



Setting wage floors in open markets – Europe's Multilevel Governance in Practice

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Outline:

1. Aim - account for **VARIATION** in responses to market integration and to Labour demands for more effective wage floors when faced with increased labour mobility
2. Three Labour approaches – European political path, transnational collective bargaining, and national coalition-building - mutually interdependent or alternative?
3. Brief review of developments in mobility and posting of workers
4. Comparison of national responses – towards a revised diversity of industrial relations?
6. Future prospects – some preliminary reflections

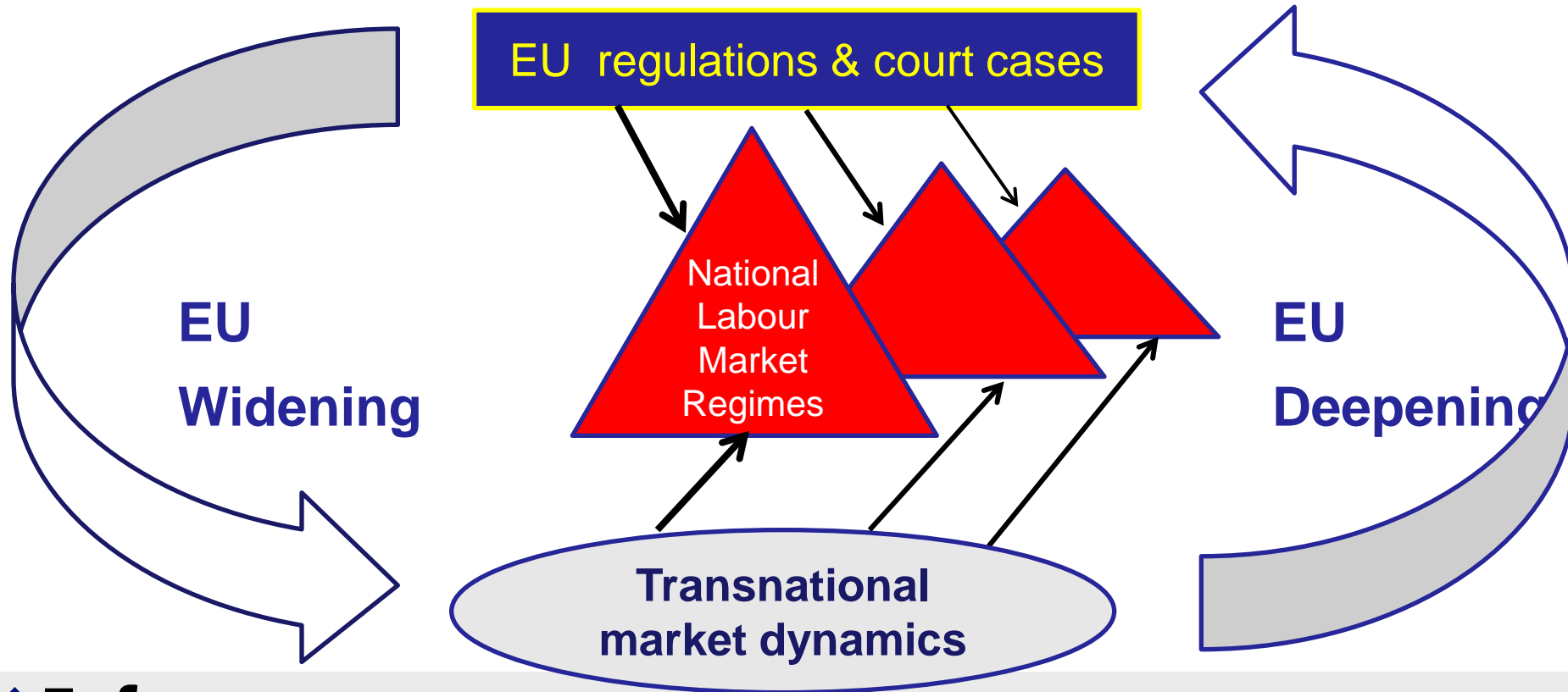


Clash,
cooperation, or
a new order?



