

LABOUR DISPUTE RULES AND STRIKES IN THE EUROPEAN UNION

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Declining volume of labour disputes

From time to time, the media give the impression of a European economy plagued by labour disputes. But this picture is misleading. Europe enjoys a high level of industrial peace which has increased over the last thirty years. Nevertheless, there is a considerable difference between the various countries of the European Union in this respect, as can be seen from the statistics on labour disputes published by the International Labour Office (ILO).

As a rule, three indicators are used to describe the severity of a labour dispute: participation, duration and volume. The participation relates the employees taking part in the labour dispute to the number of labour disputes. Within the period from 1971 to 2000, in the twelve EU countries (excluding Germany, France and Luxembourg due to lack of data) on average a good 1000 employees were involved in each labour dispute, with the numbers ranging from 264 in Finland to 3271 in Austria. Neither a rise nor a decline in strike participation could be observed (Lesch 2002).

However, the duration of strikes declined in all these countries (with the exception of Finland). Thus 14 working days were lost per strike in Ireland during the nineteen seventies for each employee involved, whereas this had dropped to only six days in the nineties. In Germany, the duration of strikes declined from 6.3 days to 1.6 days and in Great Britain from 8.5 days to 2.7 days (Fig. 1).

But the most significant parameter was the decline in the volume of labour disputes. This factor

designates the number of working days lost referred to the number of dependent employees. The volume of labour disputes has declined considerably in the last 30 years in all EU member states. This trend is illustrated by Fig. 2, which compares the number of working days lost in the nineties with those lost during the period 1971/2000.

There is, nevertheless, a considerable gradient within the European Union. Labour disputes are particularly disruptive in Spain, Greece and Italy, but also in Finland and Ireland, even if the number of working days lost due to strikes has greatly declined, especially in Italy. Among the economies relatively free of strikes are Austria, Germany and the Netherlands. Thus in Germany only 11 work days were lost due to strikes for every 1000 employees in the nineties. On the basis of a daily working time of 7.40 hours, this corresponds to about 5 minutes per year and employee.

Reasons for the decline in volume of labour disputes

Macroeconomic reasons, changes in the manufacturing conditions of companies and politico-institutional factors are responsible for the decline in the volume of labour disputes. The most salient of the macroeconomic reasons is the structural change in the economy. In most EU countries, labour disputes are still concentrated in the manufacturing sector, whereas the service sector remains largely free from them (Davies 2001). This shows that work days lost due to labour disputes

Figure 1

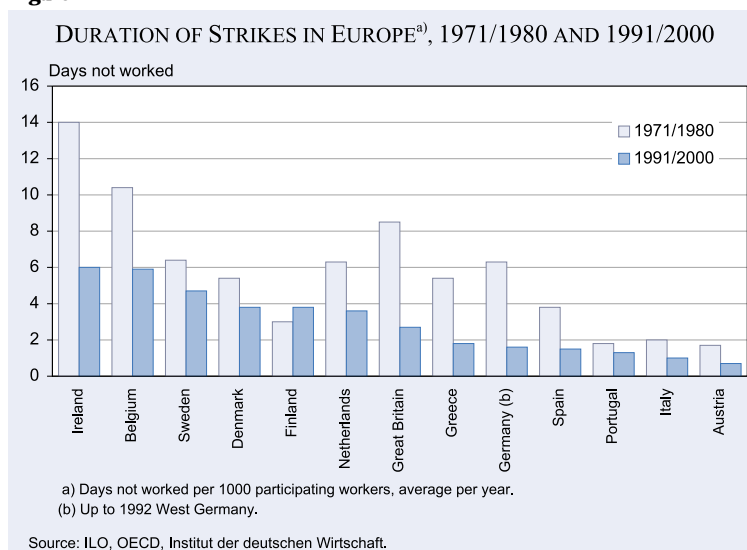


Figure 2



are declining as the economy becomes increasingly dominated by the tertiary sector. Beyond this, lower inflation in the EU appears to have led to fewer strikes. If the expected inflation rate declines, the wage demands of the unions, which aim to safeguard real incomes, also decline. The uncertainty with respect to the expected inflation rate declines and the conflict potential between unions and employers is consequently reduced. (There appears to be no unequivocal relationship between the level of unemployment and the volume of labour disputes.)

In addition to these macroeconomic factors, changes in manufacturing conditions have also reduced the volume of labour disputes. The reduction of vertical integration by outsourcing and the limitation of inventories by just-in-time production have increased the susceptibility of the production process to disruption. Pinpointed strikes today allow the same effects to be achieved as those which previously required mass strikes. This is likely to have made employers more willing to make concessions and avoid strikes.

