

IndustrialAll Europe

Transposing the European Directive for Adequate Minimum Wages

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▶ The European Minimum Wage Directive: Where we come from...



DG ECFIN's famous list of
„Employment friendly reforms“

Freezes or Cuts of Minimum Wages:

Decentralisation of Collective Bargaining

- Strengthening company derogations/
Removing favourability principle
- Limiting/abolishing extensions
Decline of bargaining coverage

“Overall reduction of wage-setting power of trade unions”



▶ Principal objectives of EMW Directive



- Promotion of **Adequate Minimum Wage Levels**
- Promotion of **Collective Bargaining**



What the directive does not want to do:
(... and is legally not allowed to do!)

- **Substantial harmonisation:** Establishing a uniform minimum wage amount across the EU
- **Institutional harmonisation:** introducing statutory minimum wages across the whole EU

▶ Setting out procedures to achieve objective of adequate MW



Criteria to be taken into account when setting or updating minimum wages:

- (a) **the purchasing power** of statutory minimum wages, taking into account the cost of living;
- (b) the **general level of wages** and their **distribution**;
- (c) the **growth rate of wages**;
- (d) **long-term national productivity** levels and developments

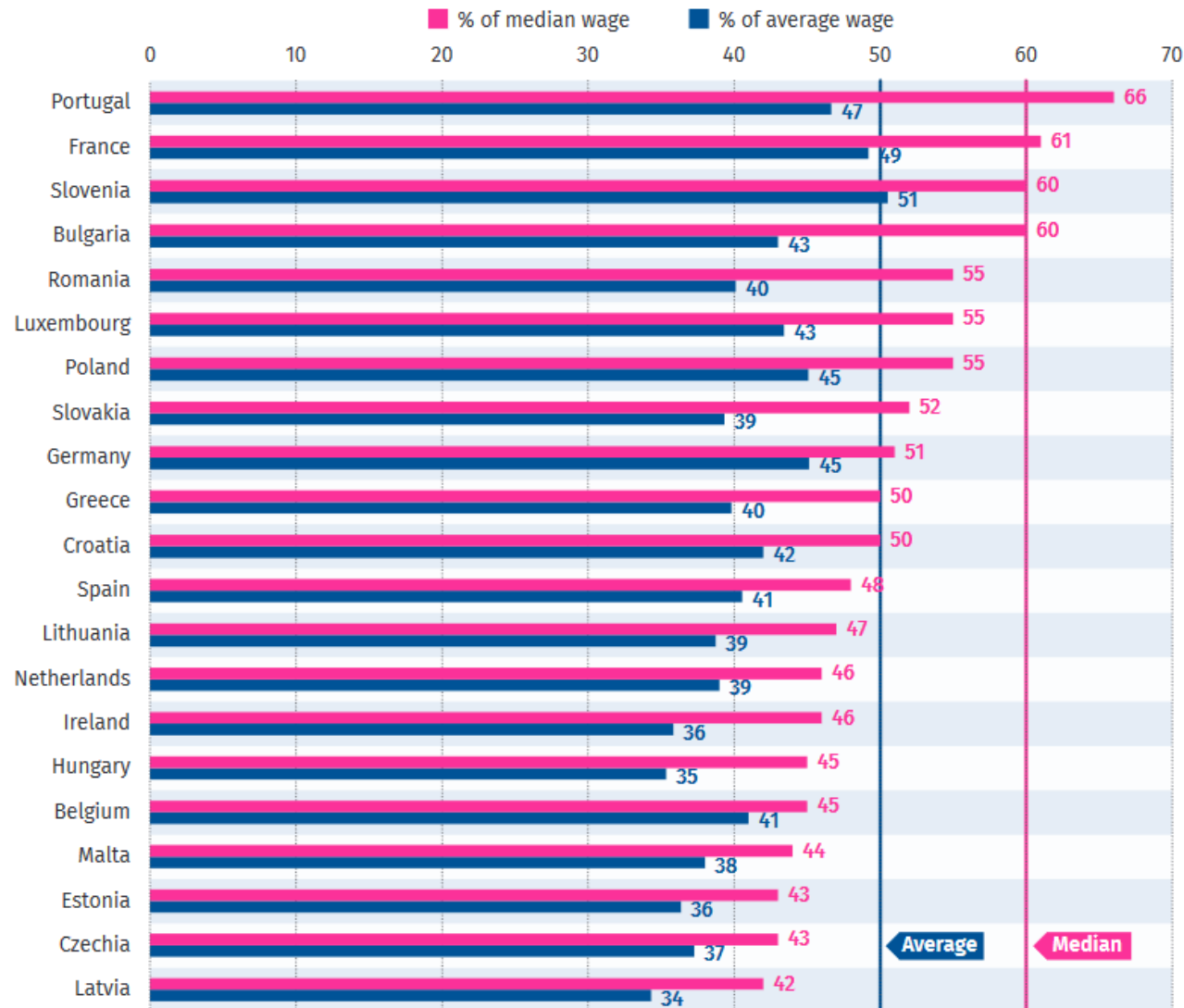


Criteria to guide the assessment of adequacy:

indicative reference values commonly used at international level such as **60%** of the **gross median wage** and **50%** of the **gross average wage**



MW as % of median and average wage (2021)



Adequacy criteria: 60% of the national median and 50% of the national average wage:

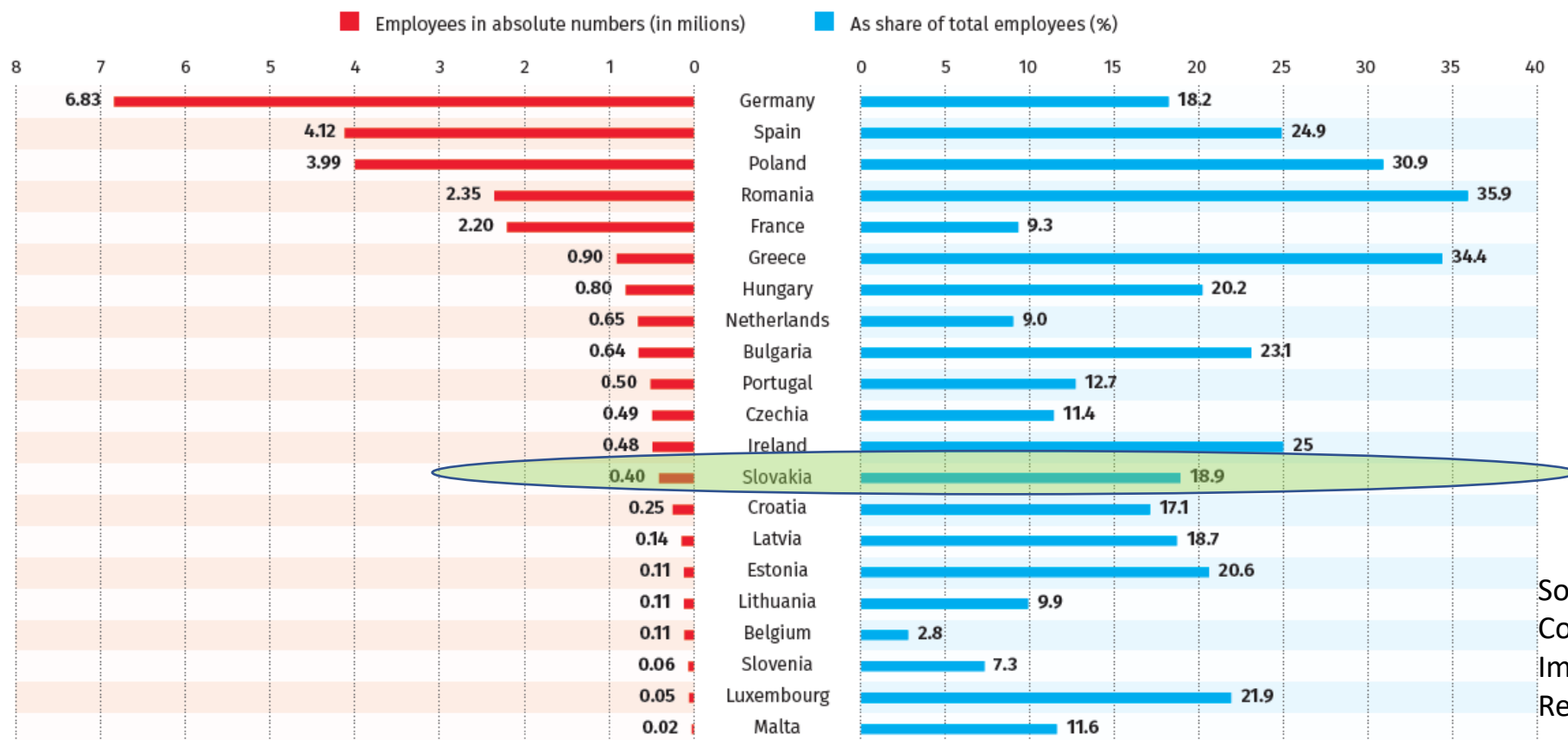
- Only Slovenia fulfilled the adequacy criteria in 2021!!!
- In 20 countries with a statutory MW more or less substantial increases are needed to meet the adequacy criteria!

