



European Foundation
for the Improvement
of Living and Working
Conditions

The tripartite EU Agency providing
knowledge to assist in the development
of social and work-related policies

The capacity to negotiate agreements of the European Social Partners

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ETUC - European Social Dialogue Academy, 16 May 2017

Outline

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Objectives, background, method

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Conclusions and policy pointers

Objectives

- key questions of the project are
 - Do EU-level social partners – at cross industry and sectoral level – have the **capacity to negotiate and enter into contractual relations** including agreements, as foreseen in article 155 TFEU?
 - How are they mandated to do so?
 - Where is this documented?

Background

- the Commission (EC) first used capacity to negotiate in its 1993 COM
- “organisations (which) are potentially eligible to be consulted” under Articles 154 TFEU must:
 - consist of organizations, which are themselves an integral and recognised part of Member State social partner structures and with the **capacity to negotiate agreements**, and which are representative of all Member States, as far as possible (EC, 1993).”

Background

- In 1994 the EP proposed to the following condition:
 - “eligible organisations should have a **mandate from their members** to represent them in the context of the Community social dialogue and are to demonstrate their representativity.”
- 1997 Opinion the EESC reiterated that representative organisations
 - “(...) must have a **mandate from its member organizations** to negotiate at European level.”

Background

- 27.06.16 the Presidency of the Council, the EC and the European Social Partners signed a quadripartite statement *'new start for social dialogue'*.
 - “The cross-industry and sectoral social partners will (...) improve membership and representativeness of both trade unions and employers’ organisations, and ensure that there is **capacity to enter into negotiations with an appropriate mandate.**”

Method

- research into public sources such as the statutes and bye-laws of the European social partners (110 documents) as well as academic literature and documents of the EU institutions and social partners
- complemented by an email questionnaire directed to the relevant organisations

Outline

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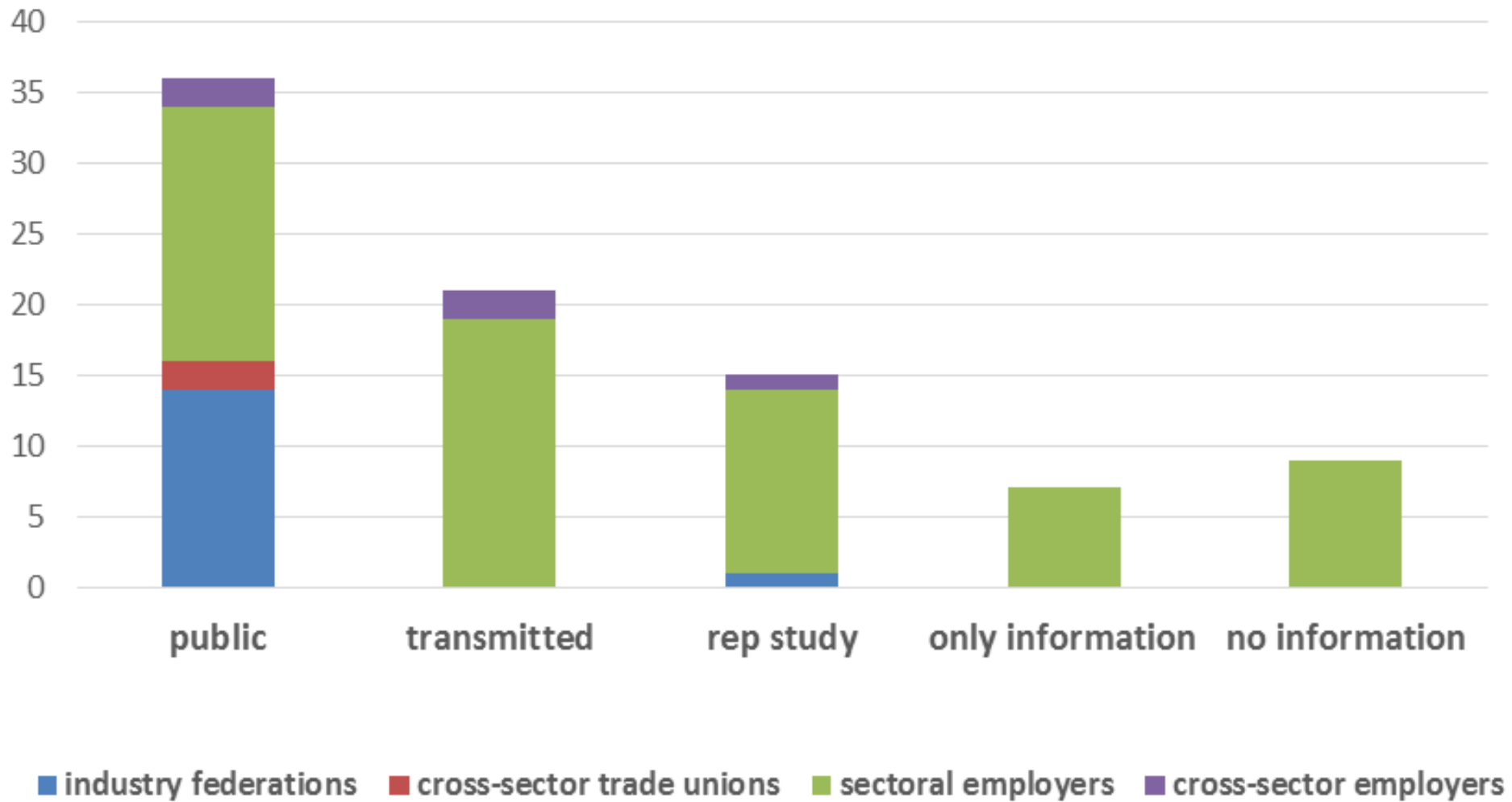
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Key findings

