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## European multinational companies and trade unions in Eastern and East-Central Europe

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**european trade union institute**

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## **Abstract**

The fact that multinational companies operate (MNCs) in more than one country can be expected to lead to a weaker bargaining position for labour. However, there are hopes that these companies may, under certain circumstances, transfer good employment practices from their home countries. This theory is investigated for the case of MNCs based in western Europe that invest in the countries of eastern and east-central Europe, where they dominate in several important economic sectors. The established legal and institutional frameworks in those countries give a degree of employment protection, but it is limited. Union recognition by MNCs is quite common, but collective bargaining often provides little beyond existing legal provisions. A series of case studies shows how unions can try to, and sometimes succeed in, getting better results from bargaining. The key conclusion is that international solidarity, contacts and publicity can help unions in host countries, but the ultimate determinant is the determination and organisational strength of employees.

## 1. Introduction

Multinational companies (MNCs) frequently undertake investment in countries with lower wages and worse trade union representation than in their home country. The question thus arises of whether they can be expected, or persuaded, to improve conditions in the host country by transferring practices from their home country. The issue has attracted attention both in Europe and in the USA, where European MNCs have frequently chosen to base themselves in southern states with strong anti-union traditions. The AFL-CIO has been coordinating campaigning on this issue, armed with detailed information on the behaviour of selected MNCs in these southern states (AFL-CIO 2019), in the hope of persuading them to grant unions the same position that they seem willing to accept in Europe and to which they are often verbally committed in global policy statements.

The aim of this contribution is to analyse the behaviour of European MNCs when they operate in other EU Member States. The focus is on the new EU Member States of eastern and east-central Europe: Czechia, Hungary, Poland, Slovakia, Slovenia, Estonia, Latvia and Lithuania, who joined in 2004; Bulgaria and Romania (in 2007); and Croatia (2013). Conditions there are not the same as in the USA, but there are some analogies in the relative weakness of trade unions, the weak roots of collective bargaining practices, and the fact that political, institutional and legal conditions differ from those in the companies' home bases. MNCs therefore face the options of transferring their home practices, of ignoring unions and collective bargaining altogether, of accepting practices they find or of searching for some new approach, adapting in a different way to the conditions they find. Depending on how MNCs behave, trade unions can also adapt their tactics in a variety of ways.

The amount of information available on trade union activities in these countries varies: most of it concerns the four countries of east-central Europe (Czechia, Hungary, Poland and Slovakia). All nominally support good employee rights, having signed all eight of the ILO's Fundamental Conventions, which include commitment to the freedom of association and the right to organise and to collective bargaining. This is normal for EU members; the USA, meanwhile, has signed only two of these conventions, neither of which relate to trade union rights. These four are also the countries that have become the most dependent on foreign multinational manufacturing, retail and finance companies for their economic dynamism, leading to a frequent characterisation as 'dependent' market economies (Nölke and Vliegenthart 2009).



The industrial relations systems in eastern and east-central Europe differ from those in western Europe where trade unions have the strongest positions. The lack of experience in developing and exerting employees' power to support collective bargaining has led to a low level of combativeness in supporting employees' interests. Basic labour rights are recognised in all of these former communist countries but, where employees are weakly organised, they are often difficult to enforce (Myant 2014). However, as will be demonstrated, even numerically quite small union organisations can persuade MNCs to grant recognition, even if not equality of pay and conditions with colleagues in higher-income countries.

The working paper is structured as follows. Following an introduction that sets out the problem to be addressed, the second section briefly summarises some of the existing literature on what could be expected from incoming MNCs. The third section outlines the position of foreign MNCs in these countries. The fourth and fifth sections outline the legal framework for trade union activity and the extent to which formal rules were changed by EU accession. The sixth section covers the development of trade unions and collective bargaining within this legal framework, pointing to the need to take account of the content of agreements as much as the fact of their existence. Changes in both laws and practices are covered in the seventh section. The eighth section then includes a number of individual cases that illustrate different MNC approaches and union responses.

