



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

## Varieties of industrial relations and recent trends in collective bargaining

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ETUC - European Social Dialogue Academy, Brussels, 25 September 2018

# Outline

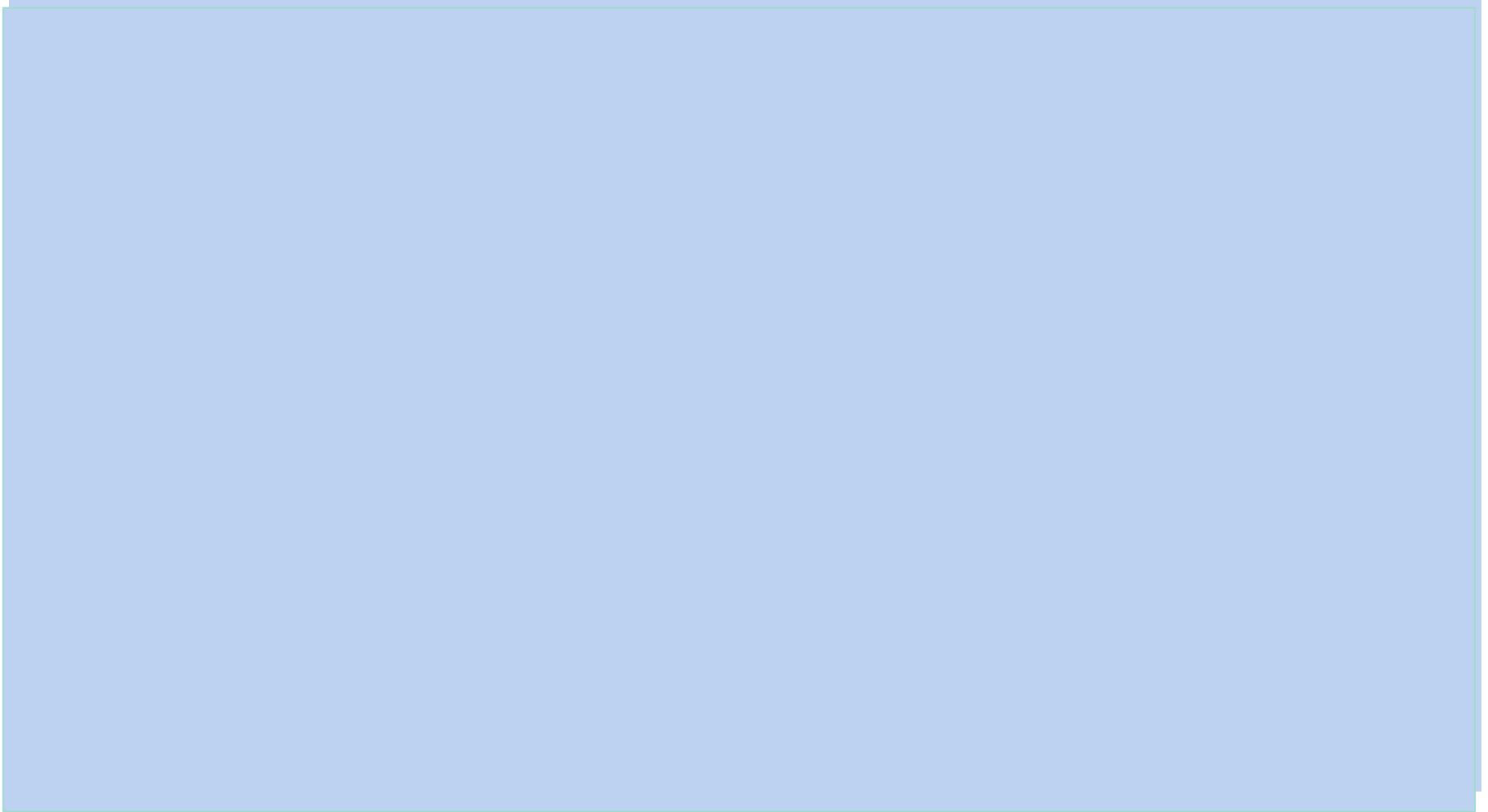
**A. Varieties of national IR regimes**

**B. Main trends of collective bargaining**

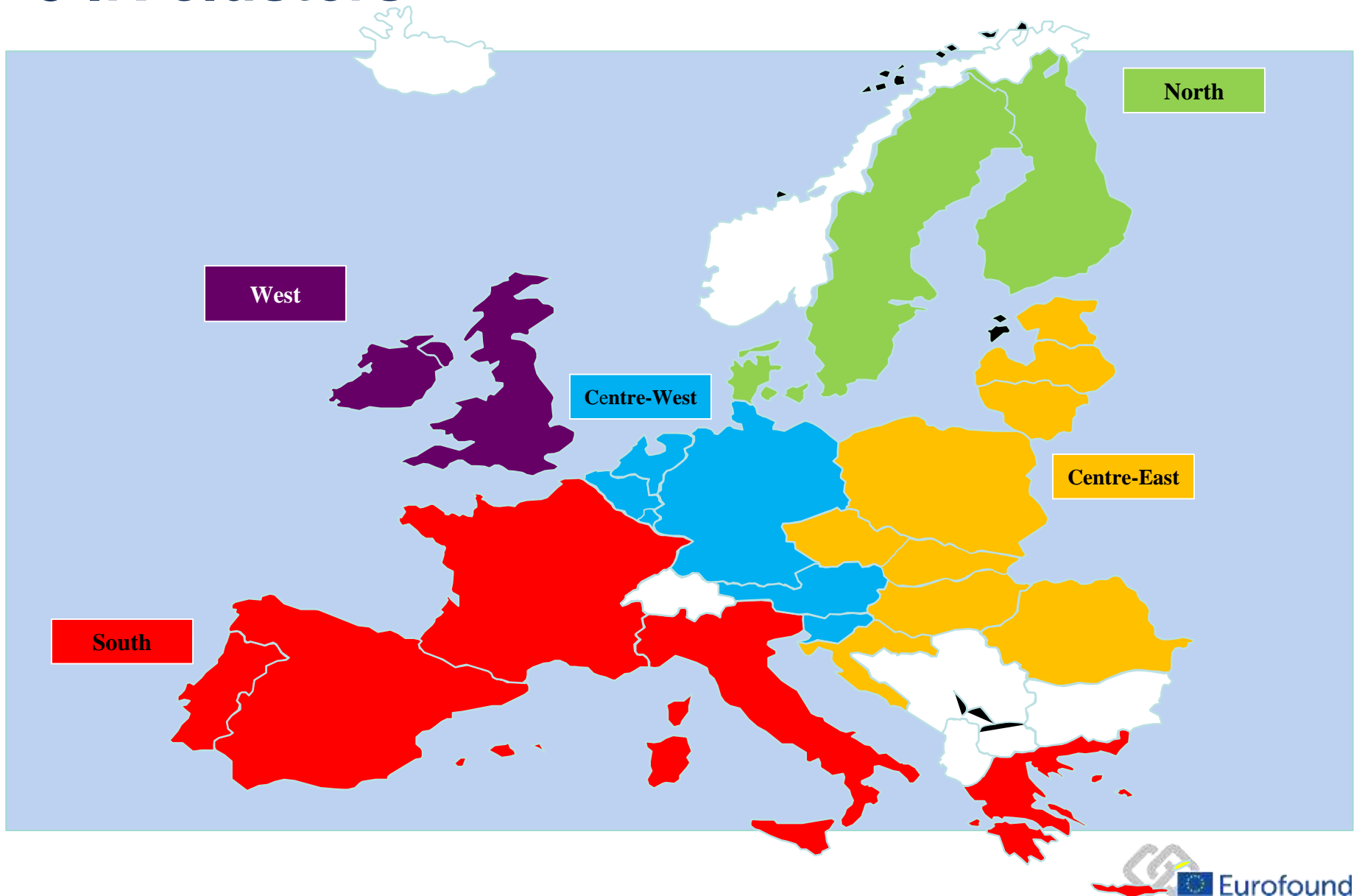
**C. Discussion**

**sources: EC, Eurofound, Eurostat, ILO, OECD**

# A. Varieties of national IR regimes



# 5 IR clusters



# 5 IR clusters

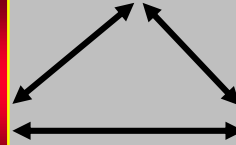
	North	Centre–West	South	West	Centre–East
IR regime	Nordic corporatism	social partnership	polarised pluralism	liberal pluralism	transition economies
role of SPs in public policy	institutionalised		irregular/politicised	rare/event-driven	irregular/politicised
role of State	limited	‘shadow’ of hierarchy	frequent intervention	non-intervention	organiser of transition
power balance	labour-oriented	balanced	alternating	employer-oriented	state