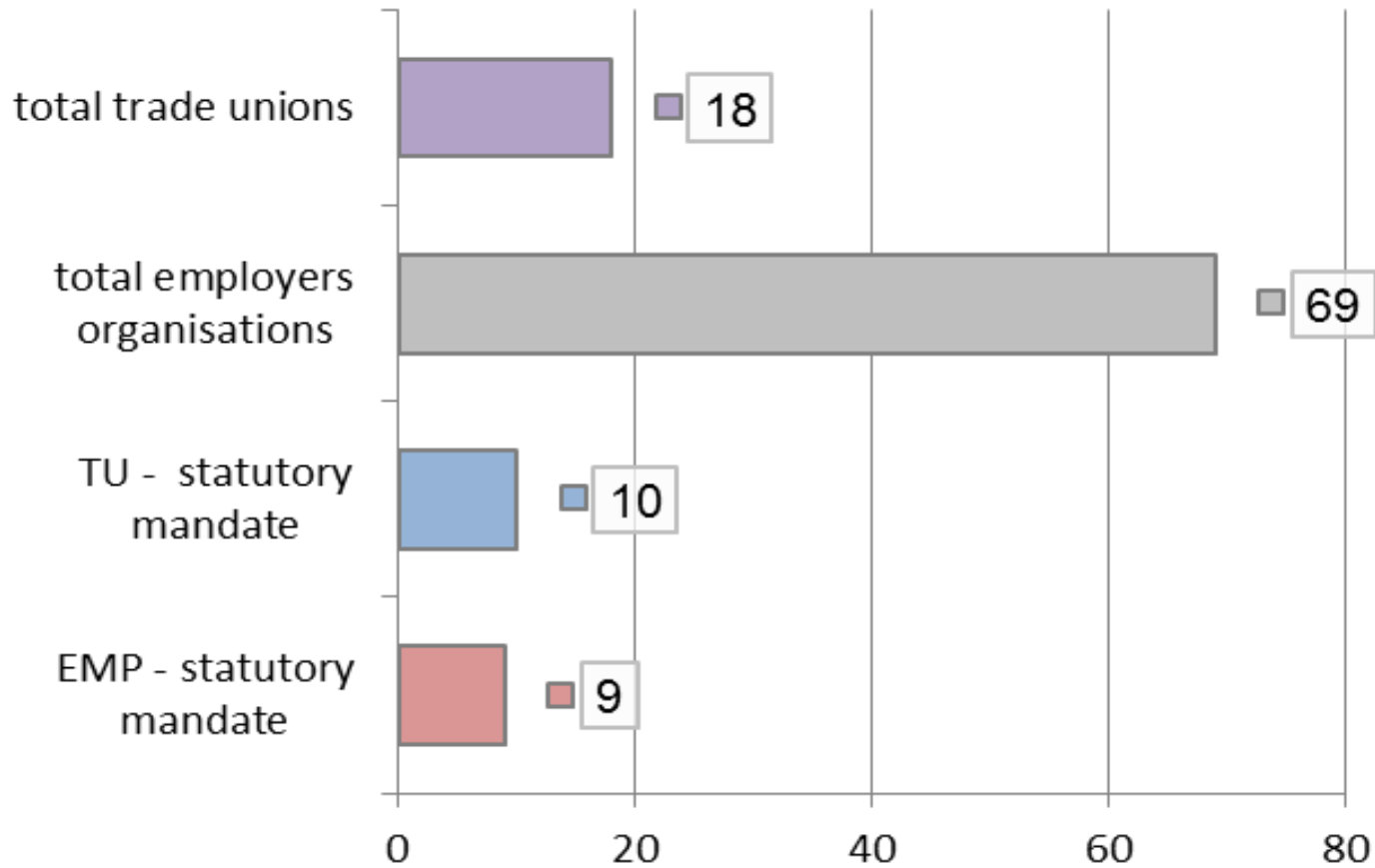
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Data availability