## 2. What to expect from multinational companies

Existing academic works give little support for the hope that MNCs could be agents for union recognition and collective bargaining in the countries in which they invest. A more usual view is that they will, at best, accept what they find. Moreover, globalisation and the internationalisation of business generally lead to a strengthened position of capital relative to labour (Leat 2003: 282-3). MNCs have the power to divide and rule by threatening to move operations between countries, by using multiple sources and by threatening to hold back investment if employees do not concede to management demands that worsen employment conditions or should they persist in demanding higher wages. These companies can also use the same threats of relocation when lobbying governments to change laws in the directions they want, often on issues of labour security and flexibility and on forms of collective bargaining.

A body of academic literature, as discussed elsewhere (Drahokoupil *et al.* 2015), refers to three possibilities: a home country approach, which means transferring established practices from the country's home base; an acceptance of the host country's institutional forms; and a more complex interaction involving a range of actors that can imply a variety of outcomes. That gives scope for an optimistic view built on the belief that companies come with established 'cultures' that they may then apply outside their home countries. Their competitive positions, so it has been argued, are built on certain 'core competencies' (Hamel and Prahalad 1996; Morgan 2001: 4) which could include cooperative employment relations. In so far as they come from a home base in which such cooperative employment relations are widely accepted, they could then become agents spreading such practices to other countries. In this scenario, MNCs would be supporting a tendency towards the convergence of employment relations systems, and that could be towards systems that give labour a stronger voice. However, while this theory may apply in some cases, such a hope remains contested (Katz and Wiles 2014). In fact, the more common advice is that 'what they cannot and should not do is try to change the local culture' (Tayeb 2000: 444). They often leave much of employee management in the hands of locally recruited managers who are more familiar with the country's legal and institutional conditions (Peng and Meyer 2011: 500, 502).

Evidence on MNCs coming into western Europe confirms that a variety of approaches are possible. One survey showed that almost half of US companies coming to the UK would avoid unions if they could (Leat 2003: 283), but this was usually a matter of preference rather than perceived necessity and seemed not to be decisive in the choice of a location country. Some US companies were hostile to unions at home but quite accepting elsewhere, justifying the

difference in their attitude by claiming that unions in the USA are more troublesome while those in Europe appear more reasonable. Similarly, when investing in Germany, some US companies actively sought to weaken employee voice while others were more willing to accept what they found (Faust 2011). The native institutional system was quite resilient, defended by organised labour, and it was not worth the potential cost for an MNC to try to oppose it. In the converse case, an MNC investing in a country with weaker traditions of union recognition and collective bargaining need see little benefit in allowing, or encouraging, them to develop. There have been some notable exceptions where incoming MNCs actively took it for granted that there should be independent employee representation or worked to introduce the German system, for example in some specific enterprises in Hungary (Drahokoupil *et al.* 2015) and in Russia (Krzywdzinski 2014), but they are rare.

EU membership may help persuade MNCs to apply similar practices across all countries. The EU brings a formal commitment to social partnership, a legal framework that encourages consultation and some laws giving a degree of employment protection, albeit without ensuring either union recognition or collective bargaining. Trade unions in different European countries are also linked by sectoral federations and a European federation that make contact between representatives in branches of MNCs more achievable. European Works Councils (EWCs), information and consultation bodies, can be formed in companies operating in more than two countries and with more than 1,000 employees. Their form varies between companies and only a minority provide direct formal representation for trade unions. However, they provide another basis for informal as well as formal contacts between employee representatives in different countries.

As later examples will indicate, a key factor in strengthening employees' bargaining power in relation to European companies, or to other MNCs with large operations across Europe, is the potential for support from western European unions and, above all, for bad publicity for any company that does not stick to principles it claims to uphold and pursue in western Europe. This is less of an issue for US or Asian MNCs with operations in Europe, because geographical, linguistic and cultural distance make contacts between employee representatives more difficult and also because they are not harmed at home by publicity relating to a failure to respect trade union rights. This is also less of a concern to them than to European companies because, for the most part, they are not committed at home to good industrial relations practices, as understood in Europe. Finally, production in a European country is generally a means to access the protected EU market and is therefore unlikely to be seen as a threat to employment and working conditions at home. Even for European MNCs who claim to respect trade union rights, the threat of bad publicity does not mean that the content of bargaining will be the same, still less that the wage levels will be agreed upon. Any so-called 'home country effect' does not extend that far, and a major factor in its enforcement, solidarity and support from western Europe, has rarely gone beyond mere support for union recognition. MNCs are therefore still in a strong bargaining position relative to employees in eastern and east-central Europe.

