

KATARZYNA SKORUPIŃSKA

Collective bargaining as the First Pillar of a European Model of Participation

Abstract

Collective bargaining and three forms of participation (direct, indirect, and financial) taken together, constitute four pillars of a European Model of Participation. The political debate in the European Commission about how to adjust participation to the challenges of the 21st century caused the emergence of the Model, which is based on flexibility, innovation, utilisation of information technology, job security, life-long learning, enhanced education and training.

The main aim of the paper is to describe strength of collective bargaining as the first pillar of the Model and main determinants of collective bargaining existence in the EU Member States. The article also attempts to present the latest changes in the field of collective bargaining connected with a pressure of global competition and a demand for wide-ranging flexibility. As the collective bargaining is closely related to trade unions activities, therefore, the paper also shows the differences in the structure of trade union confederations in the EU Member States and changes in union membership over recent decades.

1. Introduction

The issue of employee participation in the European Union (EU) has a long history. It has been always the subject of discussion between employers, trade unions and different states within the Union. Firstly, the discussion regarding standardisation of the rules of employee participation was in passing other integration activities. It took place in 1959 and referred to a proposal of Dutch lawyer Peter Sander who wanted to introduce some standards of company

managing. The project that was based on a dual system of managing with the supervisory board and the management board was not accepted then¹.

Since the beginning of the 1970s, there have been a number of initiatives to promote employee participation which have been put forward by the European Commission (the European Company Statute, the Fifth Directive, the Vredeling Proposal). They all were highly controversial facing a resistance of both employers and some authorities in the EU and consequently, Councils of Ministers didn't adopt them.

However, since the adoption of the European Works Council (EWC) Directive² of 1994 was put in law a significant progress on employee participation at European level has been noticed. Despite the fact that some of the participation issues were very complex for political reasons, the European Commission and the Councils of Ministers went on working over creating a framework of minimum standards for informing and consulting employees in the European companies. Nowadays, at the EU level, legislation introduces a range of the following worker involvement requirements in the Member States including the one before:

- Directive (2001/86/EC), adopted in October 2001, providing for employee involvement (through both information and consultation structures or procedures and board-level participation) in 'European Companies' (SEs) – the new optional form of Europe-wide company set up under the European Company Statute.
- Directive (2002/14/EC) establishing a general framework for informing and consulting employees on a range of business, employment and work organisational issues. The implementation of the Directive may result in some form of statutory works councils in the EU Member States which currently have none (essentially the UK and Ireland).
- Various Directives that guarantee information and/or consultation on specific issues, notably collective redundancies, business transfers and health and safety³.

¹ S. Rudolf, *Działania integracyjne wspólnoty europejskiej w zakresie partycypacji pracowniczej. Europejskie Rady Zakładowe (Integration activities of The European Union in terms of employee participation. European Works Councils)*, Przegląd Socjologiczny 1994, Tom XLIII, p. 186.

² The European Works Council Directive imposes an obligation of establishing such Councils (or other structures for the information and consultation of employees) in multinational companies operating in the EU, as well as in Norway, Liechtenstein and Iceland, that is in the countries belonging to the so-called European Economic Area.

³ M. Carley, *Industrial relations in the EU Member States and candidate countries*, European Industrial Relations Observatory, 2002, p. 10.

The notion of a European model of participation stretches back to the 1960s and is related to a much wider stereotype of a European social model. The traditional European model is characterised by tripartite negotiations in the labour market, an emphasis on employee rights, strong trade unions, wide coverage of collective bargaining and some forms (works councils and/or trade unions) of representation of employees at the company level. This version of the model was seen as providing a high degree of job security, relatively high pay and generous state welfare provisions. In the current economic and political conditions, its critics claim that the model leads to inflexibility, lack of competitiveness and high unemployment⁴.