bargaining style	integrative		distributive/conflict-oriented		acquiescent
employee representation	union based/high coverage	dual channel/high coverage	variable/ mixed	union based/small coverage	
predominant level of CB	sector		sector/company	company	

# Levels of CB - wages

Government

Trade Unions  
Intersectoral  
level

Employers  
Intersectoral  
level



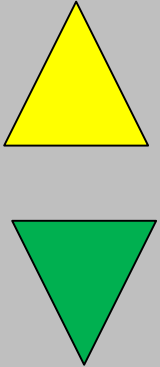
Sectoral level

Sectoral level



Company level

Company level



Belgium  
Finland

Austria  
Denmark1  
France1  
Germany  
Greece  
Ireland1  
Italy  
Luxembourg1  
Netherlands  
Portugal1  
Spain1  
Sweden1

Denmark2  
France2  
Ireland2  
Luxembourg2  
Portugal2  
Spain2  
Sweden2  
UK

# Levels of CB - wages

Government

Trade Unions

Employers

Intersectoral  
level

Intersectoral level

Sectoral level

Sectoral level

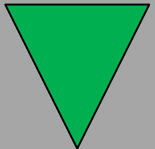
Company level

Company level

Slovenia 1

Bulgaria1  
Cyprus 1  
Slovakia 1  
Slovenia 2

Bulgaria2  
Croatia  
Cyprus 2  
Czech Rep.  
Estonia  
Hungary  
Latvia  
Lithuania  
Malta  
Poland  
Romania  
Slovakia 2