Number of statutory mandates



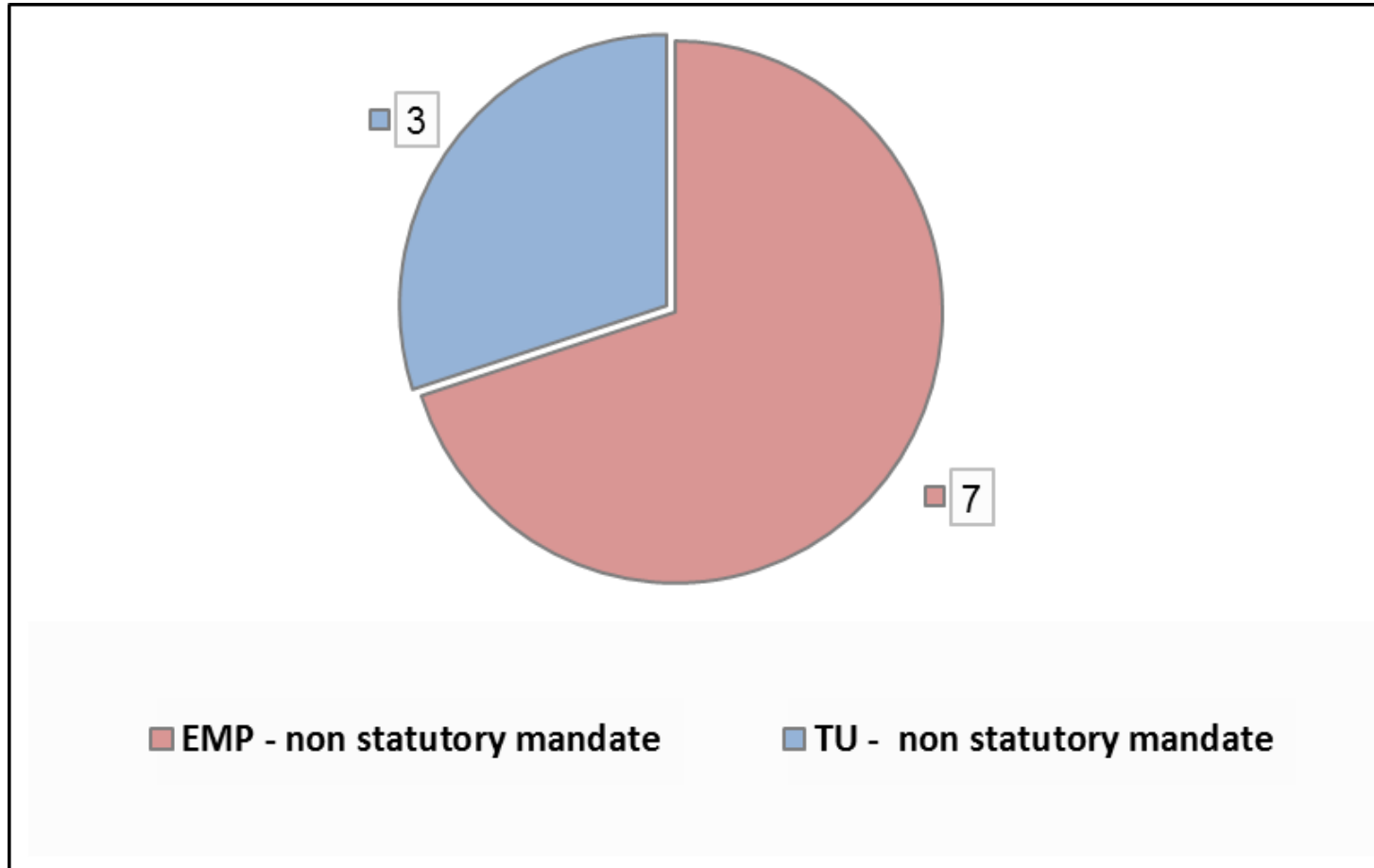
EMP - statutory mandate

TU - statutory mandate

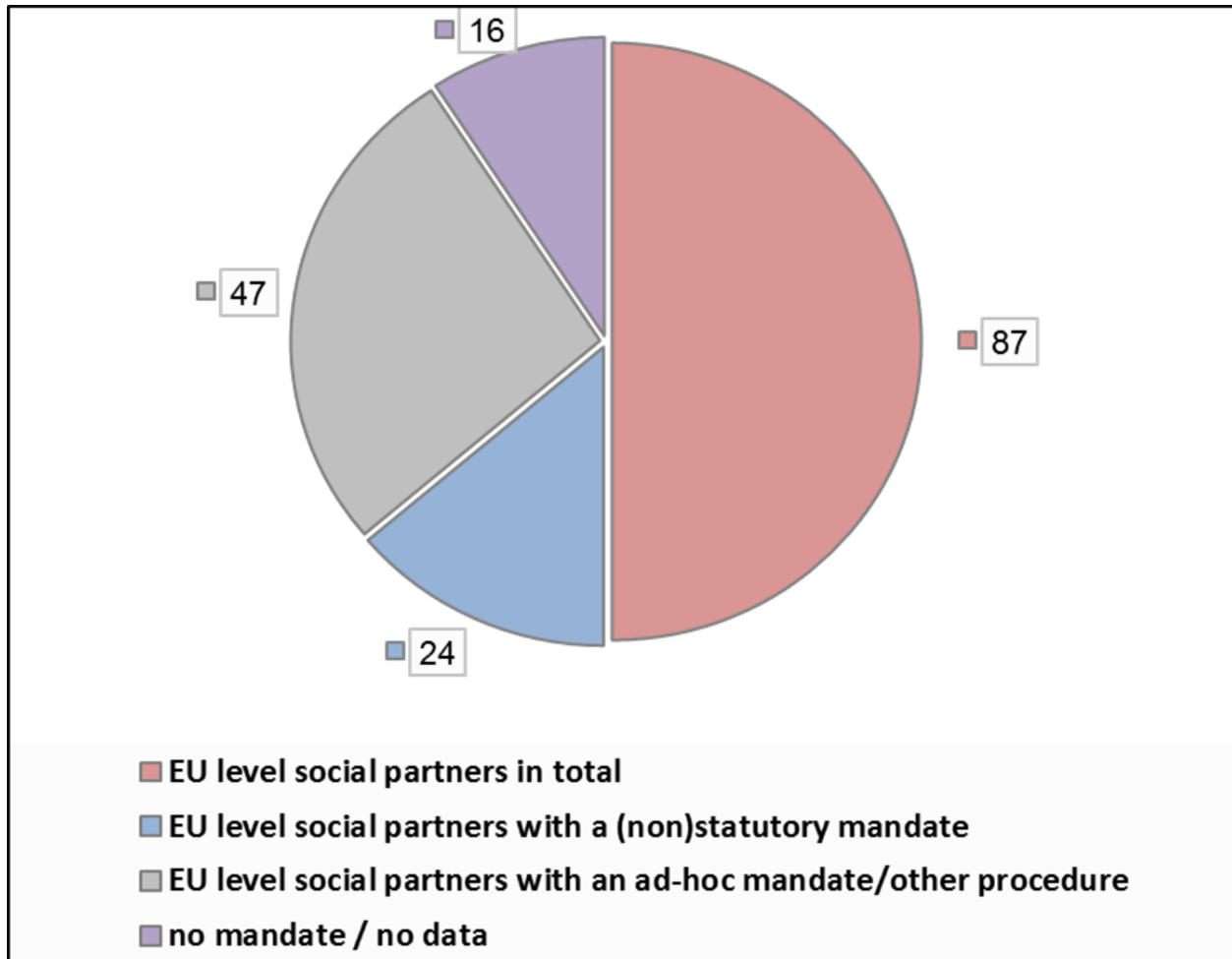
total employers organisations

total trade unions

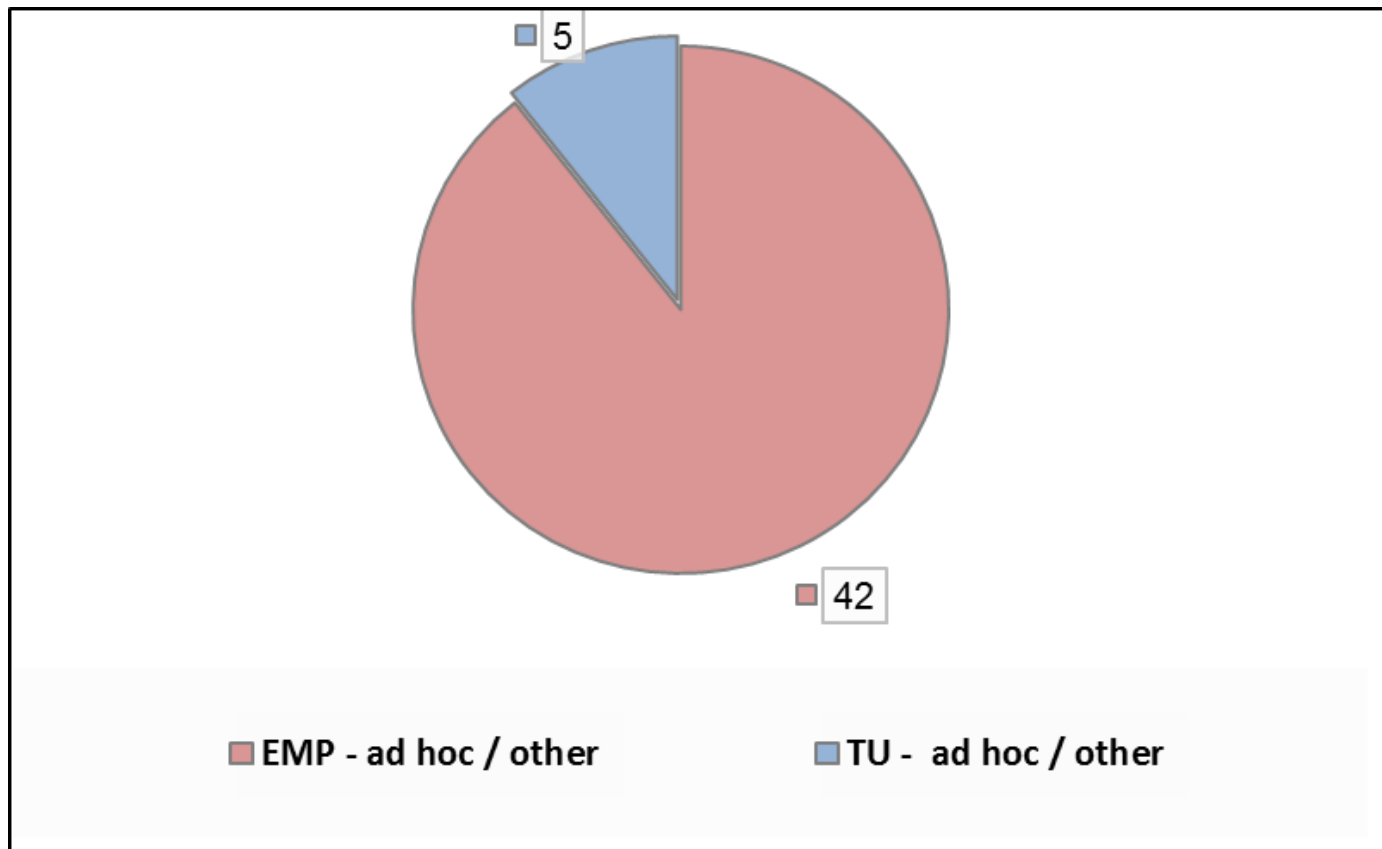
Number of non-statutory mandates



Total of statutory/non-statutory mandates/other procedures



Ad hoc mandates / other procedures



mandate	statutory	non-statutory	ad hoc / other procedures	ad hoc / other procedures
employers	BUSINESSEUROPE EBF European Broadcasting Union European Club Association ECEG EFEE Eurociett/World Employment Confederation-Europe HOSPEM UEPG	CEEP UEAPME ECEG EFEE GEOPA-COPA IMA Europe Insurance Europe	AER CANSO CEC CEEMET CEI-Bois CER CoESS Coiffure EU Confederation of European Paper Industries COTANCE EACB EBF ECSA EFCI EPFL