The political debate in the European Commission about how to adjust participation to the challenges of the 21st century caused the emergence of a new European model based on flexibility, innovation, utilisation of information technology, job security, life-long learning, enhanced education and training. At the same time, there is a move towards direct participation linked to notion of *empowerment* of individual employees, indirect participation oriented to partnership and trust between management and labour, financial participation with its two main patterns: profit-sharing and employee share-ownership⁵. Collective bargaining and these three forms of participation (direct, indirect, and financial) taken together, constitute four pillars of a European Model of Participation.

Taking account of the first pillar of the Model, at the EU level collective bargaining is regulated by the following international structures:

- the European Trade Union Confederation (ETUC);
- the Union of Industrial and Employers' Confederations of Europe (UNICE),
- the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP);
- and also in the latest years, the European Association of Craft and Small and Medium-sized Enterprises (UEAPME)⁶.

Cooperation in the term of collective bargaining faces many difficulties, because the negotiations have a country-specific character. Social and cultural conditions in these countries make possibility of harmonisation this policy in all

⁴ C. Gill, H. Kriegler, *Recent Survey Evidence on Participation in Europe: Towards a European Model?*, "European Journal of Industrial Relations", Vol. 6, 2000, p. 111–112.

⁵ *Ibidem*, p. 112.

⁶ M. Carley, *op. cit.*, p. 1–6.

united Europe complicated⁷. In spite of these difficulties, agreements in some issues regarding social policy were reached. The first success came with the Agreement On Parental Leave written by ETUC, UNICE and CEEP in December 1995⁸. In common opinion, it was reached relatively quickly and unarguably, probably because most member states have already had provisions broadly similar to those of the agreement⁹. Social partners have reached also European agreements on part-time work and fixed-time work, which have been implemented in law through EU Directives. In July 2002, a framework agreement on telework was concluded, which will be implemented by the national social partners in the Member States (by July 2005), rather than by means of a Directives¹⁰.

National system of collective bargaining differs very widely in terms of the level, coverage, content and nature of the agreements. The main aim of the article is to present these differences between the EU Member States. The paper also attempts to qualify strength of the first pillar of a European Model of Participation and main determinants of collective bargaining existence in the countries. As the collective bargaining is closely related with trade unions activities, therefore the structure of the paper is as follows. Section 2 shows two key differences in the structure of the trade union confederations in the EU Member States. Some changes in union membership over recent decades, the main reasons of the collapse and actual trade union density have been presented in the section 3. Section 4 outlines three levels at which collective bargaining are conducted and differences in the nature of agreements between the countries. The coverage of the negotiations and its basic determinants are presented in section 5. Last section provides final remarks and conclusions.

⁷ R. Towalski, *Konflikty przemysłowe w Europie Zachodniej a konflikt przemysłowy w Polsce (Industrial Conflicts in West Europe and Industrial Conflict in Poland)*, Szkoła Główna Handlowa, Warszawa, 2001, p. 151.

⁸ The agreement gives the right to both women and men to take three months off work following the birth or adoption of a child. The parents retain all employment rights and their social security contributions will continue to be paid during the period of leave (*The European Union: Economic & Social Policy within the trade union context*, Background Document, 1997, p. 16).

⁹ *Industrial Relations and Collective Bargaining*, P. Burgess (ed.), European Management Guides, Institute of Personal and Development, 1996, p. 34–35.

¹⁰ A. Broughton, *Comparative overview of industrial relations in Europe in 2002*, European Industrial Relations Observatory, 2003, p. 27.

2. Structure of the trade unions

One of the key differences between the 15 EU Member States is the structure of the union confederations - the national bodies to which individual unions belong. On the basis, the EU states can be divided into three basic models:

- states with a single confederation, which includes all or almost all trade unions,
- states with several confederations which are divided on an occupational basis (manual and non-manual workers) or between the public and private sector,
- states with several competing confederations, apparently divided due to political or religious lines¹¹.