MNCs can also take advantage of their strong position in a number of further ways, such as using their subsidiaries to escape from more effective forms of employee representation at home or to experiment with new systems that could then be introduced also in their home country (Morgan 2001: 19-20; Lane 2001; Meardi *et al.* 2011).

The presence of MNCs can thus lead to changes in employment relations systems, but the direction of those changes is variable. Nevertheless, under specific circumstances, and if trade union organisations have the awareness and ability to seize the opportunities presented, the appearance of foreign owners might improve labour's bargaining position.

### **3. MNCs in eastern and east-central Europe**

MNCs arrived in small numbers in eastern and east-central Europe from the early 1990s, buying existing enterprises as part of privatisation policies. A much bigger inflow, mostly onto greenfield sites, came from the mid to late 1990s, and foreign firms became absolutely dominant in all of these countries in modern manufacturing, in most countries in large-scale retail, banking and finance, and often also in public utilities. Manufacturing MNCs were the most dynamic element in economies even before EU accession.

Table 1 shows the stock of foreign direct investment (FDI) relative to gross domestic product (GDP) levels in all of these countries. These are not the highest levels in the world but are well above the EU average and the comparison over time shows the rising importance of FDI in all cases, especially during those countries' rapid economic growth from 2000 to 2008. Table 2 uses different measures for the importance of foreign-owned companies, compared directly with the EU average and Germany, one of the EU Member States less dependent on foreign companies and also the source of much of the direct investment into eastern and east-central Europe. Narrowing the data down to export-oriented manufacturing demonstrates even more dominant positions of MNCs, in 2016 reaching 80% or more of value added and approaching 100% of exports for motor vehicles from the four countries of east-central Europe in which this sector is prominent (calculated from the Eurostat database, `fats_g1a_o8`, `sbs_na_ind_r2`, `ext_tec07`). Internal trade also shows a substantial presence of foreign companies (large retail chains) alongside domestic-owned firms that are much smaller and of less importance for trade union organisation. Banking is in some countries almost totally dominated by foreign companies, albeit with some reversal of that trend in Hungary and Poland.

The attraction for foreign investors varies depending on the branch of activity. MNCs may be 'market-seeking' or 'efficiency-seeking' (Dunning 1993), which should more accurately be expressed as 'cost-reducing' as it is not necessarily associated with any greater efficiency in production in real terms. In practice, manufacturing investment in eastern and east-central Europe falls overwhelmingly into the second category. These companies are attracted by low wages which, as shown in Table 3, are still in all cases below one half of the level of richer western European countries. The companies produce for export, largely into the EU, sometimes with new products, but often with production transferred from a higher-wage country. On average, they pay slightly better than domestic-owned firms, ensuring a stable labour force and employee goodwill, but the starting point for setting wages is the level in the local

Table 1 Stock of FDI as percentage of GDP

	2000	2008	2017
Bulgaria	20.6	81.0	84.1
Czechia	35.2	48.1	70.9
Estonia	46.5	63.9	89.3
Hungary	48.3	55.7	66.9
Croatia	12.2	39.5	61.0
Lithuania	20.2	26.7	37.3
Latvia	21.3	31.8	56.9
Poland	19.5	27.8	44.7
Romania	18.6	31.1	42.0
Slovenia	11.7	21.5	32.9
Slovakia	33.7	52.2	54.3

Source: UNCTAD database,  
<http://unctad.org/en/Pages/DIAE/World%20Investment%20Report/Annex-Tables.aspx>

Table 2 Percentage share in value added of foreign-owned companies, 2015

	All business	Manufacturing	Internal trade
European Union (28 countries)	24.3	36.6	26.2
Germany	20.1	22.9	23.6
Bulgaria	32.7	38.9	26.3
Czechia	41.8	59.1	39.8
Estonia	41.0	40.8	25.6
Croatia	25.3	30.4	27.4
Latvia	33.5	38.2	45.8
Lithuania	28.2	40.3	27.5
Hungary	52.5	70.1	47.2
Poland	35.5	43.6	31.9
Romania	43.9	61.5	39.1
Slovenia	26.3	35.3	38.0
Slovakia	45.8	71.9	36.0