# Levels of CB - wages

**Government**

**Trade Unions**

**Intersectoral  
level**

**Employers**

**Intersectoral level**

**Sectoral level**

**Sectoral level**

**Company level**

**Company level**

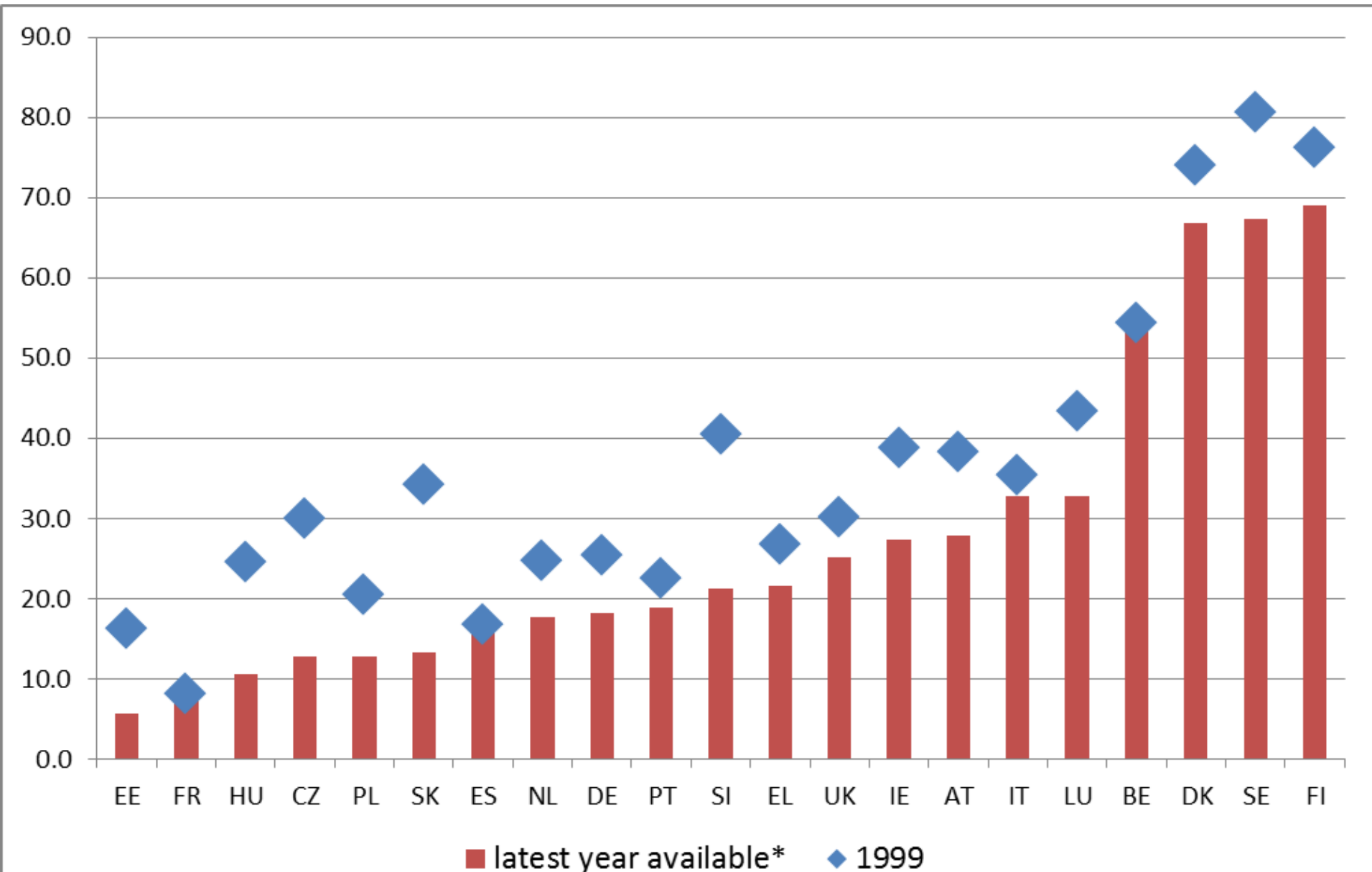
Bosnia&  
Herzegovina<sup>1</sup>  
FYROM<sup>1</sup>  
Kosovo<sup>1</sup>  
Montenegro<sup>1</sup>  
Serbia<sup>1</sup>

Albania<sup>1</sup>  
**Argentina**  
Bosnia&  
Herzegovina<sup>2</sup>  
Brazil<sup>1</sup>  
India<sup>1</sup>  
FYROM<sup>2</sup>  
Kosovo<sup>2</sup>  
Montenegro<sup>2</sup>  
Serbia<sup>2</sup>  
**Uruguay**

Albania<sup>2</sup>  
Australia  
Brazil<sup>2</sup>  
Canada  
China  
India<sup>2</sup>  
Japan  
South Korea  
Turkey  
US