The United Kingdom, Ireland, Austria and Germany can be included in the first model, with one dominant confederation in each country. The vast majority, around 80% of all trade union members in Great Britain belongs to the TUC, the main trade union confederation of 72 unions, which affiliates both manual and non-manual workers. The five largest unions (UNISON, T&G, GMB, AEEU, MSF) are all general unions that operate in several sectors of the economy, although each has an area in which it dominates¹². The only trade union confederation in Ireland – ICTU, affiliates 66 individual trade unions. In Austria, there is also one confederation, the ÖGD, divided into 14 separate unions that consists of manual worker groups that represent distinct industries in the private sector.

German trade union confederations are different. Although, there are four large organisations: DGB, DBB, DAG, CGB, but the first one is the strongest and the most significant. Nine trade unions operating in different branches of private sector and four unions in the public sector are affiliated to the DGB. The largest (2.8 million of members) individual trade union – IG Metal also belongs to the DGB¹³.

The second model of trade union confederations refers to the Scandinavian countries and Greece. There are three main union federations in Sweden, each dealing with a different part of the occupational structure. The largest is the LO for manual workers, the second is the TCO with non-manual workers and the smallest is SACO to which belong the graduates.

¹¹ *Worker Representation in Europe*, Labour Research Department Booklets, Rochdale, 1998, p. 2.

¹² *Ibidem*, p. 106.

¹³ *Worker Representation in Europe*, *op. cit.*, p. 41.

Similar division between three main trade union confederations can be found in Finland (SAK, AKAVA, STKK) and in Denmark (LO, FTF, AC)¹⁴. Finally, there is a distinction in Greece between confederations for the private (GSEE) and public sector (ADEDY)¹⁵.

Seven remaining Member States (Belgium, France, Italy, Luxembourg, the Netherlands, Portugal and Spain) fall into the third model. In these countries, there are competitive trade union confederations with the number of main confederations varying from five in France to two in Portugal and Spain¹⁶. The confederations are (at least originally) divided mainly on political ground. A good example is France where the oldest trade union organisation – CGT is traditionally linked to the Communist Party. The other confederation, the CGT-FO, is conceived as closer to the social democratic tradition, although there are not any formal connections with socialist organisations. What more, the CGT-FO prohibits its members from belonging to whatever political party¹⁷. There is also another large confederation, the CFTC, which is traditionally linked with the Christian union movement.

Another key difference between the 15 EU states in the term of trade union activity refers to a notion of *the most representative unions*. Particular confederations, which have statutory right to sign collective agreements or put forward candidates for works councils, are called in this way in some countries. Moreover, they can set up trade union sections at the workplace and call up trade union delegates who have a role both within the union and in defending the interests of all employees. This distinction exists in Belgium, France, Italy, Luxembourg and Spain and has an impact on the way trade unions operate¹⁸.

3. Trade union density

The actual average trade union density¹⁹ in 15 EU Member States is 43.8%²⁰. The number of employees belonging to trade unions varies considerably among countries, from around 80% and more in Denmark, Finland

¹⁴ *Ibidem*, p. 19, 26, 98.

¹⁵ M. Carley, *op. cit.*, p. 2.

¹⁶ *Ibidem*, p. 2.

¹⁷ J. Ruysseveldt, J. Visser, *Industrial Relations in Europe*, Heerlen, 1996, p. 95–96.