Sources: Eurostat, egi\_va1, sbs\_na\_ind\_r2, sbs\_na\_dt\_r2

economy and not the pay level of the company's home. MNCs in retail and banking are overwhelmingly market-seeking, aiming to take advantage of demand in those countries, although there has been some cost-saving investment by locating international call centres in those countries. For market-seeking companies, low wages as such are not the attraction. These companies also have less reason to offer better than the going rate in the country. However, publicity from public bodies, established to attract MNCs, is targeted at cost-reducing investment, emphasising strongly low wage levels and claiming also high qualification and skill levels. There are frequent references to a 'flexible' labour force, although it is not made explicit what this means. Publicity material does not, however, refer to low union membership or weak unions as an attraction.

**Table 3    Nominal compensation per employee, percent of German level**

	1995	2000	2008	2018
EU	70.1	85.5	95.3	89.4
Bulgaria	5.1	7.0	13.0	21.7
Czechia	12.8	19.8	42.7	44.8
Estonia	8.3	16.7	40.8	49.2
Croatia	21.1	32.4	47.9	37.8
Latvia	6.9	14.6	36.4	40.6
Lithuania	5.1	13.9	33.4	39.1
Hungary	15.5	20.4	39.5	31.5
Poland	13.5	23.4	34.1	34.3
Romania	5.1	8.7	24.0	26.9
Slovenia	38.5	47.4	66.7	63.9
Slovakia	10.0	15.8	36.0	41.0

Source: AMECO database,  
[http://ec.europa.eu/economy\\_finance/ameco/user/serie/ResultSerie.cfm](http://ec.europa.eu/economy_finance/ameco/user/serie/ResultSerie.cfm)

## 4. The employment law framework<sup>1</sup>

Employment law was changed quickly after 1989 in east-central Europe. This development came slightly later in Croatia, in 1996, following the disruption of war; it also came in 1996 in Romania where the political transformation was rather slower than in other countries. However, the direction of change was in all cases similar, reflecting international advice, especially from the ILO. This meant assurance of basic employee protections, in many cases continued from the formal legal position under the old regime, and a system of collective bargaining built on the assumption of agreement and partnership. The outcome included rules on holiday rights, working hours, restrictions on overtime, night work and weekends, plus provisions for higher pay rights for working anti-social hours. Rules were specified for payment for involuntary downtime, minimum wage rates, protection against unfair dismissal and compensation for collective dismissal. Details varied between countries, and changed over time, but the same basic framework of issues appeared universal.

Rules were set for creating and registering trade unions, in this case with rather more variation between countries and over time. The essential features were a membership requirement – as low as three individuals in Czechia but up to 10% of employees in a branch in Lithuania – and a system of legal registration. Once formed and registered, trade union representatives could claim protection against victimisation. Union organisations also had various rights to information and consultation, in some cases had a role in health and safety issues, and were sometimes needed for approval of changes to working hours.

A legal basis was created for collective bargaining. This included levels of bargaining (national, sectoral and company), coverage, who could be involved, and issues for negotiation. Parties to collective agreements sometimes included all unions present, as in Czechia, and sometimes only those passing a membership threshold. This threshold was set at 50% of employees in Romania in 2011 and was only possible in companies with 15 employees or more. The more usual barrier was the number of members needed to form a union. In Poland, for example, the figure is set at ten, meaning that a union presence is impossible for much of the economy. Finally, where there is more than one union present, the procedure for bargaining and reaching an agreement is sometimes partially solved by the law, but usually requires agreement among the different unions.

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1. Much of the information in this section is from Myant 2014 and from various chapters in Müller *et al.* 2019.