# Trade Union density rates in 2016 (%)



# Trade Union density rates (2008 or later %)

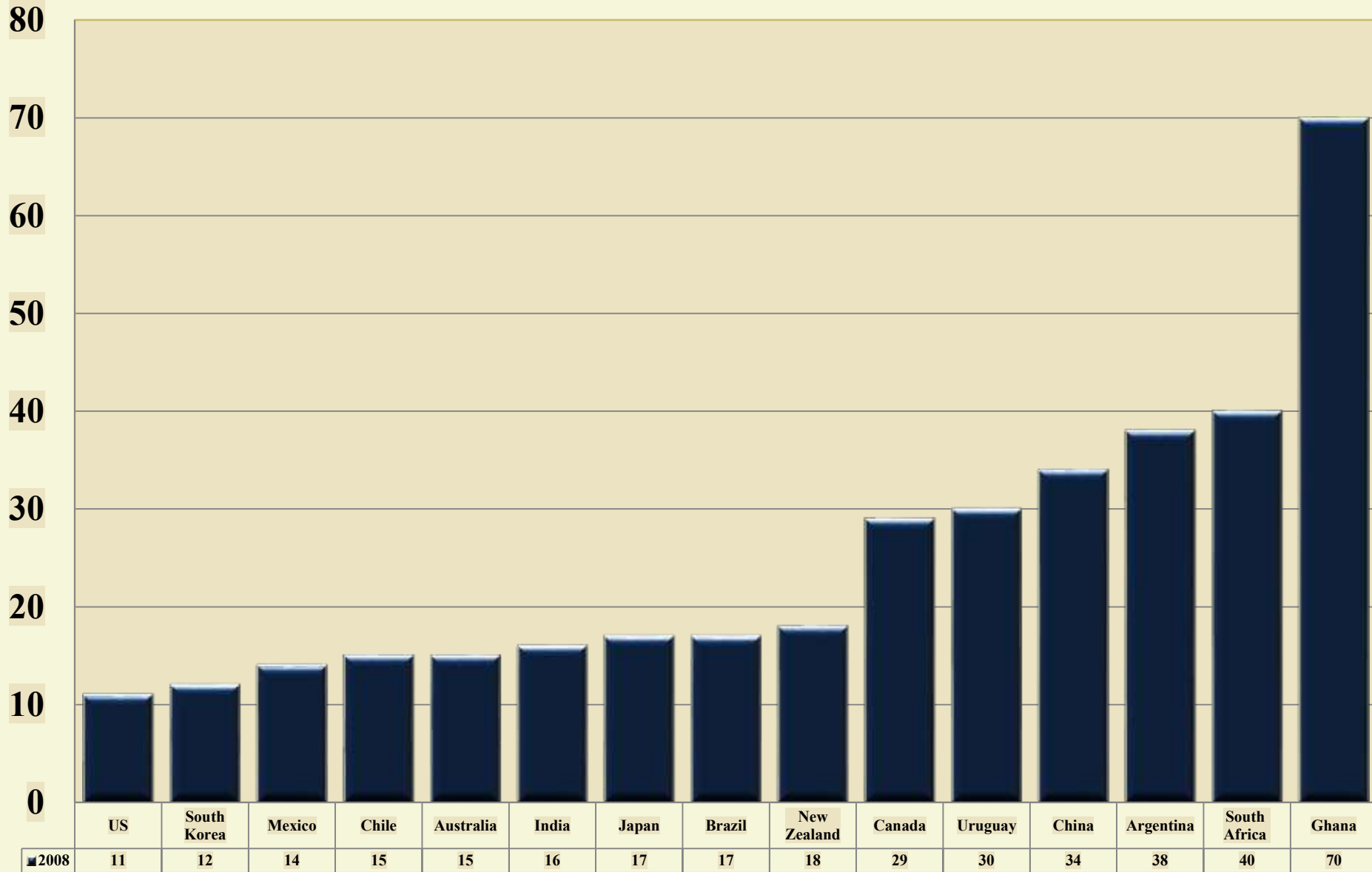
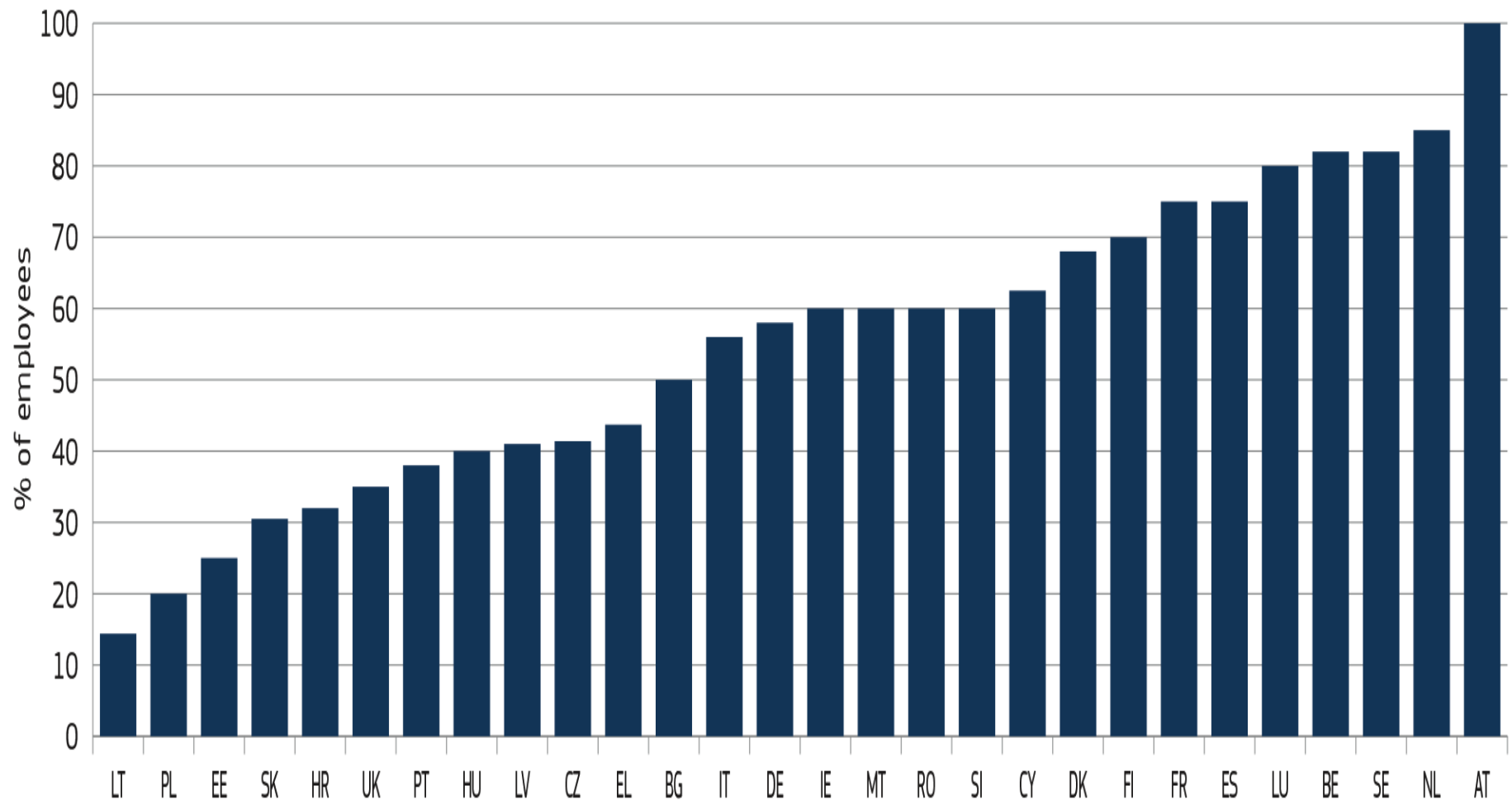


Chart 2: Employer density rate



Source: ICTWSS database (Visser, 2015).

Notes: Share of employees working in establishments that are affiliated to an employers' organisation. Data years: 2014 for AT; 2013 for HR, LV, SI and SK; 2012 for BE, BG, FI, FR, IT, LT, LU and PL; 2011 for CZ, DE, EE, IE, NL, PT and SE; 2010 for DK; 2008 for CY, EL, ES, HU, MT and UK; 2007 for RO.

