003 figure provisional.

Source: Eurostat (except Norway, Statistics Norway)

Much of the increase in unemployment can be attributed to the continuing deterioration in the economic climate experienced during 2003. Member States will have to work hard during 2004 to try to achieve the targets set at the Lisbon European Council in 2000 (EU0004241F), and the European Commission has acknowledged recently that the EU is in danger of not fulfilling these goals (EU0402204F).

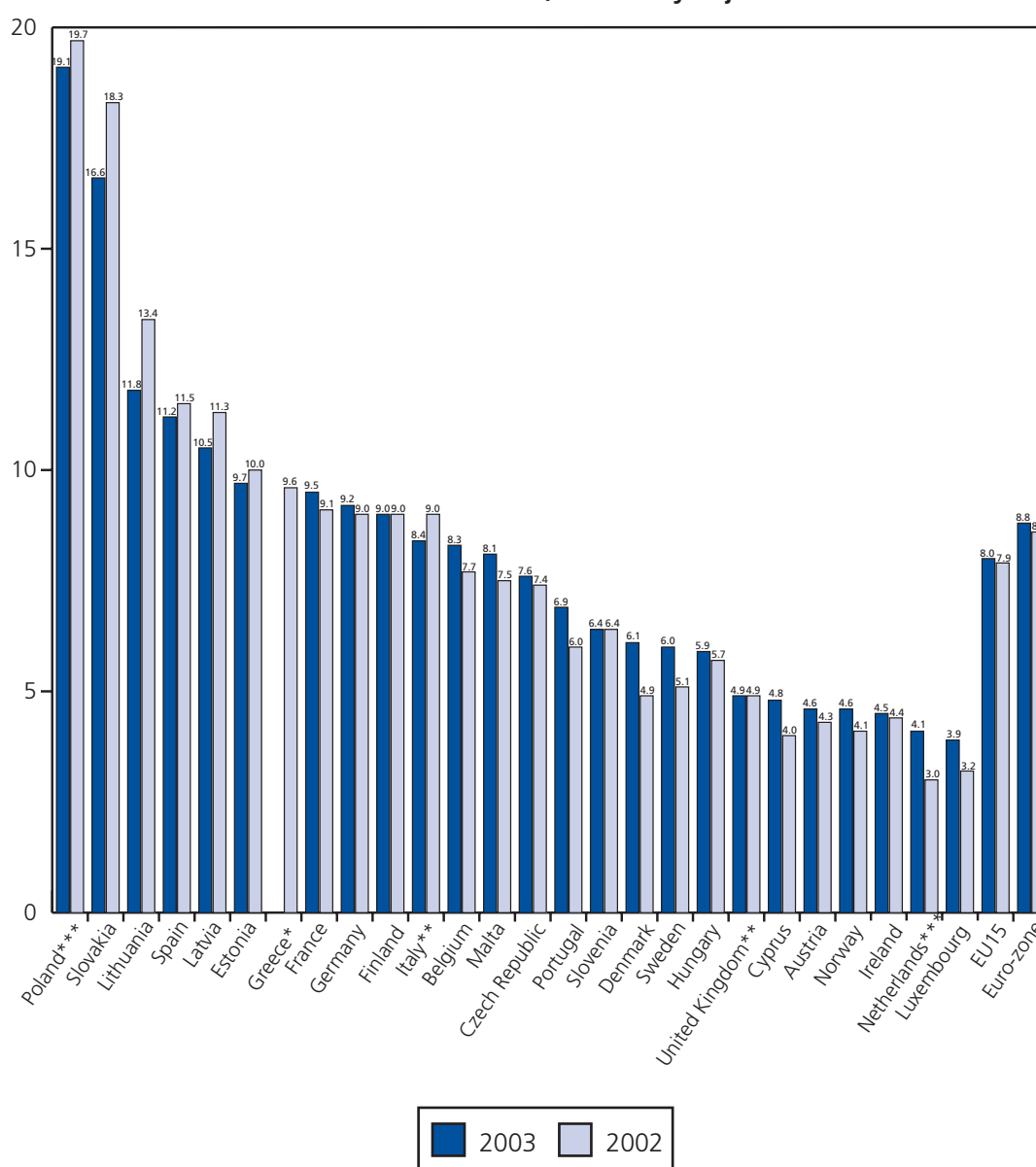
In the acceding countries, the rate of unemployment is at present much higher than in the EU Member States, although it is on a downward trend. Figures for November 2003 show an average rate of unemployment of 14.1% in the 10 acceding countries, down from 14.6% in December 2002. In the individual countries, the average rates varied from 19.1% in Poland in November 2003 (although this is down from 19.7% in December 2002) and 16.6% in Slovakia in December 2003 (down from 18.3% in December 2002) to 4.8% in the Czech Republic and 5.9% in Hungary (both December 2003 figures).

Political developments

General elections were held in Belgium, Estonia, Finland, Malta and the Netherlands in 2003. A range of other types of elections also took place during the year. For example, in Austria, elections to regional parliaments were held. Similarly, in Germany, four major regional elections at the level of the federal states were held during the year.

Presidential elections took place in Cyprus on 16 February 2003, resulting in the election of Tassos Papadopoulos. In Latvia, President Vaira Vike Freiberga was elected for a second four-year term.

Figure 3 Unemployment in the EU, Norway and the acceding countries, % of workforce in December 2003 and December 2002, seasonally adjusted



* 2003 figure not applicable, ** 2003 figure October inclusive, *** 2003 figure November inclusive
 Source: Eurostat (except Norway, Statistics Norway).

Local elections took place in a number of countries. In Bulgaria, local government elections took place, electing mayors and municipal councils throughout the country. In Italy, administrative elections were held between the end of May and the beginning of June 2003 to renew a number of local governments: two regional administrations; 12 provincial administrations; and almost 500 municipal administrations. In Malta, local elections were held in 22 localities (a third of the total) in April 2003. In May 2003, local elections were held in the whole of Spain and regional elections were held in all the autonomous regions, except Galicia, Catalonia, Andalusia and the Basque Country. Local council elections were held in England in May 2003 and local government elections took place in Norway in September 2003.

For an overview of political developments in 2003, see Table 3.

Table 3 Political situation in the EU Member States, Norway and 10 acceding and candidate countries, 2003

Country	Political situation
Austria	General elections were held on 24 November 2002, resulting in gains for the conservative Austrian People's Party (Österreichische Volkspartei, ÖVP). The ÖVP increased its vote to 42.3%, whereas its former coalition partner, the populist Freedom Party (Freiheitliche Partei Österreichs, FPÖ), saw its share of the vote collapse. After a three-month period of negotiations with all parties represented in parliament, the ÖVP decided at the end of February 2003 to continue its previous coalition with the FPÖ. Chancellor Wolfgang Schüssel of the ÖVP and Vice-Chancellor Herbert Haupt of the FPÖ presented the new government's programme for the coming legislative period on 6 March 2003 (AT0303202F). The core issues of the programme were reforms of the state pensions and taxation systems, the reduction of non-wage labour costs and the privatisation of remaining state-owned industries. In 2003, three significant elections to regional (Länder) parliaments were held. At the end of March, elections in Lower Austria brought victory for the ÖVP, which won 53.3% of the vote. The regional elections held in Tyrol in late September 2003 resulted in the ÖVP obtaining an absolute majority. However, the regional elections in Upper Austria, also held in late September, resulted in the Social Democratic Party (Sozialdemokratische Partei Österreichs, SPÖ) increasing its share of the vote to 38.3%.
Belgium	Federal elections to the chamber of deputies and senate took place in June 2003, resulting in the election of a new 'purple' coalition, made up of liberals and socialists. This replaced the previous 'rainbow' coalition of liberals, socialists and ecologists. The ecology parties suffered a significant defeat in 2003, depriving the Flemish green party (Agalev) of any representation in the federal parliament. Thus, the following parties are now in government – again led by Prime Minister Guy Verhofstadt of the VLD – for the next four years: the Flemish Liberals and Democrats (Vlaamse Liberalen en Democraten, VLD); the (French-speaking) Reform Party (Movement Réformateur, MR); the (French-speaking) Socialist Party (Parti Socialiste, PS); and the (Flemish-speaking) Social Progressive Alternative (Sociaal Progressief Alternatief, SP.A). The coalition agreement includes a number of important employment and social plans, such as creating 200,000 jobs over four years and cutting employers' social security contributions (BE0308302N).
Bulgaria	Local government elections took place in 2003, electing mayors and municipal councils throughout the country. The traditional right-leaning Union of Democratic Forces and Bulgarian Socialist Party retained their positions in local government to a large extent, although new opposition parties are starting to emerge. The party forming the national government, National Movement Simeon the Second, registered very low results, leading to increased internal pressure in this party.
Cyprus	Cyprus has been governed since 1993 by the conservative Dimokratikos Synagermos Party, supported by the Liberal Democrat Party (EDIK). Presidential elections took place on 16 February 2003, resulting in the election of Tassos Papadopoulos, with the support of four parties: the Progressive Party of the Working People of Cyprus (AKEL); the Cyprus Democratic Party (DIKO); the United Democratic Union of the Centre (EDEK); and the ecology party.
Denmark	The government formed in November 2001 by the Liberal Party (Venstre) and the Conservative Party (Det Konservative Folkeparti), headed by Liberal leader Anders Fogh Rasmussen, continued in office during 2003. The next parliamentary elections will be held in 2005.

Table 3 (continued)

Country	Political situation
Estonia	A general election was held in March 2003, resulting in the left-of-centre Estonian Centre Party (Eesti Keskerakond) and the right-of-centre Res Publica (founded in December 2001) gaining around 25% of the votes each. A new government was consequently formed by Res Publica, the right-wing Reform Party (Reformierakond) and the centre Estonian People's Union (Eestimaa Rahvaliit). The former government consisted of the Estonian Centre Party and the Reform Party.
Finland	Parliamentary elections took place on 16 March 2003, resulting in major gains for the then opposition Centre Party (Suomen Keskusta), which is now the largest party in the country and has 55 seats in the 200-seat parliament, with 24.7% of the votes. The Social Democratic Party (Suomen Sosialidemokraattinen Puolue) also made gains, and has 53 MPs. A new centre-left coalition government was formed (FI0304202F), headed by Anneli Jäätteenmäki (Finland's first female Prime Minister), replacing the former 'rainbow' coalition of left- and right-wing parties. It comprised ministers from the Centre Party, the Social Democratic Party and the Swedish People's Party (Svenska Folkpartiet). However, soon after the appointment of the new government, the Prime Minister was accused of having used illegal material in the election campaign and was forced to leave office in June 2003, taking the new government with her. A fresh government was appointed later that month, with an almost identical composition to the previous one. Local elections are scheduled to take place in October 2004.
France	No political elections were held in 2003 and the governing centre-right coalition of parties (headed by Prime Minister Jean-Pierre Raffarin) and President Jacques Chirac enjoyed a period without major elections, which will come to an end in the spring of 2004, when regional elections will take place. Polls suggest that overall confidence in the government appears to be diminishing, due to the worsening economic climate, the weakening of social welfare programmes and fears about job losses.
Germany	The current 'red-green' coalition government, composed of the Social Democratic Party (Sozialdemokratische Partei Deutschlands, SPD) and Alliance 90/The Greens (Bündnis 90/Die Grünen), headed by Chancellor Gerhard Schröder, continued to govern during 2003. However, four major regional elections in the federal states brought mixed results. In Bremen a coalition government of SPD and the Christian Democratic Party (Christlich Demokratische Union, CDU) defended its majority, as did the conservative Christian Social Union (Christlich Soziale Union, CSU) in Bavaria. In Hesse, the ruling coalition of the CDU and the Free Democratic Party (Freie Demokratische Partei, FDP) was replaced by a CDU government, while the SPD government in Lower Saxony was voted out of office and replaced by a CDU/FDP coalition. As a result of these elections, the federal opposition parties (CDU/CSU and FDP) successfully defended their majority in the second chamber of parliament (Bundesrat). As many legislative initiatives in the industrial relations and employment fields require a majority in both chambers of parliament, the government has been forced to find political compromises with the conservative and liberal opposition parties.
Greece	The ruling Pan-Hellenic Socialist Movement (Panellino Sosialistiko Kinima, PASOK), which came to power in 2000, remained in office during 2003, headed by Prime Minister Konstantinos Simitis. The next election was scheduled for early May 2004. However, on 7 January 2004, the Prime Minister announced his intention to resign as chair of PASOK after the election, automatically bringing the election forward to 7 March 2004.
Hungary	The Hungarian Socialist Party (Magyar Szocialista Párt, MSZP) and the liberal Alliance of Free Democrats (Szabad Demokraták Szövetsége, SZDSZ), elected in April 2002, continued to govern during 2003. However, 2003 proved to be a rather turbulent year in terms of the economy. In March, the Minister of Finance began informal negotiations with trade unions on a mid-term economic policy which would cap further wage increases. However, the unions refused and negotiations broke down in the early summer. The government subsequently issued a unilateral proposal on postponement of tax reductions, among other matters. However, this was severely criticised by opposition parties and trade unions and caused tensions within the coalition itself.
Ireland	The coalition of the majority centrist Fianna Fail party and the small right-of-centre Progressive Democrats (PDs), elected in May 2002, continued to govern during 2003.
Italy	The centre-right coalition of parties elected in May 2001, the House of Freedoms (Casa delle Libertà), continued to govern during 2003, led by Prime Minister Silvio Berlusconi. The coalition is composed of Forza Italia, the National Alliance (Alleanza Nazionale), the Northern League (Lega Nord) and the Centre Christian Democratic Union (Unione Democratica Cristiana di Centro, UDC). Administrative elections were held between the end of May and the beginning of June 2003 to renew a number of local governments: two regional administrations; 12 provincial administrations; and almost 500 municipal administrations. The centre-left coalition, which forms the parliamentary opposition, performed well in these elections. Important administrative elections will be held in the spring of 2004.

Table 3 (continued)

Country	Political situation
Latvia	Elections for the state President were held in 2003, following the expiry of the previous four-year term in June. President Vaira Vīķe Freiberga was elected for a second term. The government during 2003 was a coalition of the centrist New Era (Jaunais laiks, JL), the centre-right Latvia First Party (Latvijas Pirmā Partija, LPP), the Green and Farmers Union (Zaļo un Zemnieku savienība, ZZS) and the conservative Alliance Fatherland and Freedom-LNNK (Apvienība Tēvzemei un Brīvībai/LNNK, TB/LNNK).
Luxembourg	The coalition government, made up of the Social Christian Party (Chrëschtlech Sozial Vollekspartei, CSV) and the Democratic Party (Demokratesch Partei, DP), which came to power in August 1999, continued in office during 2003. The next legislative elections are scheduled for 2004.
Malta	General elections were held on 12 April 2003, resulting in victory for the ruling Nationalist Party (Partit Nazzjonalista), with 51.8% of the vote. These elections took place a month after a referendum on joining the EU, which resulted in a 'yes' vote, supported by the Nationalist Party. Eddie Fenech-Adami was re-elected Prime Minister. Local elections were held in 22 localities (a third of the total) on the same day as the EU referendum. The Malta Labour Party (Partit Laburista) won around 7% more votes than the Nationalist Party. The next local elections will take place on 12 June 2004 in 22 local councils.
Netherlands	The parliamentary elections of January 2003 (NL0302101N) resulted in gains for the governing Christian Democratic Appeal (Christen Democratisch Appel, CDA) party and the opposition social democratic Labour Party (Partij van de Arbeid, PvdA). The right-wing populist List Pim Fortuyn (Lijst Pim Fortuyn, LPF), which had been part of the previous government, lost significant ground, retaining only eight of its 26 seats. Subsequent coalition negotiations between the CDA and the PvdA broke down and were followed by negotiations between the CDA and two liberal parties – the liberal Party for Freedom and Democracy (Vereniging voor Vrijheid en Democratie, VVD) (part of the previous coalition) and the social liberal Democraten 66 (D66) – which resulted in an agreement in May 2003 (NL0306101N). The new government outlined a package of cutbacks, mainly in the area of social security, aimed at achieving a balanced state budget by 2007. This caused controversy among trade unions. Nevertheless, the government and the social partners agreed in autumn 2003 on a 'social agreement' for 2004, including, among other points, a temporary wage freeze (see references in the following section).
Norway	The centre-right minority coalition government which took office in October 2001, comprising the Conservative Party (Høyre), the Christian Democratic Party (Kristelig Folkeparti, KRF), and the Liberal Party (Venstre), remained in power during 2003 under Prime Minister Kjell Magne Bondevik. Local government elections took place in September 2003, with very poor results for the KRF. The Conservative Party also experienced a drop in support. The Norwegian Labour Party (Det norske Arbeiderpartei, DnA), improved its standing with the electorate, but nevertheless experienced a slight drop in support compared with previous local elections.
Poland	The coalition government elected in 2001, made up of the left-wing Democratic Left Alliance (Sojusz Lewicy Demokratycznej, SLD), the Labour Union (Unia Pracy, UP) and the Polish Peasants Party (Polskie Stronnictwo Ludowe, PSL), broke up in March 2003. The SLD and UP subsequently continued in office as a minority coalition government. A number of independent deputies backed the government in numerous important votes. 2003 was marked by several cabinet members losing their jobs, including the deputy Prime Minister and the Minister of Finance. The new deputy Prime Minister put forward a package of reform measures aimed at reducing public expenditure (PL0312107F).
Portugal	The coalition of the centre-right Social Democrat Party (Partido Social Democrata, PPD/PSD) and the right-wing People's Party (Partido Popular, CDS/PP), elected in March 2002, continued to govern during 2003. The political debate during the year was dominated by the worsening economic situation.
Romania	The present Social Democratic Party (Partidul Social Democrat, PSD) government was elected in November 2000 for a four-year term. The Prime Minister is Adrian Nastase. The next elections are due in the autumn of 2004. The government was reorganised in June 2003, following criticisms that it was too large. Thus, the number of ministers was reduced from 24 to 15.
Slovakia	The government elected in September 2002 – a coalition of the Slovak Democratic and Christian Union (Slovenská Demokratická a Kresťanská Únia, SDKÚ), the Hungarian Coalition Party (Magyar Koalíció Pártja/Strana Madarskej Koalície, MKP/SMK), the Christian-Democratic Movement (Kresťansko Demokratické Hnutie, KDH) and the New Civic Alliance (Aliancia Nového Občana, ANO) – continued in office during 2003. There were a number of problems regarding internal relations between the coalition parties during 2003, although the government continued to function, implementing reforms in the social and economic fields.

Table 3 (continued)

Country	Political situation
Slovenia	The current government is a centre-left coalition, headed by Prime Minister Anton Rop. The coalition parties are Liberal Democracy of Slovenia (Liberalna Demokracija Slovenije, LDS), the United List of Social Democrats (Združena Lista Socialnih Demokratov, ZLSD), the Slovenian People's Party (Slovenska Ljudska Stranka, SLS-SKD) and the Democratic Party of Pensioners of Slovenia (Demokratska Stranka Upokojenecv Slovenije, DeSUS). The next general election is scheduled to be held in 2004.
Spain	The government of the centre-right People's Party (Partido Popular, PP), elected in March 2000, continued in office with an absolute majority during 2003. In May, local elections were held in the whole of Spain and regional elections were held in all regions, except Galicia, Catalonia, Andalucía and the Basque Country. In the local elections, the Socialist Party (Partido Socialista Obrero Español, PSOE) obtained 200,000 more votes than the PP. After the regional elections, the PP governs Castilla-León, the Canary Islands – with the support of the Canary Islands Coalition (Coalición Canaria) – the Balearic Islands, La Rioja, Murcia, Navarre and Valencia. The PSOE governs Asturias – with the support of the United Left Party (Izquierda Unida, IU) – Cantabria – with the support of the Cantabrian Regionalist Party (Partido Regionalista Cántabro) – Castilla-la Mancha and Extremadura. In Madrid, the regional elections were won by a left-wing alliance of the PSOE and the IU. In Catalonia regional elections were held in November and were won by a left-wing coalition of the Socialist Party of Catalonia (Partit dels Socialistes de Catalunya, PSC), the Initiative for Catalonia/Green Party (Iniciativa per Catalunya-Verds, ICV) and the Republican Left Party (Esquerra Republicana de Catalunya, ERC). The next general elections are scheduled for 14 March 2004.
Sweden	The minority Social Democratic Party (Socialdemokratiska Arbetarepartiet, SAP) administration, elected in 2002, continued in office during 2003. It operates with the help of the Left Party (Vänsterpartiet) and the Green Party (Miljöpartiet de Gröna). The next election will take place in 2006.
UK	The Labour Party, which was returned to power in June 2001 for a second five-year term, continued in office throughout 2003. Local council elections were held in England in May 2003, resulting in modest gains for the Conservative Party and Liberal Democrat Party at the expense of the Labour Party. Labour lost control of a significant number of councils and the Conservatives now control the largest number. Labour lost seats in the Scottish Parliament, but gained them in the Welsh Assembly, remaining the largest party in each case.

Source: EIRO.

Collective bargaining developments

General

A range of important collective bargaining developments took place in EU Member States and acceding and candidate countries during 2003. For a summary of events in individual countries, see Table 4 on p. 36.

A number of new national-level agreements with general pay and employment conditions provisions were concluded during the year. In Ireland, after some weeks of debate, the social partners finally succeeded in concluding a new accord in January 2003 (IE0301209F), which was ratified in March (IE0304201N). In Spain, 2003 was covered by a second successive national intersectoral agreement setting the framework for lower level bargaining (ES0302204F). In Belgium, a new intersectoral agreement was officially signed in January 2003, covering 2003 and 2004 (BE0302302F). In the Netherlands, the social partners reached an agreement with the government late in the year which will freeze pay during 2004 (NL0310103F). In Norway, central agreements revised (though only for low-paid workers) the wage rates set by two-year accords concluded in 2002. In April 2003, the Slovenian government and social partners signed a 'social agreement' for 2003-5, setting the general direction for economic and social development and containing important provisions on issues such as wage policy, employment, training, social dialogue, equal opportunities and taxation. Finland and Greece were covered in 2003 by the provisions of national intersectoral agreements concluded in the previous year. Attempts to conclude national tripartite social pacts failed during 2003 in Bulgaria, Poland and Romania. Intersectoral agreements of

various kinds on specific themes were concluded in countries such as Estonia, France, Hungary, Italy and Luxembourg.

As the above indicates, nationally centralised bargaining of some sort over core pay and working conditions issues remains strong in those EU countries where it has a relatively long history – Belgium, Finland, Greece and Ireland – while, interestingly, two other Member States have introduced (or returned to) some degree of intersectoral coordination of bargaining in the past couple of years – the Netherlands and Spain.

The sector remains a key level of bargaining in most current Member States and a few acceding and candidate countries (notably Bulgaria and Slovakia). In countries such as Austria, Germany, Greece, Italy, the Netherlands, Portugal, Slovakia and Spain, sectoral bargaining proceeded in the usual way in 2003, though there was very little industry-level bargaining in Denmark and Sweden, as most branches were still covered by previous multi-year agreements. However, the year saw increasing pressure on industry-level bargaining in one of its strongholds, Germany. Here the coverage of sectoral agreements is, while still comparatively high, eroding (though companies not covered by such agreements still often use them as a reference when determining pay and conditions) and there is increasing use of ‘opening clauses’, allowing company-level deviations from the sectoral rules in certain circumstances. These issues were the topic of a heated political debate in 2003, with employers and many politicians seeking a further decentralisation of bargaining (DE0312202F). In France, the government proposed legislation which would change the hierarchical relationship between the various levels of bargaining by allowing company-level agreements to depart from the provisions contained in sectoral agreements unless this is explicitly forbidden by the latter agreements, except in certain specified areas (FR0311101N). Decentralisation is also on the agenda in Slovenia, though in this case from intersectoral to sectoral level. By contrast, multi-employer bargaining, while still limited, is growing in importance in Poland. Bargaining is already highly decentralised to company or workplace level in many acceding countries – such as Cyprus, Estonia, Hungary, Latvia and Malta – and, in the current EU, in Luxembourg and the UK.

With regard to the scope and coverage of bargaining, the overall picture seems relatively stable in the current EU, though fewer agreements were concluded in 2003 than in the previous year in Greece and Portugal. The situation is in greater flux in the acceding and candidate countries. For example, bargaining coverage is low and falling in Estonia, while in Hungary it dropped sharply from about 45% of the workforce in 2001 to 40% in 2002. Conversely, bargaining coverage seems to be increasing in Bulgaria (sectoral agreements) and Latvia. In Poland, coverage is low and bipartite bargaining does not generally play a significant role in regulating pay and conditions.

There were a number of examples in 2003 of collective bargaining extending to new areas. In November, a first national agreement for the private social and health services sector was concluded in Austria, covering some 35,000 workers (AT0312202F). In Germany, following new legislation on temporary agency work, trade unions concluded several collective agreements with employer associations to cover the 300,000-plus employees of such agencies (DE0308203F). In Italy, a first sectoral agreement for the rail industry was concluded in April (IT0305203F).