Growing Europeanization of markets for services and labour

- The Single Market, Southern accession, Monetary Union, and national LM restructuring
 - Eastward enlargement - widening gap in welfare and working standards
 - Transnational, market-driven dynamics of economic and social integration
 - Supranational processes of de-and re-regulation of labour market governance
- **Challenge: How to maintain national wage floors in open markets?**



Deep integration cannot be insulated from (national) social policy

- Issue of cross-border of workers (and services) and the problems it creates for unions/collective bargaining/collective action should NOT BE ISOLATED from process of deeper (market and money) integration (SEA 1986; Maastricht 1992): general thrust of market and money integration is: deregulatory and enhancement of flexible adjustment in labour market – migration is just one element.
- “The single-market initiative was based on a deregulatory agenda and assumed that initiatives to ensure free movement of goods, services, capital, and labor could be insulated from social policy issues, which would remain the provenance of member states. Yet for anybody familiar with the twentieth-century experience of the most developed mixed economies, this should have been recognized as a dubious assumption (Pierson, 1998: 129).” (Lyon-Caen: slow and irresistible destruction of (assumed?) immunity of national systems)

Deep integration has changed fundamentals for Labour

- “The state’s power to limit non-union operation within its borders as well as to establish nontariff barriers to imports, to restrict immigration, and to impose wage and price controls has acted as a dike behind which unions have been able to set wages and other terms of employment that are greater than what they would otherwise have been” (Ulman and Reder, 1993: 38).
- “The elimination or attenuation of this power could beset the European unions with the same dilemma U.S. unions have faced: either to create more highly centralized structures able to cope with unified markets (as the U.S. unions were able to do in the nineteenth century and again in the 1930s) or, lacking that capacity, to suffer decentralization and organizational loss (as happened to the U.S. unions in the 1970s and 1980s under the impact of legal deregulation and intensified international competition)” (ibid.).

Three responses of Organized Labour

1. Creating a EU-wide floor of minimum rights and conditions;
2. Engaging in transnational bargaining and coordination across borders.
3. Strengthening capacities for adjustment and policy coordination within each member state (MS)

These responses are not mutually exclusive, but there are obvious tensions and differences.

They involve different coalitions and interest conflicts.

I. Creating a European floor of minimum rights I

- ❑ Facilitated by QMV in SEA and Maastricht Treaty EU labour market regulation expanded significantly: directives on collective redundancies, contractual information; maternity rights; working-time; information and consultation in transnational firms; posted workers; parental leave; part-time work; fixed-term employment; information and consultation in national firms; work in temporary work agencies. Slow down after 2002.
- ❑ Together with Treaty guarantees on equal rights and non-discrimination, expanded by ECJ, and health and safety regulations, these directives created floor of labor rights. “This achievement is partial but quietly impressive (Brown, 2000:34)”.
- ❑ Results are not ‘trivial’ (they impose real costs on firms) and they are not always based on ‘lowest common denominator policies’