# Employer density rates (2013 or later %)

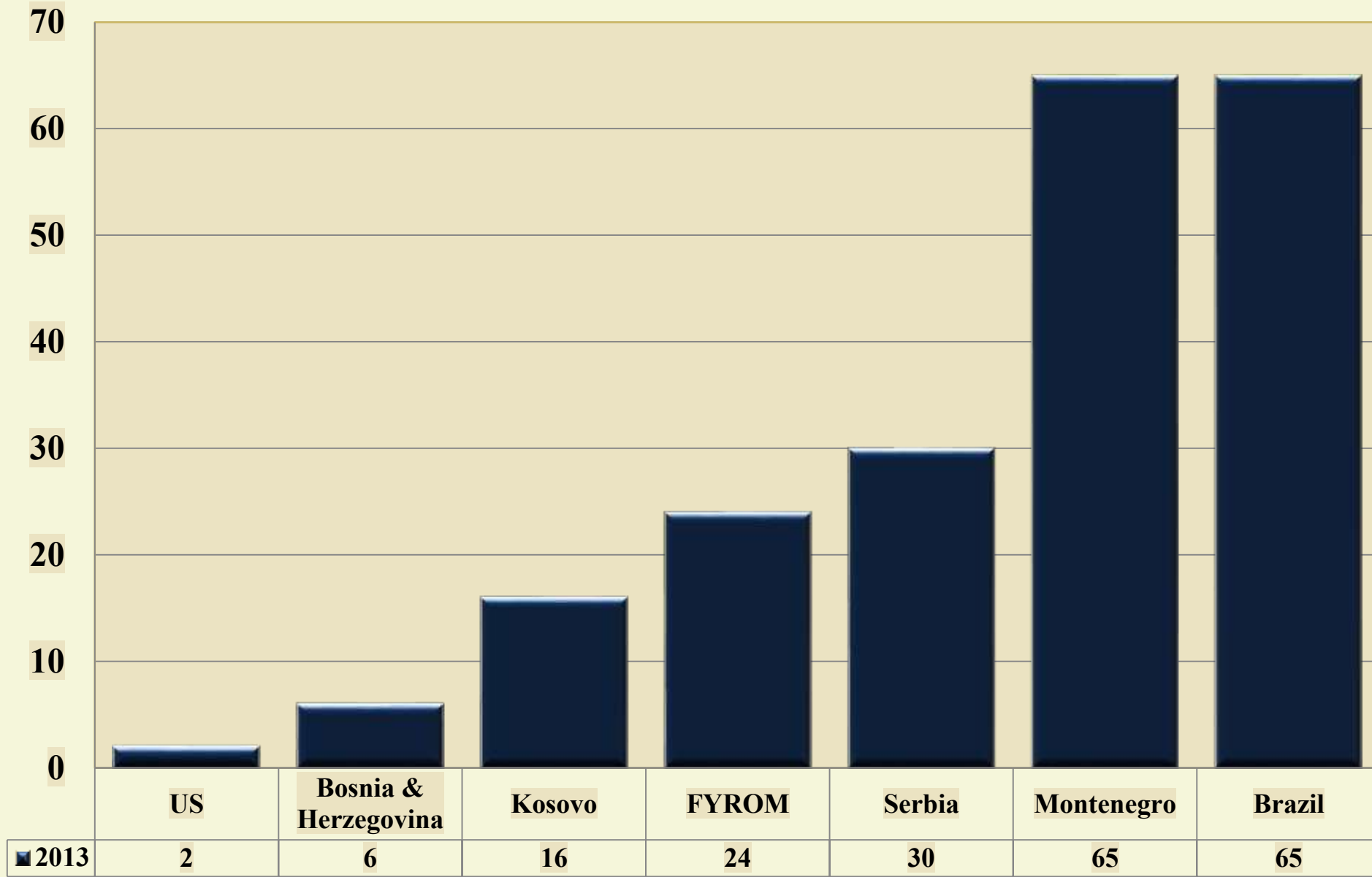