Table 4 Trends in collective bargaining in the EU Member States, Norway and 10 acceding and candidate countries, 2003

Country	Trends
Austria	Bargaining in 2003 was, as usual, conducted at sectoral level. The Austrian Trade Union Confederation (Österreichischer Gewerkschaftsbund, ÖGB), states that there were around 450 separate agreements concluded in 2003. The number of agreements increases each year, due to the tendency to negotiate in narrower branches or for sectors to split into subsectors, and due to the fact that bargaining is gradually being extended to new sectors. For example, in November, the first national agreement for the private social and health services sector was concluded, covering some 35,000 workers (AT0312202F).
Belgium	2003 was governed by the first year of a new two-year intersectoral agreement for the private sector, officially signed in January 2003 (BE0302302F). This accord establishes a 'wage norm' of 5.4% for wage growth in 2003 and 2004. Care was taken not to set the figure too high for 2003, as low economic growth is expected. The social partners are also aiming to ensure that pay growth in Belgium does not exceed that in three neighbouring countries – France, Germany and the Netherlands. The agreement also contains provisions on matters such as promoting employment and training. The intersectoral deal provides the framework for subsequent bargaining at sector and company level.
Bulgaria	Amendments to the Labour Code in 2001 require that collective agreements should in principle run for one year, unless the parties agree to a longer term, although this must not exceed two years. After this, negotiations were launched in all sectors. There were 63 sectoral collective agreements covering the period 2002-3, covering an estimated 40% of all employees (BG0312203F). The main bargaining issues included employment, the introduction of higher minimum wage rates, pay for overtime and nightwork and longer paid annual leave.
Cyprus	Bargaining in Cyprus occurs at sectoral and enterprise level. However, collective bargaining is decentralised, with most taking place at enterprise level. In 2003, there were 13 sectoral agreements and 450 enterprise agreements in force. In November 2003, the Cyprus Workers' Confederation (SEK) called for the contents of collective agreements to be made legally binding – agreements are currently voluntary in nature (CY0402102N).
Denmark	Most sectors were covered in 2003 by the terms of earlier multi-year industry-level agreements (which allow varying leeway for subsequent company bargaining). However, bargaining took place in two private sector areas: banking and finance, and slaughterhouses and meat processing. The banking and finance sector agreements resulted in a 6.2% increase in costs over two years (DK0302102F), while the slaughterhouse and meat processing sector agreements will raise costs by between 4.5% and 5% (DK0305101N). In both cases, the new agreements introduced an innovative system of 'individual options', whereby employees can decide on the use of a certain amount of the overall wage sum – e.g. choosing between higher pay and more time off – within the collective framework of the agreements.
Estonia	Bipartite collective bargaining at sector and company level remained quite limited (E0309102F). The overall rate of coverage by bargaining stands at 28% of the workforce, sectoral agreements are few (in transport and in healthcare) – though trade unions are seeking to sign more – and company agreements cover only a small proportion of enterprises. November saw the conclusion of two national tripartite agreements: on a new Employment Contracts Act (EE0309101N); and on an increase in minimum non-taxable income, from EEK 1,000 a month to EEK 1,400 a month in 2004 and EEK 2,000 a month by 2006. Two bipartite central agreements between the Confederation of Estonian Trade Unions (Eesti Ametiühingute Keskliit, EAKL) and the Estonian Employer Confederation (Eesti Tööandjate Keskliit, ETTK) were also concluded in 2003. In September, they agreed on the principles of the draft Employment Contracts and in November on the increase in the minimum wage for 2004 (EE0311101N).
Finland	A new central incomes policy agreement was concluded in November 2002 and came into force on 1 February 2003. The accord increases pay costs by 2.9% from 1 March 2003 and a further 2.2% from 1 March 2004, in addition to covering a range of areas such as working time, training, partial care leave and the status of worker representatives. In February-March 2003, new collective agreements were signed for a number of sectors and employee groups which chose not to be part of the central agreement (FI0303202N). However, these groups are relatively small and it is estimated that the central agreement covers over 90% of employees.
France	Intersectoral collective bargaining significantly influenced the course of political events in a number of areas in 2003, such as including pension reform, unemployment benefit and vocational training. Pay and working time continued to be major themes at sector and company level during the 2003 bargaining round. These themes were often bargained jointly, but pay is regaining precedence. Late in the year, the government proposed legislation (FR0401110F) to reform some of the rules for bargaining, notably introducing a 'majority principle' for the conclusion of collective agreements (i.e. agreements would essentially be valid only if concluded by trade unions supported by a majority of employees concerned, or not opposed by most unions) and allowing company-level agreements to depart from the provisions of sectoral agreements unless this is explicitly forbidden by the latter.

Table 4 (continued)

Country	Trends
Germany	New collective agreements were signed in 2003 affecting 8.9 million employees, or 44% of all those covered by an agreement. Bargaining continued to be conducted primarily at sector level, but a trend towards decentralisation continued, notably through: a decline in the number of employees covered by sectoral agreements and a growth in company agreements; and more flexibility within sectoral agreements through 'opening clauses' allowing companies to diverge from sectoral provisions under certain conditions. Research indicates that in 2002 only 44% of west German and 20% of east German establishments were covered by a sectoral collective agreement. The proportion of employees covered by a sectoral agreement was 63% in west Germany and 43% in east Germany. These trends led to a major political debate on the future of the bargaining system, and in particular on decentralisation (DE0312202F). With regard to the content of agreements, collectively-agreed pay rose by 2.5% in 2003, compared with 2.7% in 2002. The collectively-agreed average working week remained unchanged, at 37.7 hours (39 hours in the east and 37.4 hours in the west). Other issues dealt with in 2003 included: further training (in chemicals – DE0307205F); supplementary benefits for working unsocial hours on Saturdays (in retail – DE0401201N); and integrated pay schemes for blue- and white-collar employees (in metalworking).
Greece	A total of 28 national occupational collective agreements, 26 local occupational collective agreements, 52 sectoral agreements and 168 enterprise agreements were concluded in 2003, fewer overall than in the previous year. Pay grew by around 3.9%, based on the provisions of the National General Collective Agreement for 2002-3.
Hungary	Collective bargaining coverage has declined in recent years, falling to about 40% in 2002 (HU0401103F). Private sector collective agreements are predominantly concluded at enterprise level and mainly in larger firms, while workplace-level agreements are less common in the public sector, where terms and conditions of employment are regulated by law. The government decided not to increase the minimum wage in 2003 and called for moderate wage growth, offering a tax reduction scheme as compensation. The tripartite National Interest Reconciliation Council (Országos Érdekegyeztető Tanács, OÉT) recommended that real pay growth should not exceed 4.5% in 2003, but did not set a concrete figure on nominal pay increases. Most enterprise-level wage agreements for 2003 were generally in line with this recommendation. On average, collective agreements stipulated an overall 8.1% nominal gross wage increase, while basic wages were raised by 5.7%.
Ireland	The main collective bargaining development of 2003 was the securing of a sixth successive national partnership deal. The <i>Sustaining Progress</i> agreement was ratified in March (IE0304201N), covering the unionised public and private sector. It provides for a total pay increase of 7% in instalments over 18 months. In addition public servants were, following a pay 'benchmarking' exercise, awarded increases averaging 8.9%, to be paid in instalments. <i>Sustaining Progress</i> also contains provisions on matters such as new compliance measures for the national pay agreement, improved statutory redundancy pay, an increase in the minimum wage and worker representation.
Italy	The two-tier bargaining structure (national sectoral agreements and company/local agreements) remained unchanged. At the end of November 2003, a total of 57 national sectoral collective agreements were in force (out of those examined by an Istat survey), covering some 8.6 million employees. At this time, 19 agreements were awaiting renewal, covering 3.7 million employees. The main agreements signed in 2003 in the public sector included those for: ministry employees in February (IT0303204F); postal workers in July (IT0308103N); and employees of local bodies in October (IT0311103N). In the private sector, agreements were signed for: print workers in April (IT0305101N); the food sector in July (IT0308102N); insurance in July (IT0309102N); tourism in July (IT0309101N); and chemicals in December (IT0401102N). A metalworking agreement was concluded in May 2003 (IT0305204F), although one of the three main sectoral unions, Fiom-Cgil, did not sign the accord and subsequently campaigned for the reopening of negotiations. A first sectoral agreement for the rail sector was concluded in April (IT0305203F). In June 2003, the Confindustria Employer confederation and the three main trade union confederations signed a pact aimed at relaunching development, employment and competitiveness in Italy (IT0307105F).
Latvia	A total of 2,368 collective agreements were concluded in 2003, a 150% increase on the number concluded in 1998. Collective bargaining is generally reported to be becoming more widespread and is more typical in larger enterprises, state and local government enterprises and in former state-owned service enterprises and industry. The main themes include pay and training.
Luxembourg	Most collective agreements continue to be signed at company level. Pay is the main issue addressed. Since 2001, most agreements have provided for annual pay increases of 1.5% – in addition, Luxembourg has an automatic pay indexation system that caused all wages to rise by 2.5% in August 2003 (LU0309101N). In May, the social partners signed an intersectoral agreement aimed at facilitating access to continuing vocational training, including new schemes for unpaid and individual training leave (LU0305101F).
Malta	All collective agreements are negotiated at company level. The Department of Industrial and Employment Relations estimates that 41 collective agreements were concluded in 2003. Trade unions adopted a policy of wage moderation in 2003 and average agreed pay rose by 2.5%.

Table 4 (continued)

Country	Trends
Netherlands	A policy of pay moderation continued in 2003, with agreements (mainly sectoral, with some at company level) concluded early in the year adhering to the ceiling of 2.5%, recommended by the main trade union confederations (NL0303102N). On average, collective agreements concluded in 2003 provided for a pay increase of 2.8%, compared with 3.2% in 2002, suggesting a degree of moderation. The highest increase in 2003 was agreed in the care sector (4%). Other issues in bargaining included variable pay systems, employability, early retirement/flexible pension schemes and the integration/reintegration of employees with disabilities. In late 2003, the government and social partners agreed a freeze in collectively agreed wages during 2004.
Norway	Bargaining in the private sector in 2003 was 'intermediate', i.e. there were centralised negotiations concerned only with revisions to the wage rates in the two-year national sectoral agreements concluded in 2002. The 2002 wage round had generated overall wage growth of 5.7%, which was widely regarded as too high in the light of the present economic situation, and its 'carry-over' effect was also expected to contribute to significant wage growth in 2003. The social partners thus sought to reduce the rate of pay growth, bringing it closer to the level in Norway's main trading partners. It was therefore agreed to award no central pay increases for 2003 – though company-level negotiations took place as normal – but groups with a low average wage received an hourly increase of between NOK 1.95 and NOK 2.85 (NO0304101N).
Poland	Collective bargaining has relatively little overall impact on industrial relations, with many issues regulated either by legislation or by tripartite bodies at national and regional levels. According to the State Labour Inspection (Państwowa Inspekcja Pracy), 230 new single-employer collective agreements were concluded during the first six months of 2003, covering approximately 96,000 employees, while 199 such agreements were suspended partially or entirely. In total, 8,332 single-employer agreements were in force after the first half of the year. Although multi-employer agreements are still relatively rare (especially in the private sector), there has been a steady growth in these agreements in recent years. As at the end of May 2003, the Ministry of Economy, Labour and Social Policy stated that 157 multi-employer agreements and 137 additional protocols to such agreements were in force, covering around 1 million employees, working for more than 4,300 employers. National tripartite dialogue led to an 8.4% increase in the statutory gross minimum wage (PL0312105F), but lengthy negotiations over a proposed wide-ranging social agreement ended in failure (PL0312104F).
Portugal	The number of agreements negotiated in 2003 was around 2.1% lower than during 2002, although the proportion of the types of agreements negotiated (sectoral and company) remained constant. Pay and pay-related items remain the most common bargaining topics. Other issues covered included working time, vocational training, annual holidays, supplementary social security schemes, trade union rights and health and safety.
Romania	Approximately 11,200 collective agreements were concluded in 2003, almost all at company level – in companies with more than 50 employees, of which there are between 15,000 and 16,000, collective bargaining is compulsory. One national agreement and 20 sectoral agreements were concluded. The average collective-agreed basic pay increase was 41.5% in nominal terms and 25.1% in real terms. There were wide differentials between sectors, ranging from 22.5% in electronics and 25% in the transport and the food industry, to 41.5% in commerce. In October, the government proposed a tripartite 'social stability pact', covering 2004, but the initiative seemed doomed to failure at the end of 2003, mainly because of a government decision to set a minimum wage rate far below that demanded by the unions (RO0401104F).
Slovakia	The sector is the key level of bargaining, with around 40% of the workforce covered by agreements concluded at this level. A total of 53 sectoral collective agreements were officially registered – nine fewer than in 2002, although this is because many agreements concluded in 2002 were still valid. Pay was the focus of most bargaining, and the average collectively-agreed increase was between 7% and 8%.
Slovenia	Bargaining in 2003 took place within the context of a tripartite social agreement for 2003-5, setting out guidelines for the country's economic and social development (SI0307101F). The bargaining parties were asked to keep pay growth down in order to keep the economy on track. The key level of wage bargaining is the tripartite intersectoral one, and pay increases in 2003 were governed by private and public sector pay policy agreements for 2002-4. However, in general, there is a shift towards decentralisation in bargaining, with commentators expecting that the intersectoral national general agreement for the private sector will become less influential and that sectoral agreements will gain in importance. In 2003, 34 sectoral or subsectoral collective agreements were in place (five in the public sector and 29 in the private sector), but only one new sectoral agreement was concluded – in the post and courier activities sector in May (SI0401103F).
Spain	In 2003, for the second year running, bargaining at sector and company level was conducted within the framework of a national intersectoral agreement (E50302204F). This provided for pay moderation, stating that settlements should take into account the government's inflation target; increases in productivity and the specific situations of companies and sectors. It also promoted increased employment stability in exchange for more flexible working time, equal treatment and non-discrimination. Overall, it would appear that purchasing power kept pace with inflation in 2003 – the average collectively-agreed pay increase was 3.5% as at October 2003. Inflation over the year was 2.6%.

Table 4 (continued)

Country	Trends
Sweden	2003 was a quiet year in terms of collective bargaining, as most sectors were covered by three-year accords negotiated in 2001. However, the Swedish Municipal Workers' Union (Svenska Kommunalarbetsförbundet, Kommunal) cancelled its three-year agreement for 420,000 blue-collar workers in the municipal and city council sector one year early in order to renegotiate the pay provisions. After lengthy industrial action, an agreement was reached providing for a rise in the lowest pay rates and average increases, to be distributed in local bargaining, of 3.95% in 2003 and 2.45% in 2004 (SE0306103F). A new agreement for electricians was signed in June (SE0308101N). In the autumn, preparations began for the 2004 bargaining round (SE0401104F).
UK	Collective bargaining in the UK continues to be highly decentralised, with most bargaining carried out at company or workplace level and little multi-employer bargaining outside the public sector. In terms of pay, collectively-agreed basic pay rose by an average of 3.2% during 2003, while average earnings increased by 3.6%. Other notable topics of bargaining included flexible working and pensions.

Source: EIRO.

Pay

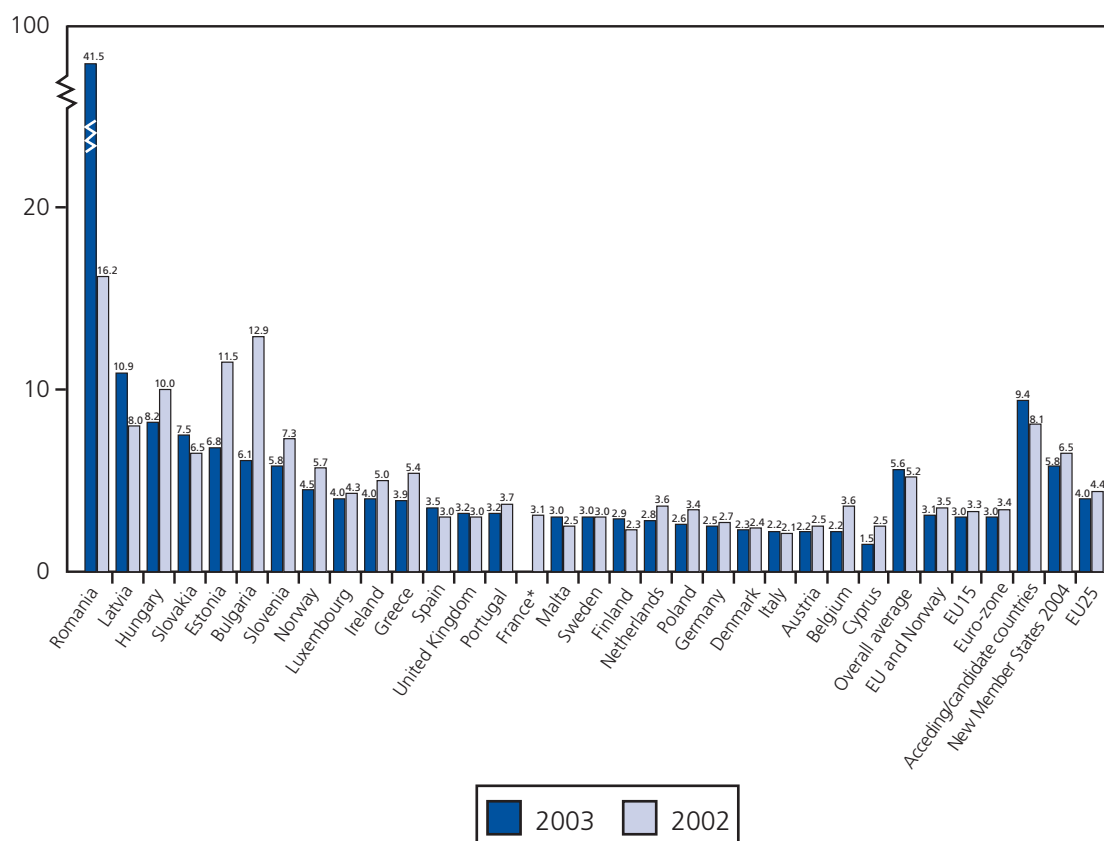
As indicated in Figure 4 overleaf, the average nominal collectively-agreed pay increase across the current EU plus Norway (as calculated by EIRO – TN0403103U) was 3.5% in 2002 and 3.1% in 2003. However, as always, there were considerable variations between countries, with agreed nominal increases ranging in 2003 between 4.5% in Norway and 2.2% in Austria, Belgium and Italy. The average increase thus fell by 0.4 percentage points from 2002 to 2003. This followed a fall from 3.8% in 2001 to 3.5% in 2002. There thus appears to be a deepening trend towards wage moderation, which began in 2002. An upward trend had previously been seen since 1999.

The downward trend in nominal wage increases was widespread across the current EU plus Norway, with the average rise falling from 2002 to 2003 in around two-thirds of countries, most notably in Greece, Belgium, Ireland, the Netherlands and Portugal. In many cases, those involved in bargaining sought to concentrate on safeguarding and creating employment in a difficult economic climate. A particularly notable example of explicit pay moderation occurred in the Netherlands, where the government and the social partners agreed in autumn 2003 to freeze collectively agreed pay during 2004 and to allow only minimal increases during 2005, depending on the economic situation (NL0310103F). This agreement was concluded in order to try to help the Dutch economy recover. In some countries, a deliberate and explicit effort was made to keep pay growth down to the average in competitor countries. For example, this was the case in Belgium, where the intersectoral agreement for 2003 and 2004 stipulates a maximum figure of 5.4% for wage increases, in an effort to ensure that pay growth does not exceed that in its three main neighbouring countries (BE0302302F). In January 2003, the Norwegian social partners issued a joint statement emphasising the need to bring the wage growth rate into line with developments among Norway's main trading partners (NO0302105F). The partners thus aimed to achieve only moderate wage increases in the spring 2003 wage settlements, and to allow the sectors exposed to international competition to establish the framework for wage negotiations in other sectors.

However, a number of countries bucked the trend towards increased nominal wage moderation. The rate of increase rose from 2002 to 2003 in Finland, Italy, Spain and the UK and remained stable in Sweden. In Spain, the social partners signed an intersectoral agreement (ES0302204F) setting out guidelines for lower-level bargaining in 2003 (the second successive accord of this type), which included provisions on pay moderation. Nevertheless, the average increase for the year to October 2003 was 3.5%, slightly higher than the 2002 increase of 3.02%.

Taking inflation into account, the average collectively agreed real pay increase across the present EU and Norway stood at 1.1% in 2003 (ranging from 2.0% in Norway to -0.3% in Italy), up from 0.9% in 2002. The average real increase thus rose by 0.2 percentage points from 2002 to 2003, compared with a fall of 0.5 points in nominal pay increases – presumably largely as a result of falling inflation.

Figure 4 Average collectively agreed pay increases, 2003 and 2002 (%)



Source: EIRO.

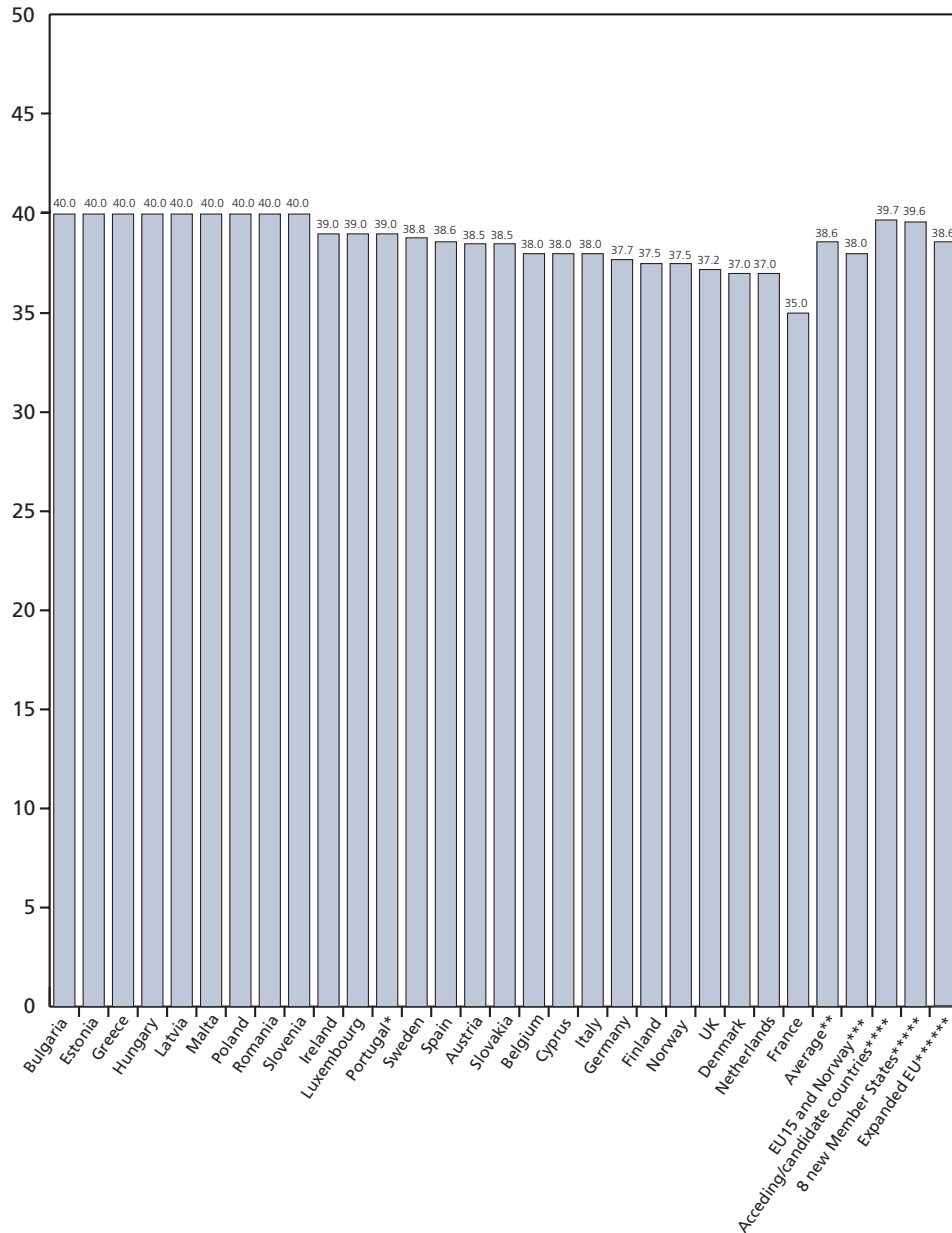
* No 2003 data available for France.

Notes on averages: overall average is of 26 countries in 2002 and 25 in 2003; EU and Norway average is of 16 countries in 2002 and 15 in 2003; EU average is of 15 countries in 2002 and 14 in 2003; Euro-zone average is of 12 countries in 2002 and 11 in 2003; acceding/candidate countries average is of 10 countries in both years; new Member States 2004 average (countries joining EU in May 2004) is of 8 countries in both years; expanded EU average is of 23 countries in 2002 and 22 in 2003.