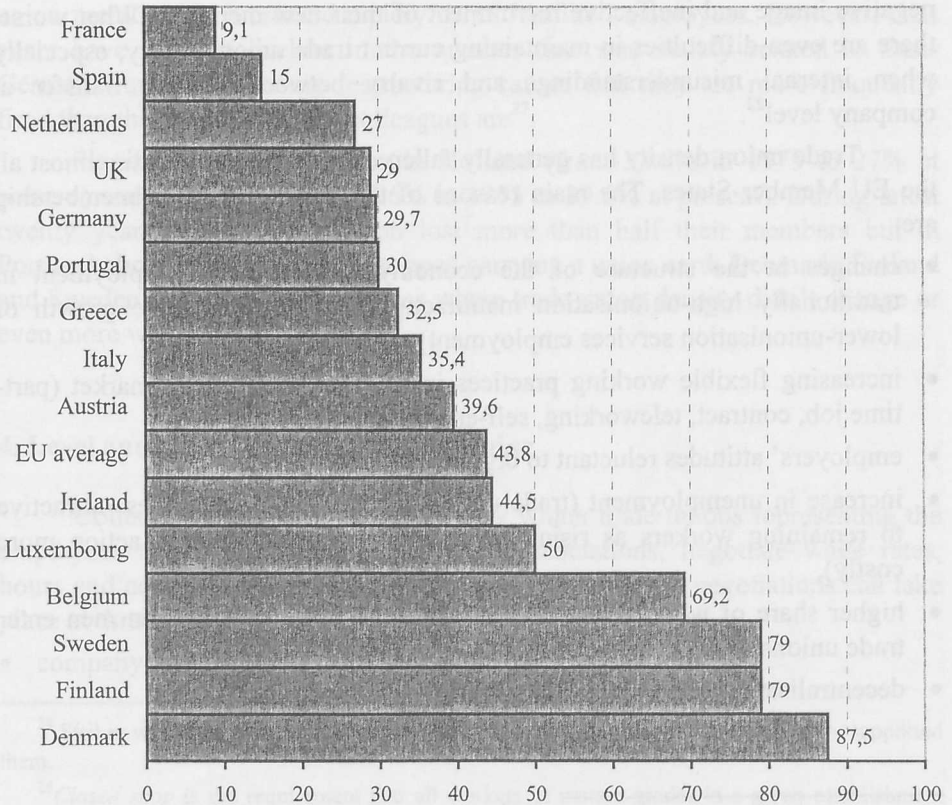
¹⁸ *Worker Representation in Europe*, *op. cit.*, p. 19, 26, 98.

¹⁹ Trade union density is the proportion of workers belonging to trade unions to all workers in the country (or enterprise).

²⁰ The density is over a quarter higher than the average for the 10 candidate countries – 34.1% (M. Carley, *op. cit.*, p. 3).

and Sweden to under 20% in Spain and France (see chart 1). The Scandinavian countries and Denmark have been always characterised by a very high trade union density. Relations between main confederations in these states are generally good and there are often agreements between manual and non-manual workers to help resolve potential conflicts over their members. Moreover, the largest trade union confederations affiliated above all manual workers (ILO in Denmark, LO in Sweden and SAK in Finland) have a long tradition of a close relationship with social democratic parties often ruling in these countries.

Chart 1. Trade union density in the EU Member States (%)



Source: M. Carley, *Industrial Relations in the EU Member States and Candidate Countries*, European Industrial Observatory, 2002, p. 3.

At the end of the trade union density spectrum is France where only 9.1% all employees are union members. At the same time, according to *World Labour Report*, union membership level in the public sector was around 20% while in the private sector the level was only 6% in 1995²¹. There were many factors that caused this situation. The main reasons, besides changes in the structure of employment occurring also in other countries, are ideological fragmentation and open competition between unions, which comes from illegible unions' structure. Each confederation consists of some number of industrial, regional and local federations with generally different political connections. There are often conflicts between them, because local organisations are aimed at more autonomy and regional organisations tend to „regular fight”. Therefore, French trade unions are noticed as strongly internally conflicted which contributes to their negative image and ineffective recruitment of their new members. What worse, there are even difficulties in maintaining current trade union density, especially when internal misunderstandings and rivalry between unions, transfer at company level²².

Trade union density has generally fallen over recent decades in almost all the EU Member States. The main reasons of the decline in union membership are:

- changes in the structure of the economy (a decline in employment in traditionally high-unionisation manufacturing industry and the growth of lower-unionisation services employment),
- increasing flexible working practices in the European labour market (part-time job, contract, teleworking, self-employment, job-sharing),
- employers' attitudes reluctant to organise of employees,
- increase in unemployment (trade union membership becomes less attractive to remaining workers as rising unemployment makes union action more costly),
- higher share of women in labour market who more seldom than men enter trade unions,
- decentralisation of collective bargaining²³.

²¹ J. Visser, *European Trade Unions*, in: *European Annual Review – 1997*, B. Towers, M. Terry (eds.), 1998, p. 117.