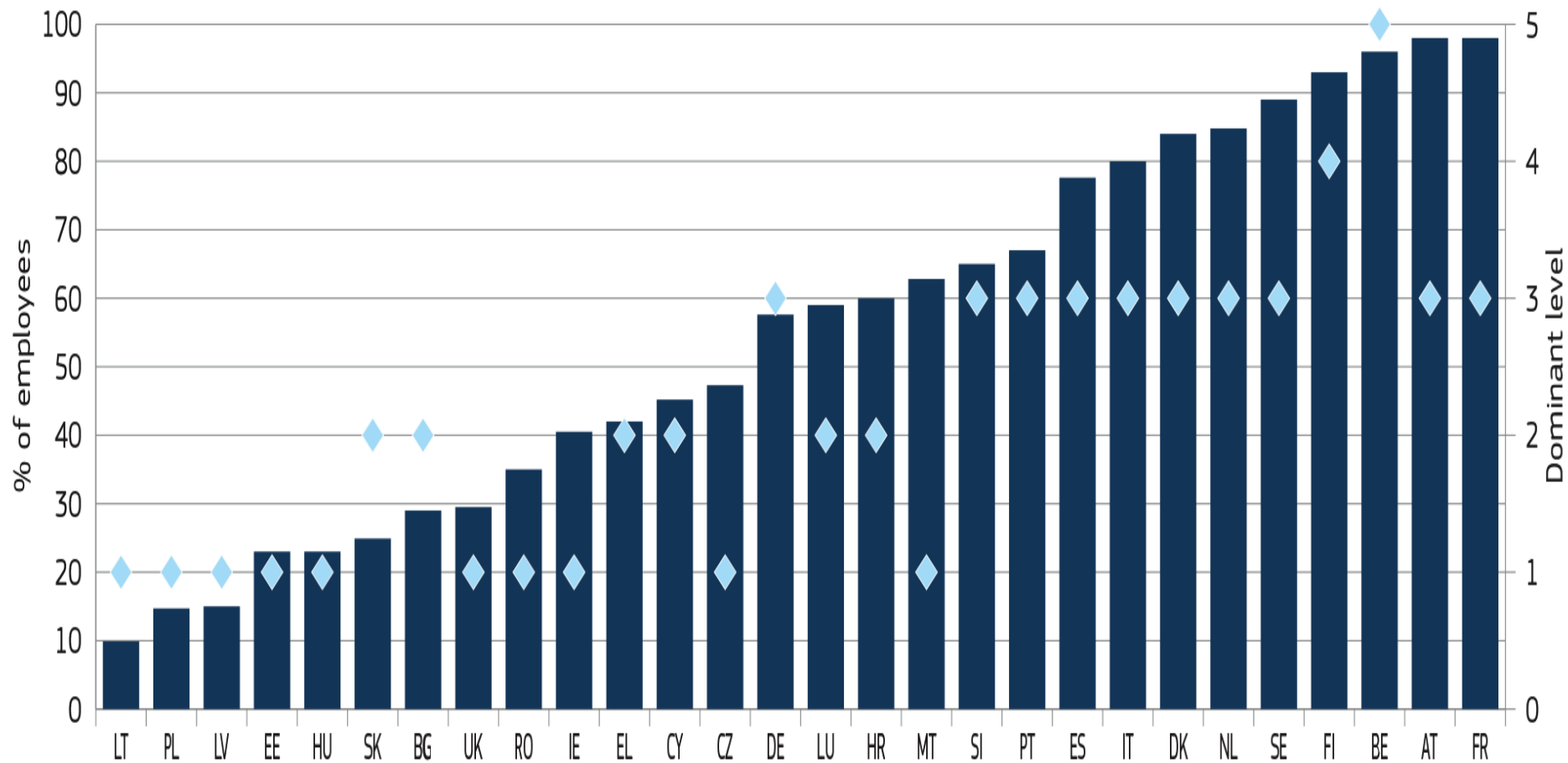
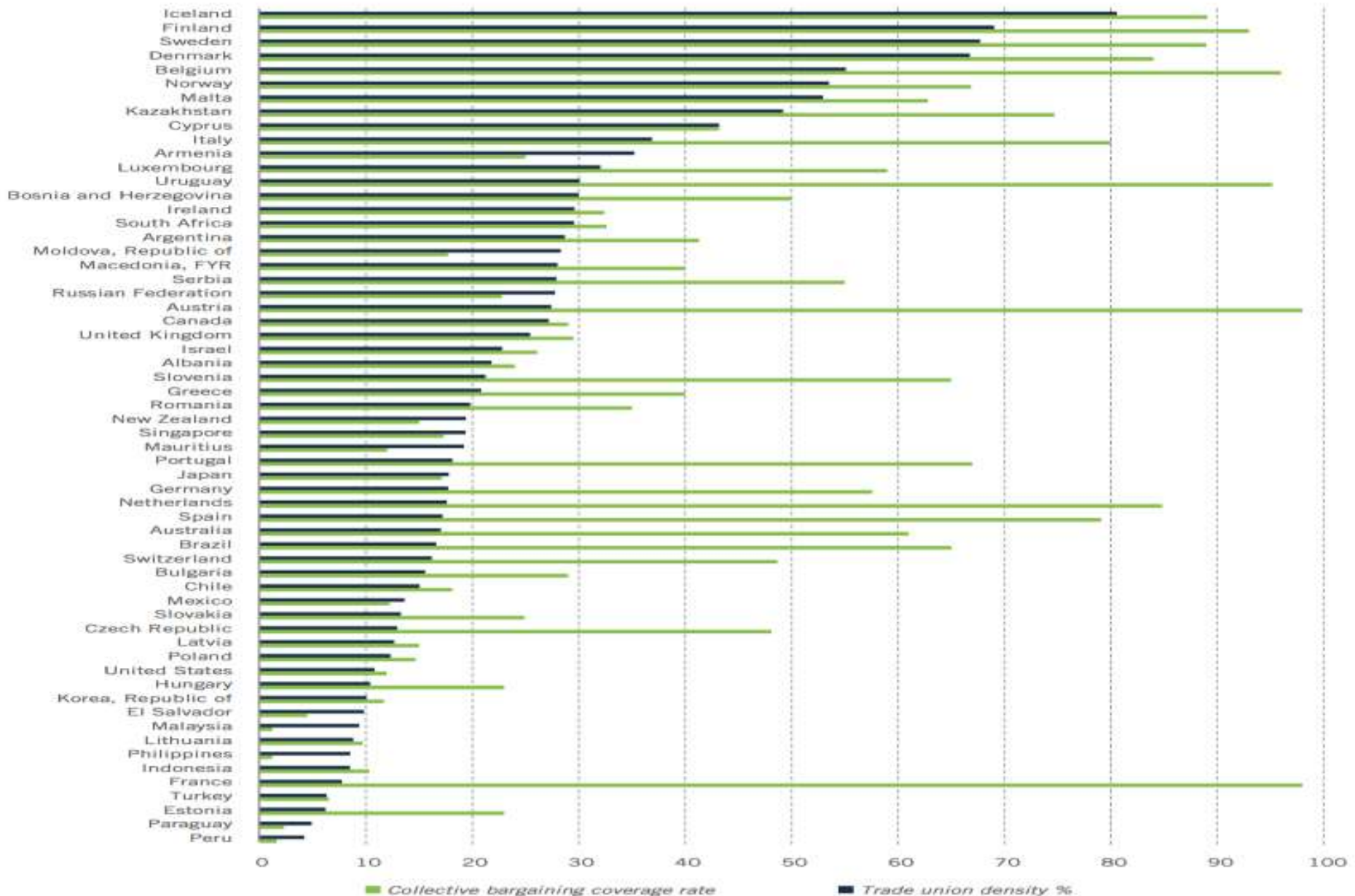