Turning to the 10 acceding and candidate countries considered, the average nominal collectively agreed pay increase considerably exceeded that in the current EU (plus Norway) in 2003 – at 9.4%, it was 3 times higher than for the present EU (compared with 8.1%, or 2.3 times higher in 2002). However, despite this overall rise in the average wage increase, the rate of increase actually fell in six out of 10 of the countries, most notably in Bulgaria, Estonia, Hungary and Slovenia. In fact, the overall average increase was due mainly to a massive rise (of 25.3 points) recorded in Romania (though this figure refers only to the basic minimum collectively agreed wage, which will not have been reflected in actual pay for most workers). Excluding Bulgaria and Romania and looking only at the eight countries joining the EU in May 2004, the average increase stood at 5.8% in 2003,

down from 6.5% in 2002. This was still substantially higher than that in the current EU (plus Norway), but the differential fell between 2002 and 2003. It thus appears that pay trends in the new Member States were converging downwards towards those in the current EU in the light of approaching accession.

Figure 5 Average collectively agreed normal weekly hours, 2003



Source: EIRO.

* 2000 figure, ** Average all countries, *** Average EU15 and Norway, **** Average 10 acceding and candidate countries, ***** Average 8 new Member States joining EU in 2004, ***** Average expanded EU (23 Member States)

Adjusting for inflation, among all 10 acceding and candidate countries, the average real pay increase rose from 2.8% in 2002 to 4.7% in 2003. Again this increase was largely due to a massive 25.1% rise in Romania (despite this major rise in collectively agreed basic minimum pay, average earnings in Romania rose by only 9.5% in nominal terms in the first 10 months of 2003 and fell in

real terms). Removing Bulgaria and Romania from the equation results in average real increases of 3.3% in 2002 and 2.1% in 2003 – thus moving closer to the level in the current EU (plus Norway). In 2003, workers saw their nominal increases eaten up completely by inflation in Cyprus and Slovakia, resulting in real collectively agreed pay decreases.

On other aspects of pay, notable developments in 2003 included new framework agreements in several bargaining areas of the western German metalworking industry which introduced integrated pay schemes for blue- and white-collar employees and abolished the previous separate pay schemes for these two groups. Similarly, in December 2003, a collective agreement was signed in the Austrian electrical and electronics sector providing for a common pay system for blue- and white-collar workers, which is seen as a milestone in terms of pay harmonisation for the two groups (AT0402202F). Pay flexibility was in the news in some countries. In April, the UK government announced that it intends to introduce measures to increase regional wage flexibility in the public sector, drawing an angry response from trade unions (UK0306110F). In Spain, the increasing use of ‘dual pay scales’, whereby new recruits receive lower pay than existing employees doing the same jobs, was an issue of legal controversy and dispute between trade unions (ES0304204F).

Working time

As indicated in Figure 5 on the previous page, average collectively agreed normal weekly working time in the current EU plus Norway stood at 38.0 hours in 2003, compared with 38.1 hours in 2002 (according to EIRO calculations – TN0403104U). For an examination of collective bargaining on working time in 2003, see chapter 3.

Job security

Job security remains a key concern in many countries, as the economic climate stagnates and restructuring and workforce reduction exercises continue unabated. Major examples of restructuring, often accompanied by job losses during 2003 included: the French airline, Air Lib (FR0307103N); Alstom, the French-based engineering group (FR0310101N); the Arcelor steel group (BE0306303F); the Finnish-based telecommunications company, Elisa (FI0311201N); the US-based motor manufacturer, Ford (BE0311305F); GIAT Industries, the French arms manufacturer (FR0307101N); the Greek airline, Olympic Airways (GR0401104F); Scandinavian Airlines System (SAS) (DK0304102F); Slovak Television (STV) (SK0308101N); Poland’s Stalowa Wola iron and steel works (PL0309103N); and Telefónica de España, the Spanish fixed-telephony business of the Telefónica group (ES0307102N).

Job security issues featured in central agreements or negotiations in some countries in 2003. For example:

- in Finland, the incomes policy agreement for 2003-4 provides that in the event of redundancies, there should be negotiations between the employer and employee representatives in order to seek possibilities to find people under threat of dismissal a chance of re-employment with the same employer. If that is not possible, common efforts should be made with the labour authorities to help these people find a job elsewhere. All this should be done before the end of the workers’ existing employment contract. Employees under threat of dismissal should be given an ‘employment programme’ to help them find a new job, either directly or via training. Measures could include education organised by the employer or labour authorities, employment possibilities offered by the same employer, supervision of the re-employment process, help with job-search and economic support. The employees concerned must have a

chance to participate in all measures concerning them. Furthermore, the Act on Cooperation within Undertakings should be reformed and developed (see p. 54 under 'Employee participation');

- in France, the question of social measures to accompany corporate restructuring and resulting job losses was at the top of the industrial relations agenda in late 2003. In March, the government launched intersectoral negotiations among the social partners on the compensatory employment-related measures to accompany restructuring (FR0303106F). Several meetings were held during 2003, and the talks were planned to end in early 2004. The debates were marked by the vehement opposition of the trade unions to a draft plan for amending the legislation on restructuring proposed by the Movement of French Enterprises (Mouvement des entreprises de France, MEDEF) Employer confederation (FR0311106F). The plan suggests anticipating the changes affecting companies and 'improving the management of restructuring', and stresses the implementation of a lifelong training policy. To this end, larger firms should be obliged to draw up a forward management plan covering staffing levels and skills, and consult the works council on this issue on an annual basis. MEDEF also advocates a reduction of the time spent on informing and consulting the works council in the event of redundancies, and raising from 10 to 20 the number of redundancies within a company which leads to a legal requirement on the employer to produce a 'social plan', as well as limiting employees' opportunities to use the courts and shortening collective redundancy procedures;
- in Spain, the national intersectoral agreement providing a framework for lower-level bargaining in 2003 (ES0302204F) stresses the need for greater employment stability in view of the persistently high temporary employment rate. It stresses the need to promote internal and 'qualitative' labour flexibility, rather than the external and quantitative flexibility (i.e. hiring and firing) which has been the habitual practice of many companies.

Trade unions in many countries have been engaged to a considerable degree in trying to prevent or mitigate the detrimental impact of restructuring and workforce cuts on workers, and/or to ensure a high level of information and consultation over such change. For example, in Finland, where in 2003 there were many corporate restructuring announcements, the three trade union confederations organised a joint day of action in protest in December (FI0312203F). In the UK, unions continued to express concern at the level of job losses in manufacturing and other key sectors, including financial services, and to call for more effective consultation requirements on employers.

In companies faced by restructuring, there was, unsurprisingly, much bargaining activity over ways of preventing or cutting job losses, or over accompanying measures to soften the blow of redundancy. To give a few examples: in Italy, 2003 saw negotiations over major restructuring exercises, with accompanying job losses, at the Alitalia airline and Fiat motor manufacturer, while agreements to cut or cushion planned job losses were reached at firms such as Marconi (telecommunications) (IT0304105N) and Nestlé (food) (IT0304104N); measures such as pay freezes and increased working time flexibility were agreed to prevent redundancies at Volkswagen motor manufacturing subsidiaries in Portugal (PT0312101N) and Spain (ES0306202N); and a redundancy programme negotiated at SES Astra, the Luxembourg-based satellite operator, prevented any compulsory redundancies, through the use of internal and external transfers and early retirement (LU0302105F). In the UK, however, a number of high-profile employment security guarantees have been overtaken by closures or restructuring exercises in recent years.

Restructuring is particularly intense in many acceding and candidate countries – especially those in central and eastern Europe – under the pressure of forces such as modernisation, privatisation

and liberalisation. This has led to debate on the issue of how to safeguard jobs in some countries, such as Estonia (EE0309101N). Moreover, the issue of restructuring has been a major issue of debate and often confrontation (see p. 52 under 'Industrial action') between trade unions, employers and especially the government in many countries, such as Poland and Romania. However, bargaining over the employment implications, particularly at company level, seems generally to be rarer than in the current EU. There are exceptions: in Slovenia, for example, workers enjoy relatively strong participation rights at company level and can therefore exert some pressure on employers undertaking restructuring exercises. In November 2003, the state-owned Malta Drydocks and Malta Shipbuilding were restructured after lengthy negotiations between the government and the General Workers' Union (GWU). A new merged company has been created, known as Malta Shipyards, and there will be no compulsory redundancies among the 2,600-strong workforce (MT0312102N). In summer 2003, the French-based food multinational, Danone, took the decision to close one of its plants in Poland by the end of 2004, with the loss of 460 jobs. The company has agreed a major social package of financial and job-finding measures to accompany the redundancies, a very unusual move in Poland's private sector (PL0312101N).

Equal opportunities and diversity issues

Equality and diversity issues continue to be a point of focus for the social partners in many countries. Efforts are concentrated on areas such as reducing the gender pay gap and promoting equal opportunities.

Despite the existence of equality and equal pay legislation for the past three decades, the gender pay gap remains a problem in many countries and the social partners are engaged in various actions to try to reduce it. An example of joint social partner research is provided by Denmark, with the Danish Confederation of Trade Unions (Landsforeningen i Danmark, LO) and the Danish Employer Confederation (Dansk Arbejdsgiverforening, DA) publishing a joint analysis of the wages of women and men in August 2003 (DK0309103F). It is the most comprehensive study to date of the causes of gender differences in wages in Denmark, quantifying a number of factors which have a decisive impact in this area. The study finds that the average gender wage gap (to women's disadvantage) is 14%-15% among blue-collar workers and 19%-20% among white-collar workers. DA and LO are in agreement about the study's findings, but disagree as to what should be done in future to remedy the situation. Another example is the Finnish insurance sector, where gender wage gaps and equality plans are systematically monitored by the social partners. In May, the Insurance Employer Association (Vakuutusalan Työnantajyhdistys) and the Union of Insurance Employees in Finland (Vakuutusväen Liitto, VvL) published their third joint report on gender equality, which found that female clerical employees' monthly wages were 25% lower on average than those of their male colleagues in the sector (FI0306201N).

In terms of practical actions, in the UK, the Trades Union Congress (TUC), undertook a pilot project in 2003 whereby hundreds of workplace equal pay representatives were trained to address the gender pay gap and carry out pay reviews. An evaluation of the project suggested that it had played a significant part in pushing equal pay up the negotiating agenda and in prompting employers to agree to equal pay audits. In Finland, the current national incomes policy agreement includes a special equality allowance, which was to be paid in March 2003. The aim of the allowance is to boost women's pay, and its level is calculated according to a specific formula. In Austria, the new joint pay scheme in the electrical and electronics sector (see p. 39 under 'Pay') provides for a more precise definition of grades in order to prevent unfair classifications of men and women with the same formal qualifications.

With regard to more general measures aimed at improving equality of opportunity and treatment for women and men, there was considerable activity in 2003, notably in some acceding and candidate countries. In Romania, all collective agreements signed in 2003 contained equal opportunities clauses dealing with issues such as vocational training, job security and social protection. Similarly, many collective agreements in Bulgaria now contain a range of equality-related measures, in areas such as paid childcare leave and support for work-life balance. Slovenia's tripartite 'social agreement' for 2003-5 includes a number of equality provisions (SI0307101F). In the current EU, Spanish research published in October 2003 found that provisions on gender equality between men and women are beginning to gain some ground in collective agreements at sector and company level, with the situation described as 'modest but hopeful' (ES0312102F). Examples of innovative agreements signed in 2003 include the new accord for the 280,000 employees of Italian ministries, which contains pioneering provisions on preventing and combating sexual harassment (and bullying) at the workplace (IT0303204F).

Apart from gender equality, there was little new bargaining activity reported in 2003 relating to combating discrimination on other grounds, such as race, age and disability. National negotiations on the general theme of equal opportunities and diversity started in France (where racism in the workplace was subject to much debate during the year) in June 2003, but had not produced any results by the end of the year. Ireland's new national agreement contains a number of general equality and diversity provisions (IE0308202T).

Training and skills development

The development of the skills and competences of the workforce is deemed to be an essential element of the fight against unemployment and the achievement of the EU's goal of making its economy the most dynamic in the world by 2010. Accordingly, the social partners in many countries turned their attention to, or increased their focus on, the subject of training and skills development in 2003. In Belgium, for example, the specific aim of the social partners, set out in their 2003-4 intersectoral agreement, is to increase the proportion of the wage bill that is devoted to training to 1.9%, to match the average in France, Germany and the Netherlands. New training provisions were agreed in many subsequent sectoral agreements (BE0306301N).

The year saw a number of other interesting agreements at intersectoral level:

- the 2003-4 national incomes policy agreement in Finland provides for additional resources for adult training programmes and the development of learning at work;
- in September, the French social partners signed a national intersectoral agreement on employees' lifelong access to training. The accord provides for the creation of a new individual right to continuing vocational training and an increase in the financial contribution paid by employers (FR0311103F); and
- in Luxembourg, the Union of Luxembourg Enterprises (Union des Entreprises Luxembourgeoises, UEL) signed an agreement on continuing vocational training with the two main trade union confederations – the Luxembourg Confederation of Independent Trade Unions (Onofhängege Gewerkschafts-Bond Lëtzebuerg, OGB-L) and the Luxembourg Confederation of Christian Trade Unions (Lëtzebuerger Chrëschtliche Gewerkschafts-Bond, LCGB) – aimed at facilitating access to continuing vocational training and thus better meeting the demands of the labour market. The agreement, some of whose provisions require

implementation via legislation, includes new schemes for unpaid and individual training leave (LU0305101F).

The issue of training and skills development also featured in many sectoral accords. In Germany, the social partners in the chemicals sector concluded new agreements on further training (DE0307205F), providing a framework for voluntary works agreements on the issue and recommending the systematic planning of a wide range of training activities at company level, including special initiatives for various groups of employees, such as older workers, shiftworkers and workers with children. Increased efforts in this areas were recorded in the Netherlands, where 117 collective agreements signed in 2003 (covering 97% of employees covered by agreements) were found to deal with paid training. Furthermore, 76 collective agreements included training/employability arrangements for specific target groups, such as old, young and low-skilled people. In Italy, new training measures were included in a number of sectoral agreements, such as those for the food and beverages sector (which created a new joint body in charge of training – IT0308102N) and metalworking (IT0305204F).

Training was also on the bargaining agenda in acceding and candidate countries. In Bulgaria, the social partners place great emphasis on training as a means of increasing the overall qualifications level of the workforce. Thus, around 95% of agreements contain provisions dealing with education, training and development. For example, in the leather, knitwear, cotton and sewing industries, employers have agreed to dedicate 2% of annual working time for training purposes. Slovenia's tripartite 'social agreement' for 2003-5 includes a number of training provisions.

There were a number of other social partner initiatives in 2003 relating to training, or new measures which affect their role in this area. In Estonia, unions and employers sought to persuade the government to eliminate tax on employers' training costs – currently, these costs are treated as fringe benefits and taxed in the same way as wages. This issue is set to be discussed further during 2004. In the UK, the Employment Act 2002 came into force in 2003, enabling 'union learning representatives' to take paid time off to promote workplace training and development opportunities (UK0402103F). In August, the Spanish government adopted a reform of the continuing vocational training system, which came into effect at the beginning of 2004. The reform entails a certain loss of influence for the social partners in this field (ES0310110F). Finally, the Greek social partners were involved in discussions over the creation of a new National System for Linking Vocational Education and Training to Employment (ESSEEKA).

Legislative developments

As indicated in Table 5 opposite, a considerable volume of new employment and industrial relations legislation was passed or proposed during the course of 2003.

In the acceding and candidate countries, much of the new legislation passed in 2003 (as in recent years) was specifically aimed at bringing national law into line with EU requirements (the '*acquis communautaire*') ahead of joining the Union – on 1 May 2004 in most cases. This took the form of large-scale reform of Labour Codes (as in in Bulgaria, Hungary, Poland, Romania and Slovakia) and/or the adoption or proposal of new or amended legislation, resulting in new legislative provisions in areas such as: working time (as in Cyprus and Slovakia); fixed-term work and/or part-time work (Cyprus, Hungary and Slovenia); collective redundancies (as in Poland); equality/anti-

discrimination (as in Bulgaria, Cyprus, Estonia, Hungary, Malta, Poland and Slovakia); health and safety (as in Bulgaria, Estonia and Latvia); and employees' claims in the event of their employer's insolvency (as in Bulgaria and Latvia).

In the current EU, 2003 also saw some legislation to transpose EU Directives – e.g. the fixed-term work Directive in Greece and Ireland, anti-discrimination Directives in Denmark, and the working time Directive in Italy. Beyond implementation of EU law, the major legislative developments of the year included: major labour market reforms (often aimed at increasing flexibility, reducing employment and meeting the labour market targets set by the EU) in countries such as Germany and Italy; and significant (and often controversial) reforms of aspects of social security in Austria, France, Germany, Greece, Italy, Portugal and Spain. Other matters that were high on the employment law agenda during the year included the deregulation of shop opening hours, which featured in Austria, Germany and Greece.

Table 5 Main legislative developments in 2003

Subject	New legislation/proposals
'Atypical work'	Legislation implementing the EU fixed-term work Directive was finally introduced in <i>Greece</i> (GR0305101F) in April and in <i>Ireland</i> . The Directives on fixed-term and part-time work were implemented in <i>Cyprus, Hungary and Malta</i> (HU0308101F). New regulations on part-time, fixed-term and other forms of 'atypical' work came into force in <i>Slovenia</i> in January (SI0308201F). In <i>Poland</i> , the Temporary Agency Work Act was adopted in July, defining such work and setting rules on its use and on the employment conditions of agency workers (PL0308108N). In August, a law was passed in <i>Greece</i> which provides for public sector organisations to recruit unemployed people and other groups in a difficult labour market position on part-time, fixed-term contracts in order to provide certain social services (GR0309103F).
Employment, labour market and job creation	In <i>Italy</i> , 2003 saw important reforms to labour market legislation, aiming to improve the efficiency of job placement services and increase labour market participation (IT0307204F). In December 2003, the <i>German</i> parliament passed a major package of labour market reform laws (DE0401205F). The <i>Spanish</i> parliament adopted a new Employment Law in December 2003, which regulates the functioning of public employment services in the context of decentralisation to the regions and the European employment strategy (ES0402102F). In <i>Spain</i> , 2003 also saw the third revision of the law regulating the employment of foreign persons (ES0310107F).
Equality	In <i>Cyprus</i> , new items of legislation on parental leave and on equal pay came into force in January. In <i>Malta</i> , the Equality for Men and Women Act was adopted in 2003, aiming to eliminate all forms of discrimination, while a new Employment and Industrial Relations Act, which came into force during the year, includes a number of equality provisions. Changes to the <i>Polish</i> Labour Code included a number of new provisions, in line with EU law, aimed at ensuring equal treatment and preventing discrimination at work (PL0311103N). Anti-discrimination provisions were strengthened in the <i>Slovak</i> Labour Code (SK0312103F). In the <i>UK</i> , a range of new 'family-friendly' employment rights came into force in April (UK0304104F), while regulations protecting workers from discrimination and harassment at work on grounds of sexual orientation and religion or belief came into force in December (UK0312101N). In <i>Estonia</i> , new legislation on parental benefits was promulgated in December. In <i>Finland</i> , several laws related to the reconciliation of work and family life were amended, including provisions on partial childcare leave and more leave for fathers. In <i>Denmark</i> , an amendment to the 1996 Act on prohibition of discrimination in the labour market was proposed in October, implementing EU anti-discrimination Directives (DK0308104T). A proposed Anti-Discrimination Act was submitted to the <i>Hungarian</i> parliament, including measures on equal opportunities and equal treatment in line with EU norms (HU0305101F). In <i>Luxembourg</i> , a law adopted in September guarantees that all employed disabled people will receive pay equivalent to the minimum wage (LU0310103F). In <i>Norway</i> , new legislation was approved in the autumn imposing a 40% quota of female board members in both public and private limited companies (in the latter case only if they fail voluntarily to achieve an acceptable level of female board representation by 2005) (NO0306106F).
Health and safety	A new Occupational Safety Act came into force in <i>Finland</i> in January (FI0303203F). The <i>Estonian</i> legislation on work accidents and occupational diseases was amended, as was <i>Bulgaria's</i> Health and Safety Working Conditions Act and <i>Latvian</i> legislation in this area. In <i>Greece</i> , three new Presidential Decrees were signed, aimed at combating occupational hazards and improving health and safety conditions at work (GR0303102F), while Law 3144 on social dialogue for the promotion of employment and social protection included a number of health and safety measures (GR0304102F).

Table 5 (continued)

Subject	New legislation/proposals
Industrial relations	In <i>Romania</i> , a new Trade Unions Law was adopted in January (RO0307101F). In <i>Estonia</i> , changes were approved at the beginning of the year to the law on individual labour disputes. In France, a draft law on social dialogue, reforming some aspects of bargaining rules, was near adoption at the end of the year (FR0304103N). In <i>Ireland</i> , the Industrial Relations (Amendment) Bill 2003 was issued, which will amend the 'right to bargain' legislation (IE0309205F). In December, the <i>UK</i> government published its latest Employment Relations Bill, which will amend the statutory trade union recognition procedure and make changes to the law on ballots for industrial action (UK0312104F).
Labour Codes/general legislation	2003 saw revisions to the Labour Codes and similar legislation of many acceding and candidate countries in preparation for EU entry. Labour Codes were thus amended, often in a wide-ranging way, in <i>Bulgaria</i> , <i>Hungary</i> (HU0308101F), <i>Poland</i> (PL0311108F), <i>Romania</i> (RO0308102N) and <i>Slovakia</i> (SK0312103F). Similarly, the <i>Maltese</i> Employment and Industrial Relations Act came into force in 2003, adapting national employment law to EU norms in many areas. In <i>Slovenia</i> , a new Law on Labour Relations came into force in January 2003. In <i>Latvia</i> , a wide range of legislative changes were made during 2003 in preparation for entry into the EU. In August, a Labour Code was approved in <i>Portugal</i> , which replaces most current individual and collective labour legislation by bringing existing provisions together in a single text, and amending them in a variety of areas (PT0305101N). In <i>Greece</i> , Law 3144/2003 on 'social dialogue for the promotion of employment – social protection and other provisions' (GR0304102F) dealt with a variety of issues, such as new social dialogue bodies on social protection and employment policy, annual leave entitlement, health and safety, and the protection of workers' personal data.
Social security	Major pensions reform legislation was adopted in <i>Austria</i> in June (AT0306201N) and in <i>France</i> in July (FR0309103F). In February, the <i>Italian</i> parliament approved a proposal for a 'proxy law' reforming the social security system, and notably pensions (IT0303305F). Wide-ranging changes to the <i>German</i> unemployment benefit system were passed in December (DE0401205F). In <i>Greece</i> , 2003 saw draft legislation aimed at reforming and supplementing the existing legislative framework on social security. A new law on 'social employment' came into force in <i>Poland</i> in April, aimed at providing support and employment to people faced with social exclusion (PL0306103F). In <i>Spain</i> , new legislation setting out the social security entitlements of large families was introduced. In <i>Portugal</i> , new unemployment protection and sickness benefit legislation was passed in 2003, and will be implemented in 2004. A new Social Insurance Code was adopted in <i>Bulgaria</i> in August, bringing together and reforming previous separate items of legislation on pensions and other areas of social security (BG0309201N).
Termination of contract	In December, the <i>German</i> parliament passed a package of labour market laws, including changes to statutory protection against dismissal (DE0401205F). Changes introduced to the <i>Polish</i> Labour Code in July included new rules applying to many aspects of collective redundancies, including their definition and severance pay entitlements. A July amendment of the <i>Slovakian</i> Labour Code reformed the provisions on reasons for notice and the length of notice periods.
Training	In August, the <i>Spanish</i> government adopted a decree reforming the continuing vocational training system (ES0310110F). A law reforming <i>Romania's</i> tripartite National Adult Training Board (Consiliul National pentru Formarea Profesionala a Adultilor, CNFPA) was adopted in June (RO0401107F). In <i>Greece</i> , new legislation creating a national system for linking vocational education and training to employment was submitted to parliament in September 2003.
Working time	The <i>Italian</i> cabinet approved in April a decree implementing the 1993 EU Directive on working time (IT0305305F). In <i>Cyprus</i> , new legislation on the organisation of working time came into force in January 2003. In <i>Luxembourg</i> , new legislation introducing a statutory 40-hour week in the hotel and catering sector in three stages came into effect in January (LU0301107F). In the <i>Netherlands</i> , new legislation on Sunday working entered force in 2003, giving employees the right to refuse to work on Sundays (NL0110102F). A July 2003 amendment of the <i>Slovakian</i> Labour Code reformed a number of working time rules (SK0312103F). <i>Norway's</i> legislation regarding the use of overtime work was liberalised in February, while in April the Opening Hours Act, which regulates the opening hours of shops, was abolished (NO0304103F). New (mainly deregulatory) legislation on shop opening hours came into force in <i>Austria</i> (AT0307201N), <i>Germany</i> (DE0303203F) and <i>Greece</i> (GR0312102F).
Miscellaneous	In <i>Luxembourg</i> , new legislation on the status of civil servants was adopted in May 2003 (LU0306102F). New laws on funds to guarantee employees' pay claims in the event of their employer's insolvency came into force in <i>Bulgaria</i> (BG0312102N) and <i>Latvia</i> (LV0309101N).

Source: EIRO.

The organisation and role of the social partners

A range of changes to the organisation and role of the social partners in Europe took place during 2003, in relation to the representation of both employers and employees.