Bargaining was generally allowed at three levels: national, sectoral and company, or workplace. Agreements almost always covered all employees affected by the agreement rather than just union members. An exception to this is a rule in Bulgaria (Kirov 2019: 87-8) under which agreements only apply to members but with the possibility for others to apply for the same conditions, for which the union can claim a levy. Moreover, in Lithuania (Blažienė *et al.* 2019: 382), following changes to the law in July 2017, agreements apply only to members. The hope was that this would increase union membership, but the immediate recorded effect was a reduction in bargaining coverage. It was also often possible to extend the coverage of agreements to whole sectors, either with or without agreement of employers' organisations. This extension provision was used much more in some countries than others and its importance has declined over time. In general, agreements could only improve, from the employees' point of view, on conditions laid down by law. The exceptions were Lithuania and then Slovenia after 2013 when a change to the law allowed for conditions to be made worse than those stipulated in the law, via negotiation – a provision that was quickly used by employers to achieve agreements more favourable to themselves.

Strike laws are usually very restrictive, reflecting an implicit hope that reconciliation and compromise are always possible. The first kind of restriction is to make strikes possible only in relation to collective bargaining. There are a few exceptions, notably Czechia and Slovakia, where the initial law did not prevent strikes unrelated to collective bargaining, such as political strikes, and has not been changed since. A further restriction sets tough conditions for achieving approval, requiring prior efforts at conciliation and arbitration. In Latvia there was a requirement for a 75% majority before a strike could be legal, which was then relaxed to 50%. In Lithuania there was a requirement for a majority of all employees in a company to express support in a secret ballot. This was relaxed to 25% of all union members in 2017. There are also frequent exclusions for 'essential' services which are typically given broader definitions than those suggested by the ILO. Thus, for example, in Bulgaria such exclusions were applied to energy, communications and health, with some relaxation in response to international pressure; but there is still a total ban in the civil service, as well as general minimum service requirements elsewhere, including a 50% service on the railways. The term 'essential' can also be a matter for interpretation by a court. In 2011, for example, a strike in the Lithuanian subsidiary of the Carlsberg brewery, supported by an 86% vote among employees, was stopped on the grounds that beer should be judged essential. The employer went on to dismiss unions activists, later reemploying them on less favourable contracts.

## 5. Formal changes with EU membership

Membership of the European Union brought a verbal commitment to social dialogue and partnership, and insistence on certain changes in laws relating to employment relations. However, this had little impact in most countries, in fact rather strengthening the trend towards deregulation, and dramatically so in the case of Romania in the aftermath of the 2008 economic crisis (Meardi 2017; Dráhokoupil and Myant 2015). The impact in other countries was smaller, largely because much of what was required under EU law already existed and also because implementation was slow and patchy. Other elements of EU policymaking, notably post-crisis austerity, were therefore more important. Overall, rather than helping employee representation, the dominant trend after EU accession was a continuous decline in union membership and bargaining coverage.

Among the required legal changes was greater protection for fixed-term contracts – driven more by concerns in western Europe as it was yet to be a major issue in new Member States – and for temporary agency workers. This latter provision had a gradual but limited impact, as indicated below. There were also, from 2010, annual policy recommendations (formally described as country-specific recommendations) which were not binding on Member States but had significant persuasive power, particularly when similar recommendations were coming from other international agencies, notably the IMF and OECD. Their general tenor was to criticise centralised or sectoral bargaining for allegedly creating rigidity and inflexibility, to oppose wage increases with arguments about a threat to competitiveness and to argue for less security for permanent employees.

The EU required provisions for consultation with employees, but this was generally already present in countries' laws. An important addition here was a requirement to create works councils and forms of representation distinct from trade unions. Thus, the following years also saw the emergence of employee representatives or trustees, typically elected at general meetings in smaller companies where unions did not exist. In some cases, they could even sign collective agreements, but evidence of their activities is very limited and the little that is available suggests that they very rarely had any impact at all. Works councils had already existed in Hungary, following in formal terms the German model. They had the power to conclude work agreements with the effect of collective agreements. In other countries trade unions were often opposed to the emergence of such councils, seeing them as a threat to their own position, and new laws generally did not give them the right to negotiate with management over pay or to sign collective agreements. In practice, they appear to have made little difference, at most creating an alternative channel for employers to try to bypass unions.