ERA ESBG ESO ETNO ESPO Euracoal EURATEX	EURELECTRIC EuroCommerce EUROFER EUROGAS EUROMINES European Barge Union European Coordination of Independent Producers EUROPECHE FEPOR FIAPF FIEC FoodDrinkEurope FoodServiceEurope HORTREC Intergraf IRU PEARLE* Posteurop SEA Europe UEA

mandate	statutory	non-statutory	ad hoc / other procedures
trade unions	ETUC EUROCADRES EAEA EFBWW EFFAT EPSU ETF FifPRO industriALL UNI	EFBWW EFATT ETF	CEC EUROCADRES ECA CESI EFBWW FIA FIM
total employers	9	7	42
total trade unions	10	3	7
total	19	10	49

Mandates chemical sector - ECEG

- Article 5 of the **statutes** (29.11.2016)

“(…) has a **mandate** from its members to engage in a permanent and constructive social dialogue at the European level (…). Moreover, to **negotiate**, agree on and sign formal joint statements and **agreements** with those and/or other relevant European organizations and/or European Union institutions (…).”

- Article 1 of the **ECEG by-laws**

“(…) the opinion (….) **to legislate** or to search for a **European agreement** (….) shall be prepared by the Secretariat together with the Steering Committee and the relevant Expert Groups and approved by the General Assembly (….)

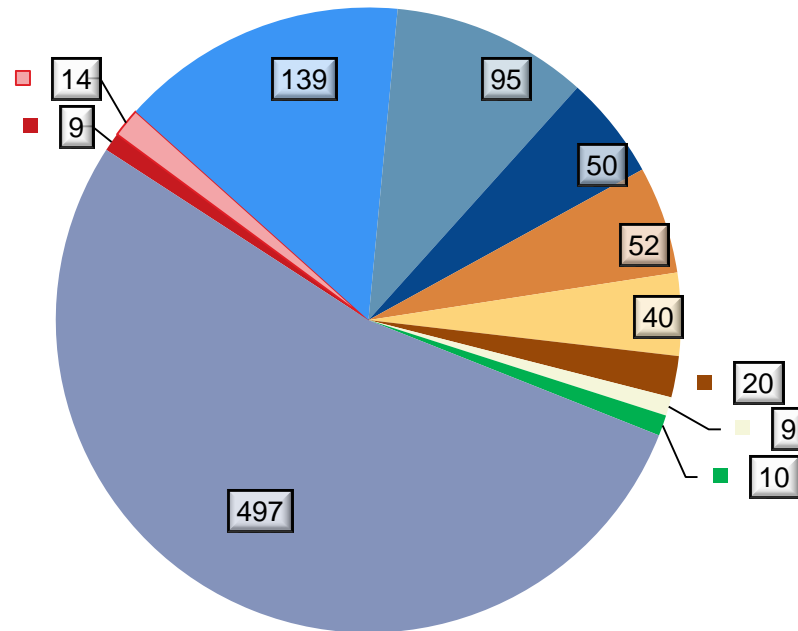
(…) a **mandate** to start the **negotiations** is given to the delegation approved by the General Assembly; (….) this **mandate** explains the object of these negotiations.”

Mandates chemical sector - industriALL

- Article 21 of the **statutes** (16/05/2012)
the Executive Committee “(...) give **mandates** and make decisions according to the mandate procedure (cf. rules laid down in Appendix II)