On the trade union side, the year saw continued merger activity in many countries (notably the Nordic countries), continuing a long-running trend, at least in western Europe – see Box 5. This trend is widely regarded as being a response to the changing nature of membership, work and the economy, and as a way of cutting costs in the context of declining membership in many countries. On this latter point, figures published in 2003 highlight the mixed fortunes of trade unions in recent years. For example, Finnish research found that the total number of union members increased by 18,000 over 1994-2001, but the number of potential members rose by 161,000, leading to a fall in union density of 7.3 percentage points (from 78.5% to 71.2%) (FI0302204F). Membership of the unions affiliated to the German Federation of Trade Unions (Deutscher Gewerkschaftsbund, DGB) dropped by 199,000 (2.5%) in 2002 to stand at 7.7 million (DE0302201N). However, while membership has continued to decline for over 10 years, the pace of decline slowed in 2002. Sweden's largest union confederation, the blue-collar Swedish Confederation of Trade Unions (Landsorganisationen, LO), lost 1.4% of its members in 2002, while the white-collar Swedish Confederation of Salaried Professionals (Tjänstemännens Centralorganisation, TCO) grew by 1.2% and the Swedish Confederation of Professional Associations (Svenska Akademikers Centralorganisation, SACO) by 4.5% (SE0304101N). Some trade union centres' financial position has reached a parlous state. In June 2003, the Dutch Trade Union Federation (Federatie Nederlandse Vakbeweging, FNV) decided on major cutbacks and restructuring as a result of its poor financial position (NL0307101N).

Box 5 Trade union restructuring and reorganisation in 2003

Specific trade union restructuring and related events in 2003 included the following:

- the Federation of Liberal Trade Unions of Belgium (Centrale Générale des Syndicats Libéraux de Belgique/Algemene Centrale der Liberale Vakbonden van België, CGSLB/ACLVB) reorganised in 2003, merging many sections (it now has 19 instead of 42) and concentrated its sectoral activity in 10 areas;
- in Cyprus, 2003 saw the official announcement of the merger of the Union of Cypriot Clothing and Footwear Workers and the Union of Workers in Industry, Trade, the Press and Printing (SEVETTYK) – both affiliates of the Cypriot Federation of Labour (PEO) – in the light of a significant decrease in membership in footwear and clothing. The creation within PEO of the Pancyprian Union of Service Workers (PASEY) was announced in January, reflecting the rapid growth of the services sector and the under-representation of its workforce in the trade union movement (most groups covered by the new union had previously been represented by SEVETTYK);
- in Denmark, a majority of members of the Union of Telecommunication Workers (Telekommunikationsforbundet, TKF) voted in favour of a merger with the larger Union of Danish Metalworkers (Dansk Metal) (DK0303103F). Both unions are affiliated to the Confederation of Danish Trade Unions (Landsorganisationen i Danmark, LO). A proposed merger (DK0211105F) between three other LO affiliates – the General Workers' Union (Specialarbejderforbundet i Danmark, SiD), the Union of Female Workers (Kvindelig Arbejderforbund, KAD), and the Union of Wood, Industrial and Building Workers

(Forbundet Træ-Industri-Byg i Danmark, TIB) – hit difficulties in August, when TIB left the talks. However, SiD and KAD continued with the plans and hope to merge in January 2005, after ballots and a joint congress in September 2004;

- six public sector trade unions affiliated to the Central Organisation of Finnish Trade Unions (Suomen Ammattiliittojen Keskusjärjestö, SAK) launched a merger process in spring 2003, which has since proceeded to a tight schedule (FI0402201N). The new merged organisation should be in operation at the beginning of 2006. It will have around 250,000 members, making it one of the largest unions in Finland;
- in Luxembourg, four white-collar trade unions – the Luxembourg Association of Banking and Insurance Staff (Association luxembourgeoise des employés de banque et d’assurances, ALEBA), the Union of Private Sector White-Collar Employees (Union des employés privés, UEP), the Neutral Union of Luxembourg Workers (Neutral Gewerkschaft Luxembourg, NGL) and the National Union of Private Sector White-Collar Employees (Syndicat national des employés privés-Rénovateurs, SNEP) – signed common statutes and joined forces in a single trade union federation with a membership of 20,000, known as ALEBA/UEP-NGL-SNEP (LU0303102F);
- the Norwegian Union for Municipal and General Employees (Fagforbundet) was created in June 2003 from a merger between the Norwegian Union of Municipal Employees (Norsk Kommuneforbund, NKF) and the Association of Health and Social Care Personnel (Norsk Helse- og Sosialforbund, NHS) (NO0308101N). The new union, with approximately 300,000 members, is Norway’s largest and is affiliated to the Norwegian Confederation of Trade Unions (Landsorganisasjonen i Norge, LO). A number of other merger processes involving Norwegian unions were initiated in 2003, but not completed (NO0312102F);
- in Sweden, a merger has been planned between three unions affiliated to the blue-collar Swedish Trade Union Confederation (Landsorganisationen, LO) – the Electricians’ Union (Elektrikerförbundet), the Graphical Workers’ Union (Grafiska förbundet) and the Union of Service and Communication Workers (Facket för Service och Kommunikation, Seko) (SE0212101N). However, in April, the Electricians’ Union left the talks. The other two unions are continuing discussions, hoping that the Electricians’ Union will return to the table. Merger talks continued between two other LO affiliates, the Metalworkers’ Union (Svenska Metallarbetareförbundet, Metall) and the Industry Workers’ Union (Industrifacket), and the matter is now to be decided on by the unions’ members.

In the Netherlands, debate centred in 2003 on the rise of trade union organisations that act independently of the three established federations. The established unions have questioned the representativeness of these new organisations and the legitimacy of the agreements they have signed with some individual employers and smaller sectoral associations. Nevertheless, the established unions are still involved in the negotiation of more than 95% of all collective agreements (NL0302103F and NL0307101N). There was also some inter-union discord in Ireland, where a membership transfer dispute broke out between the country’s largest union, the Services Industrial Professional and Technical Union (SIPTU), and the UK-based Graphical, Paper and Media Union (GPMU) (a truce was eventually called – IE0305202N). Demarcation disputes between affiliates of the Austrian Trade Union Federation (Österreichischer Gewerkschaftsbund, ÖGB) were also reported during the year (AT0307203F). In Denmark, in November 2003 all but one of the health workers’ trade unions belonging to the Health Cartel (Sundhedskartellet) announced that they are to leave the Association of Local Government Employees’ Organisations (Kommunale Tjenestemænd og Overenskomstansatte, KTO), the umbrella body which represents

employees in the Danish municipal and county sector in collective bargaining. This will remove nearly 100,000 workers, notably including nurses, from KTO's membership.

In terms of the political direction of trade unions, in Italy, cooperation between the three main confederations was somewhat strained on certain issues during 2003, though there were signs of a wish to re-establish unity late in the year (IT0312103F). In the UK, the election during 2003 of left-wing candidates as the new general secretaries of two influential trade unions was seen as likely to place further strains on government-union relations (UK0306105N).

On the employer's side, 2003 was a rather quieter year. Perhaps the most significant event came in September, when Finland's two main employer confederations – the Confederation of Finnish Industry and Employers (Teollisuuden ja Työnantajain Keskusliitto, TT) and the Employer Confederation of Service Industries (Palvelutyönantajat, PT) – announced that were studying the possibility of merging (FI0310201N). The merger should be agreed in February 2004 and this will create a new body, Finnish Industries (Elinkeinoelämän keskusliitto, EK), representing at least 15,000 companies that together account for over 70% of Finland's GNP (FI0403201N). In Sweden, the two main employer organisations in the municipality and city council sector – the Swedish Association of Local Authorities (Svenska Kommunförbundet) and the Federation of Swedish County Councils (Landstingsförbundet) – decided in May to merge by 2007. In Portugal, 2003 saw the merger of two employers associations in the textiles and clothing sector. The joint collective bargaining association for German public sector employers collapsed in May after more than 40 years. Representatives of the central government and the federal states (Länder) declared that they no longer saw common ground for a bargaining association with the municipal employers. Furthermore, the federal states are no longer willing to accept the leadership of the central government in future public sector bargaining rounds (DE0306202N). The year saw the formation of a new employer organisation for suppliers in Luxembourg's fast-expanding automotive sector (LU0308102N) and various comings and goings in the membership of the Belgian Federation of Employers (Fédération des Entreprises de Belgique/Verbond van Belgische Ondernemingen, FEB/VBO) and the Estonian Confederation of Industry and Employers (Eesti Tööstuse ja Töandjate Keskkliit, ETTK) (EE0310102F). In Austria, the Chamber of the Economy (Wirtschaftskammer) continued with internal reform, aiming to consolidate its budget in the light of a reduction of membership contributions of 30% by 2005.

2003 was a mixed year regarding the involvement of the social partners in the formulation of social and employment policy. In Austria, the government launched a wide-ranging pension reform in the spring without the involvement of the social partners, resulting in country-wide industrial action (see overleaf under 'Industrial action'). In Germany, the tripartite national forum, the Alliance for Jobs (Bündnis für Arbeit), discontinued its work in February 2003 (DE0302104N) after trade unions withdrew their support following a conflict with employers over pay moderation. In Latvia, the social partners' participation in decision-making process reportedly weakened somewhat – for instance, they were not invited to discuss the proposed state budget project while it was being drawn up (though bipartite cooperation between employer organisations and trade unions appears to have improved). By contrast, the social partners in France have been experiencing more involvement in the formulation of social and employment policy. Legislation proposed in 2003 will commit the government to prior consultation of the social partners on all social and economic policy proposals.

In many acceding and candidate countries, the role of the social partners in the formulation of social and employment policy, and of bipartite social dialogue, is still in its relative infancy, although developing rapidly in some cases. Major developments in 2003 included the creation of bipartite sectoral level social dialogue committees in Hungary, with assistance from the EU's PHARE programme (HU0201106F). PHARE also supported the development of bipartite sectoral social dialogue in Slovakia (SK0307101N). At national tripartite level, December saw the first plenary session of Bulgaria's new Economic and Social Council, an advisory body made up of representatives of employer organisations, trade unions and non-governmental organisations, which is regarded as completing the social dialogue system in Bulgaria (BG0401202N). In Romania, the organisation and functioning of the tripartite Economic and Social Council (Consiliul Economic și Social, CES) was strengthened (RO0401107F).

Industrial action

Some countries experienced a relatively high level of industrial action during 2003, while others enjoyed a comparatively quiet year, though no statistical data are yet available on overall trends during the year.

In a number of countries, trade unions organised national strikes and protests against government policies. Notably, May 2003 saw Austria's largest strike action in 50 years, as almost half a million workers protested against the conservative-populist government's proposals for public pensions reform (AT0305202F). Similarly, in France, much action was organised in the spring over the government's pensions reform (FR0306104F). On 24 October, Italy's three main trade union organisations held a one-day general strike to protest against the government's 2004 state budget law and its proposals for reform of the pension system (IT0311102N). This had been preceded by a four-hour general strike organised on 21 February solely by the General Confederation of Italian Workers (Confederazione Generale Italiana del Lavoro, Cgil), in protest against the policies of the government and employers (IT0302103N). There was also similar action in some of the new Member States. On 26 September, the Confederation of Trade Unions of the Slovak Republic (Konfederácia odborových zväzov Slovenskej republiky, KOZ SR) called a one-hour nationwide strike which affected a number of sectors, one of a series of actions organised by unions in protest at government policy (SK0312102N). Autumn saw a series of protests in Bulgaria calling for changes in the government's economic and social policy (covering issues such as incomes, taxation and sick pay) organised by two main union confederations (BG0311201N). There was also 'political' action in some countries on matters not directly related to industrial relations and employment – in both Italy (IT0304102N) and Spain unions (ES0304203N) organised stoppages during the spring in protest against the war in Iraq.

In individual companies and sectors, restructuring and attendant job losses gave rise to a considerable amount of industrial action in many countries (notably in central and eastern Europe). For example, a number of industrial conflicts took place in Belgium, linked to job losses at Ford's Genk plant (BE0311305F) and in the aeronautical sector (BE0307301N) and plant closure plans at the steel producer Arcelor (BE0302301N). In Greece, proposed legislation on further liberalisation of the electrical power market provoked protest strikes in June and July (GR0307101N). In Bulgaria workers held protests against the planned privatisation of the Bulgarian Telecommunications Company (BTC) (BG0402101N) and the Bulgartabac tobacco holding. In Romania, protests were staged in the automotive industry, tractor manufacturing, steel,

chemicals and oil processing against the collective redundancies generated by restructuring and privatisation (RO0311102F and RO0311101N). In Poland too, 2003 was characterised by numerous strikes, protests and demonstrations organised by miners, steelworkers and public sector employees, mostly protesting against redundancies and restructuring (PL0311102N).

In Finland, trade unions organised a national day of protest on 12 December to express concerns about the large-scale redundancies that have been taking place in Finnish companies (FI0312203F).

A notable feature of 2003 was the high level of industrial action on the railways, usually prompted by restructuring (sometimes related to EU liberalisation measures), but also by issues such as safety and bargaining arrangements. Thus, there were rail strikes and protests in countries such as Austria (AT0312103F), Belgium (BE0311301N), France (FR0304106F) Poland, Romania (RO0309101N), Sweden (SE0311102N) and the UK (UK0304103F). Two rail sector conflicts in Slovakia were the country's first genuine strikes since it became independent (SK0306101F). On 14 March, actions were held in many European countries as part of the International Transport Workers' Federation's fourth annual international railway workers' action day, entitled 'Safety first'. The aim of the protest was to draw attention to railway workers' fears that the deregulation of railways around the world is jeopardising the lives of passengers and rail workers (EU0304202N).

Another international trade union campaign that produced national industrial action during the year was against a proposed EU Directive on market access to port services (EU0302201N), which trade unions feared would endanger employment for dock workers and lower health and safety standards. On several occasions during the year, Europe-wide protests against the proposed Directive – organised by the International Transport Workers' Federation (ITF), European Transport Workers' Federation (ETF) and International Dockworkers Council (IDC) – resulted in stoppages and strikes in a number of countries, notably Greece (GR0310101N) and Cyprus (CY0311101N). The Directive was eventually rejected by the European Parliament in November (EU0312203N).

The public sector often experiences comparatively high levels of industrial action and this was the case in a number of countries in 2003. In Greece, there was a wave of strikes in support of demands for pay indexation, the creation of new pay scales for public servants and over the issue of part-time work (GR0309103F and GR0311103F), culminating in November when the Greek Confederation of Public Servants (ADEDY) held a 24-hour strike (GR0312101N). In Estonia, a one-day strike was held by the Estonian Employees' Unions' Confederation (Eesti Teenistujate Ametiühendus Keskorganisatsioon, TALO) in support of pay demands for education and culture workers – the first genuine strike since Estonia gained its independence (EE0312103F). In Hungary, 2003 saw hardly any industrial action in the private sector, but some by workers in the public utility companies and other public sector workers, such as those employed in health and education (HU0306102N and HU0310101N). A dispute over a new pay agreement for 420,000 blue-collar workers in the Swedish municipal and city council sector resulted in five weeks of industrial action before a deal could be struck (SE0306103F). In May, workers in many parts of the Italian public sector went on strike to push for the opening of negotiations over the renewal of their collective agreements (which expired at the end of 2001) and support their demands (IT0306102N). Other public sector strikes in 2003 included action by: French education staff

(FR0306102F) and refuse collectors (FR0307106F); Irish public health doctors (IE0307201N); Belgian postal workers (BE0308303F); and UK fire service workers (UK0307101N).

Strikes and industrial action were held within the context of collective bargaining in some countries, though overall it appears that the year's bargaining rounds passed off relatively quietly in most countries. Notably, in Germany, IG Metall's attempts to conclude an agreement on a 35-hour week in the eastern metalworking industry resulted in four weeks of strike action, but ended in failure (see p. 42 under 'Working time'). Other examples of conflict over new agreements included action by Swedish electricians (SE0308101N) and Italian transport workers (IT0312204F). More unusually, in Italy the Fiom-Cgil trade union campaigned during the second half of the year for the reopening of negotiations on the metalworking sector's collective agreement, which was signed in May 2003 by employers and the other two main metalworkers' unions, Fim-Cisl and Uilm-Uil. The campaign included an eight-hour strike in November (IT0312102N).

Despite the various high-profile examples of industrial action mentioned above, it should be stressed that some countries saw little in the way of conflict during 2003. Industrial action remained at historically low levels in Ireland, while other countries that experienced a quiet year included Latvia, Malta, Norway, Slovenia and Spain (where the incidence of industrial action was significantly below that in 2002).

In terms of the regulation of industrial action, 2003 saw the establishment of the National Institute for Reconciliation and Arbitration, Bulgaria's first institution for the out-of-court resolution of collective labour disputes. The new Institute provides mediation and arbitration, and is seen as filling a major gap in the country's industrial relations system (BG0401103F). In September, Italy's Guarantee Authority (Commissione di garanzia) on strikes in essential public services set out rules to be observed by public sector workers in the event of a general strike called by trade union confederations. The rules cover matters such as the provision of minimum services and were drawn up with trade union input (IT0310101N).

Employee participation

Employee participation and involvement remained a topic of great interest around Europe, not least because of the requirement to implement EU legislation.

At the beginning of 2002, EU Directive 2002/14/EC on national information and consultation rules was adopted (EU0204207F), obliging Member States to ensure that there are arrangements in place for informing and consulting employees on a range of issues. The Directive should be implemented at national level by 23 March 2005, but transitional arrangements for Member States without established statutory systems of employee consultation and representation – effectively Ireland and the UK – mean that these countries may phase in the coverage of the Directive for smaller firms. The implementation of the Directive has unsurprisingly had the highest profile in the two countries where it will have the largest impact: in the UK, the government published a consultative draft of Regulations to implement the Directive in July 2003 (UK0307106F); while in August 2003, the Irish government published a consultation paper on national implementation (IE0309204F). Preparatory work on the implementation of the Directive has also begun in many other countries, where less extensive changes are generally regarded as being necessary for compliance. In Sweden, for example, a government committee was set up in October 2003 to

investigate whether existing national law will need to be modified, and will report in July 2004. In Belgium, the social partners began discussions on the Directive in December.

The acceding candidate countries have been busy transposing various pieces of EU legislation relating to employee involvement and participation. For example, Hungary transposed the 1994 European Works Councils (EWCs) Directive (94/45/EC) in 2003 by means of Act XXI, which will enter into force on 1 May 2004. Malta also enacted legislation transposing the EWCs Directive, due to come into force on 5 April 2004. It appears that almost all new Member States joining the EU in May 2004 now have their EWCs legislation in place. A possible revision of the EWCs Directive itself remains on the European Commission's agenda and a first-stage consultation of the social partners is envisaged for early 2004, with a follow-up consultation later in the year. In the UK, the government published in July 2003 a discussion paper on the UK experience of EWCs, with the aim of gathering information and views to help it prepare for the forthcoming EU-level discussions on the possibility of revising the Directive (UK0308102N). The Confederation of British Industry (CBI) and the Trades Union Congress (TUC) submitted sharply divergent responses (UK0311101N).

Some countries began to take action over implementation (due by October 2004) of Regulation (EC) No. 2157/2001 on the European Company Statute (ECS) and its accompanying Directive (2001/86/EC) on employee involvement (EU0206202F). For example, in the Netherlands, a bill on employee involvement in the European Company was introduced in 2003. In Slovakia, the government is reported to be working on transposition. In Spain, a decision was taken in 2002 to create sectoral observatories and a national observatory to monitor the situation in the framework of the Statute. Preliminary discussions are reported to be taking place in some companies in the chemicals sector. In Sweden, a government commission set up to prepare for the implementation of the ECS reported its findings in June 2003 (SE0308102F), proposing that a new law should be passed to this end. In October, the UK government issued draft Regulations to implement the Directive and to deal with certain company law aspects of the ECS. In Norway, a committee deliberating changes to the country's working environment legislation also looked at the implementation of the ECS (plus Directive 2002/14/EC) (it reported in February 2004). In Denmark, the government plans to implement the Statute in 2004.

Apart from the direct implementation of EU law, developments in 2003 relating to employee involvement included the following:

- in Finland, a working group started preparing changes to the Law on Cooperation within Undertakings – the main item of workplace employee involvement legislation (FI0309203T) – and was due to make its final proposal in early 2004. A tripartite committee also began work on the reform, which is the largest labour legislation project of the current government's term of office. The Act has been widely criticised for being administratively complicated and unclear;
- in Italy, the 2004 budget law, approved in September 2003, provides for the creation of a special fund to encourage employee participation in companies' financial results and decision-making (IT0310102N). Furthermore, the new collective agreement in the rail sector (see p. 34 under 'Collective bargaining') establishes a 'participatory' industrial relations system for the sector, based on joint committees and information and consultation procedures at both national and company level;

- in Romania, the new Labour Code which came into force in 2003 explicitly recognises employees' information and consultation rights at company level, as well as their right to take part in establishing and improving working conditions and the work environment. In companies with more than 20 employees in which no trade union is organised, elected employee representatives can now promote employees' interests. Employees must be periodically informed about the economic and financial situation of the company, and consulted whenever decisions that will substantially influence their interests are to be taken (e.g. in the case of redundancies); and
- Slovakia's new Labour Code, which came into force in April 2002, made significant changes to the law on employee participation, which had previously granted consultation, information, inspection and collective bargaining rights only to trade union organisations. The new Code allowed for employee representation through an elected works council or 'works trustee' with negotiation, information and inspection rights, but only in organisations with no trade union presence. However, in July 2003, an amendment to the Code extended works councils and works trustees to organisations where a trade union is present (SK0308102F).

2003 was a quiet year in terms of reported new developments in the field of transnational employee involvement arrangements in multinational companies. One of the few new EWCs reported in major companies during the year was at the German mail and logistics multinational, Deutsche Post AG (DE0309204F).

Stress at work

Stress at work (TN0111109S) is an issue which has been receiving increasing attention at European level. Notably, in 2002 the European Agency for Safety and Health at Work organised a campaign, *Working on stress*, aimed at raising awareness of the problem of stress throughout the EU and helping all those involved in this issue across Europe to work together (EU0208202N). Furthermore, stress was the central issue in the October 2002 European Week for Safety and Health at Work. The Agency estimates that stress at work affects around 28% of the EU workforce, amounting to over 40 million employees. Although women report the highest levels of stress, it is perceived to be a problem for both sexes, in all sectors and at all organisational levels. Stress is thought to cause cardiovascular diseases, musculoskeletal disorders and mental health problems, and is estimated to be related to up to 60% of all absence from work. In this context, following a seminar held in February 2003, the European-level cross-industry social partners called on their member organisations to grant them a mandate to begin negotiations with a view to concluding a voluntary agreement on stress at work. Negotiations began in September 2003 and had not concluded at the end of the year.

At national level, the debate is gaining momentum in many countries, with governments and the social partners recognising that stress at work is growing for many employees and, if not controlled, can lead to increases in sickness absence, low morale and poor performance. However, stress is not yet widely debated in all countries and does not appear to be high on the agenda at present in countries such as Cyprus, Greece, Hungary and Malta.

One of the countries which has been most concerned with the issue of stress at work over the past few years is Sweden, which has seen numerous official commissions, conferences, seminars, tripartite talks, research reports, government declarations and legislative measures on ill-health at

work, with stress a key theme. Most recently, in December 2003 the government issued a declaration of intent on 'a more healthy working life' (SE0401105F), which among other points calls on the social partners to conclude new collective agreements on the work environment and take ill-health issues into account in future bargaining (see below). The debate is linked to attempts to reduce continuing high sickness absence rates in Sweden.

Action on stress involving both the government/public authorities and the social partners is reported from a number of other countries. A prime example is found in Germany, where issues of 'quality' of work in general and of stress and safety in particular are dealt with by the Initiative for the Improvement of the Quality of Work (Initiative Neue Qualität der Arbeit, INQA) – a broad platform (founded in 2001) which brings together the federal government, federal state (Länder) governments, the social security administration, the social partners and a number of companies in order to contribute to debate on the future of work. Through INQA, the parties seek to develop and disseminate examples of best practice and thus to contribute to the modernisation of work. In Norway, the Labour Inspectorate, in cooperation with social partners, has developed a guide to stress and a checklist to be used by employers in identifying and dealing with the problem. In Bulgaria, a first national conference on stress was held in September 2003, focusing on the reasons for stress, its consequences and its prevention. In Romania, there have been discussions involving the social partners about a modification of the labour inspection legislation, including the recognition of stress as an occupational disease.