Finally, the lower level of union organization, which depletes strike funds and weakens the potential for mobilization, has also contributed to the decline in the volume of labour disputes. As can be seen from Table 1, the degree of union organization in Germany, France, Greece, Great Britain, Ireland, the Netherlands, Austria and Portugal has declined. In the other countries it has remained constant or has risen. However, the increase in the degree of union organization in Belgium, Denmark, Finland and

Sweden cannot necessarily lead us to conclude a greater belligerence on the part of the employees. In these countries, membership of the unions is already worthwhile because they provide voluntary unemployment assurance (generously subsidized by the state) (Boeri, Brugiavini, Calmfors 2001, p. 172).

Labour dispute rules and national frequency of strikes

In order to explain the differences in the volume of labour disputes between different countries, apart from the national peculiarities relating to the parameters already mentioned, the rules on labour disputes, which vary from country to country, must also be brought into the picture. One set of these rules must be observed when initiating a labour dispute. This includes the obligation to maintain industrial peace which prohibits the partners to the collective bargaining agreements from initiating labour disputes during the term of such agreements, the arbitration procedures which must be followed before a labour dispute breaks out, and the stipulation to conduct a ballot prior to a walk-out. Secondly, the rules on labour dispute restrict the legality of both strikes and lock-outs. The obligation to maintain industrial peace, arbitration procedures (with the exception of mandatory state arbitration, which usually comes into force too late), ballots and the restriction of the range of

Table 1
Level of union organization^{a)} in %

| | 1970 | 1980 | 1990 | 1998 |
|---------------|-------|------|------|------------------|
| Austria | 57 | 52 | 47 | 39 |
| Belgium | 42 | 53 | 50 | 54 ^{b)} |
| Denmark | 63 | 78 | 75 | 76 |
| Finland | 51 | 69 | 73 | 79 |
| France | 20 | 22 | 14 | 10 |
| Germany | 32 | 35 | 32 | 26 |
| Great Britain | 45 | 51 | 38 | 30 |
| Greece | n. a. | 36 | 34 | 24 ^{b)} |
| Ireland | 53 | 57 | 53 | 42 |
| Italy | 37 | 50 | 39 | 38 |
| Netherlands | 37 | 35 | 24 | 23 |
| Portugal | n. a. | 52 | 40 | 30 ^{b)} |
| Spain | n. a. | 8 | 11 | 16 |
| Sweden | 67 | 78 | 82 | 88 |

a) Without pensioners. – b) 1995.

Source: Ebbinghaus and Visser (2000).

Table 2

Pre-strike regulations

| | Peace Obligation | Arbitration | Strike Ballot |
|----------------|--------------------------|--|------------------------|
| Austria | Yes | Public arbitration is possible. ^{a)} | No |
| Belgium | Yes | Arbitration is possible but an exception. ^{a)} | No |
| Denmark | Yes | At failure of the collective agreement public arbitration, constraining. ^{b)} | Yes |
| Finland | Yes | Binding participation at public arbitration. ^{c)} | No |
| France | No ^{d)} | Voluntary participation at public arbitration; very rare. ^{a)} | Possible ^{e)} |
| Germany | Yes | Voluntary participation at public arbitration. ^{a)} | Yes |
| Greece | No ^{f)} | At failure of the collective agreement; public arbitration is voluntary. ^{g)} | No |
| Ireland | Yes ^{h)} | Voluntary participation at public arbitration. ⁱ⁾ | Yes |
| Italy | Yes ^{j)} | Voluntary participation at public arbitration. ^{a)} | No |
| Luxembourg | Yes | Constraining participation at public arbitration. ^{k)} | No |
| Netherlands | Yes | In the private sector no formal arbitration system exists ^{a)} ; constraining participation at public arbitration at the public sector. | Yes |
| Portugal | Restricted ^{l)} | At failure of the collective agreement voluntary conflict resolution; if failing public arbitration, constraining. ^{b)} | No |
| Spain | Yes | At failure of the collective agreement public arbitration, constraining. ^{b)} | Possible ^{m)} |
| Sweden | Yes ⁿ⁾ | Facultative public arbitration. | No ^{o)} |
| United Kingdom | Possible | Facultative arbitration. ^{p)} | Yes |

^{a)} Predominantly voluntary conflict resolution by the parties of the collective agreement. – ^{b)} Decisions are final and cannot normally be overturned. – ^{c)} Decisions are optional. – ^{d)} Strikes are lawful during the lifetime of agreements. – ^{e)} At the discretion of the unions. – ^{f)} Greek law contains no provisions relating to peace obligation. – ^{g)} Decisions have the same standing in law as a collective agreement. – ^{h)} By several social agreements. – ⁱ⁾ By the Labour Relations Commission. – ^{j)} Obligation placed on workers' organizations that have signed a collective agreement to refrain from calling strikes. – ^{k)} Awards are not binding but generally accepted. – ^{l)} Does apply to the parties of the collective agreement but not to the individual employee. – ^{m)} It is not obligatory by law but it has become widespread practice in the Spanish industrial relations system. – ⁿ⁾ Solidarity strikes are possible. – ^{o)} In many cases there are now council conventions in single unions. – ^{p)} By the Advisory Conciliation and Arbitration Service.