Source: OECD earnings database (OECD 2022b). For Bulgaria, Croatia and Malta: data from 2018 (European Commission 2020).

More than 25 million employees will benefit from adequate minimum wages



Figure 3.10 Number of employees who would benefit from an increase in the statutory minimum wage to 60% of the median and 50% of the average wage (highest value in each case; in millions and %)



Source: European Commission 2020: Impact Assessment Report



Impact on statutory minimum wages



Germany: increase to €12 = 60% of median



Ireland: plans to increase MW to 60% of median

Politics

Minimum wage to be phased out by 2026 for new living wage

Living wage will be 60% of median wage in any given year, under proposals



Source: Irish Times, 14 June 2022

Austria: Unions demand €2000 per month = more than 60% of median



Belgium: calls for MW increase to €12 to reach 60% of median

The Brussels Times

Belgian minimum wage does not meet new European standards

Friday, 10 June 2022

By Dylan Carter

Dr. Torsten Müller, ETUI, 25 April 2023

Bulgaria: Legislation sets MW at 50% of the national average wage



NATIONAL ASSEMBLY OF THE REPUBLIC OF BULGARIA

Parliament decided: The minimum wage will be 50% of the national average

ÖGB fordert 2000 Euro Mindestlohn



ÖGB-Chef Wolfgang Katzian. APA/EVA MANHART

► Provisions aimed at strengthening of CB



- Confirmation that CB is **prerogative of trade unions** (Art.3.3);
- **Promoting** the capacity of bargaining agents to bargain at (cross-) **sectoral level** (Art.4.1a);
- **Protecting the right to collective bargaining**, including protection against discrimination of trade union reps who (wish to) exercise this right (Art.4.1c);
- Clarification of the rules on **public procurement** (Art. 9)



▶ Setting out procedures to achieve objective strengthening CB



Criteria to ensure stronger collective bargaining (Art.4.2):

“Member States shall, where the collective bargaining coverage rate is **less than a threshold of 80%**, provide for a **framework of enabling conditions** for collective bargaining, either by law after consultation of the social partners or by agreement with them. These Member States shall also establish an **action plan to promote collective bargaining**. (...).”



The **action plan** shall

- set out a **clear timeline and concrete measures**
- be **reviewed regularly and updated** (...).
- be **made public** and notified to the Commission.