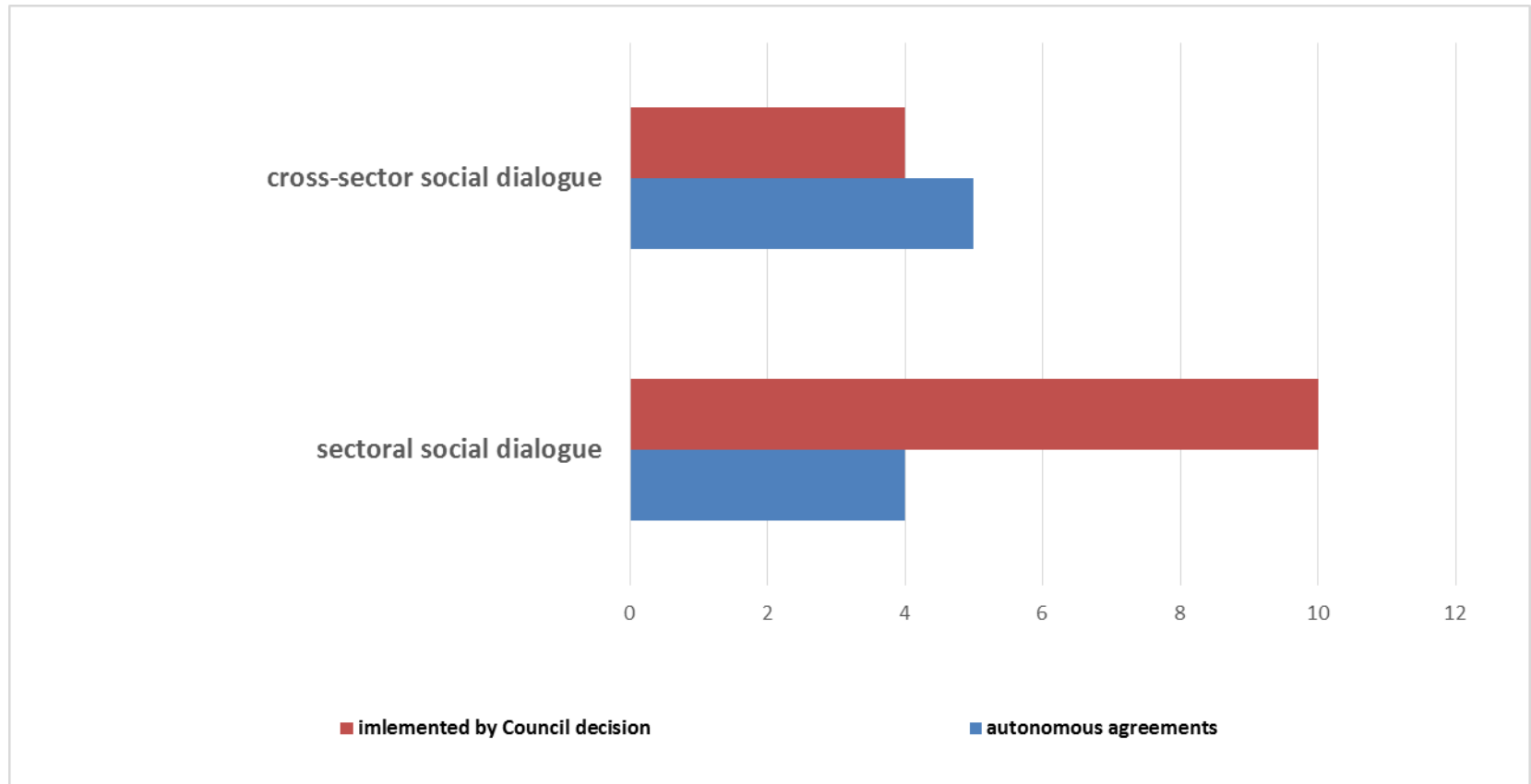
- **Appendix II** contains very detailed provisions on the mandating procedure, the **negotiations**, information and consultation duty towards affiliates, the adoption of texts, what happens if no agreement is reached and the implementation of agreements