Sources: EMIRE, Database of the European Foundation for the Improvement of Living and Working Conditions; European Commission (1998 and 2000).

legal strikes have an equally debilitating effect on strikes as the legalization of lock-outs.

It can be seen from Tables 2 and 3 that the EU countries follow a varied mix of rules relating to labour disputes. With the exception of France and Greece, the obligation to maintain industrial peace is part of the legal order of all EU countries. Arbitration procedures in collective-bargaining conflicts are also usual in all member states. However, state arbitration agencies come into play to a varied degree. State efforts at arbitration which are mandatory on the collective-bargaining partners are found in Denmark, Portugal and Spain. In some countries, ballots must precede labour disputes. The range of legal strikes is constrained in various ways by the national legislators. Various forms of strike activity are available to employees in Belgium, Finland, France, Greece,

Italy, Portugal, Spain and Sweden. In most of these countries, employers can protect themselves with the aid of lock-outs.

If we arrange countries according to whether they favour strike-reducing or strike-promoting rules on labour disputes, we find the following groups. Strike-reducing rules are applied in Austria, Denmark, Germany, Ireland, the Netherlands and Great Britain. Four of these countries showed the lowest number of days of work lost due to strikes per 1000 employees in the nineties. Only in Ireland and Denmark did this set of rules not reduce the volume of labour disputes. In contrast, strike-promoting rules tend to be applied in Belgium, France, Greece, Portugal and Spain. Greece and Spain suffered many strikes in the nineties, whereas the other countries showed a lower volume of labour disputes. On the whole a certain correlation seems

Table 3

Lawfulness of strikes and lock-outs

| | Strikes | | Lock-outs |
|---|-------------------|---|--------------------------|
| | Political | Other | |
| Austria | Unusual | Only official strikes organized by trade unions; strikes are considered as an uncommon instrument of conflict resolution. | Yes |
| Belgium | Yes | Various forms are legal. | No |
| Denmark | No | Official strikes legal; protest strikes unlawful (but only small financial penalty); selective strikes: common. | Yes |
| Finland | Yes | Various forms are legal. | Yes |
| France | Yes | Various forms are legal (including unofficial strikes, selective strikes etc.); rotating strikes prohibited in the public services. | Restrained ^{a)} |
| Germany | No | A strike is lawful only if it is conducted by a trade union. | Yes ^{b)} |
| Greece | Yes ^{c)} | Various forms are legal. | No |
| Ireland | Unusual | Organization by trade unions is not strictly necessary. | Yes |
| Italy | Yes | Various forms are legal. | Restrained ^{d)} |
| Luxembourg | n.a. | Strikes without preliminary conciliation procedures are unlawful. | No ^{e)} |
| Netherlands | Yes | Official strikes organized by trade unions. | Yes ^{f)} |
| Portugal | Yes | Most strikes are perfectly lawful. | No |
| Spain | Yes ^{g)} | Various forms are legal (intermittent, sympathy, general); rotating and wildcat strikes are unlawful. | Restrained ^{h)} |
| Sweden | Yes | Various forms are legal. | Yes |
| United Kingdom | No | Official strikes in accordance with the rules of a trade union. | Yes |
| <p>^{a)} As a general principle, lock-outs are deemed to be unlawful; but courts allow lock-outs in the case of "compelling circumstances" (in the event of a strike which is unlawful; improper use of the right to strike); defensive lock-outs are prohibited. – ^{b)} Offensive lock-outs are unlawful. – ^{c)} If it relates to employment – related demands. – ^{d)} Defensive lock-outs may be legal under certain conditions. – ^{e)} Lock-outs without preliminary conciliation procedures are unlawful. – ^{f)} No lock-outs since 1945. – ^{g)} Politico-industrial strikes under certain conditions. – ^{h)} Only when persons or property are in danger.</p> | | | |
| Source: EMIRE, Database of the European Foundation for the Improvement of Living and Working Conditions; European Commission (1998). | | | |

– at first sight – to exist between the forms of the rules relating to labour disputes and the volume of these disputes. It is, however, rather weak.

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