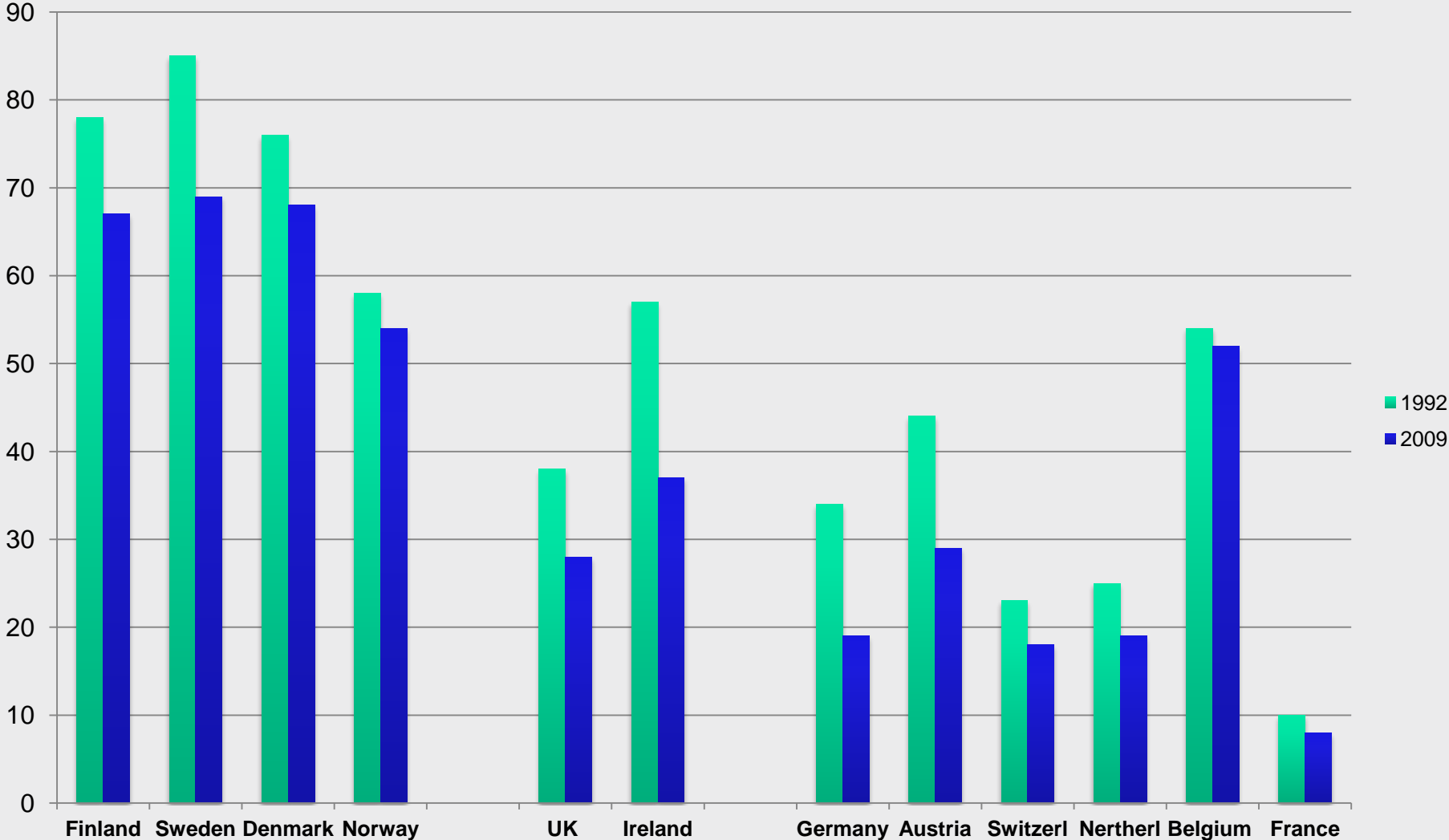
I. Creating a European floor of minimum rights II

- ❑ However, choice of instruments (directives, collective agreements, opt outs) means that much depends on how MS implement and enforce these rights.
- ❑ Moreover, the direct impact of EU legislation on social policy can be, and has often been, overshadowed by Court decisions “striking down features of national systems that are deemed incompatible with the development of the single market” (Pierson 1998: 140). MS “have been slow to notice ...” (ibid).
- ❑ Corrective action at European level has turned out increasingly difficult (division between European unions and employers; blocking minorities in Council, weakening of Commission and DG, union weakening, turn to the right in politics).