²² R. Towalski, *op. cit.*, p. 72–73.

²³ *Trade-unions in Europe*, Worklife Report, Vol. 9, 1994, p. 19–20, R. Croucher, Ch. Brewster, *Flexible working practices and the trade unions*, “Employee Relations”, Vol. 20, 1998, p. 443–447.

In Great Britain, important changes to industrial relations law which were undertaken by the Thatcher government additionally made for decline in membership and political influence of trade unions. Reforms in 1980-1993 narrowed legal activity of trade unions, made unions financially responsible for behaviour of their members and enterprise's wastes caused by unlawful strikes²⁴, removed government support for collective bargaining, abolished the closed shops²⁵ and reformed unions' internal structures²⁶. According to the OECD's data, British unions were among those showing significant decline about two-fifth of their members between 1975 and 1998.

It is important to mention about trade union density in Germany. There were 9.5 million trade unionists in West Germany in 1980s. After unification, west federations absorbed trade unions operating in East Germany. In the result, union membership increased rapidly to 13.7 million employees. However, next years have brought decline in the number that was mainly related to East-German workers. Economy restructuring causes that they are more frequently fired than their West-German colleagues are²⁷.

Significant falls were also in Holland (from 33.8% in 1975 to 27% at present) and in Austria (from 50.6% in 1975 to 39.6% at present). During latest twenty years French trade union lost more than half their members but in Portugal about 60% of workers stopped carrying a union card. Denmark, Finland and Sweden were the only countries where trade union density didn't change or even more workers joined unions²⁸.

4. Level and nature of collective bargaining

Collective bargaining is a system by which trade unions representing the employees and employers or employers' associations, negotiate wage rates, hours and conditions of employment in enterprises. These negotiations can take place at three levels:

- company level;

²⁴ Strikes were noticed as *unlawful* ones if less than half employees of the enterprise supported them.

²⁵ *Closed shop* is the requirement that all workers of certain grades in a given establishment belong to a trade union. This is desired by unions to increase their income and bargaining power (J. Black, *Dictionary of economics*, Oxford Paperback Reference, 2002, p. 61).

²⁶ J.R. Shackleton, *Industrial Relations Reforms in Britain since 1979*, "Journal of Labor Research", Vol. 19, 1998, p. 581-584.

²⁷ R. Towalski, *op. cit.*, p. 55.

²⁸ On the base of OECD' data.

- sectoral level;
- intersectoral level.

As table 1 indicates, the most centralised collective bargaining system is in three countries (Belgium, Finland and Ireland) where the intersectoral level is currently the dominant wage bargaining level. In eight states (Austria, Germany, Greece, Italy, Holland, Portugal, Spain and Sweden) the sectoral level remains the most important level of collective bargaining, while in United Kingdom and France dominate negotiations at company level. There is no predominant bargaining level in Luxembourg and Denmark. In the former, agreements are negotiated at both company and sectoral level. In the latter, there is intersectoral bargaining, however, not significant²⁹.

Table 1. Collective bargaining levels in the EU Member States

Country	Intersectoral level	Sectoral level	Company level
Austria		■	●
Belgium	■	●	●
Denmark	□	□	●
Finland	■	●	●
France		●	■
Germany		■	●
Greece	●	■	●
Ireland	■	●	●
Italy		■	●
Luxembourg		□	□
Netherlands		■	●
Portugal		■	●
Spain		■	●
Sweden		■	●
United Kingdom		●	■
■ - dominant level of collective bargaining ● - existing level of collective bargaining □ - important, but not dominant level of collective bargaining			

Source: M. Carley, *Industrial Relations in the EU Member States and candidate countries*, European Industrial Observatory, 2002, p. 7.

²⁹ M. Carley, *op. cit.*, p. 7.

Nowadays, in the EU Member States the most common level of collective bargaining is a sectoral level. This situation is caused by a widely-observed trend towards the decentralisation of bargaining, which takes place notably in Sweden and the United Kingdom. In recent years, however, the frequency of national and sectoral-level bargaining has also decreased in other countries.