Chart 4: Collective bargaining coverage rate and dominant level of bargaining

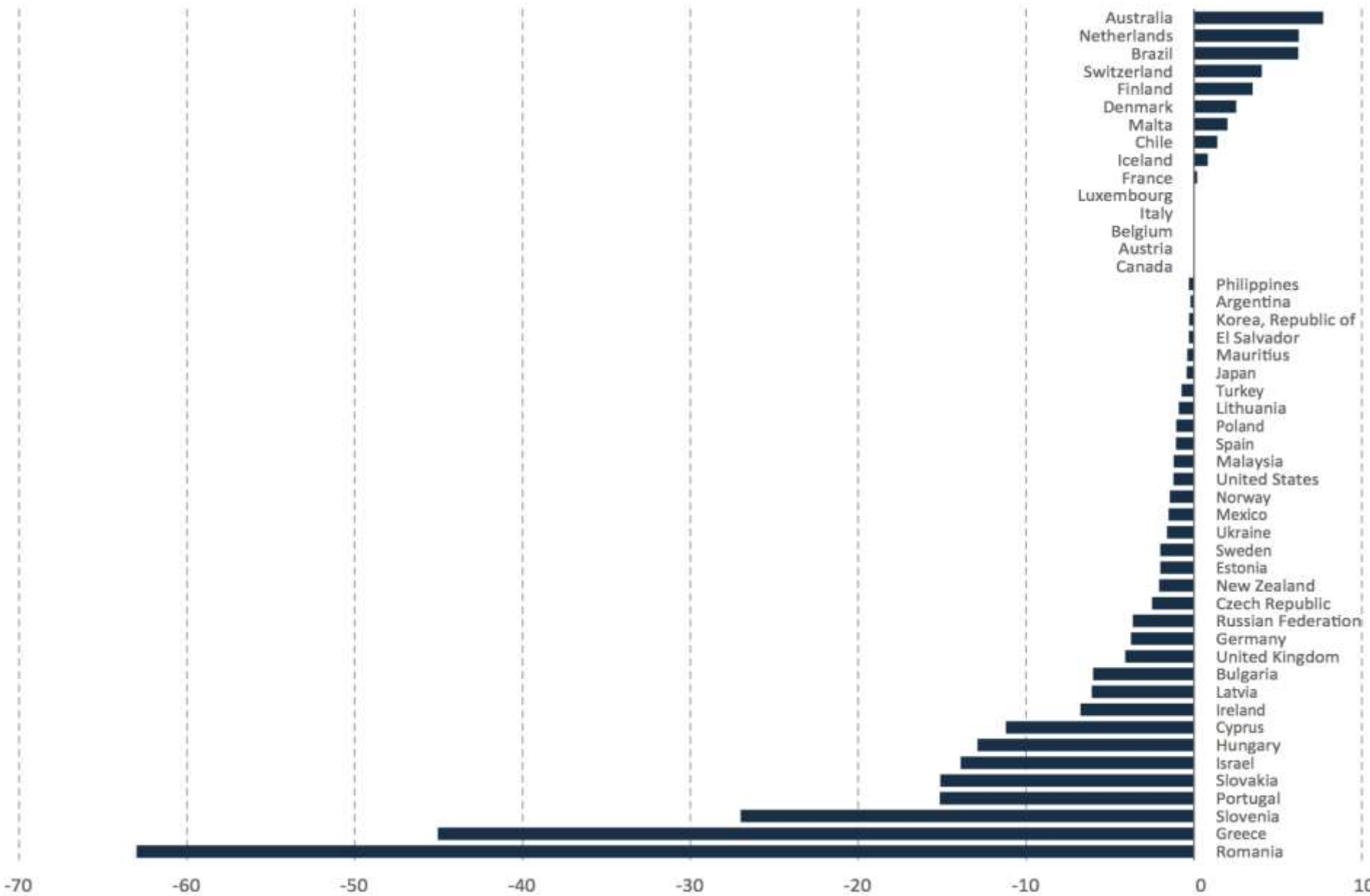


Source: ICTWSS database (Visser, 2015).

# CB coverage and TU density (2013 or later)



# Changes in CB coverage 2008 -2012/13



# Extension procedures - semi-automatic

	procedure	decision	rep criteria	public interest	use
Argentina	request SP	Min	yes	yes	very common
Austria	request SP	tripartie body	yes	no	rare
Brazil	Court	court	yes	yes	common
Finland	automatic	tripartite body	yes	no	very common
France	request SP	Min	yes	no	very common
Iceland	CA apply to all employees	automatic	no	no	General
Spain	CA apply to all employees	automatic	yes	no	general



# Extension procedures - supportive

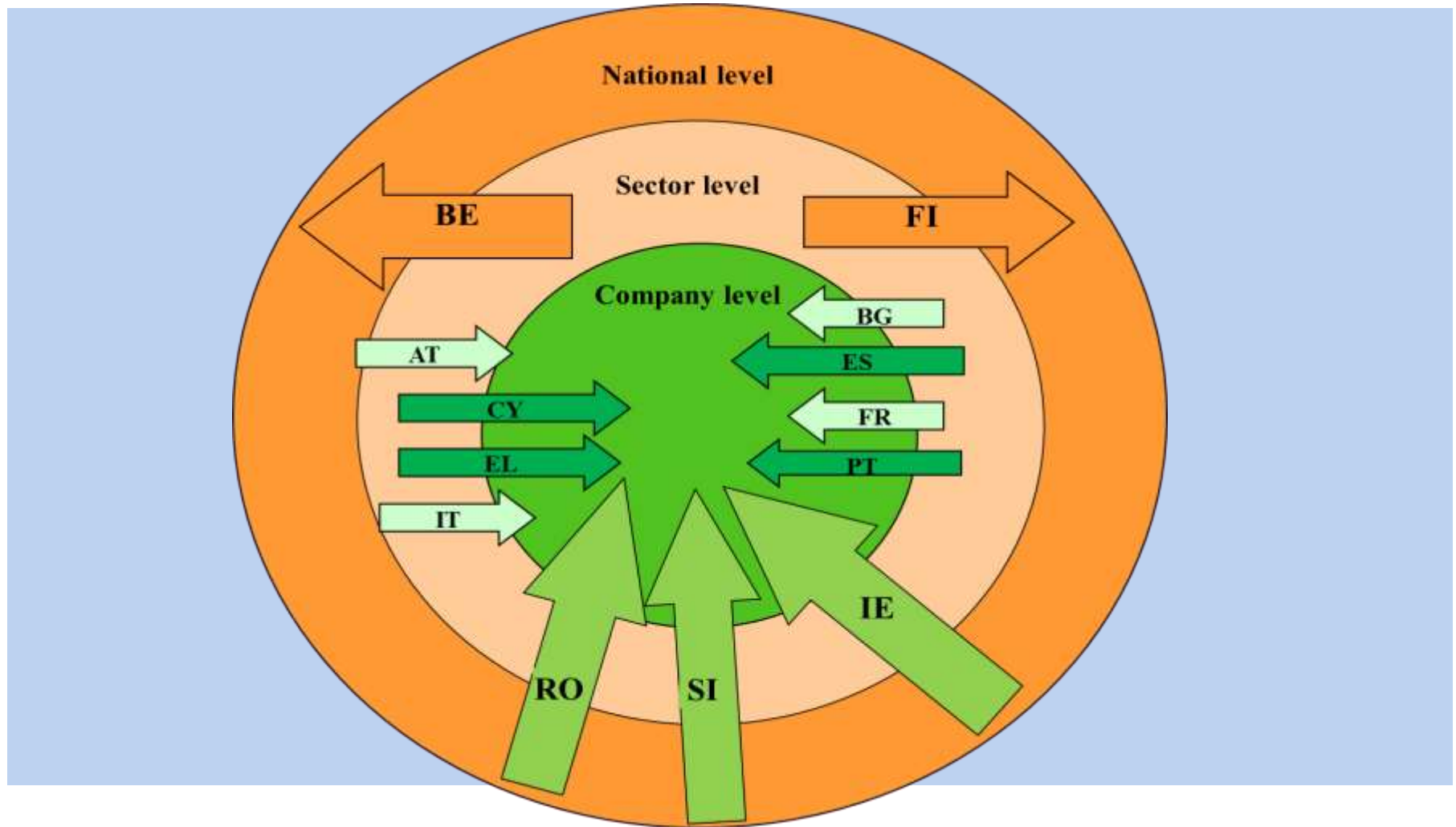
	procedure	decision	rep criteria	public interest	use
Belgium	request by joint committee	royal decree	yes	no	very common
Croatia	requeté by SP	Min	yes	yes	very common
Germany	request by SP	Min	overriding importance	yes	limited
Italy	no – but functional equivalent	judges	no	no	very common
Netherlands	request by SP	Min	yes	yes	common
Portugal	request by SP	Min	yes	yes	very common
Slovenia	request by SP	Min	yes	no	common
South Africa	request by SP	Min	yes	no	Common
Switzerland	request by SP	Fed Gov	yes	yes	Common