Bipartite joint trade union-employer action on stress does not yet appear to be common in most countries. However, some recent examples are:

- in 1999, Belgium's bipartite National Labour Council (Conseil National du Travail/National Arbeidsraad, CNT/NAR), bringing together representatives of trade unions and employer organisations, approved an intersectoral collective agreement on combating stress at work (BE9904269F). The agreement provides a definition of stress and sets out the obligations on private sector employers with regard to the prevention and the reduction of work-related stress. No information is available on the subsequent follow-up to this agreement;
- in the Netherlands, unions and employers both recognise the problem and a number of collective agreements contain provisions on conducting research into stress at work, while the matter is addressed in health and safety agreements and the social partners are currently trying to stimulate the development of instruments to combat stress;
- in Spain, several company agreements signed in 2003 (e.g. at Telefónica and several banks) provided for the creation of committees to examine the issue;
- in Slovenia, the sectoral agreement for postal and courier activities, concluded in 2003, imposes a duty on employers to adapt work to the individual worker by eliminating monotonous work and imposed work rhythms, etc.;
- in Sweden, the government is encouraging the social partners to negotiate on the work environment, including stress. Interestingly, in 2003, negotiations over a new collective agreement for electricians were complicated by demands from the Swedish Electricians' Union (Elektrikerförbundet) for improved working conditions, with the union claiming that its members working in the building sector were suffering excessive stress. The employers would not concede on this point and the union started industrial action. However, the LO union

confederation intervened, stating that the stress issue should be taken up at a higher and more general level, and thus excluded for the time being from the electrician's bargaining agenda. This enabled a new agreement to be concluded (SE0308101N). Against this background, in January 2004, the LO board decided that all its affiliated (blue-collar) trade unions should make a uniform set of work environment demands to their respective employer associations in the 2004 bargaining round (SE0402101N);

- legislative amendments in 2003 seem likely to promote bargaining on stress issues in Denmark (where the topic already features highly in the work of joint workplace cooperation committees). Changes to the law leave a number of 'psycho-social' aspects of the work environment, including stress, to be jointly regulated by collective agreements between the social partners.

Unilateral trade union activities and demands on stress seem to be becoming more common. In the UK, a recent TUC survey of union safety representatives identified stress as the country's 'number one workplace health hazard', and in April 2003, the TUC reported that unions had launched 2,500 new stress claims against employers in the previous year. The TUC has launched and promotes a 'stress MOT' auditing tool to assess the causes of stress and employer responses. The Austrian Chamber of Labour conducts annual surveys on the issue, and representatives of organised labour are calling for better (precautionary) health services to be offered at company level. In Germany, the IG Metall metalworkers' union decided in spring 2003 to launch a campaign called 'good work' (Gute Arbeit) which particularly aims at reducing stress at work, not least in order to improve the health and employment prospects of older workers and thus adjust the workplace to the process of the ageing of the workforce. IG Metall also hopes that a new framework collective agreement for the metalworking industry, signed in June 2003, will give it more power to reduce stress at work. The Luxembourg Confederation of Independent Trade Unions (Onofhängege Gewerkschafts-Bond Lëtzebuerg, OGB-L) and the Luxembourg Mental Health League (Ligue luxembourgeoise d'hygiène mentale) concluded a partnership agreement in September 2002 on setting up a national scheme to assist workers who suffer from stress-related illnesses, a move which received a favourable response from the government. This 'work-related stress information unit' currently operates a telephone helpline, provides individualised counselling, and organises relaxation activities. In Romania, the Cartel Alfa confederation is conducting a study of the topic and some unions have organised special seminars. The Spanish union confederations' health and safety institutes are calling for workplace health and safety committees to address the problem and apply pressure for it to be dealt with in collective bargaining. The health and safety institute of the Trade Union Confederation of Workers' Comisiones Obreras, CC.OO) is developing a methodology to evaluate psycho-social risks.

Action on stress by the government and public authorities responsible for health and safety at work has featured recently in some countries, notably in central and eastern Europe. Estonia's occupational health development plan for the period until 2007 highlights the issue and states that measures to tackle stress and 'psycho-emotional' stress factors at work will be developed in 2004. Poland's Central Institute for Labour Protection (Centralny Instytut Ochrony Pracy, CIOP) is conducting research on stress at work. In 2003, Slovakia's Research and Education Institute on Health and Safety at Work (Výskumný a vzdelávací ústav bezpečnosti práce, VVUBP) issued a publication on training on stress at work, including basic information, a description of stress factors and options for their elimination, while the theme features in National Labour Inspectorate (Národný inspektorát práce, NIP) activities. A resolution (previously discussed with the social

partners) on the National Programme on Safety and Health at Work adopted by the Slovenian government in September 2003 contained a section on stress and provides for work in this area. In the current EU, during 2003 the UK Health and Safety Executive (HSE) piloted draft management standards of good practice for tackling work-related stress, and launched a new report identifying a good practice model for tackling stress, based on the experience of 18 organisations seen as 'beacons of excellence' in stress prevention. The HSE produced a draft code of practice on stress in 1999, but it remains unadopted.

In terms of relevant new legislation in 2003, the main example was the Finland's Occupational Safety Act, which includes several measures aimed at decreasing stress at work – for instance, a risk analysis on stress and other mental factors causing health problems must be conducted at all workplaces. It is notable that the experience of Finland in this area is in contrast to that of most other countries – here, stress at work appears to be decreasing. According to a survey carried out by the Finnish Institute for Occupational Health and Safety, work-related stress has decreased, especially among men. The proportion of men stating that they feel stress at work sometimes or very often has declined from 49% in 1997 to 43% in 2000 and 38% in 2003, though women tend to suffer stress more often than men.

Undeclared work

The phenomenon of undeclared work – defined as 'any paid activities that are lawful as regards their nature but not declared to the public authorities' – is an issue which has been preoccupying the EU institutions for a number of years. Studies estimate the size of the informal economy on average at between 7% and 16% of the EU's GDP. The current EU employment guidelines call on the Member States to transform undeclared work into regular employment, by developing and implementing broad actions and measures to eliminate such work, which combine simplification of the business environment, removing disincentives and providing appropriate incentives in the tax and benefits system, improved law enforcement and the application of sanctions. In October 2003, the Council of the European Union adopted a Resolution on undeclared work (EU0311206F), calling on Member States to address this issue and to work together to improve the situation. Suggested actions include preventative measures and sanctions aimed at eliminating undeclared work. The Resolution also invites the social partners at European level to address this issue within the context of their current multiannual work programme (EU0212206F) – indeed, the partners plan a seminar on the issue in 2005, with the aim of reaching a joint opinion – and to deal with it in the context of the sectoral social dialogue committees. The Council calls on the social partners at national level to promote the declaration of economic activity, to engage in awareness-raising and to promote the simplification of the business environment, particularly in relation to small and medium-sized enterprises.

Data, and especially reliable data, are hard to find on the extent of undeclared work, but the information available is given in Table 6 on p. 62. In the current EU, the phenomenon appears to be particularly prevalent in Greece and Italy, significant in Austria, France and Spain, and less common in Finland, Luxembourg, Sweden and the UK. Most of the acceding and candidate countries in central and eastern Europe seem to have a relatively major problem with undeclared work. Construction, hotels/restaurants/catering, agriculture, domestic/personal services and retail seem to be the sectors most affected across Europe. In some countries, it is thought that a relatively high proportion of undeclared work is carried out by (often illegal) immigrants from outside the current EU.

Looking at the current situation around Europe, we find that the degree of attention to undeclared work varies considerably. In some countries (such as Ireland and Luxembourg), it is not apparently perceived to be a particularly significant problem, whereas in others it is a major focus of debate. The issue seems high on the agenda at present in countries such as Austria, Belgium, Denmark, Germany, Greece and Italy, as well as in many of the acceding and candidate countries in central and eastern Europe. For example, in Austria, recent scandals involving illegal employment practices in road haulage (AT0203201N) and in the construction industry (AT0302202F) have triggered a continuing debate on measures to combat illicit work. In particular, cases of large-scale, organised social security and tax fraud committed by a growing number of companies have led trade unions and the parliamentary opposition to call for legislation combating these practices. In most countries concerned, there appears to be a general acceptance by the government and the social partners that undeclared work cuts social security and tax receipts, destroys regular jobs, enables unfair competition and deprives workers of proper protection.

In terms of government action to combat undeclared work, there has been considerable activity of late in acceding and candidate countries such as Bulgaria, Latvia, Slovakia and Slovenia. For example, in 2003, the Bulgarian government, supported by the social partners, introduced new measures to address two major labour market problems related to undeclared work (BG0307101F): employment without a signed contract; and the practice of employers paying social insurance contributions on the basis of the national minimum wage, rather than on employees' actual pay. Thus, registration of employment contracts with the National Social Security Institute has been made mandatory, while minimum social insurance thresholds have been introduced, which are higher than the national minimum wage and set at different levels for specific sectors and occupations. In Slovakia, the Employment Act was amended in 2003 in an attempt to clamp down on undeclared work. In Malta, a committee made up of representatives of the Employment and Training Corporation (ETC), the Ministry of Social Policy, the Ministry of Finance and Economic Services and the Ministry of Education was set up in August 2003 in order to draw up and plan a national campaign against undeclared work.

As in Bulgaria, the issue of proper employment contracts is prominent in some other acceding and candidate countries. In late 2003, the Estonian Ministry of Social Affairs launched an advertising campaign, aimed at employers, to promote 'official' written employment contracts. In Hungary, the law was amended in 2003 in an attempt to reduce the large number of people performing work on the basis of 'sham' civil law contracts – i.e. contracts not governed by labour law, with a lower tax and social security burden (HU0310102F).

In the current EU, the German government regards the present extent of undeclared work as alarming (pointing in particular to the loss of tax income for the state) and has therefore recently prepared a draft bill to introduce tighter controls and more severe sanctions. In Italy, the poor results of previous attempts to control undeclared work have induced the Ministry of Labour and Social Policies to propose the establishment of an extraordinary commission endowed with broad powers, including coordination of the police forces, in order to combat the problem.

Recent government action in this area has in some cases been prompted by the focus on undeclared work in the European employment strategy, and included in National Action Plans (NAPs) for employment – examples include Greece, Malta, Slovenia and the UK. In a number of present EU Member States, such as Denmark, the introduction of transitional measures for the free

movement of workers from the new EU Member States has included attempts to prevent undeclared work by migrants from these countries.

In some countries, efforts are being made to address the undeclared work problem through building partnerships between public authorities and employers and trade unions in the sectors and areas most affected. This has been the case, for example, in construction and cleaning in Belgium. The Danish government has made the fight against undeclared work a priority and in summer 2003 decided to strengthen measures in this area. Regional networks have been developed, involving the local branches of trade unions playing a major role in detecting illegal workers and employer organisations helping to identify those firms employing workers illegally (DK0308101N). In France, there is an increasing number of partnerships and collective agreements specific to particular sectors and regions aimed at combating the problem. The issue of 'substandard' employment and business practices was prominent in Norway in 2003, particularly in the building and construction sector. In recognition of the detrimental effects of such practices, the social partners in the industry, along with relevant regulatory and enforcement bodies, have joined forces to establish a working group to examine and recommend measures to deal with the problem, which published its first report in November 2003 (NO0312103F). There has also been joint work at national level in some countries. For example, in November 2003, representatives of Estonian trade unions and employer organisations, together with the Labour Inspectorate and the Tax Board, held a round-table meeting to discuss the widespread problem of undeclared wages, on which social security contributions and income tax are not levied. The participants called for stronger control of the implementation of relevant laws and regulations (EE0312101N). The UK government has set up an Illegal Working Steering Group, which includes representatives of the CBI and TUC.

The causes of undeclared work, and how to address it, are not always an issue of unanimous agreement among the social partners. In a number of acceding and candidate countries, such as Hungary and Romania, the social partners seem agreed that it is the high level of taxation and social contributions levied on wages that drives both employers and employees to use undeclared work. In Romania, both trade unions and employer organisations claim that lowering the tax burden is the most important means of transforming undeclared work into regular employment. The tax and social security burden is also highlighted by employers in a number of other countries, such as Austria, Belgium, Germany and Malta, with consequent demands to lighten this burden. Other causes cited by employers include overly rigid labour market regulations (as in the case of Germany), and other solutions offered include simplifying the relevant administrative rules. By contrast, trade unions in many cases (e.g. Austria, Belgium, Germany and Italy) see tightening up legislation and controls, and making sanctions more substantial, as the best way of tackling undeclared work. More information for workers about the consequences for them of performing undeclared work is also demanded by unions in countries such as Slovenia. Italy's Cgil trade union confederation has submitted a proposal which envisages: the creation of a national fund to support local 'emergence' plans for undeclared workers; the expansion of inspection services; more stringent rules for contract procurement, subcontracting and the agricultural sector; and an inclusive strategy for immigration.

Table 6 Data on the extent of undeclared work and the informal economy

Austria	The growing informal economy is estimated to represent about 10% of GDP. According to a 2001 study, most illicit employment relationships are found in the construction industry (38% of the total), followed by hotels and restaurants (17%) and industrial production (16%).
Denmark	A September 2002 survey conducted by the trade union cartel in the building and construction sector (Bygge-, Anlægs- og Trækartellet, BAT-kartellet) found that around 6,500 people were working illegally in building and construction, agriculture, forestry and gardening (87% of the illegal workers came from Poland, Lithuania and Latvia). Undeclared work is also thought to be relatively common in cleaning, restaurants and hotels.
Estonia	According to the Estonian Institute of Economic Research (Eesti Konjunktuuriinstituut, EKI), in 2002 some 13% of employees received wages which were paid totally or partly without taxes.
Finland	Undeclared work is estimated to account for around 4.5% of GDP, and is mainly concentrated in the hotel and restaurant business, construction and private households. According to a 2002 study, the level of undeclared work equals on average the annual work of 17,000-23,000 people (9%-16 % of sectoral production) in the construction sector, and of 18,000 people (21% of sectoral output) in restaurants.
France	Undeclared work is thought to account for 10%-20% of GDP. A 2003 official report on the subject found that it is a growing phenomenon and that is assuming increasingly subtle and varied forms (e.g. employment of undeclared workers, non-payment of contributions, incomplete declarations and disguised outsourcing).
Greece	Illegal employment and undeclared economic activity is thought to account for around 35% of GDP. The Social Insurance Foundation (IKA) states that around one worker in four is uninsured for social security. A significant part of the hidden economy is thought to involve undeclared work by migrants from eastern Europe and Asia.
Italy	A series of recent surveys, the most important of them conducted by the Istat official statistical body, have found that Italy's 'hidden' or 'irregular' economy continues to grow (IT0312306F). According to the most recent figures, 3.5 million workers out of a total labour force of 23,452,000 are irregular. This is a figure equivalent to 15%, and the level rises to 18% among employees. The growth of undeclared work is matched by that of the hidden economy, which oscillates between 15.2% and 16.9% of GDP. The sectors most affected by irregular work are domestic or personal care services, building, agriculture, catering, tourism and retail. The phenomenon is especially widespread in southern Italy, where one in every five workers is irregular.
Latvia	Undeclared work is thought to be at relatively high levels, often taking the form of undeclared cash payments for part of an employee's work. The existence of such work in agriculture, industry, construction, trade and hotels/restaurants is indicated by the relatively low level of declared pay in the private sector (compared with the public sector) in these sectors.
Poland	The number of people involved in undeclared work is estimated at 800,000 (total employment is around 13.8 million).
Romania	The underground economy's share of GDP was 18% in July 2003, down from 20% in 2002 (according to OECD figures) and 30%-45% in 2001 (according to the United States Agency for International Development). Moreover, government officials estimated that in 2003 approximately 45% of the unemployed were working illegally. The Alliance for the Economic Development of Romania (ADER) estimated that in 2003 some 10%-17% of employers used undeclared work, accounting for 1.8 million-2 million people (total employment is around 8 million).
Slovakia	The number of people performing undeclared work has been estimated at between 70,000 and 140,000 (total employment is around 2.1 million). Such work is most common in construction, retail and travelling services.
Slovenia	The 'grey economy' is estimated at between 17% and 25% of GDP. Undeclared work is thought to be most common in crafts and related activities, catering and services.
Spain	The most recent detailed national study was in 1986, when between 15% and 20% of the active population was found to be in the underground economy. A 2000 EU study found that the underground economy in Spain represented 22% of the total. Undeclared work often involves: jobs in areas such as domestic service; undeclared overtime; and work by unregistered immigrants (especially in agriculture, construction and hotels/catering).
Sweden	A 2003 Danish study estimated that undeclared work amounted to 2.3% of GNP in Sweden. Students are the group of workers most involved, and the main sectors are restaurants, cleaning and construction.
UK	According to national statistics, undeclared income amounted to about GBP 14 billion in 1999, approximately 1.5% of GDP. There are no reliable estimates of the number of workers involved.

Source: EIRO.

New forms of work

'Non-standard' forms of work, such as temporary work through agencies, fixed-term contracts, part-time work and flexible forms of working, retained their place at the forefront of debate around Europe during 2003. Developments included new legislation, particularly in the acceding and candidate countries, as they implement EU Directives before accession to the EU (see p. 46 under 'Legislative developments'), and new agreements at national, sectoral and company level.

Overall, according to Eurostat, the incidence of part-time working in the current EU increased between 2001 and 2002, from an average of 18.0% of all employment in 2001 to 18.2% in 2002 – see Figure 6 overleaf. The average in the 12 'euro-zone' countries also increased, from 16.2% in 2001 to 16.5% in 2002. The Netherlands stands out as the country with the highest level of part-time working – 43.8% in 2002. Other countries with a relatively high incidence of part-time working include Norway (26.3%), the UK (25.0%) and Sweden (21.4%). The incidence of part-time working was lowest in Greece, at 4.5%, followed by Portugal, at 11.3%. Part-time working appears to be a growing phenomenon in the majority of countries – its incidence rose between 2001 and 2002 except in Denmark, France, Ireland, Italy and Spain.

In the acceding and candidate countries, the incidence of part-time working is generally considerably lower than in the current EU, standing at 7.8% overall in 2002, down from 9.8% in 2001, though the level varies considerably between countries. The level of part-time work fell slightly from 2001 to 2002 in Bulgaria, Cyprus, the Czech Republic, Estonia, Latvia and Slovakia, though the major drop in Romania is largely due to a change in definitions. The country with the highest incidence of part-time working in 2002 was Romania, with 11.4%, followed by Poland (10.7%) and Lithuania (9.8%). The countries with the lowest incidence of part-time work were Slovakia (1.9%), Bulgaria (3.1%) and Hungary (3.6%).

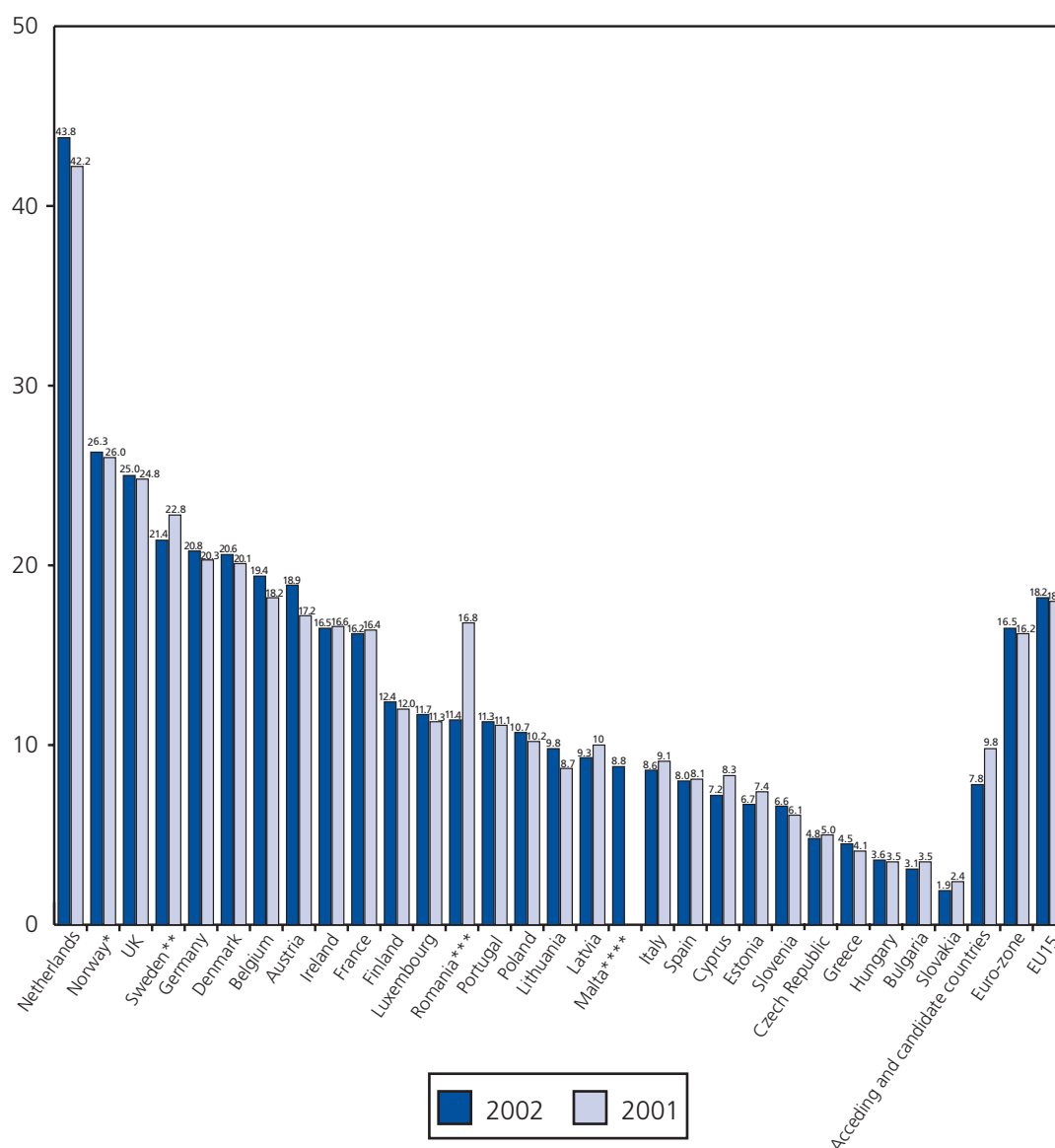
There were relatively few legislative or bargaining developments related to part-time work in 2003. In Malta, the Part-Time Employees Regulations (2002) came into force in 2003, protecting part-time employees against discrimination on the basis of their employment contract. Slovenia's new Law on Labour Relations, which came in force in January 2003, set out new regulations on part-time work (as well as fixed-term employment, temporary agency work, home work, etc.) – these do not differ substantially in their content from the previous rules, but are now set out in a more clear and precise way (SI0308201F). Romania's new Labour Code sets a legal framework for all 'atypical' forms of work for the first time. In Norway, a committee was set up in November to look into the causes of part-time work, how its use affects participation and flexibility in the labour market and to examine the extent of involuntary part-time work and what can be done to reduce this. The committee will report in October 2004.

Turning to fixed-term work (work on a 'contract of limited duration'), the overall incidence declined slightly in the current EU between 2001 and 2002, according to Eurostat figures – see Figure 7 on p. 65. The 2002 average for the EU 15 was 13.1% of all employment in 2002, compared with the 2001 average of 13.4%. The figure for the 12 euro-zone countries was 14.7% in 2002, compared with 15.0% in 2001. The level of fixed-term working varies considerably between Member States – the country with the highest incidence of fixed-term working is still (by some distance) Spain, with an average of 31.2% in 2002, although this is down from 31.6% in 2001. Other countries with a relatively high incidence of fixed-term working include Portugal (21.8% in 2002), Finland (17.3%)

and Sweden (15.7%). Luxembourg, Ireland and the UK have the lowest incidences of fixed-term work, at 4.3%, 5.3% and 6.1%, respectively.

In the acceding and candidate countries, the average level of fixed-term work was 8.0% in 2001, rising to 11.1% in 2002, according to Eurostat. Fixed-term work is thus, on average, somewhat less common than in the current EU. The range in 2002 was from 15.5% in Poland and 14.7% in Slovenia to 0.9% in Romania and 2.2% in Estonia.