Collective bargaining in Sweden has changed dramatically since the early 1980s. For 26 years between 1956 and 1982 the key bargaining level was national and negotiations covered the whole economy. However, the employers became increasingly dissatisfied with this very centralised bargaining structure and in 1990 the main private employers' federation formally declared that it no longer wished to participate in national-level bargaining. Since then, negotiations take place at sectoral and, in a lesser extent, company level³⁰.

Company-level bargaining in United Kingdom mainly results from the Conservative legislative reforms (1979-1997) but also changes in the structure of the economy influenced it. A large share of industrial concerns, particularly international ones, their regional dispersion and their branch variety were favourable factors of bargaining decentralisation. Faster than in other countries restructuring of British economy caused fall or significant constriction of mining and shipyard industry where trade unions were common and collective bargaining covered all the sectors³¹.

Moreover, British system of collective bargaining distinguishes open and voluntary nature of these negotiations³². Sectoral-level bargaining doesn't determine company-level bargaining, because employers are not bound by an agreement signed by employers' federation even if they are members of it. In the 1990s a company has become the main place where the bargaining are conducted by trade union representatives (shop stewards) and individual employer. Unlike some European states, procedures of negotiation in the UK are not formalised and collective agreements don't have to run for a specific period.

There are some significant differences between British, Spanish and German negotiations procedures. In Spain collective agreements are legally binding on all employees in the area where they cover. In Germany, collective bargaining refers only to the members of the organisations that sign them. In practice however, it is extended to all employees in the company. *Friendenspflicht* is the another characteristic feature of the collective bargaining

³⁰ *Worker Representation in Europe, op. cit.*, p. 99.

³¹ S. Borkowska, *Negocjacje zbiorowe (Collective negotiations)*, Warszawa, 1997, p. 78–79.

³² M.J. Oliver, D.H. Alcroft, *Trade Unions and The Economy: 1870–2000*, Ashgate, Publishing Company, Burlington, 2000, p. 147.

in this country. According to this rule, trade union which signed the agreement has to restrain itself from striking in the term of binding it (at least for a year)³³.

Unlike most countries, recent years have seen moves towards more centralised collective bargaining in Portugal. The Danish system exhibits the opposite pattern, decentralisation in the 1980s and then centralisation from 1989 onwards; the same situation takes place also in Italy³⁴.

5. Collective bargaining coverage

The coverage of collective bargaining (the proportion of workers that have their pay and working conditions set by collective agreements to all workers) varies greatly in the UE Members States, but it is generally high (see table 2). In the most countries (Belgium, Austria, Sweden, Finland, France, Denmark, Spain, The Netherlands, Portugal) 70% and more employees are covered by collective bargaining. Luxembourg and Germany are the states with an average coverage of the agreements at the level from 40% to 70%. At the lowest end of the coverage spectrum is the UK, where only a little over one-third of workers have their pay set by collective bargaining which occurs mainly at company level. Collective bargaining coverage is a lot higher than trade union density, because these agreements are very often legally extended to non-union employees.

Spectacular example is France, where trade union density is the lowest in Europe (9,1%), however, collective bargaining covers more than 90% of workers. There is no connection between social security and trade union's membership. Employees are not willing to enter unions that don't guarantee them any material advantages. In spite of such a low union density, support for these organisations becomes more visible while a lot of non-union workers join the strikes³⁵.

Negotiations in Austria are primarily conducted at sectoral level and take place between the unions and industrial chambers – legal bodies representing a particular industry to which all employers in that industry must by law belong. There are only a very few sectors (part of the finance, the printing and newspaper industry) where the agreements are rather with employers'

³³ J. Ruysseveldt, J. Visser, p. 145–147.

³⁴ *Economic Performance and the structure of collective bargaining*, Employment Outlook 1997, p. 63.