▶ Strengthening Collective Bargaining



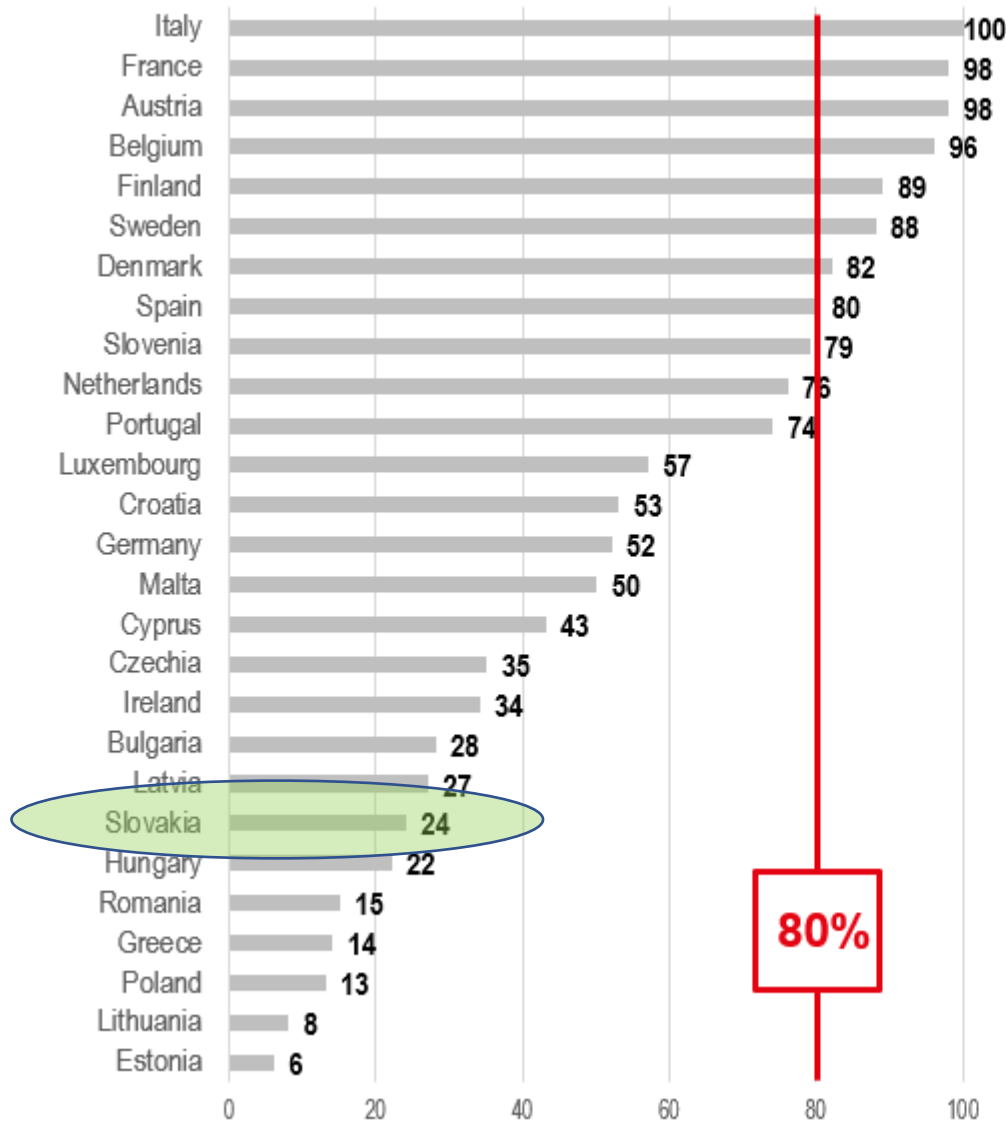
Threshold of 80% coverage- what does it mean?