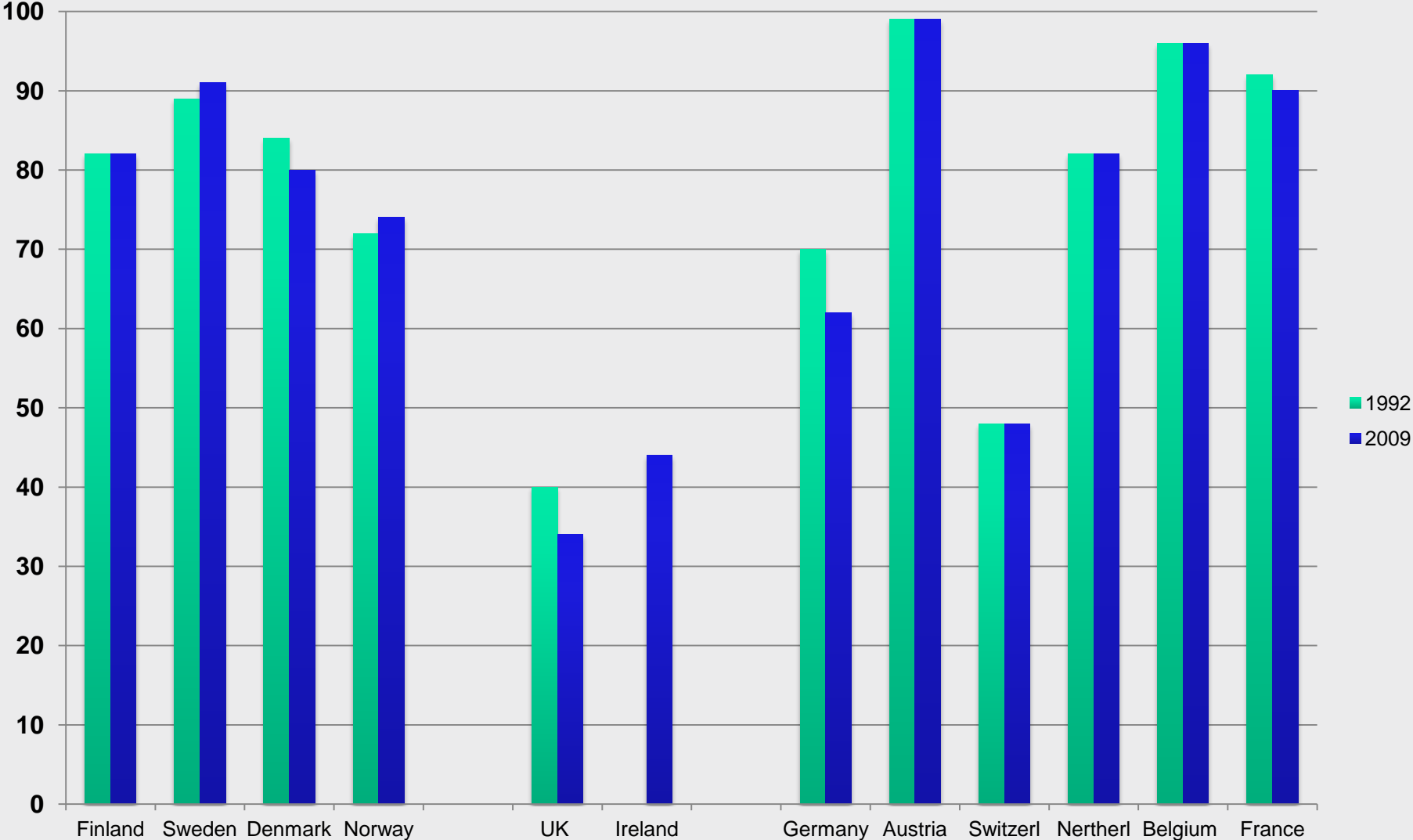
II. Transnational coordination and bargaining

- ❑ Bargaining and exchange of views in context of Social Dialogue process (art 154-155 TFEU), some results at cross-sectoral and sectoral level; core issues are excluded (self-excluded?)
- ❑ Some ex-post coordination in matters of working time, training and wages in some sectors, generally very weak
- ❑ Increase in transnational framework agreements in MNC's (mostly on core worker rights), involving EWCs and European union federations)
- ❑ No transnational collective bargaining at any level involving wages, working hours, or working conditions.
- ❑ Very limited cooperation (between unions from different MS) in matters of migrant labour or posting; unions often working at cross-purposes, and they are beset by real interest differences between sending and hosting countries).

De-unionization? 2009 compared to 1992



Erosion of collective bargaining? 2009 compared to 1992



Developments in labour mobility and posting

- **1990s – temporary surge in posting to construction sites in Berlin, Paris, Brussels in the wake of Southern enlargement and the lifting of the Iron Curtain**
- **2004/7 enlargement – huge East-West welfare gap → sharp rise in labour migration**
 - By 2008 approximately 4 million had left EU8+2 for work in the West, decline 2009-10
- **Transitional restrictions → posting became the easiest «port of entry»**
- **No viable figures for posted workers but significant volume in certain sectors**
 - Commission estimates (E101-certificates) suggest 1,1 million in 2008 = 0,4% of labour force
 - Countries with notification or registry data suggest considerably more
 - Construction appr. 10-20% of workforce, shipyards appr. 40-50% (e.g. in Finland & Norway)
 - Growth in the temporary-agency sector, food industries, transport, and private services
- **Significant impact on patterns of hiring, contracts, and competition in the labour market – likely «spill-over» to wage setting for competing labour**

Challenges for national labour relation regimes

- **Adding to domestic dynamics towards more fluid, flexible and atypical work in the lower end of the labour market**
 - «**dualization tendencies**»
 - **More blurred boundaries between labour migration, posting, self-employment, and temp agencies - all covered by different EU-rules and rights**
 - «**circumvention and regime shopping on the site**»
 - **Instances of disputes and tension – sometimes with ethnic undertones**
 - **Irish Ferries, Gama, Laval, Viking, Lindsay & Pocheville made it to media headlines - but under the radar working life practices are changing**
- Contested union efforts to bolster and extend national wage floors**