Social dialogue outputs until 05/2017

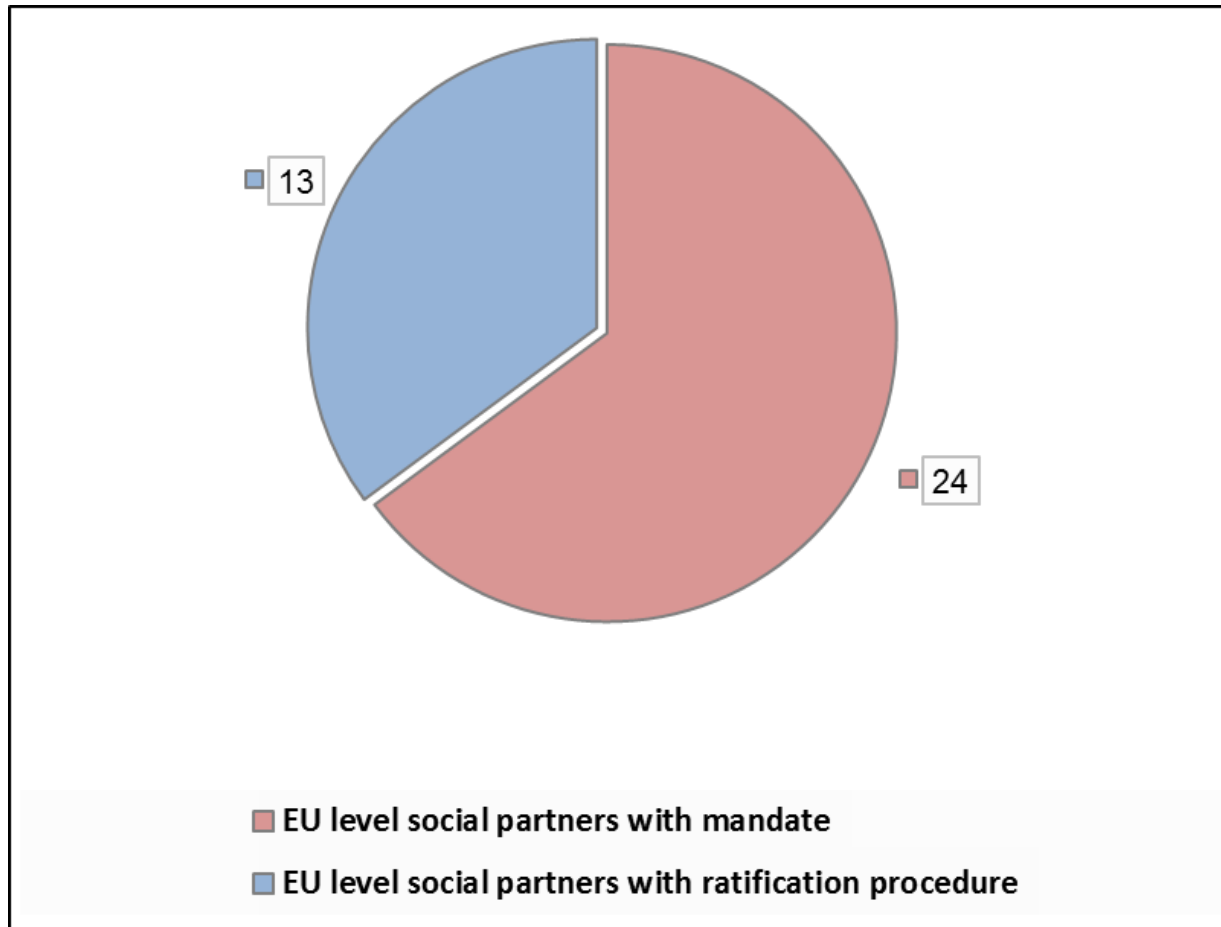


- **Autonomous agreements**
- **Agreements Council Decision**
- **Declarations**
- **Tools**
- **Procedural texts**
- **Follow-up reports**
- **Guidelines**
- **Policy Orientations**
- **Codes of conduct**
- **Framework of actions**
- **Joint opinions**

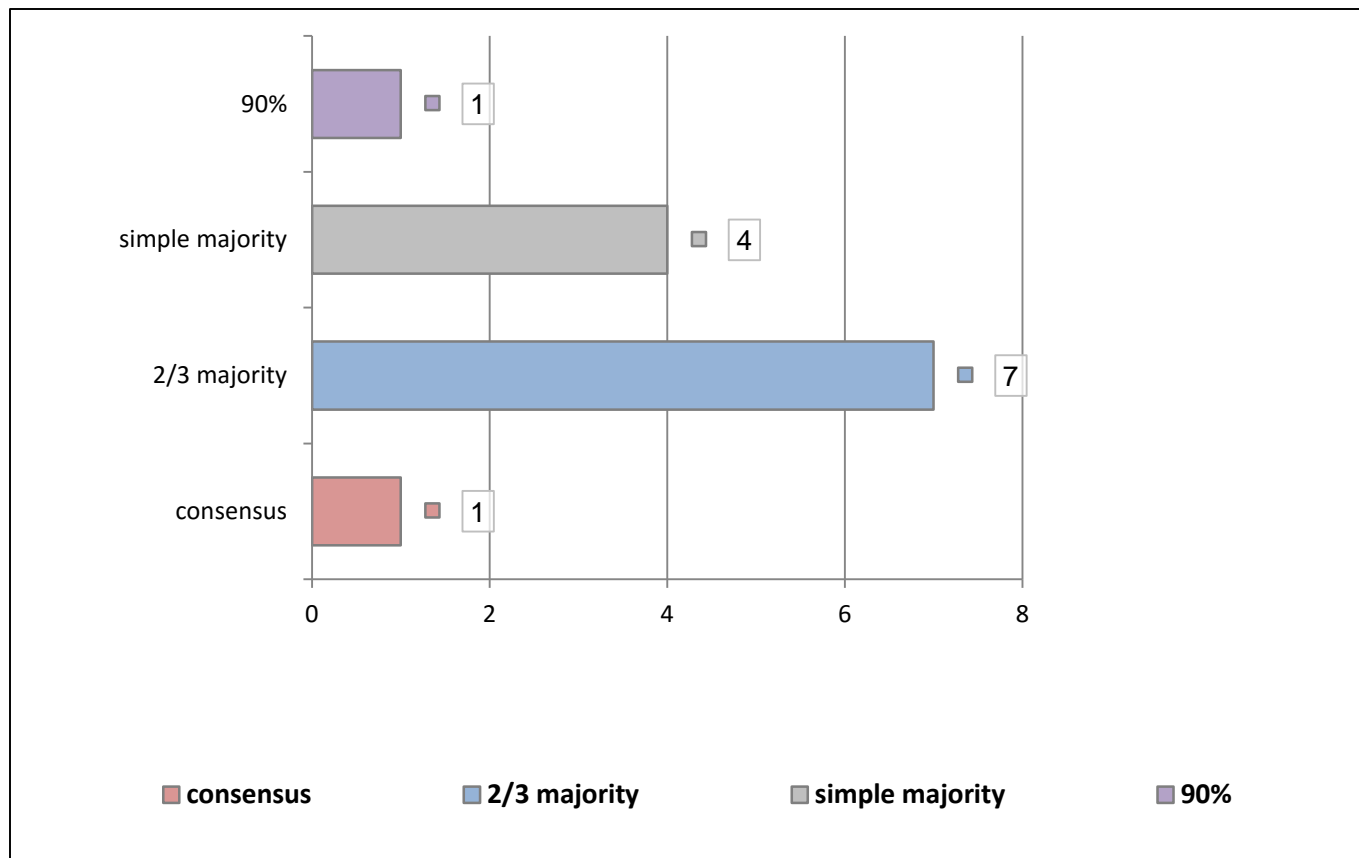
Social dialogue agreements until 05/2017