## **6. Development of trade unions and collective bargaining**

Trade unions under the state socialist system were not independent organisations and did not engage in collective bargaining over pay and conditions. They performed various functions, providing welfare benefits and recreational activities that were unavailable to union non-members, as well as some forms of individual employee representation. These were enough to ensure almost universal trade union membership in all of these countries. Poland was slightly different, as the emergence of NSZZ Solidarity in 1980 led to a sharp decline in membership for the former official unions, and their replacements never fully recovered in the period from 1981 to 1989 during which Solidarity was illegal. The result in 1990 was an exceptionally low trade union density of about 22%, or 15% for the re-emerging Solidarity union and 6% for the OPZZ union created by the regime after Solidarity's suppression in 1981 (Gardawski *et al.* 2012: 52). The division between these two – which remain Poland's biggest union centres – cemented by their frequent involvement in national politics supporting rival parties, weakened trade unions as representatives of employees' interests in workplaces. In other respects, employee representation in Poland followed similar trends to those in neighbouring countries.

In general, unions inherited from the past transformed themselves quickly after 1989, breaking associations with the old regimes and seeking a new place as representatives of employees. In almost all countries they were joined by newly formed independent unions, often with strongly political agendas. In practice, reformed versions of the old unions have been the largest union confederations in almost all countries, even overtaking Solidarity in Poland, but they coexist with other national union organisations and a very large number of smaller unions, most of them company-based or, more rarely, profession-based.

Decentralisation and fragmentation were important trends in all countries after 1989, reflecting a revulsion towards the rigid central controls of the past. Workplace organisations became the dominant entities, controlling most of the funds from members' contributions (even up to 90% in some cases in Poland, Mrozowicki 2014: 159). Even when parts of bigger branch unions, they retained high levels of independence and autonomy. This made sense only with the optimistic assumptions that industrial relations would continue to be essentially non-conflictual, that employees could work in partnership with employers, finding agreed solutions without the need for big battles, and that unions would not need to concentrate on building new organisations in new workplaces.

Fragmentation can be illustrated in numbers. In Czechia in 2010, 397 organisations were registered with names suggesting that they were trade unions (Myant 2010: 56). In Poland by the end of the 1990s there were 23,995 registered union organisations (Gardawski *et al.* 2012: 33), evidently including the local organisations of larger unions, 93 branch unions and three main confederations at national level. In Croatia there were 630 registered unions in 2016 (Bagić 2019: 95), mostly company-level, and four national confederations. Latvia had 197 active union organisations in 2014 (Lulle and Ungure 2019: 364). In some cases, several confederations not only existed but also gained international recognition. Among those who were ETUC-affiliated in 2019 there were five from Hungary, four from Romania, and three from Poland, but only one each from Latvia, Czechia, Slovakia and Slovenia.

This fragmentation was reinforced by the legal provisions for forming unions, inviting recognition for small and local organisations. This would seem to create scope for the creation of yellow unions, although their actual number seems to have been pretty small. It also reflected attitudes in those countries which supported unions as representatives of employees in a particular workplace. Indeed, at least in Poland survey evidence confirms that a clear majority favoured supporting existing members only (Mrozowski 2014: 159). Where a union organisation was successful it was also more likely to break away from a national centre, seeing no need to pay a body that seemed to offer little more than it could achieve on its own, as was the case for the Škoda car manufacturer in Czechia, owned by Volkswagen, and for the Volkswagen operation in Slovakia. Overall, this weakened the union movements, not least by limiting resources in union centres for recruitment and organisation in new workplaces. Organising the unorganised was simply not seen as an issue until at least the end of the 1990s. The structures created made it difficult to react in sectors of weak union organisation that were confronting newly arriving MNCs, most notably retail.

This was reflected in the declining union membership – somewhat more rapid than in western Europe – and declining bargaining coverage, shown in Table 4. The causes for this, across countries, are consistently recognised as including ‘limited interest’ from employees, making it difficult to establish new organisations, or to maintain ones that exist where employers appear reluctant. As a result, in much of the economy unions suffered ‘erosion and marginalisation’ (Gardawski *et al.* 1999: 248). This applied particularly in the rapidly changing private services sectors of hospitality and retail. Where unions always existed, with organisations inherited from the socialist period, they were most likely to continue. This applied particularly in large-scale industry, where it was also possible to create new organisations in branches of incoming MNCs. To judge from survey evidence, personal protection and ensuring that employers kept to existing employment law were more important reasons for joining than commitment to collective action.