National responses

Initial phase 1990-2000 – response to Single Market, Rush, and the 1996 PWD

- 1) 'Equal treatment regimes' – most labour law & extension of coll agreements (e.g. France, Austria, Belgium, Finland)
- 2) 'Narrower sector-oriented regimes' – extension of minimum wages & conditions (e.g. Germany, Netherlands, & partly Norway)
- 3) 'Autonomous collective regulation' – based on trade union action, Sweden & Denmark
- 4) Market-liberal regimes – labour law and (eventually) statutory minimum wage (UK & Ireland)

National responses in the wake of enlargement and the Laval Quartet

- **Broadened application**, wider use of CA-extension laws – e.g. G, NL, N, CH + F, AU, BE, FL
 - **Minimum wages & rights** - unions had to give up “equal treatment”
 - *but the extent of differentiation of minimum pay scales acc to skills and tenure varies*
 - **Sweden & Denmark retain voluntary system**, but industrial action only to secure ‘hard core’
 - **UK & Ireland rely on minimum wage**, except Irish construction
 - **Germany plans statutory minimum wage** in areas **NOT** covered by CA/extension
 - **Juridification & stronger state hand** – enforcement, inspectorates, tax registries, liability
 - **Mixed success for union attempts to organize labour migrants**
- Revised diversity of national industrial relations

Union decline but surprising stability in collective agreement coverage – except in UK and Germany

	Union density		Bargaining coverage		Extension		Statutory minimum wage		
	1992	2009	1992	2009		scope	1992	2009	method
Finland	78	67	82	82	yes	large	no	no	
Sweden	85	69	89	91	no		no	no	
Denmark	76	68	84	80	no		no	no	
Norway	58	54	72	74	yes	small	no	no	
UK	38	28	40	34	no		no	yes	Govt low pay committee
Ireland	57	37		44	yes	small	no	yes	Govt low pay committee
Germany	34	19	70	62	yes	medium	no	no*	(Underway)
Austria	44	29	99	99	yes	large	no	no*	National agreement
Switzerland	23	18	48	48	yes	medium	no	no	
Netherlands	25	19	82	82	yes	medium	yes	yes	Govt, indexed to CAs
Belgium	54	52	96	96	yes	large	yes	yes	National agreement, ext
France	10	8	92	90	yes	large	yes	yes	Govt decision

Source: ICTWSS database

How can we account for the variation in national responses?

- 1) **Institutional IR-traditions** and means of regulation;
- 2) **Cross-class sector coalitions** – and power relations in the employer confederations,
- 3) **State role and pattern of LM coordination** – tripartism vs sector-coordination;
- *no systematic impact of government colour*
- 4) **Problem-load:** Interaction betw. domestic dualization & labour migration e.g. Germany
- 5) Swiss referendum on Single Market entry provided unions with negotiating power
-> collective agreements & broadened extension (similar in AU, N)

Specific observations:

- Spread of statutory minimum wage (SMW) as supplement to extension – e.g. NL, F, G
- Nordic divergence: Consensus' in DK, FL & Icl , more conflict in Sweden & Norway
- Domestic boomerang-effects of minimum wage extension – contested among actors

Enforcement deficit: Impact of statutory wage floors depends on the leeway for state control and the presence and engagement of social actors & customers...

→ **Will Monti-II & the Enforcement Directive make any difference?**

How to make multilevel governance work – bottom-up and/or top-down?

- **Labour migration & posting are likely to increase in the wake of crisis → scenario for a two-tiered European labour market?**
- **The EU regime provides incentives for “regime shopping” - and Court decisions have restrained social and state actors’ capacity to counter it ...**
- **National strategies crucial, but insufficient -> uneven results sharpen national competition**
- **What kind of EU responses are needed to level “the playing field” upwards and to empower national actors to prevent “dualization” of the European labour market?**
 - Re-regulation, re-alignment of current legal categories, or simply more room for better enforcement?
 - Political path, social dialogue, and/or transnational coordination ?
- **What can national actors do to reign in abuse & promote adequate EU-rules?**

Euro-crisis - deadlock, withering, consolidation or re-orientation?

Is time ripe for a better FORMULA of multi-tiered governance – European/national, statutory/collective, interprofessional/sectoral?



Clash, cooperation, or a new order in the making?