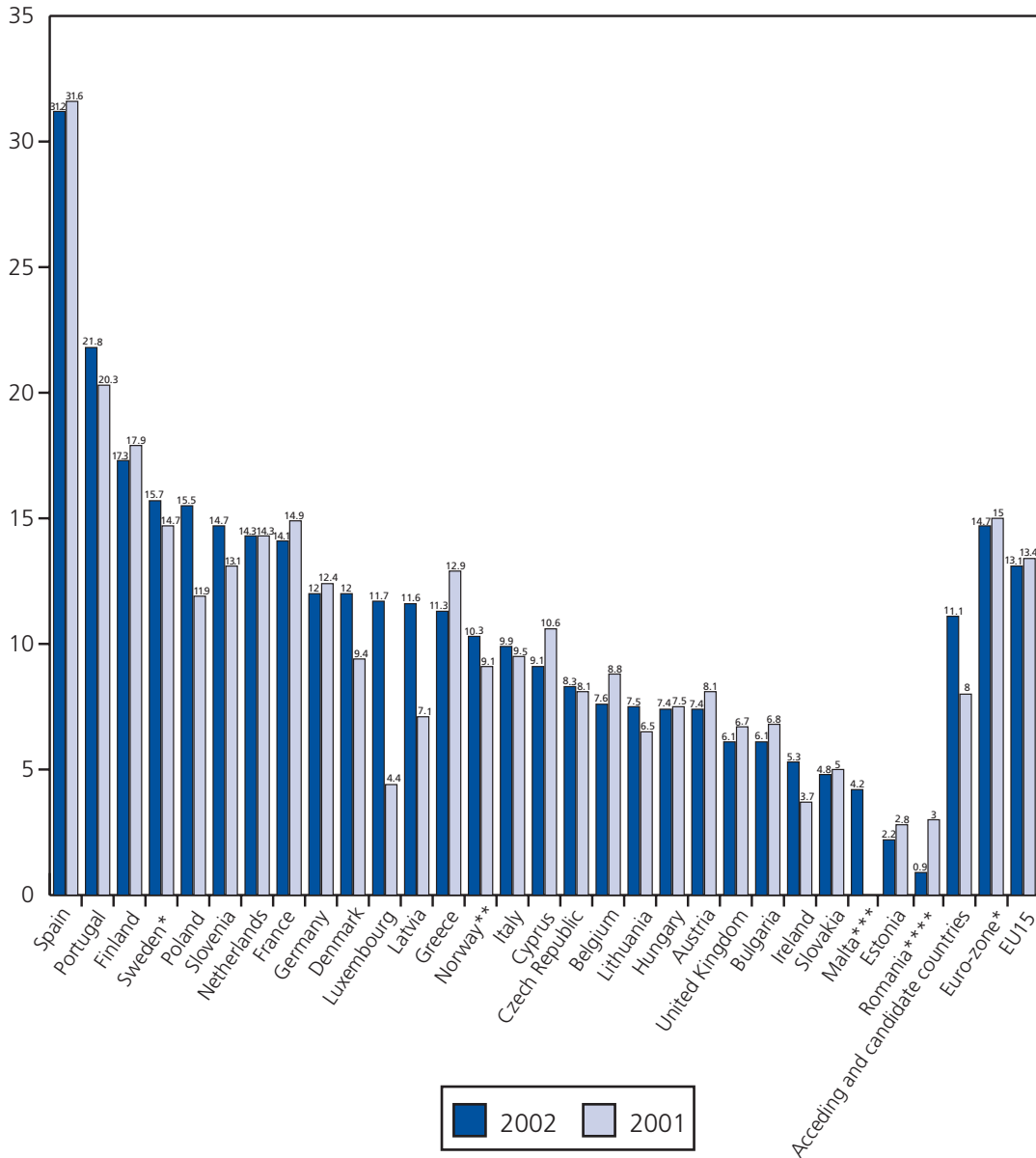
Figure 6 Part-time work in the EU Member States, Norway, and acceding and candidate countries, 2002 and 2001 (% of the workforce)



* 2001 figure – population between 15 and 74; ** 2001 figure is for 2000; *** comparability with 2001 lacking due to changes in definitions of employment and unemployment; **** no 2001 data available.

Source: Eurostat labour force survey.

Figure 7 Fixed-term work in the EU Member States, Norway, and acceding and candidate countries, 2002 and 2001 (% of the workforce)



* 2001 figure for population over 15; ** 2001 figure for population between 15 and 74; *** no 2001 data available;

**** comparability with 2001 lacking due to changes in definitions of employment and unemployment.

Source: Eurostat.

New legislation on fixed-term work, mainly implementing the 1999 EU Directive (1999/70/EC) on the subject, was adopted or came into force in 2003 in countries such as Cyprus, Greece, Hungary, Ireland, Malta and Slovenia. The Greek legislation proved controversial, and the year saw a number of court cases challenging the fact that many workers, mainly in the public sector, are excluded from some of its provisions (GR0306102N). In Norway, the government proposed a liberalisation of the rules governing temporary (fixed-term) work, which was strongly opposed by trade unions (NO0210103F). However, the government had to withdraw its controversial proposal

in order to reach political agreement on the state budget in the autumn (NO0312101N). In France, new forms of fixed-term employment contract linked to the completion of a specific task were widely discussed in 2003, and seem likely to be the subject of legislation in 2004.

On the specific issue of temporary agency work, there was a fair amount of legal and bargaining activity at national level in 2003, although the European Commission's proposal for an EU Directive to ensure the principle of non-discrimination for temporary (agency) workers failed to achieve adoption during the year (EU0306206F). In Germany, new legislation on temporary agency work came into effect at the beginning of the year, with the aim of promoting an expansion of this form of employment. In Poland too, new legislation was adopted on agency work, which has been growing in recent years. The new law defines temporary agency work and lays down rules on its use and on the employment conditions of agency workers (PL0308108N). New statutory rules in this area also came into force in Slovenia, seeking both to increase the flexibility of the labour market and provide adequate protection for agency workers (SI0207101F).

Germany's new legislation led in May 2003 to the conclusion by trade unions affiliated to the DGB confederation of separate packages of collective agreements with two major employer associations in the temporary work sector. The agreements – the first multi-employer agreements in the agency work sector – cover pay, working time, paid leave and bonus payments (DE0308203F). Sectoral bargaining was already established for temporary agency work in a number of countries, and 2003 saw new agreements in countries such as:

- Austria – providing a minimum pay increase of 2.1%;
- Belgium – covering issues such as training, health and safety, bonuses and combating discrimination against agency workers when applying for bank loans;
- the Netherlands – increasing the maximum length of contracts and ensuring payment for agency workers on the basis of the user company's collective agreements (after 26 weeks' work); and
- Sweden (blue-collar workers) – increasing the guaranteed minimum monthly wage and improving the position of newly recruited workers, as well as dealing with matters such as the geographical area within which workers can be expected to work and the use of fixed-term contracts (SE0303102F).

Temporary agency work continues to spread rapidly in many countries, including Denmark, Finland and Italy. This often raises the profile of this form of work among the social partners, and also raises new legal questions about the position of agency workers. For example, in Denmark trade unions formerly paid little specific attention to the question, but the increase in the use of agency work and the draft EU Directive on the issue have led them to formulate a policy on the issue, especially with regard to when agency workers should have the same rights as user company employees on open-ended contracts. This point was put to the test in 2003 in an arbitration case involving the Union of Danish Electricians (Dansk El-Forbund) and Tekniq, the employer organisation for heating and plumbing engineering and electrical installation. In a landmark award, the arbitrator ruled in September that temporary agency workers should receive the same terms – including pay – as employees doing the same work in the user company to which they have been assigned (DK0309101N). Another significant ruling was issued in Italy. Here, the use of agency

workers by firms is in many cases thought by trade unions to be in breach of the legislation on the issue, which permits such workers to be used only on specific grounds. In August 2003, a labour tribunal ordered the TIM mobile telephone company to reinstate a temporary agency worker on an open-ended contract at one of its call centres. The tribunal found that the company had failed to provide the justification required by law for the use of an agency worker. This was the first such judicial decision and may mark a turning point in preventing the unlawful use of this type of labour (IT0310308F).

Turning to telework, there was some activity among the national social partners on implementation of the European-level intersectoral social partners' July 2002 agreement on telework (EU0207204F). In August 2003, the UK government published guidance on telework agreed by the CBI, TUC and CEEP UK (UK0309102N) in response to the European agreement. The UK guidance is intended by the signatory parties to provide a useful checklist of issues to consider when implementing teleworking and explain how the text of the European agreement might best operate in the context of the UK labour market. Management and employee representatives can use this guide to draw up company-specific policies on teleworking. However, its precise status is the subject of differing interpretations – in their introductions to the document, the leaders of both the TUC and CEEP UK referred to it as an agreement, whereas the CBI's director general used the description voluntary, non-binding guidance. Similarly, in June 2003, the Swedish social partners agreed a set of joint guidelines on the national implementation of the European telework agreement (SE0309102N). In Spain, the national intersectoral framework agreement providing guidelines for bargaining in 2003 contains a section committing the social partners to implementing the EU telework agreement.

Otherwise, there was not very much change in the regulation of telework in 2003. New legislation on the employment conditions and status of civil servants in Luxembourg provides that they may now receive permission from their head of administration to do some of their work at home by teleworking and making use of information technology (LU0306102F). There was also a proposal to introduce experiments in part-time teleworking in the Belgian federal public administration. In Slovakia, labour legislation regulated work at home for the first time.

The 'new' forms of work examined above are not the whole picture, and other types of atypical work feature in many countries. To take the example of Italy, 'semi-subordinate work' (between dependent employment and self-employment) and 'employer-coordinated freelance work' are becoming increasingly widespread and have played a key role in employment growth in recent years. The most important of the non-dependent atypical forms of work is employer-coordinated freelance work, which is growing at an average rate of 12% per year, and now involves almost 2.4 million workers. This increase has been matched by a substantial growth, in both quantitative and qualitative terms, of collective bargaining covering such workers, which has led to important agreements being reached not only at the company and territorial level but also at the sectoral and national levels (IT0308304F). New rules on employer-coordinated freelance work featured in 2003's major labour market reform legislation (IT0307204F), which also introduced or regulated various new forms of employment contract, with the aim of increasing labour market participation – such as 'staff leasing' contracts, on-call work contracts, job-sharing and 'supplementary work'.

Outlook

2004 looks set to be a challenging year in terms of industrial relations, collective bargaining and pay. One of the most significant events of the year will be the enlargement of the EU from 15 to 25 Member States on 1 May, the largest single expansion exercise in the history of the EU. This will entail significant adjustments on the part of the governments and social partners in the acceding countries.

In political terms, the Presidency of the EU Council is held by the Irish government during the first half of 2004 and by the Dutch government during the second half of the year. Elections to the European Parliament will be held in 2004 and a new European Commission will take office when the mandate of the current Commission finishes at the end of October. In individual Member States, general elections are to be held in Greece, Luxembourg, Romania, Slovenia and Spain. Regional elections will be held in France and major local elections in Finland, Malta, Portugal and Romania.

The labour market will remain one of the largest challenges for many countries during 2004. In existing Member States, the year will see borders open to workers from the new Member States, although transitional arrangements are in place in the majority of current Member States. Many countries, such as Germany and Italy, have undergone significant labour market reform in recent years. In Germany, 2004 will be a year in which the success of the reforms, particularly in the area of social security, will be monitored. In Italy, 2004 will see the implementation in companies of the legislative reforms passed in 2003. Employment creation will remain a major preoccupation of the Belgian government, while further labour market reform will be on the agenda in Greece.

Pension reform is another major focus for many countries, as governments and social partners grapple with the problem of an ageing population and falling birthrate. Thus, Austria is likely to see further reforms to its pension system in 2004. In Italy, pension reform is set to dominate the industrial relations and social policy debate, with the government likely to press on with reform, in the face of trade union opposition. The reform of the pension and health system will also be a topic of debate in Malta in 2004. In Norway, discussions are likely on pensions issues such as the fate of the country's early retirement scheme and occupational schemes. Pension and healthcare reforms have been partially implemented in Slovakia and their completion will be a subject of debate in 2004. Other aspects of social security are a topic of debate in some countries. For example, 2004 will see the continuation of discussions on sickness absence and sick pay in Sweden, on unemployment benefit in Austria, on social security financing in Finland, on unemployment benefit and sickness insurance in France, and on healthcare in Latvia

In terms of collective bargaining, there is likely to be considerable activity at national, intersectoral level in many countries. Current national agreements expire during the year, or shortly afterwards, in countries such as Belgium, Finland, Greece and Spain and 2004 is will see bargaining over potential new accords. The social partners in Ireland will be preoccupied with trying to negotiate follow-on national pay provisions to those set out in their 2003 national agreement, in the context of a relatively conflictual industrial relations climate. In Slovenia, there will be negotiations over a new tripartite agreement on pay policy, with the deindexation of pay the most controversial issue. Furthermore, practically all national agreements in the private sector (the intersectoral general agreement and individual sectoral accords) expire during the year and should thus be renegotiated.

In Denmark and Sweden, 2004 will see the renegotiation of the main sectoral collective agreements – with the pace set by the industry sector – as multi-year agreements signed in 2000 and 2001 expire. Norway too, will witness a major bargaining round, after the intermediate settlement in 2003, and the negotiations are expected to be a test of the continuing viability of the cooperative incomes policy approach that has characterised wage formation for over a decade. Important sectoral agreements are also due for negotiation in Germany – notably the influential metalworking industry settlement, where working time flexibility is likely to be a major theme – Italy (where pay will probably be a central issue) and Slovenia. In Cyprus, a key question in the bargaining round at sector and company level will be whether unions will demand pay increases above and beyond the increase in competitiveness, aimed at gradually achieving real convergence with pay in the EU as a whole – an issue also expected to feature in Greece. The Maltese government is due to try to establish a ‘social pact’ with the social partners

New or proposed legislation on the rules for collective bargaining is likely to be a focus of debate in France, Hungary (where a revision of the Labour Code is expected, making it easier to conclude sectoral agreements) and Slovenia (where new legislation should introduce ‘free’ collective bargaining proper). Some unions in Cyprus will continue to call for collective agreements to be made legally binding. Important legislation is expected in 2004 on issues such as: strikes in essential services in Cyprus; gender equality in Estonia; ‘mobilisation for employment’ (including new forms of task-related employment contracts) in France; and public administration employment contracts in Portugal.

The EU Directive on employee involvement in the European Company Statute must be implemented by October 2004, and there is likely to be considerable activity in this area during the next few years. Similarly, the national information and consultation Directive must be transposed by March 2005, suggesting that new or amended legislation is in prospect in this area in many countries. This is particularly the case in Ireland and the UK, where significant changes to existing rules will be required. Finally, the new Member States will have to complete their transposition of the *acquis communautaire* in the industrial relations field by May.

Working time: developments in EU and national legislation

In 2003-4, the re-examination of EU Directive 93/104/EC has reinforced the customary position of the regulation of working time near the top of the industrial relations agenda at European Union level and in many individual countries. This chapter looks in turn at the European Commission's re-examination exercise, a number of aspects concerning the regulation of working time in law and agreement in the Member States (including the acceding and candidate countries in many cases) and Norway, and legislative and collective bargaining developments in this area in 2003.

The working time Directive

The main aim of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time is to protect workers against adverse effects on their health and safety from working excessively long hours, or having inadequate rest or disruptive working patterns. Its legal basis is Article 118a (now Article 137) of the Treaty establishing the European Community, which deals essentially with the health and safety of workers. The Directive lays down a series of important minimum health and safety requirements for the organisation of working time.

The Directive applies to all sectors of activity, both public and private. Air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and the activities of doctors in training were excluded from the scope of the 1993 Directive. However, the European Parliament and the Council adopted, on 22 June 2000, Directive 2000/34/EC, which extended the working time Directive to all the previously excluded sectors (EU0005249F).

These two Directives were codified into a consolidated text (Directive 2003/88/EC) in November 2003. Nevertheless, Directive 2003/88/EC enters into force only on 2 August 2004, and Directive 93/104/EC, as amended, therefore remains the only legal text in force until that date.

Briefly, the Directive's key provisions are as follows.

- **Rest period** (Article 3). Workers are entitled to a minimum daily rest period of 11 consecutive hours per 24-hour period. Derogations are allowed in certain circumstances (see p. 73).
- **Breaks** (Article 4). Every worker is entitled to a rest break where the working day is longer than six hours. The details of the rest break are to be laid down in collective agreements or agreements between the two sides of industry or, failing that, by national legislation. Derogations are allowed in certain circumstances (see p. 73).
- **Weekly rest period** (Article 5). An uninterrupted rest period of 24 hours is required for each seven-day period, plus the 11 hours daily rest referred to in Article 3. Derogations are allowed in certain circumstances (see p. 73). The Directive originally contained a provision that the weekly rest period should in principle include Sunday. The European Court of Justice (ECJ) annulled this provision. However, nine of the current 15 Member States have specific provisions relating to Sunday rest.
- **Maximum weekly working time** (Article 6). The average working time for each seven-day period, including overtime, must not exceed 48 hours (see Table 7 overleaf for the maximum weekly and daily working time set by national legislation). For the calculation of the average, Article 16(2) allows a reference period of four months, from which periods of annual leave and sick leave have to be excluded. Article 16(2) may be derogated from in various cases provided

for in Article 17. Furthermore, Article 18(1)(b)(i) allows ‘a Member State’ not to apply Article 6 in the case of workers who agree to ‘opt out’ of the maximum weekly working time. The UK is the only Member State currently making general use of this possibility.

- **Four weeks’ paid annual leave** (Article 7). Workers are entitled to paid annual leave of at least four weeks and the replacement of the leave by an allowance in lieu is prohibited. The Directive does not allow any derogations from Article 7 (for details of statutory minimum annual leave and average collectively agreed annual leave, see Table 8 on p. 74).
- **Night work** (Articles 8, 9, 10, 11 and 12). According to Article 8(1), the normal hours of work for night workers should not exceed an average of eight hours in any 24-hour period. The notion of ‘normal hours of work’ includes overtime as indicated in the preamble to the Directive: ‘Whereas there is a need to limit the duration of periods of night work, including overtime...’. Derogations are allowed in certain circumstances (see opposite). Other important provisions on night work relate to a free health assessment for night workers, the transfer from night work to day work in certain circumstances and notification by employers of the use of night workers.

Table 7 Statutory maximum working week and day, 2003 (hours)

Austria	40	10
Belgium	38	8
Cyprus*	48	13
Denmark*	48	13
Estonia	40	8
Finland	40	8
France	48	10
Germany**	48	8
Greece	48	13
Hungary	48	12
Ireland*	48	13
Italy*	48	12
Latvia	40	8
Luxembourg	48	10
Malta	48	12.5
Norway	40	9
Netherlands	48	9
Poland	40	8
Portugal	48	10
Romania	48	8
Slovakia	40	9
Slovenia	40	10
Spain	40	9
Sweden	40	8
UK*	48	13

* No explicit maximum working day (except for night workers), but a 13-hour maximum can be derived from the application of the working time Directive’s minimum 11-hour daily rest period. ** No explicit weekly maximum in Germany, the 48-hour figure represents an average based on daily maximum rules.

Notes: These statutory maximum figures may be exceeded in many countries, in the context of working time flexibility schemes allowing weekly and daily hours to be varied around an average over a reference period (as permitted by the EU Directive) – see Table 9 on p. 77. Furthermore, the situation varies as to whether the maximum figure includes overtime – see Table 11 on p. 81.

Source: EIRO.

Derogations

Article 17 permits Member States to derogate from some articles of the Directive under specific conditions and, as the case may be, by specific means. The idea of derogation is to retain the principles set out in the Directive, while allowing flexibility in the application of those principles. There are essentially three types of derogation:

- the first type is where the duration of working time is not measured and/or predetermined or can be determined by the workers. The Directive mentions three particular activities for which this derogation is permitted (managing executives, family workers and workers officiating at religious ceremonies). The list is not exhaustive but should be interpreted restrictively. In this case, the derogation is allowed for quite a number of the key articles of the Directive (3, 4, 5, 6, 8 and 16);
- the second type of derogation is in accordance with a set of criteria set out in detail in the Directive, followed by examples (e.g. press, radio and agriculture). Although these derogations are allowed from most of the same articles as for the first type, it is important to note that they are not allowed in respect of the maximum weekly working time. Such derogations are permitted on condition that workers are afforded equivalent periods of compensatory rest or that, in exceptional cases in which it is not possible, for objective reasons, to grant such equivalent periods of compensatory rest, the workers concerned are afforded appropriate protection;
- finally, derogations are also permitted from Articles 3, 4, 5, 8 and 16 by means of collective agreements or agreements between the two sides of industry (these can apply to any industry or activity). The same conditions apply as those described above with respect to equivalent compensatory rest.

Exceptions (the individual 'opt-out')

Article 18(1)(b)(i) of the working time Directive provides that 'a Member State shall have the option not to apply Article 6 while respecting the general principles of the protection of safety and health of workers ...', subject to complying with other specific conditions. Article 6 lays down the principle of a maximum weekly working time of 48 hours.

Communication on re-examination of the working time Directive

The Commission adopted on 30 December 2003 a Communication (COM(2003) 843 final) concerning the re-examination of Directive 93/104/EC concerning certain aspects of the organisation of working time (EU0402203F).

Background

The Directive contains two provisions allowing for their review prior to the expiry of a seven-year period reckoned from the deadline for transposal by the Member States, i.e. prior to 23 November 2003. These provisions concern the derogations from the reference period for the application of Article 6 (maximum working week) and the option of not applying Article 6 if the worker agrees to carry out such work (generally known as the 'opt-out').

On the other hand, the interpretation of the provisions of the Directive by the ECJ in a number of preliminary rulings pursuant to Article 234 of the Treaty has had a profound impact on the concept of 'working time' and, therefore, on essential provisions of the Directive. It is therefore necessary

and opportune to analyse the effects of this case law, particularly the judgments in two cases concerning the qualification as working time of periods on call for doctors if they are required to be at the health centre. These are the ECJ judgments:

- of 3 October 2000 in case C-303/98, *Sindicato de Medicos de Asistencia Pública (SIMAP) v Conselleria de Sanidad y Consumo de la Generalidad Valenciana*, European Court reports 2000, p. I-07963; and
- of 9 October 2003 in case C-151/02, request to the Court by the *Landesarbeitsgericht Schleswig-Holstein* (Germany) in the proceedings pending before that court between the *Landeshauptstadt Kiel* and *Norbert Jaeger*, not yet published.

Table 8 Statutory minimum and average collectively agreed annual paid leave (in days), 2003

Country	Statutory	Collectively agreed
Austria	25.0	25.0
Belgium	20.0	nd
Bulgaria	20.0	nd
Cyprus	20.0	20.0
Denmark	25.0	30.0
Estonia	20.0	nd
Finland	20.0	25.0
France	25.0	25.0
Germany	20.0	29.1
Greece	20.0	23.0
Hungary	20.0	nd
Ireland	20.0	20.0
Italy	20.0	28.0
Latvia	20.0	nd
Luxembourg	25.0	28.0
Malta	24.0	nd
Netherlands	20.0	31.3
Norway	21.0	25.0
Poland	20.0	nd
Portugal	22.0	24.5
Romania	20.0	24.0
Slovakia	20.0	nd
Slovenia	20.0	nd
Spain	22.0	nd
Sweden	25.0	33.0
UK	20.0	24.5

Notes: the leave is expressed in days and harmonised on the basis of a five-day working week, and the statistics given are the basic entitlement (entitlement increases with length of service in some countries). For details of sources and calculation methods see EIRO record 'Working time developments – 2003', March 2004 (TN0403104U).

Source: EIRO.

The Commission felt the need to take a broad approach to a possible revision of the working time Directive, having realised that practice shows a great interrelation between different provisions of

the Directive. For instance, in order to cope with the effects of the ECJ rulings on the qualification of residential on-call time as ‘working time’, some Member States have started making use of the opt-out.

On the other hand, any modification of this Directive has to strike a good balance between a high level of protection for workers and a high degree of flexibility for firms. In this context, the Commission is of the opinion that the revision of the working time Directive could be exploited in such a way as to encourage the Member States to take steps to improve the compatibility of work and family life.

Therefore, the aim of the Communication is threefold:

- to evaluate the application of the two provisions subject to review – the derogations from the reference periods (Article 17(4)) and the opt-out (Article 18(1)(b)(i));
- to analyse the impact of the ECJ case law concerning the definition of working time and the qualification of time on call, as well as new developments aimed at improving compatibility between working and family life;
- to consult the European Parliament and the Council, but also the European Economic and Social Committee, the Committee of the Regions and the social partners, on a possible revision of the text.

With regard to the European social partners, this Communication should be considered as the first phase of consultation pursuant to Article 138(2) of the Treaty. The Commission will of course subsequently consult the social partners on the content of all proposals envisaged (Article 138(3)).

Content of the Communication

In its first part, the Commission’s Communication analyses and evaluates the application of the two provisions of the Directive subject to re-examination, and also the definition of working time following the case law of the ECJ and the question of the balance between work and family life.

Derogations from the reference periods

The reference periods for the application of Articles 5 (weekly rest period) and 6 (maximum working week) are laid down in Article 16 of the Directive.

With regard to calculating the maximum working week (48 hours), Article 16(2) lays down a reference period of not more than four months (see Table 9 on p. 77 for details of national legislation on varying weekly hours over a reference period). However, it is possible to derogate from Article 16 and the reference periods may therefore be extended in the cases provided for in the first three paragraphs of Article 17.

This option to derogate from the reference period is nevertheless limited by Article 17(4) of the Directive. This is worded as follows:

‘The option to derogate from point 2 of Article 16, provided in paragraph 2, points 2.1 and 2.2 and in paragraph 3 of this Article, may not result in the establishment of a reference period exceeding six months.

However, Member States shall have the option, subject to compliance with the general principles relating to the protection of the safety and health of workers, of allowing, for objective or technical reasons or reasons concerning the organisation of work, collective agreements or agreements concluded between the two sides of industry to set reference periods in no event exceeding 12 months.

Before the expiry of a period of seven years from the date referred to in Article 18(1)(a), the Council shall, on the basis of a Commission proposal accompanied by an appraisal report, re-examine the provisions of this paragraph and decide what action to take.'

In summary, the reference period for calculating the 48-hour week is set at four months. It may be set at six months in cases where it is possible to derogate from Article 16. Furthermore, by collective agreement, it may be extended up to 12 months.

It is not always easy to analyse national legislation with regard to the transposition of Articles 6 and 16. In certain cases, the Member States, instead of limiting average working time during a given reference period, lay down an absolute daily and/or weekly limit while allowing overtime within daily, weekly, monthly or yearly limits (see Table 11 on p. 81 for details of national legislation on overtime).