³⁵ R. Towalski, *op. cit.*, p. 72–75.

associations rather than with the chambers. The result is that the collective bargaining has a very wide application, covering almost 100% of employees in this country³⁶. It is easy to notice that high bargaining coverage rates are found in most countries with a system of sectoral collective agreements, such as Denmark, France, the Netherlands, Spain and Sweden. In some cases – such as Austria, France, Germany and the Netherlands, possibility of extending sectoral collective agreements to employers and employees that are not members of signatory organisations contribute to high level of the bargaining. In Finland, Belgium, Greece and Ireland, high collective bargaining coverage is achieved by intersectoral agreements³⁷.

Table 2. Collective bargaining coverage in the EU Member States (%)

Country	Coverage
Austria	98
Belgium	>90
Sweden	>90
Finland	95**
France	90-95
Denmark	83
Spain	81
Netherlands	88
Germany	67*
Portugal	87*
Luxembourg	58
United Kingdom	36
Italy	82**

* - Data of 2000

** - Data of 1994

Source: F. Traxler, *Collective bargaining coverage and extension procedures*, European Industrial Relations Observatory, 2002, p. 2; OECD

In general, there is also a trend towards decreasing coverage of collective bargaining, but the fall is a lot smaller than in the case of trade union density. Great Britain encountered relatively substantial decline number of employees covered by collective agreements from 70% in 1980 to 36% at

³⁶ *Woker Representation in Europe*, op. cit., p. 7.

³⁷ M. Carley, op. cit., p. 9.

present. The main reasons of the situation were move towards company-level negotiations, voluntary characters of these agreements and more often individual contracts with employees. In Germany, where sectoral-level collective bargaining dominates, a decline in the bargaining coverage was lower (from 90% in 1980 to 67% at present). France is a interesting case because of a rise in the number of workers covered by collective agreements (from 85% in 1980 to more than 90% at present).

6. Conclusions

The conducted analysis leads to the following conclusions:

1. The number of employees that have their pay and working conditions set by collective bargaining has decreased in the most EU Members States. In terms of the level of bargaining, trend towards the decentralisation of the agreements can be noticed. However, the coverage of bargaining is still high. Part of the fall in the collective bargaining coverage at intersectoral and sectoral-level has been replaced by rise of agreements at company-level. Generally, collective bargaining as the first pillar of a European Model of Participation remains almost intact and unarguably plays a key role in industrial relations in all the EU Member States.
2. Generally, a large coverage of collective bargaining correlates with their centralisation and coordination. High trade union density and political strength of the unions also influence the increase of workers covered by collective agreements. In Belgium and Finland, collective bargaining, which are mainly conducted at national level, refers to more than 90% of employees in these countries. Collective bargaining at the sectoral level dominates in Austria, but this country is characterised by high degree of their coordination. In Sweden, there are agreements legally binding all the members of the organisations that sign them, which together with almost 80% trade union density causes very high collective bargaining coverage in this country.
3. Although more than 90% of employees are covered by collective agreements in France, it is thought that these agreements are not as important to both employers and employees as in Germany or Sweden. Unlike other countries with high coverage of collective bargaining, France has extremely low indicator of trade union density in the EU Member States and what more, company-level is a dominating level of collective bargaining in this country. Two legislation contributed to such a significant coverage of company-level agreements. Firstly, Aroux legislation of 1982, in which government

- officially supported social dialogue in the companies and forced employers to conduct negotiations with trade union representatives at least once a year³⁸. Secondly, legislation of 1996 that enables employee delegates and works councils to sign agreements if there is no trade union delegate in the company³⁹.
4. The United Kingdom is the country, where only 36% of employees are covered by a system of collective bargaining, which constitutes the lowest degree in EU Member States. There are many reasons for such a situation: neoliberal system of industrial relations that characterises freedom of relations between employers and employees in the companies, lack of hierarchically structured and formalised procedures of negotiations, decentralisation of collective bargaining and their open nature.

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³⁸ J. Ruyssseveldt, J. Visser, *op. cit.*, p. 72.

³⁹ *Worker Representation in Europe*, *op. cit.*, p. 34.

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