# Extension procedures - restrictive

	procedure	decision	rep criteria	public interest	use
Albania	request by SP	Min	yes	no	rare
Bulgaria	request by SP	Min	yes	no	limited
Czech Republic	request by SP	Min	yes	no	rare
Estonia	request by SP	Min	CA signed by EOs	no	rare
Hungary	request by SP	Min	yes	no	limited
India	request by SP	Min			limited
Ireland	request by SP	Labour Court		competitiveness	rare
Israel	request by SP	Min	yes	no	limited
Latvia	request by SP	Min	yes	no	limited
Norway	request by SP	tariff board	substantia/ foreign workforce/low wages	no	limited
Romania	request by SP	Min	yes	no	limited
Slovakia	request y SP	Min	EO can veto	abolish disadvantages	limited

## B. Main trends in collective bargaining

# Trends in main levels of CB



# Ordering / favourability principle

- **continental Western, central Eastern and Nordic IR regimes** apply the **favourability' principle** to govern the relationship between different levels of CB
  - CAs at lower levels can only **improve** on standards established by higher levels
  - exceptions: IE and the UK > reflecting their different legal tradition based on voluntarism
- **FR**
  - FR made changes already in 2004 (loi Fillon)
- **ES**
  - 2011 law inverted the principle as between sector or provincial agreements and company agreements
- **EL**
  - 2011 law inverts the principle between the sector and company levels for the duration of the financial assistance until at least 2015
- **PT**
  - 2012 Labour Code inverts the principle, but allows EOs and TUs to negotiate a clause in higher-level CA reverting to the favourability principle

# Changes in opening/opt-out clauses

- **opening clauses** in sector/cross-sector CAs provide scope for further negotiation on aspects of wages at company level
- **opt-out clauses** permit derogation under certain conditions from the wage standards specified in the sector/cross-sector CA
- changes in **opening clauses** → 6 MS
  - AT, DE, FI, IT, PT, SE
- changes in **opt-out clauses** → 8 MS
  - BG, CY, EL, ES, FR, IE, IT, SI

# Extension of CB competence

- changes: EL, FR, HU, PT and RO
- EL
  - ▶ under 2011 legislation, CAs can be concluded in companies with fewer than 50 employees with unspecified '*associations of persons*'  
➔ these must represent at least 60% of the employees concerned
- RO
  - ▶ legislation (2011) introduces harder criteria for trade TU representativeness
  - ▶ where TUs do not meet the new criteria at company level, EOs can now negotiate CAs with **unspecified elected employee reps**

# Extension mechanisms

- of the **28 MS**
- **23 MS have extension mechanisms or a functional equivalent (IT)**
- no legal procedure for extending collective agreements in  
**CY, DK, MT SE and UK**
- changes to either extension procedures or in their use  
**in 8 MS**
  - **BG, DE, EL, IE, PT, RO, SK, IT**



# Continuation of CAs beyond expiry

- clauses providing for agreements to **continue to have effect beyond the date of expiry** until a new agreement is concluded are intended to protect workers should employers refuse to negotiate a renewal
- they are found in a **9 MS at least**
  - **AT, DK, EE, EL, ES, HR, PT, SE, SK**
- changes have been made to such provisions in **5 MS**
  - **EE, EL, ES, HR, PT**

# No. of CAs in PT

	2008	2009	2010	2011	2012	2013	2014
sector CA	194	164	166	115	46	46	72
company CA	97	87	64	55	39	49	80
total CA	291	251	230	170	85	95	152
extension	137	102	116	17	12	9	13
coverage / in 1000 pers.	1,895	1,397	1,407	1,237	328	243	246

# C. Discussion

# Towards a re-commodification of labour?

- **“By viewing labour as a commodity, we at once get rid of the moral basis on which the relation of employer and employed should stand, and make the so-called law of the market the sole regulator of that relation.”**
- (Dr John Kells Ingram, address to the British TUC in Dublin 1880)

# Discussion

- Treaty of Versailles (1919: article 427)
  - first principle of the new ILO pro- claimed ‘ that labour should not be regarded merely as a commodity or article of commerce
  - introduced by British delegation
  - Gompers > personal defeat
- ILO DECLARATION OF PHILADELPHIA (10 May 1944)
  - labour is **not** a commodity

# Discussion

- Labour is not a commodity > clause is *not* in the EU Treaties
- yet → Albany case (1996)
- Albany used the competition rules in article 81(1) EC (now article 101(1) TFEU) claiming that mandatory pension scheme compromised their competitiveness
-

# Discussion

- ECJ
  - “ social policy objectives pursued by CAs would be seriously undermined if management and labour were subject to Article 85(1) “
- Advocate General Jacobs
  - “ CAs enjoy automatic immunity from antitrust scrutiny”
- Art. 153 (5) TFEU
  - the provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

# further information

- <http://www.eurofound.europa.eu>
  - European Industrial Relations Dictionary
  - Working Life Country Profiles
- 
- [christian.welz@eurofound.europa.eu](mailto:christian.welz@eurofound.europa.eu)