In only four Member States (Greece, Ireland, Portugal and the UK) does the legislation faithfully reproduce the provisions of the Directive, i.e. a reference period of four months for calculating the maximum average weekly working time and the possibility of laying down a longer reference period by collective agreement which, however, may not exceed 12 months. It does not mean that all the other Member States are in breach of the Directive, but that they have chosen other ways to achieve the objective of limiting the weekly working time. For instance:

- in Denmark, reference periods are not laid down by law. Collective agreements lay down reference periods of between four and 12 months;
- in Finland, the four-month reference period is applied only to the maximum amount of overtime. Collective agreements may lay down a one-year reference period for ordinary working time, and for limiting overtime;
- in France, the 48-hour limit is absolute and not an average to be calculated over a reference period.

Other Member States have different reference periods, often of one year, but which apply only to the calculation of ordinary working time, which is considerably less than the 48 hours laid down in the Directive.

In general, there appears to be a tendency towards expressing working time as an annual figure (TN0308101S) – see Table 12 on p. 87 for details of collective bargaining in the various countries on annualised hours and hours-variation schemes.

Table 9 Legislative framework for working time variation and annualised hours (AH) schemes, 2003

Country	Main legislation	Reference period	Maximum daily hours	Maximum weekly hours	Average weekly hours (or annual maximum)	Conditions and exceptions
Austria	Working Time Act (Arbeitszeitgesetz, AZG) 1997 (plus decrees in the case of public services, based on specific service regulations for the various groups of public servants).	Up to 12 months	–	48	40 (or collectively agreed week, if shorter)	Collective agreement required for introduction of AH (or works agreement if there is an 'opening clause' in relevant collective agreement).
Belgium	Laws of 16 March 1971 (as amended), 10 August 2001 and 17 March 1987 and national collective agreements No. 42 of the 2 June 1987 and No. 42bis of 10 November 1987.	Between 3 and 12 months	9 under flexible working week schemes; 11 or 12 for specific reasons	45 under flexible working week schemes; 50 or 56 for specific reasons	38	Flexible working week schemes: normally require sectoral collective agreement. Specific reasons: AH permitted for technical or practical reasons or to cope with exceptional surge in work, and agreement of sectoral joint committee generally required. Throughout reference period, number of hours worked may not exceed normal limits by more than 65 hours, without immediate compensatory rest being granted.
Denmark	2002 law implementing EU working time Directive.	Up to 4 months	–	–	48	–
Finland	Working Hours Act (605/1996).	Up to 52 weeks	-	-	40	Sectoral collective agreement (or local agreement if permitted for sectoral agreement) usually required for exceeding statutory working time limits of 8 hours a day and 40 hours a week
France	June 1996 'Robien law' on working time reduction, June 1998 and January 2002 'Aubry laws' on working time reduction.	Up to 12 months	10	48 or 60 in special cases	35 (maximum of 1,600 per year)	Sectoral or company collective agreement required for introduction of AH.

Table 9 (continued)

Country	Main legislation	Reference period	Maximum daily hours	Maximum weekly hours	Average weekly hours (or annual maximum)	Conditions and exceptions
Germany	Working Time Act (Arbeitszeitgesetz) 1994.	24 weeks	10	48	8 per day	Collective or works agreements may establish a different reference period or extend hours beyond 10 a day in certain circumstances.
Greece	Laws 2639/1998 and 2874/2000.	Up to 12 months	12	–	40 (38 or 1,748 per year if reference period is 12 months)	–
Ireland	Organisation of Working Time Act 1997.	Up to 4 months, or up to 12 by agreement	–	–	48	Collective or individual agreement required to extend reference period from 4 to a maximum of 12 months.
Italy	Law No. 196/1997 (article 13), ministerial circular No. 10/2000, and legislative decree No. 66/2003.	Up to 4 months, or up to 12 by agreement	–	–	48	Collective agreement required to extend reference period from 4 to a maximum of 12 months.
Luxembourg	Laws of 9 December 1970 and 12 November 1971 as most recently amended by laws of 12 February 1999, 8 March 2002 and 20 December 2002.	1 month/ 4 weeks or up to over 1 year by agreement	10	48	40 (10 per day)	Collective agreement (or ministerial authorisation in absence of agreement) required to extend reference period from 1 month/ 4 weeks to 1 year or more.
Netherlands	Working Time Act (Arbeidstijdenwet) 1995.	13 weeks	Standard – 9; by agreement – 10; special circumstances – 12	Standard – 45; by agreement – 50 (over 4 weeks); special circumstances – 60	Standard – 40. By agreement – 45. Special circumstances – 48	Collective agreement or agreement with works council required to exceed standard rules in all cases.
Norway	Worker Protection and Working Environment Act (Arbeidsmiljøloven, AML) 1997.	Individual agreement – up to 1 year; collective agreement – up to 1 year; Labour Inspectorate permit – up to 6 months	Individual agreement 9; collective agreement – 10; Labour Inspectorate permit – no limits	Individual agreement – 48; collective agreement – 54; Labour Inspectorate permit – no limits	Normal hours	Individual employer-employee written agreement required for basic AH scheme; collective agreement required for higher daily and weekly limits; Labour Inspectorate permit required for no daily and weekly limits (but over shorter period).

Table 9 (continued)

Country	Main legislation	Reference period	Maximum daily hours	Maximum weekly hours	Average weekly hours (or annual maximum)	Conditions and exceptions
Portugal	Law No, 73/98 of 10 November 1998 on general organisation of working time	Up to 4 months or up to 12 by agreement	–	–	48	Collective agreement required to extend reference period from 4 to a maximum of 12 months.
Spain	Royal Decrees 1/1995 and 1561/1995, Laws 39/1999 and 12/2001	Up to 12 months	9	50	40	Collective agreement required for introduction of collective AH (though some individual employment contracts may allow for AH).
Sweden	Working Time Act (Arbetsstidslagen) 1982.	4 weeks	–	–	40	Variation over reference period allowed where necessary because of nature of work. Derogations from working time rules generally allowed by collective agreement.
UK	Working Time Regulations 1998.	Up to 17 weeks, or up to 26 weeks in certain cases, or up to 52 weeks by agreement	–	–	48	Collective agreement (or workforce agreement where unions not recognised) required to extend reference period up to 52 weeks. Workers may 'opt out' of 48-hour weekly limit.

Source: EIRO comparative study on 'Annualised hours in Europe', August 2003 (TN0308101S).

Extension of the reference period by collective agreement

According to Article 17(4) of the Directive, the reference period for calculating the 48-hour week may be extended to 12 months only by collective agreement or other agreements concluded between the social partners. In practice, it would appear, however, that the Member States are not all in the same situation with regard to this possibility of extending the reference period. The coverage of collective bargaining – namely the proportion of workers whose pay and working conditions are laid down, at least to a certain extent, by collective agreements – varies considerably within the EU, but is generally high, with the exception of the UK, as shown in Table 10 overleaf.

Table 10 Direct collective bargaining coverage, selected EU countries

Country	Coverage (%)
Belgium	100 (approx.)
Slovenia	100 (approx.)
Austria	98
Sweden	94
Finland	90
France	90
Denmark	85
Spain	81
Netherlands	78
Cyprus	65-70
Germany	67
Portugal	62
Luxembourg	60
Slovakia	48
Poland	40
United Kingdom	36
Hungary	34
Czech Republic	25-30
Estonia	29
Latvia	under 20
Lithuania	10-15

Source: EIRO

Thus, although certain countries reach or approach 100% coverage, coverage in the UK is only 36%. The percentage of coverage would be even lower if only the private sector (22%) were taken into account.

Furthermore, it should be noted that the possibility of derogating from certain provisions of the Directive through agreements other than collective agreements concluded between social partners has not been widely used. Thus in the UK, for example, 'workforce agreements' (UK9810154F) have hitherto been rarely used.

Table 11 Principal features of overtime schemes, 2003

Country	Maximum working time* (minimum daily rest period, where no maximum daily hours)	Threshold marking beginning of overtime**		Specific maximum overtime limits	Conditions for use of overtime (procedures, justifications)	Enhanced pay rate and/or time off in lieu
		Method of setting threshold	Threshold level			
Austria	10 hours per day, 50 hours per week (maximum under certain conditions).	Legislation.	8 hours per day, 40 hours per week, which is above average collectively agreed working time.	5 hours per week, and additional 60 hours per year.	No conditions.	+50% pay rate or +50% time off in lieu.
Belgium	8 hours per day, 38 hours per week.	Legislation and agreements (at sector or company level).	8 hours per day, 38 hours per week.	None.	May only be used on specific grounds – exceptional peaks of work, force majeure, unforeseeable needs. Authorisation procedures vary according to reason.	+50% pay rate (+100% at weekends and public holidays) – may be converted into time off in lieu if provided for by collective agreement.
Denmark	48 hours per week (minimum daily rest period of 11 hours).	Agreements (at sector or company level).	37 hours per week (industry sector agreement).	12 hours over 4 weeks (industry sector agreement).	Notice period required (industry sector agreement).	Companies with agreement – increased pay rate, then time off in lieu for overtime hours over a threshold (8 hours in 4 weeks in industry sector agreement). Companies without agreement – mostly time off in lieu.
Finland	8 hours per day, 40 hours per week.	Legislation or agreement.	40 hours or collectively agreed working time.	138 hours over a 4-month period, 250 hours per year over statutory threshold of 40 hours, raised by 80 hours per year if the 138 hours over a 4-month period is complied with.	Individual agreement of the employee required for work over 40 hours per week.	+50% pay rate for the first 2 hours per day, +100% above that. May be converted into time off in lieu by agreement.
France	10 hours per day, 48 hours per week.	Legislation.	35 hours per week.	180 hours per year or set by collective agreement.	No conditions. Permission from authorities required for exceeding annual limits.	Between 35th and 43rd weekly hour – minimum pay rate of +10% (+25% without agreement) or time off in lieu by agreement. From 44th hour – +50% pay rate.

Table 11 (continued)

Country	Maximum working time* (minimum daily rest period, where no maximum daily hours)	Threshold marking beginning of overtime**		Specific maximum overtime limits	Conditions for use of overtime (procedures, justifications)	Enhanced pay rate and/or time off in lieu
		Method of setting threshold	Threshold level			
Germany	8 hours per day, 48 hours per week.	Agreements (at sector level).	Varies between sectoral agreements.	Varies between sectoral agreements.	Agreement of works council required, except where sectoral agreement includes specific provision.	Increased pay rate and/or time off in lieu, by collective agreement.
Greece	9 hours per day, 43 hours per week (assuming five-day week).	Legislation.	40 hours.	3 hours per day over 43 hours (in case of emergency, no limits on the first day, and 4 hours on the next 4 days). Annual limits, varying by sector and region set every six months by Ministry of Labour.	Over 43 hours per week requires justification, notification of authorities and record-keeping.	From the 40th to the 43rd weekly hour – +50% pay rate. From 44th hour – +150% pay rate.
Hungary	12 hours per day, 48 hours per week.	Legislation.	8 hours per day, 40 hours per week.	200 hours per year, may be raised to 300 hours by agreement.	Reasons required, notice to be given, record-keeping compulsory.	+50% pay rate (or time off in lieu by agreement), +100% pay rate for work on a holiday (or +50% if time off in lieu granted).
Ireland	48 hours per week (minimum daily rest period of 11 hours).	Agreements.	Varies between (mainly company) agreements (average 39 hours).	2 hours per day, 12 hours per week, 240 hours per year, or 36 hours over 4 consecutive weeks. Limits can be exceeded with permission from the authorities.	No conditions.	+25% pay rate (agreements often lay down higher rates).
Italy	48 hours per week (minimum daily rest period of 11 hours).	Legislation and agreements (at sector level).	40 hours per week.	250 hours per year (may be lower by agreement).	Collective agreement required (sector- or company-level).	+10% rate (in absence of agreement on higher rate).
Luxembourg	10 hours per day, 48 hours per week.	Legislation.	8 hours per day, 40 hours per week.	None, but overall statutory daily and weekly working time limits (see first column).	Permitted only on specific grounds (e.g. exceptional cases), permission from the authorities required.	+25% pay rate for blue-collar workers, +50% for white-collar workers. May be converted into time off in lieu at +50% for all workers.

Table 11 (continued)

Country	Maximum working time* (minimum daily rest period, where no maximum daily hours)	Threshold marking beginning of overtime**		Specific maximum overtime limits	Conditions for use of overtime (procedures, justifications)	Enhanced pay rate and/or time off in lieu
		Method of setting threshold	Threshold level			
Netherlands	12 hours per day (11 hours if no agreement), 60 hours per week (54 with no agreement), 624 hours per 13-week period. (585 without agreement).	Legislation and agreements.	Varies between collective agreements (no fixed level).	None, but overall statutory daily, weekly and quarterly working time limits (including 'incidental hours'), which may be extended within limits by agreement (see first column).	Must be 'incidental' and not 'structural'. Collective agreements often require agreement of works council and/or employees concerned.	Increased pay rate and/or time off in lieu, by collective agreement.
Norway	9 hours per day, 48 hours per week.	Legislation.	9 hours per day, 40 hours per week, which is above average collectively agreed working time (37.5 hours).	200 hours per year (overtime between 200-400 hours per year allowed by individual agreement).	Permitted only on specific non-permanent grounds (e.g. unforeseen events or volume of work). Subject (if possible) to discussion with (elected) staff representatives and (for overtime between 200-400 hours) to agreement with employee.	+40% pay rate (usually +50% by agreement, and +100% after 21.00).
Poland	10 hours per day, 40 hours per week.	Legislation.	8 hours per day, 40 hours per week (over 5-day week).	4 hours per day, 150 hours per year.	Permitted only on specific grounds (e.g. employer's special needs or rescue operations), monitored by the authorities.	+50% pay rate for the first 2 hours, +100% for further hours (and work at night, on Sunday and holidays. May be converted into time off in lieu at request of employee and with employer's agreement.
Portugal	8 hours per day, 44 hours per week (up to 10 hours per day and 50 hours per week, by agreement).	Legislation and agreements.	8 hours per day, 44 hours per week (up to 10 hours per day, 50 hours per week by agreement).	2 hours per day, 200 hours per year.	Permitted only on specific grounds (e.g. unscheduled increased workload or force majeure), record-keeping required.	+50% pay rate for 1st hour, +75% thereafter that, +100% on rest days and holidays. Plus time off in lieu at 25% of the hours worked.

Table 11 (continued)

Country	Maximum working time* (minimum daily rest period, where no maximum daily hours)	Threshold marking beginning of overtime**		Specific maximum overtime limits	Conditions for use of overtime (procedures, justifications)	Enhanced pay rate and/or time off in lieu
		Method of setting threshold	Threshold level			
Slovakia	58 hours per week (exemption available by collective agreement and permission from the authorities).	Legislation.	40 hours per week over 5-day week ('regular' working schedule – daily minimum of 3 hours and maximum of 9 hours).	18 hours per week, 150 hours per year (excluding certain overtime, such as in the event of disasters). Up to 300 hours in special cases by company-level agreement and with authorities' permission.	No conditions for up to 150 hours per year.	+ 25% pay rate (higher by company-level agreement).
Spain	9 hours per day, 40 hours per week.	Legislation.	40 hours per week, which is above average collectively agreed working time.	80 hours per year.	Requires collective agreement or agreement by employee.	Increased pay rate (average +18%) or time off in lieu, by collective agreement.
Sweden	8 hours per day, 40 hours per week.	Legislation.	40 hours per week, which is above average collectively agreed working time.	None, but overall statutory weekly working time limits (see first column). Temporary exemptions possible by (company- or workplace-level) agreement.	Must be justifiable (e.g. special needs, or employer's requirements) and often subject to agreement (company- or workplace-level). Record-keeping compulsory, monitoring by staff representatives.	Increased pay rate (usually +50% to +100%) or time off in lieu, by collective agreement.
UK	48 hours per week (minimum daily rest period of 11 hours).	Agreements (company-level).	Varies between (company-level) agreements.	None, but overall statutory weekly working time limits (from which individuals may 'opt out').	No conditions.	Increased pay rate or time off in lieu, by agreement.

* However it is described (maximum or standard) in the national regulations; ** Threshold beyond which increased pay rate or time off in lieu for overtime begins, either called 'maximum working time', or the 'statutory period', or equivalent to the collectively agreed working hours, depending on the country.

Source: EIRO comparative study on 'Overtime in Europe', February 2003 (TN0302101S).

On the opt-out

From a legal point of view, the Commission expresses some doubts about the conformity of UK national law relating to the opt-out from the 48-hour maximum working week with the relevant provisions of the Directive. The Commission notes that legislation and practice do not appear to

offer all the guarantees laid down by the Directive. First, a number of information sources note a certain generalisation in the presentation of the opt-out agreement when the employment contract is signed. This practice appears to undermine the second indent of Article 18(1)(b)(i), which aims to guarantee the worker's free consent by ensuring that no worker may suffer harm due to the fact that he or she is not prepared to give his or her agreement. It is legitimate to suppose that if the opt-out agreement must be signed at the same time as the employment contract, freedom of choice is compromised by the worker's situation at that moment.

Moreover, according to the third and fourth indents of that Article, the Member States wishing to use the opt-out must ensure that the employer keeps up-to-date records of all workers who carry out such work and that the records are placed at the disposal of the competent authorities, which may, for reasons connected with the safety and/or health of workers, prohibit or restrict the possibility of exceeding the maximum weekly working hours.

These two indents clearly show that the intention of the Community legislature was that the employer should keep a record of the hours actually worked by workers who had signed an opt-out agreement.

Amendments introduced to the UK Working Time Regulations in 1999 (UK9907117N) reduce the obligations to keep records to the simplest terms: only the agreement itself must be conserved. This does not seem compatible with the requirements of the Directive mentioned above.

On a more practical approach, it has to be noted that the main characteristics of the system governing working time in the UK have remained unchanged despite the entry into force of the Directive, mainly as a result of using the opt-out (UK0401104F).

According to available figures, approximately four million people, or 16% of the UK workforce, currently work more than 48 hours per week, although there were only 3.3 million (or 15%) at the beginning of the 1990s. It also appears that the number of people working over 55 hours per week has increased, and now stands at 1.5 million. In fact, the UK is the only Member State where weekly working time has increased over the last decade. According to a document dated April 2003 sent to the Commission by the UK government, however, the percentage of people stating that they habitually work more than 48 hours has been constantly falling since 1999, albeit slowly, although the trend in the preceding period was upwards.

The document from the UK authorities confirms figures obtained from other sources concerning the percentage of people habitually working more than 48 hours per week (about 4 million or 16% of workers). Among those declaring that they work more than 48 hours, 65% say that they work over 50 hours, 54% over 52 hours and 38% over 55 hours.

Surprisingly, the number of workers who have signed an opt-out agreement is considerably higher than the number of people usually working more than 48 hours. There are no reliable statistics on the number of workers who have agreed (or refused) to sign an opt-out. However, all parties agree that it is considerably higher than the number of workers who strictly need it. For example, according to a survey of UK employers, 65% of the 759 undertakings which replied to the questionnaire asked their employees to sign an opt-out agreement. The agreement had been signed

by over half of the workers in 61% of these undertakings. In 28% of them, all workers had signed the opt-out agreement. According to a survey commissioned by the Confederation of British Industry, 33% of UK workers have signed an opt-out agreement (UK0310102N), i.e. more than double those who say that they actually work more than 48 hours a week over a long period.

If the number of workers who have signed an opt-out agreement is far higher than those who work on average more than 48 hours per week over a 17-week period, one might well ask why. According to the available information, there are a number of reasons for using the opt-out:

- people habitually work more than 48 hours and want to continue to be able to do so;
- the reference period for calculating the 48-hour week does not make it possible to respond to the flexibility needs of undertakings, and it can be extended to one year only by collective agreement;
- potentially applicable derogations are unclear; and
- it minimises administrative constraints.

Effects of the opt-out on workers’ health and safety

The link between long working hours and the health and safety of workers is well-established. Many research projects have shown that work-related fatigue is increased by the number of hours worked. Experience shows that fatigue and loss of concentration cannot be avoided after a certain period of time, and that the risk of industrial accidents increases during the final hours of work. A number of studies conclude that a working week exceeding 50 hours may, in the long term, have harmful effects on the health and safety of workers.

Table 12 Collective bargaining on annualised hours (AH)/working time variation schemes, situation in 2003

Country	Main features
Austria	Many sectoral agreements provide for various AH schemes – often allowing variations only over a few weeks, but sometimes over 12 months under a ‘bandwidth’ model – leaving detailed implementation to company-level works agreements (between management and works council). For example, averaging over 12 months is allowed under agreements in sectors such as metalworking, paper production, construction, ceramics and information technology. Such schemes are not always taken up in works agreements, but where they are, agreements typically provide for a 13-52 week reference period, during which weekly hours may be as high as 40, if the 38.5-hour norm is maintained on average.
Belgium	Many sectoral agreements provide for AH schemes, often linked with working time reductions, while referring details of implementation to company level. Examples of such agreements include: clothing and garment manufacturing (blue-collar workers); chemicals (blue-collar); food retail (white-collar); banking; and healthcare.
Denmark	AH schemes are provided for by the industry sector agreement, the largest in the private sector, as well as the agreements in insurance and some parts of the public sector. These provide for a 37-hour week to be maintained on average over a 12-month reference period, subject to a 48-hour weekly upper limit (which may, rarely, be exceeded by local agreement) with detailed implementation to be agreed locally.
Finland	Many sectoral agreements provide for AH schemes, with a 12-month reference period relatively common – as in the graphical, chemicals and metalworking industries – plus daily and weekly upper limits in many cases. Within this framework, company-level bargaining on AH is often allowed by sectoral agreements.
France	Under the influence of legislation, collective agreements at sector and company level now very commonly provide for AH schemes, with a 35-hour week maintained on average within weekly limits, usually over a 12-month reference period.

Table 12 (continued)

Country	Main features
Germany	Numerous sectoral agreements and company-level works agreements provide for various AH schemes, often in the form of annual working time accounts and flexible weekly working time.
Greece	There are virtually no collective agreements on AH schemes, with the only exceptions being a handful of company agreements in manufacturing industry.
Ireland	There are some company-level agreements on AH, notably a few high-profile annualisation deals at relatively large manufacturing firms such as Aughinish Alumina, Shannon Aerospace, SIFA and Honeywell. Recent attempts to introduce AH agreements in parts of the public sector – such as the prison service – have proved problematic.
Italy	AH schemes of a kind – in the form of ‘multi-period work schedules’ (whereby the number of weekly hours worked may vary around an average during certain periods of the year) – feature in all sectoral agreements. Some sectoral agreements – as in chemicals, metalworking, banking, textiles, commerce and local government – provide for ‘hours banks’, while only the chemicals agreement provides for a fully annual working time schedule (with 247.5 working days per year and weekly working time varying around an average of 37.75 hours, within limits). Supplementary company-level agreements may elaborate on some aspects of the sectoral AH provisions.
Luxembourg	Under the influence of legislation, around four out of 10 (mainly company-level) agreements concluded in recent years have provided for AH schemes, allowing averaging of working hours over a period of between four weeks (most common) and a year (less common, and mainly among craft workers such as electricians, installation engineers, painters and roofers).
Netherlands	Only a relatively small minority of (mainly sectoral) collective agreements provide for AH schemes exceeding the statutory norms, for example in terms of higher average weekly hours during the 13-week statutory reference period. Only a few agreements provide for full annualisation – examples are commerce in wood and meat-processing. At company level, agreements with works councils often elaborate on the working time provisions in sectoral agreements, which may include AH arrangements.
Norway	Only a minority of sectoral agreements provide for any form of AH, though some explicitly refer to the relevant legislation (the AML) on this point and thus allow, at least in theory, hours-averaging over a reference period, while a few allow averaging but with stricter rules (e.g. on reference periods) than in the AML. In the 2002 bargaining round, the Norwegian Confederation of Trade Unions (Landsorganisasjonen i Norge, LO) and the Confederation of Norwegian Business and Industry (Næringslivets Hovedorganisasjon, NHO) agreed to ‘allow for the calculation of average working time according to the rules of the AML’. This phrase was incorporated into all the agreements to which LO and NHO are party, and in a number of other agreements in the private sector. In the public sector, AH in the form of ‘flexible hours’ is widely regulated and practiced. Thus there are now relatively few agreements that severely restrict or prevent AH.
Portugal	There are no known sectoral agreements that provide for AH schemes, and the matter is dealt with in only a few company-level agreements, mainly in firms operating shift systems (generally in ‘traditional’ labour-intensive industries), in the motor industry (to cope with the seasonality of the market), or for skilled workers who are exempt from the fixed working hours rules. Examples of company agreements providing for some form of annualisation include those at SSGP-Vidro Automóvel, Covina, Unicer and Volkswagen Autoeuropa.
Spain	The majority of sectoral- and company-level agreements now provide for AH schemes. The main forms are annualised calculation of working time and irregular distribution of working time over a reference period (sometimes requiring the involvement/agreement of workers’ representatives).
Sweden	The two most recent major bargaining rounds – in 1998 and 2001 – have resulted in some 20 sectoral agreements (e.g. in the paper and pulp industry) which deal with annual working time accounts or banks. The sectoral agreements allow for such schemes to be negotiated at local level, as one of a range of possible flexibility arrangements.
UK	Most collective bargaining occurs at company or lower (site/workplace) level and this is true of agreements of AH schemes. Most such schemes are indeed thought to be based on negotiation or consultation with trade unions. Annualisation is particularly prevalent in the education sector, electricity, gas and water supply (with notable agreements including those at Welsh Water, Scottish Power and Hyder Utilities) and manufacturing (e.g. Peugeot, Samsung Electronics and ICI).