Ratification procedures



Majorities applied in ratification procedures



Outline

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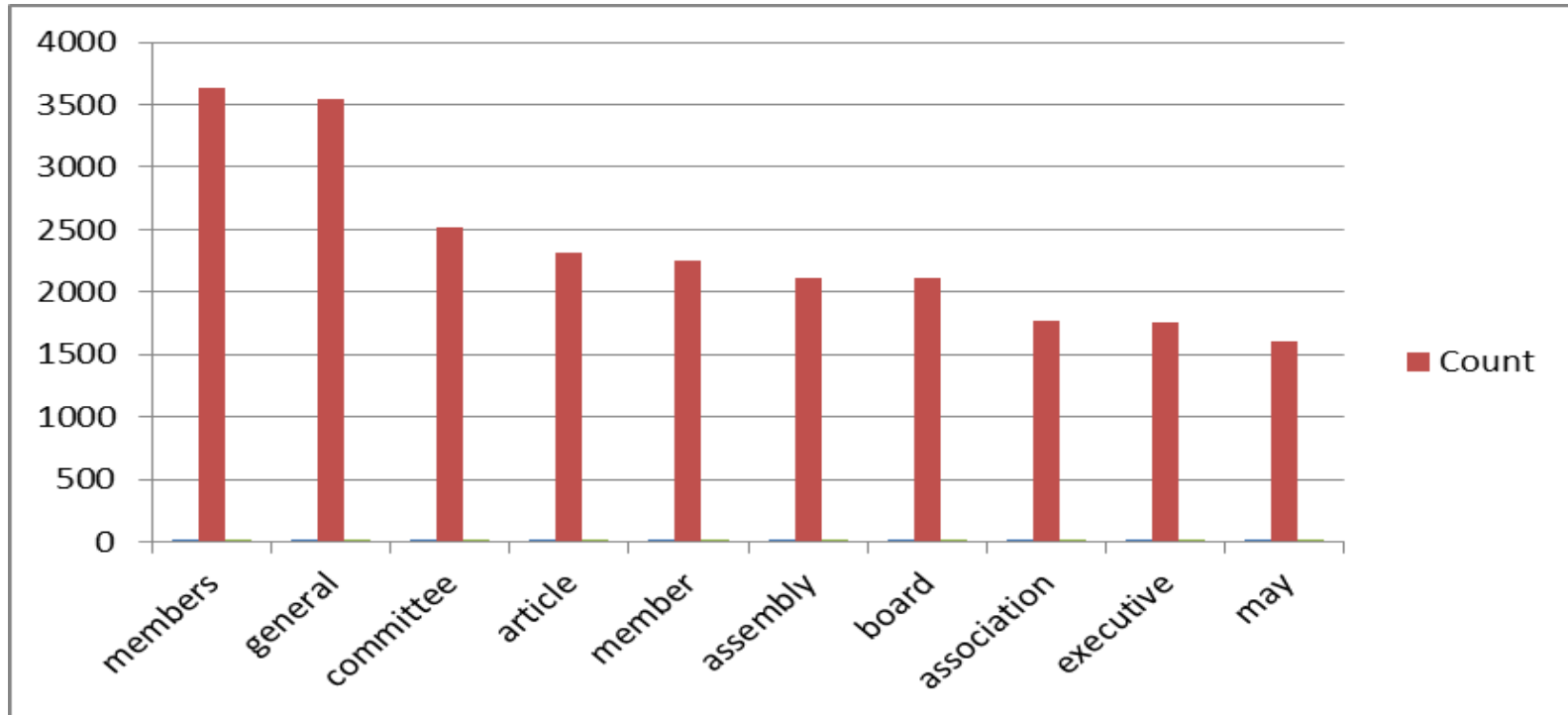
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A short text analysis

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10 most used words



Most used words in relation to capacity to negotiate

term	no. documents	total references
negotiate	38	205
implementation	37	72
social dialogue	36	163
ratification	19	27
sectoral social dialogue	13	39
collective bargaining	12	22
industrial relations	9	17
representativeness	5	7
capacity to negotiate	4	6
collective agreement(s)	3	16
European collective agreements	3	5
framework agreement(s)	2	2
labour agreements	1	1
binding declarations	1	1
contractual relations	1	1

Outline

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Conclusions and policy pointers

Conclusions and policy pointers

- 36/87 organisations make their statutes available on their home page
 - ➔ the European social partners could seek for more transparency;

- 24/87 organisations have a statutory and/or non-statutory mandate
 - ➔ in line with the statement of 27 June 2016 the EU social partners could strive to “ (...) ensure that there is capacity to enter into negotiations with an appropriate mandate;”

Conclusions and policy pointers

- 9 employers associations and 2 industry federations have a statutory and/or non-statutory mandate, but did not sign an agreement to date
 - ➔ there might be room for more initiatives from both sides of the industry
- notions linked to the capacity to negotiate, mandate and ratification procedures and are not frequent in the statutes
 - ➔ the European social partners might want to discuss this situation

Conclusions and policy pointers

- the statutes of 13 of the 24 mandated social partners include a ratification procedure
 - ➔ the European social partners might want to discuss to include such procedures to render the European social dialogue more efficient and effective
- the current project has rather closely mapped the existence of statutory and non-statutory documents on the basis of the documents provided
 - ➔ there is room to further analyse whether or not more ad hoc mandates are in place and what their precise nature is

Further information

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