- Indicator for **adequate** bargaining coverage
- **Trigger for political action** in countries with less than 80% coverage to progressively increase coverage
- Implicit call to introduce / strengthen **sectoral system** of collective bargaining





Collective Bargaining Coverage



8 EU Member States

with a

Collective Bargaining Coverage > 80%

19 EU Member States

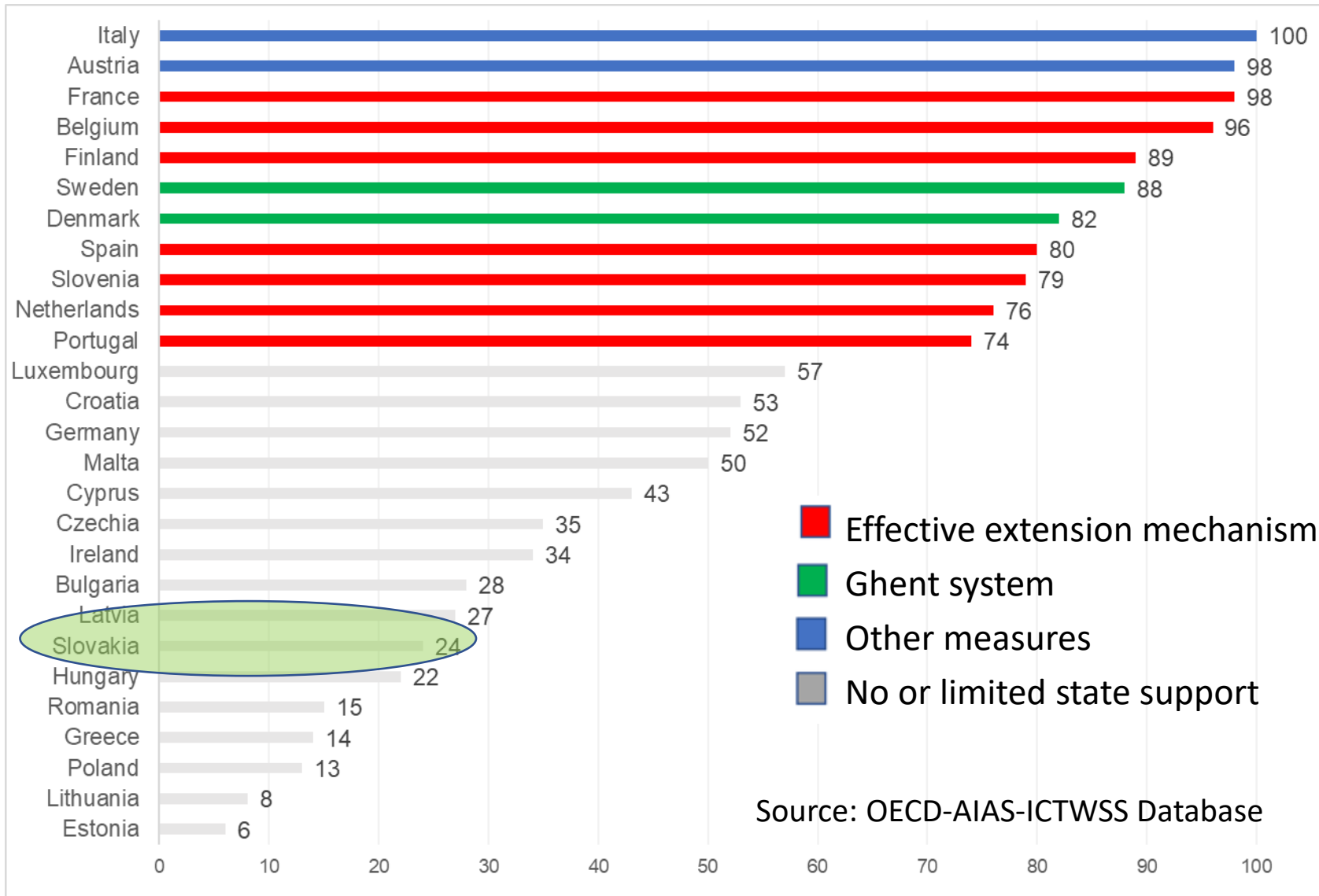
with a

Collective Bargaining Coverage < 80%

80%

Quelle: OECD

Collective Bargaining and state support



Preconditions for high CB coverage:

➤ Sectoral CB

➤ State support through extension or other mechanisms

▶ Action Plan to promote Collective Bargaining



Measures improving **unions' capacity to act and organize**:

- **Right of access** to companies (also digitally)
- **Anti-union busting** measures to protect unionists and other democratically legitimized employee reps from discrimination, dismissal and blacklisting
- Providing union reps with **sufficient time and facilities**
- Preventing wage dumping through agreements concluded by **“yellow” unions** (representativeness criteria)
- Right to **collective redress** in case of violation of agreement





Measures promoting the establishment of sectoral bargaining arrangements:

- Promoting the establishment of **employers' federations** and their willingness to assume a negotiation role
- Promotion of **multi-employer bargaining** as a stepping stone to sectoral negotiations
- Funding for **capacity building and training** for unions and employers' federations
- Public procurement: **labour clauses in public contracts** to exclude those companies from receiving public funding which refuse to bargain or implement collective agreements



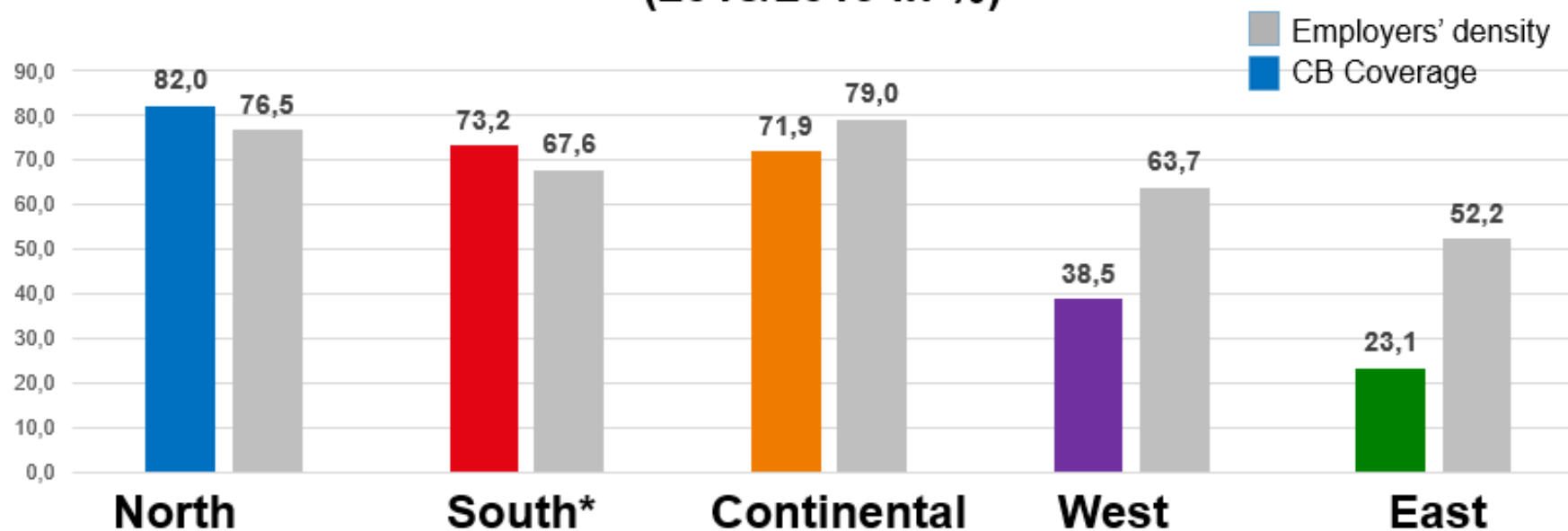


Employers' density and CB coverage



	North	South	Continental	West	East
Countries	Denmark, Finland, Norway, Sweden	France, Greece, Italy, Portugal, Spanien	Austria, Belgium; Germany, Luxembourg, Netherlands, Switzerland, Slovenia	United Kingdom, Ireland, Malta, Cyprus	Bulgaria, Croatia, Czechia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia

**Average CB coverage and employers' organisation density per model
(2018/2019 in %)**



Source: OECD/AIAS
ICTWSS Database

▶ Action Plan to promote Collective Bargaining



Measures strengthening the **regulatory capacity** of collective agreements:

- Effective **extension** of collective agreements
- **Continuation of CAs** in case of spin-offs
- Continuation of **validity after expiry**
- Strengthening the **favourability principle**
- **Extending the scope** to previously excluded groups of employees



▶ Action Plan to promote Collective Bargaining



- There is **no “one size fits all”** – need for country-specific solutions
- Let’s not wait two years for the Directive to be implemented: **Act now!!!**

Ireland and “Good Faith Bargaining”

- In 2021 (already before EMWD adoption): **government set up a tripartite High-level Working Group to:**
 - review collective bargaining in Ireland
 - explore ways to strengthen CB to fulfil the Directive’s obligation (80%)
- **The key problem identified by the Working Group is the employers’ reluctance to engage in negotiations with trade unions – both at sectoral and at enterprise level.**
- **Working Group’s recommendations to strengthen sectoral bargaining:**
 - **end employers’ *de facto* veto power on the establishment of new sectoral agreements with incentives and soft pressure for employers to participate in the negotiation of ‘Employment Regulation Orders’.**
 - these are **a form of sectoral bargaining** which sets out legally enforceable employment conditions and minimum rates of pay in particular in low-paid sectors where CB is limited or absent
 - **to improve collective bargaining at the enterprise level by obliging employers to engage with trade unions in a ‘process of good faith’**
- The wording **‘good faith engagement’ essentially boils down to an obligation of the employer to engage in collective bargaining** – not to reach an agreement – if requested to do so by a trade union with meaningful membership within the company.



Germany and social conditionality in public procurement

- Responding to the calls from the trade unions, the German Ministry of Labour has announced a legal package for the promotion of collective bargaining to be presented in autumn 2023 which, among other measures, will include a **draft for a new public procurement law**.
- Such a '**Bundestariftreuegesetz**' aims at **ensuring that public contracts at national level will only be awarded to companies which apply the provisions of collective agreements**.
- With this initiative, the Federal Government follows the example of many regional governments of the German Federal States which already use public procurement rules for the promotion of collective bargaining.



Romania and repairing Troika's mistakes

- Strong influence of the Directive: **new law on social dialogue was passed in December 2022—just two months after adopting the Directive.**
- These **recent legal changes reversed many of the reforms introduced in 2011** (decentralised and weakened collective bargaining):
 1. while the reforms in 2011 prohibited cross-sectoral agreements, the **new law allows the negotiation of national agreements** if the negotiating employers' association covers at least 20% of the workers.
 2. **the requirement for the extension of a sectoral collective agreement are less restrictive:** the signatory employers' association only needs to represent at least 35% of the employees, rather than at least 50% before.
 3. **bargaining at company level is mandatory in companies with at least 10 employees**, instead of 21 employees as stipulated in the 2011 law.
 4. the **representativeness criteria for trade unions for bargaining purposes have been lowered from at least 50% to 35% at company level and from 7% to 5% at sectoral level.**
 5. the new law **reduced the minimum threshold for the establishment of a trade union from at least 15 members to 10 members.**
- the new law furthermore **extended the right to strike and broadened company-level information and consultation rights.**



Bulgaria and punishing anti-union actions

- the Bulgarian Parliament decided that **offences committed to violate workers' right to freedom of association will now be punishable by one to five years' imprisonment or a fine of up to 4,000 euros.**
- The **new rules cover all offences** (whether through use of force, threats or any other unlawful means) **against the right of workers to join trade unions, forcing workers to renounce membership or preventing them from forming a trade union.**



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