Source: EIRO comparative study on ‘Annualised hours in Europe’, August 2003 (TN0308101S).

An analysis of the health and safety impact of the opt-out in the UK is not feasible owing to the lack of reliable data. Following the 1999 amendment of the Working Time Regulations, the

obligations to keep records were reduced to their simplest expression (only the agreement itself is kept) and it is therefore not possible to know who made use of the opt-out, the number of hours worked in excess of the maximum limit and, of course, the consequences in health and safety terms. However, there is no reason to think that the conclusions from research in this field, which show that long working hours have a certain impact on the health and safety of workers, would be contradicted in the case in question.

Other Member States

Originally, only the UK made use of the option of not applying Article 6. However, after the ECJ's October 2000 ruling in the Spanish *SIMAP* case, some Member States saw the opt-out arrangement as a way of alleviating some of the problems created by this case law, allowing doctors to continue to work for more than 48 hours per week (including on-call time) if they wished. Consequently, all the Member States which incorporated the opt-out clause in their legislation did so for the health sector alone (except Luxembourg).

It is not yet possible to evaluate how the opt-out clause is being applied in these countries, as too little time has elapsed. At this stage, it is possible only to mention the legislative measures which incorporate the opt-out arrangement.

Definition of working time

Article 2 of the Directive defines working time as 'any period during which the worker is working, at the employer's disposal and carrying out his activity or duties, in accordance with national laws and/or practice'. 'Rest period' is defined as 'any period which is not working time'. In accordance with the reasoning expressed in the Directive, there is no interim category: any period can be considered only to be either working time or a rest period, the two concepts being mutually exclusive.

In the two cases mentioned above, the ECJ had to give an opinion on the legal definition, within the meaning of the Directive, of periods spent on call, whether or not the worker is required to be physically present at the workplace. In the *SIMAP* case, the Spanish court (Tribunal Superior de Justicia de la Comunidad Valenciana), by virtue of Article 234 of the EC Treaty, submitted five requests for a preliminary ruling on the interpretation of Directives 89/391/EEC (the 'framework' health and safety Directive) and 93/104/EC (the working time Directive).

As regards the definition of 'working time', the Spanish court asked whether time spent on call by doctors in primary healthcare teams – on the basis of either being physically present at the health establishment or being contactable – should be considered to be working time or overtime within the meaning of the Directive. The Court replied that 'time spent on call by doctors in primary healthcare teams must be regarded in its entirety as working time and, where appropriate as overtime, within the meaning of Directive 93/104 concerning certain aspects of the organisation of working time, if they are required to be at the health centre. If they must merely be contactable at all times when on call, only time linked to the actual provision of primary healthcare services must be regarded as working time.' The ECJ noted that the three features of the definition of working time were present in the case in question.

In the *Jaeger* case, the Court was once again required to give an opinion on the definition of time spent on call by doctors when they are required to be physically present in a hospital. Although

the underlying facts of the case were fairly similar to those in the *SIMAP* case, the Court was asked on this occasion to give its views on the question of whether on-call services should be considered in their entirety as working time, even if the party concerned does not in fact perform his or her professional duties but is authorised to sleep during the time concerned. According to the jurisdiction of referral, this question was not asked and, as a result, the Court did not reply to it in the *SIMAP* judgment.

In the ECJ's view (points 60 and 61 of the *Jaeger* judgment), the fact that, in the *SIMAP* judgment, it did not expressly rule on the fact that doctors performing on-call duty where they are required to be present in the hospital can rest or even sleep during the periods when their services are not required was in no way material. Periods of professional inactivity of this kind were an inherent aspect of on-call duty. The Court therefore confirmed that 'Directive 93/104 must be interpreted as meaning that a period of duty spent by a doctor on call ('Bereitschaftsdienst'), where presence in the hospital is required, must be regarded as constituting in its entirety working time for the purposes of that Directive, even though the person concerned is permitted to rest at his place of work during the periods when his services are not required, with the result that that Directive precludes a Member State's legislation which classifies as a rest period an employee's periods of inactivity in the context of such on-call duty.'

Impact of ECJ case law

Prior to the *SIMAP* judgment, the concept of working time was generally interpreted to mean that periods of inactivity during time spent on call should not be defined as working time. This is why, when they intervened before the ECJ in the *SIMAP* case, the Commission and the Member States argued that even in cases where the doctor was present within the health centre, periods spent on call would continue not to be regarded as working time as defined in Article 2 of the Directive.

The Court's case law therefore has had a major impact on Member States which did not define time spent on call requiring physical presence at the workplace as being entirely dependent on the concept of working time. Although the impact of the case law cannot be limited to the health sector alone, it is in this sector that the impact is greatest, given that it is relatively common for work (essentially that undertaken by doctors) to be organised in such a way as to include regular periods of on-call duty.

The impact of the ECJ's case law will be even greater when Directive 2000/34/EC is applied with respect to 'trainee doctors', i.e. as of 1 August 2004 and, in particular, at the end of the transition period for implementation (five years, which can be extended to eight years at most).

Compliance with the maximum working time of 48 hours per week, including all time spent on call, means that most Member States have to recruit additional doctors to ensure the same level of care. All Member States agree that, even if it were possible, from a budgetary point of view, to recruit the staff required to provide the same level of care, this would be impossible in practice because of the current lack of candidates with the necessary training to take on these jobs.

In order to limit the impact of the ECJ's case law, particularly while new organisational models have not been put in place or recruitment levels are lower than necessary, some Member States will probably have recourse to derogations or exceptions, essentially to the possibility provided in Article 18(1)(b)(i) – i.e. the opt-out.

Ensuring compatibility between work and family life

The flexibility of working time is generally perceived as being in the interests of employers in particular, often to the detriment of employees. However, greater flexibility in the organisation of working time would meet the growing needs of workers, particularly those with dependent children or elderly relatives, as well as the interests of companies, which need to be able to respond to user and customer demand for extended operating hours or to adapt rapidly to sharp fluctuations in demand.

Measures in support of greater compatibility between the private and professional spheres and equality of opportunity between men and women improve the overall quality of employment by enabling as many people as possible to participate. They also improve productivity by increasing motivation and availability and by opening up greater opportunities for vocational or personal training.

The Commission is firmly of the view that the revision of the working time Directive could be exploited in such a way as to encourage the Member States to take steps to improve the compatibility of work and family life.

Object of the consultation

The Commission asks the addressees of the Communication to express their opinion on the need to revise the current text or introduce other initiatives, not necessarily legislative. Five main issues emerge which need to be addressed:

1. the reference periods;
2. the ECJ's interpretation of the concept of working time in the *SIMAP* and *Jaeger* cases;
3. the conditions of application of Article 18 (1)(b)(i) (the opt-out);
4. measures aimed at improving the reconciliation between work and family life;
5. whether an interrelated approach to these issues would allow for a balanced solution capable of meeting the criteria set above.

Deadline for consultation and next steps

The Communication is aimed at the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the social partners at Community level. The key aim of the Communication is to solicit the views of these institutions and organisations on the issues discussed in the text.

As regards the European social partners, this Communication constitutes the consultation provided for in Article 138(2) of the Treaty (first phase of the consultation process). They are invited to give their opinion on the need to amend the Directive on the issues identified in part two of the Communication. They will be consulted subsequently, in accordance with paragraph 3 of the aforementioned Treaty Article, on the content of any proposal envisaged.

In order to involve interested organisations at national level, the Communication was made available to all interested parties on the website of the Directorate-General for Employment and Social Affairs. Comments had to reach Commission departments no later than 31 March 2004.

The Commission will conduct a detailed examination of the contributions received and, following this examination, will draw the necessary conclusions.

Box 6 European Parliament resolution on the organisation of working time (amendment of Directive 93/104/EC)

On 11 February 2004, the European Parliament adopted a report on the organisation of working time (amendment of Directive 93/104/EC) from Alejandro Cercas (by 370 votes for and 116 against, with 21 abstentions). In this resolution, the European Parliament:

1. Deplores the fact that the Commission has submitted the required assessment report after the seven-year deadline for review laid down in Article 17(4) and Article 18(1)(b)(i) of Directive 93/104/EC and that the report does not set out clear options for resolving the problems identified; calls on the Council to ask the Commission to consider an amended Directive as soon as possible; welcomes the conclusion in the recent Commission Communication that the approved approach should give workers a high level of health and safety protection, make it easier to reconcile work and family life, give firms and Member States flexibility in the way they manage working time and avoid imposing unreasonable constraints on firms, especially SMEs;
2. Adds that alternatives to legislation should also be considered, given the declared objectives of the Commission's Better Regulation Action Plan;
3. Insists that a full business impact assessment in the Member States affected should be completed before any changes to the current opt-out arrangements in the Directive are finalised;
4. Highlights the specific importance of addressing the problems relating to availability and financing in the health sector arising from the Court of Justice's interpretation of the concept of working time in the *SIMAP* and *Jaeger* cases; however, regrets that it cannot examine, for each working sector, the effects on the economy and society, without any official comparative studies; notes that the Commission's Communication only mentions some rough indications of possible consequences in a few Member States;
5. Calls on the Commission to advance the formal process of social partner discussion which has now begun and calls on the Commission to consider positively, when responding to the first stage of the consultation process, the legislative process provided for in Article 139 of the Treaty as a means of facilitating agreement and a possible resolution of the issues raised by the Court's judgments regarding the definition and calculation of 'on-call stand-by' hours at the workplace and the period within which the compensatory rest period must be granted;
6. Acknowledges the fact that the Commission on different occasions has expressed its concern about the reactions of the Member States to the judgments of the ECJ but deplores the fact that the Commission did not manage to carry out, in the three years after the *SIMAP* ruling, an in-depth study on the consequences of these judgments for the Member States or to find transitional remedies;
7. Calls upon the Commission to draw up a study as to what effects derogations on maximum working time (Article 6 of Directive 93/103/EC) have on the health and safety of workers;
8. Regrets the reluctant attitude of the Commission following the *SIMAP* ruling, which has led to a lack of clarity regarding the consequences of the ruling in a number of Member States and even, for example in the Netherlands, to government plans to abolish all working time rules above the minimum standards required by European law and international conventions;

9. Draws attention to the requests it made in its above-mentioned resolution, which calls for a thorough review to make the provisions of the Directive clearer and more consistent;
10. Requests that any initiative in this field be based on the premise that the health and safety of workers must take precedence but should be looked at alongside the reconciliation of family and professional life and any considerations of an economic nature;
11. Looks to the Commission to refrain from taking any initiatives serving to 'renationalise' the European working time Directive;
12. Calls for an EU-wide Member State comparison study into the repercussions of working long hours on the family and health and the effects on both sexes;
13. Stresses that the way in which the working week is regulated in a revised Directive must take due account of the requirements of European firms and their need for flexibility and that a revised Directive must also take due account of this need;
14. Stresses that the existence of standards and regulatory protection in such sensitive areas is vital for as long as the two sides of industry have no universally binding rules to govern them;
15. Calls for the revision, with a view to the phasing-out, as soon as possible, of the individual opt-out provided for in Article 18(1)(b)(i); in the meantime, calls on the Commission to identify practical ways of tackling potential or actual abuses of the opt-out provision including seeking views on how best to strengthen the voluntary nature of the opt-out;
16. Calls on the Member States to await a revised version of the Directive and not to make excessive use of the derogation provided for in Article 18(1)(b)(i) and not to misuse it to cater for the apparent problems caused by the Court of Justice's interpretation of working time for on-call stand-by hours at the workplace in the healthcare and other sectors; suggests that the Member States exchange information about already existing models and schedules that deal with stand-by service without conflicting with the normal rules of the Directive; urges the Member States, together with the social partners in the relevant sectors, seriously to look for alternative solutions within the scope of the Directive, which provides for other flexibility options that do not completely do away with any limitation on working hours and continue to provide for adequate protection; calls, in the meantime, on the Member States and employers to endeavour to ensure that workers subject to the derogation in Article 18(1)(b)(i) are not working excessively long hours and particularly not over prolonged periods;
17. Calls on the Commission and the Member States to promote an exchange of information about good practice within already existing models, which would highlight the scope for dealing with work organisation problems resulting from the interpretation of the Court of Justice of working time for on-call stand-by hours at the workplace in the health sector by means of increasing recruitment, introducing new work practices and new patterns of working for different staff groups including, possibly, new ways of delivering health services, changing the number of medical rotas, developing multi-disciplinary teams, making more effective use of information technology and the possible extension of roles for non-medical staff;
18. Calls on the Commission in the next stage of consultation to bring forward as a priority concrete proposals, within the framework of Directive 93/103/EC, for a long-term and sustainable response to the problems raised by the *SIMAP* and *Jaeger* judgments;
19. Calls on the Commission to produce an additional Communication containing a specific and reasoned statement of its attitude regarding all the provisions of the Directive that may need to be revised, to examine solutions to re-establish in the framework of a revision of the Directive clear obligations on employers properly to measure working time, and to submit its views to Parliament for consultation as soon as possible;

20. Stresses that women are more likely to suffer negative effects on their health and well-being if they have to take on the double burden of working life and family responsibilities;
21. Draws attention to the worrying trend of women working two part-time jobs, often with a combined working week that exceeds the legal limit, in order to earn enough money to live;
22. Emphasises that the culture of long hours in higher professions and managerial jobs is an obstacle to the upward mobility of women and sustains gender segregation in the workplace.

Bargaining and legislation in 2003

Collective bargaining

As indicated by Figure 5 in Chapter 2, average collectively agreed normal weekly working time in the current EU plus Norway stood at 38.0 hours in 2003, compared with 38.1 hours in 2002. This virtually static picture reflects the fact that significant general working time reductions were almost absent in 2003. The only major change was in Belgium, where the maximum normal week set by the national intersectoral collective agreement (BE0302302F) was cut from 39 hours to 38 from 1 January 2003 (many sectoral agreements already provided for a week of 38 hours or lower).

This virtual standstill continues the trend of recent years. Looking at the five-year period 1999-2003, the average agreed normal weekly working time for the current EU and Norway has fallen from 38.6 to 38.0, and much of this change probably arises from the progressive, legislation-driven introduction of a 35-hour week in France, which was completed at the beginning of 2002. Outside France, where average weekly hours have fallen by four hours (or over 10%) over the five years, significant reductions have occurred only in Belgium (by 5%) and in Luxembourg, Sweden and UK (by 2.5%-3%). In Germany, the figure for the west of the country has remained static, while that for the east has fallen slightly (by 0.2 hours, though average weekly hours in the east remain 1.6 hours longer than in the west). Finland and Portugal have probably seen some reduction, but consistent data are lacking. The figures have remained almost unchanged over the five-year period in Austria, Denmark, Greece, Ireland, Italy, the Netherlands, Norway and Spain.

This situation does not mean that working time was not an issue in collective bargaining in 2003. Flexibility, in various forms, now appears to be the main theme in negotiations on working time (sometimes in exchange for small-scale reductions). For example, sectoral agreements introducing or expanding working time flexibility were signed in countries such as France, Germany, Italy and Spain. An interesting example was found in Denmark, where new collective agreements in the finance and slaughterhouses/meat processing sectors introduced an innovative system of 'individual options', whereby employees can decide on the use of a certain amount of the overall wage sum – choosing between higher pay, higher pension contributions or more time off – within the collective framework of the agreements (DK0302102F). Similar agreements have been in place for a number of years in some sectors in Sweden. In the UK, new statutory rules on family-friendly working arrangements and broader union pressure for an improved work-life balance (UK0302103F), prompted agreements on flexible working at a number of manufacturing companies, providing, for example, flexible start and finish times for production workers.

With regard to bargaining on the duration of working time in 2003, perhaps the most important event occurred in Germany. Here, the German Metalworkers' Union (Industriegewerkschaft

Metall, IG Metall), which had pioneered the 35-hour week in western Germany, achieving it in metalworking in 1995, sought to extend it to eastern Germany. It succeeded in achieving an agreement to this effect in the eastern steel industry (DE0307201N) but failed in eastern metalworking, despite four weeks of strike action (DE0307204F), and the existing 38-hour week was maintained. This was IG Metall's first defeat in a major dispute since the 1950s and arguably underlines the perception that the era of major collectively agreed general reductions in working time is over (at least for now) in most EU countries – although unions still seek such large-scale cuts in some countries (such as Greece). Significant overall working time cuts are still being achieved in some specific cases – for example, in April 2003, an agreement at Allied Irish Banks (AIB) introduced a 35-hour working week, which is relatively rare in Ireland (IE0305201N). The length of working time remains topical in France, where bargaining to implement the statutory 35-hour week has resulted in an average working week for full-time employees of 35.6 hours in June 2003, a 0.2 percentage point decrease over a year, while 79.9% of full-time workers in companies with 10 or more employees worked fewer than 36 hours a week, compared with 78.2% in 2002. However, workers in smaller companies still tend to work longer hours than those in larger companies. The current conservative government has postponed the application of some aspects of the working time reduction legislation in companies with fewer than 20 employees until the end of 2005. In 2003, a parliamentary enquiry was launched into the effects of the 35-hour week legislation.

Moving to the acceding and candidate countries, the average agreed normal weekly hours across the 10 countries stood at 39.7 in 2003, down from 39.8 in 2002 – 1.7 hours higher than in the current EU and Norway. The only changes from 2002 to 2003 were in Poland, where the figure (based on the relevant legislation), fell by one hour, and Slovakia, where there was a half-hour fall. In general, the 10 countries still have a 40-hour normal week, with the exceptions of Slovakia and Cyprus, where agreed hours are around the current EU average. Indeed the active role of collective bargaining in setting normal weekly hours is relatively slight in many central and eastern European countries. Thus, in countries such as Estonia, Latvia, Poland and Slovenia, collective agreements do not tend to deviate from the statutory normal hours (usually 40 hours). In general, working time reductions do not appear to be high on the agenda at present, though with some exceptions. In Bulgaria, for example, trade unions launched a demand in September 2003 for a gradual reduction of normal weekly working time from 40 to 35 hours (BG0309102F). The initial response of all employer organisations was negative. In Hungary, tripartite negotiations on the reduction of working time were held during 2003, but appeared to reach a deadlock (HU0307101N). In Latvia, trade unions representing healthcare workers asked the government to reduce working time, but this request was rejected.

In terms of working time flexibility, in 2002-3 local bargaining parties in Hungary often made use of flexibility measures made possible by an amendment of the Labour Code in 2001 – e.g. 32% of employers signing collective agreements introduced annualised hours. Work-life balance measures for parents with young children contributed to working time flexibility arrangements in Slovenia.

Legislation

In a number of countries, 2003 saw new or amended legislation on working time, in some cases either implementing the EU working time Directive or dealing with matters referred to in the Directive.

In April 2003, nearly 10 years after its adoption, the working time Directive was finally transposed fully into Italian law when the cabinet definitively approved legislative decree 66/2003 (IT0305305F). The new regulations came into force on 29 April. The decree, as well as implementing the Directive, sets out in a single text the regulations on working time which have accumulated over the years as a result of successive legislation. It regulates normal weekly working time, overtime, daily rest, breaks, weekly rest periods, annual leave, night work and derogations. The trade unions criticised the method and contents of the decree.

Implementation of the Directive, as part of the *acquis communautaire*, featured in a number of acceding and candidate countries. For example, in Cyprus Law 63(I)/2002 came into force on 1 January 2003, transposing the Directive into national law. In Hungary, an amendment to the Labour Code which came into force in July 2003 implemented the Directive (as well as several others), as did Slovakia's revised Labour Code that also came into force in July (SK0312103F). In Poland, successive amendments of the Labour Code in 2003 (PL0311108F) revised provisions on relevant issues such as overtime, rest breaks and periods, overtime and annual leave. Romania's new Labour Code, which came into force in March, implemented much of the working time Directive (RO0308102N). Legislative amendments made in Latvia obliged employers to record actual working hours and overtime hours, including hours worked on public holidays.

Aside from direct implementation of the working time Directive, other relevant legislative developments in 2003 included the following:

- a new law, which came into force in January, regulated working time in the Luxembourg hotels and catering sector, after a 30-year legal vacuum, during which the industry's social partners failed to regulate the matter themselves. The new legislation introduces a statutory 40-hour week in three stages, starting in 2003 (LU0301107F);
- in the Netherlands, new legislation on Sunday working entered force in 2003, giving employees the right to refuse to work on Sundays (NL0110102F);
- in February 2003, Norway's Act on Workers' Protection and Working Environment (AML) was amended to allow for greater flexibility in relation to the use of overtime. As a result of these changes, the weekly and four-weekly restrictions on overtime work have been abolished, and a more general rule regarding the total number of working hours allowed per week has been introduced (NO0304103F).

A high-profile issue in a number of countries was the adoption of new (mainly deregulatory) legislation on shop opening hours (with effects on collective bargaining in some cases):

- under a new Shop Opening Hours Act (Öffnungszeitengesetz) which came into force in August 2003, retailers in Austria are still entitled to open their shops for 66 hours per week (as under the old regulations), but within an extended standard framework period of between 05.00 and 21.00 on weekdays and between 05.00 and 18.00 on Saturdays (AT0307201N). Owing to this extension of shop opening hours, the retail sector collective agreement (valid from 1 January 2004) had to be adjusted in terms of more flexible working hours arrangements and (higher) premium payments for evening work;
- a new Law on the Extension of Shop Opening Hours on Saturdays (Gesetz zur Verlängerung der Ladenöffnung an Samstagen) adopted in March 2003, extended shop opening times in

Germany from 16.00 to 20.00 on Saturdays (DE0303203F). The issue of increased remuneration was consequently an issue in bargaining over new regional collective agreements in retail. The settlements concluded provided that employees are entitled to a 20% supplement for hours worked late in the afternoon, granted in the form of a working time 'bonus', thus effectively cutting the average working week (DE0401201N). Whereas in the various western German bargaining areas this supplement will be granted for hours worked from 14.00 or 14.30 to 20.00, eastern German employees and those in Berlin are entitled to the 20% time bonus only for work after 15.00. Companies which open late on only one Saturday per month will not have to pay any bonus. The collective agreements also make provision for employees to be entitled to at least one free Saturday a month;

- in Greece – where the regulation of shop opening hours has long been one of the most complex and contentious issues in retail industrial relations – new legislation was adopted in late 2003 on the local prefects's ability to set rules on opening hours, and by the introduction of special provisions to accompany the 2004 Olympic Games in Athens (GR0312102F).

Annex

The European Industrial Relations Observatory — EIRO

The European Industrial Relations Observatory (EIRO) is a monitoring instrument offering news and analysis on European industrial relations, primarily through its web-based database *EIRO*Online – <http://www.eiro.eurofound.eu.int/>. A project of the European Foundation for the Improvement of Living and Working Conditions, EIRO began its operations in 1997. Its aim is to collect, analyse and disseminate high-quality and up-to-date information on key developments in industrial relations in Europe. It aims primarily to serve the needs of national and European-level social partner organisations, governmental bodies and EU institutions.

EIRO is based on a network of leading research institutes across the EU, candidate countries and Norway (see overleaf). There is also a centre covering developments at EU level. As part of the tripartite nature of the Foundation, an Advisory Committee supervises EIRO, together with the other projects in the industrial relations area. This Committee, composed of representatives of employers, trade unions, Member State governments, the European Commission and independent experts, ensures the objectivity and quality of the information provided. EIRO also cooperates with other international institutions, such as the International Labour Organisation. In order to complement the coverage of industrial relations developments in Europe, EIRO has since 2001 collaborated with experts in Japan and USA in the production of an annual comparative overview of industrial relations.

The database contains more than 6,000 records, dating from 1997 to the present, comprising:

- News and feature articles;
- Comparative studies;
- Annual reviews;
- Annual updates on key issues such as pay and working time;
- Thematic and sectoral analyses; and
- The *EIRO*observer bulletin.

EIRO articles are classified by country, sector and also in chronological order. Comparative and other studies are easily accessible from the website. A full text search can be carried out on all EIRO records and the results can be narrowed down by country, sector and date using the advanced search facility.

If EIRO users are not able to find the required information, they can contact the EIRO enquiry service for assistance. By registering, which is free of charge, users can avail of additional services, such as notification of publication of the *EIRO*observer bi-monthly bulletin.

For further information, please contact the EIRO Information Officer, Camilla Galli da Bino at eiroinfo@eurofound.eu.int.

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Set against the backdrop of preparations for enlargement of the European Union, Industrial relations developments in Europe 2003 provides a comparative overview of the most significant industrial relations developments during 2003, both at national and EU level. The fruit of a joint collaboration between the Foundation and the European Commission, the report presents the year's main activities in European social dialogue and employment legislation and policy. It examines the key issues covered by collective bargaining – pay, working time, job security, equal opportunities and diversity, and training and skills development. It also highlights significant developments in the area of social partner activity, industrial action, employee participation, stress at work, undeclared work, and new forms of work. Finally, in a special thematic chapter, the report looks at the regulation of working time, an issue which is particularly topical in the light of the European Commission's re-examination of the EU Directive on working time in 2003-4.

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