Table 4 Estimated union density and bargaining coverage 2016–7

	Union density	Bargaining coverage
Bulgaria	15	29
Czechia	7	50
Estonia	5	19
Hungary	9	30
Croatia	26	53
Lithuania	9	10
Latvia	13	24
Poland	13	18
Romania	20	35
Slovenia	20	79
Slovakia	13	25

Source: Collated from various chapters in Müller *et al.* 2019

Apart from conceding very little in collective agreements (see below), employers could also limit unions' effectiveness by using non-standard employment contracts. One popular method was to convert employees into independent contractors, paid on commercial contracts. Laws typically exist defining an employee as someone working regularly in the same place, on set hours for the same employer, but it is often very difficult to win a court case, particularly when most employees are prepared to take work on any terms on offer and when a civil law contract can also reduce insurance contributions required from the employee. Such civil law contracts account for an estimated 13% of those employed in Poland. A narrow interpretation of the law meant that neither those on civil law contracts nor temporary agency workers could be union members. This ruling, following advice from the ILO, was rejected by the Constitutional Court in 2015, meaning that it had to be changed (Mrozowicki *et al.* 2017: 238).

Another method has been the use of temporary agency workers, often foreigners. Under laws insisted on by the EU, these workers should receive the same pay as those they are working beside. However, this is difficult to check – labour inspectorates can look only at employment contracts and the issue here is a commercial contract with an employment agency – difficult to define, and is typically not assumed to include the same rights to benefits and holiday entitlements that permanent employees have. Temporary agency work can allow flexibility, covering for short-term employment fluctuations, and it has become a more permanent feature of employment, enabling some employers to reduce labour costs. The total in Czechia in 2014, the highest level in east-central Europe, was recorded at 6.9% of the total labour force, spread over many different branches (Kuchár and Burkovič 2015: 4). There were much higher figures in some enterprises, such as up to 25% in Hyundai (Drahokoupil *et al.* 2015).

Some comparative evidence on levels of anti-union activity by employers has been provided in ITUC surveys (<https://www.refworld.org/> and

<https://www.ituc-csi.org/annual-survey-of-violations-of>, 271), dependent on information provided by national union confederations. Many forms of anti-union activity are not reported even to that level, however, especially if union organising is prevented at the very earliest stage. On the broad categorisation of the level of violations, eastern and east-central European countries are generally slightly worse than the best in western Europe. There were reportedly 'regular violations' in 2017 in Bulgaria, Hungary and Poland, the same classification as the UK, and 'systematic violations' in Romania, following changes in the Labour Code which were implemented without consultation with trade unions, as discussed below. This is the same level as the USA.

Specific examples of victimisation for union activities from individual countries show that all kinds of employer are involved, public and private, foreign and domestic. Cases that did gain attention often started with an employer ignoring laws (irregular/non-payment of wages, breaking rules on working hours, excessive overtime with little or no notice, not paying extra for overtime, unsafe working conditions, etc.). Evidence from reports by labour inspectorates – themselves not giving a comprehensive report on conditions – shows that these are quite common phenomena, whether or not unions are present. In some cases, the employer either faced opposition from an existing union organisation or was confronted by an attempt to form one. Steps to avoid a union then included buying off activists with promotion, paying less to union members by not giving them bonuses, victimisation of individuals, and threats of complete plant closures. In terms of reported dismissals, Polish employers appeared to be the worst, with for example 37 reported cases of dismissals for union activities in 2007.

Across all countries, legal remedies against unfair dismissals are of limited effectiveness. Court cases are often won, but after a long time delay. This means, for example, an average of more than three years in Croatia, or up to two years in Poland. There is then no guarantee of reinstatement, that being at best only one of the court's options, and compensation is low, for example only three months' pay in Poland. Legal action is therefore not a major deterrent to a determined employer, especially when employees often prefer not to pursue the lengthy court process. A record delay appears to be six years (still without resolution) to reinstate an unfairly dismissed union representative in the Hungarian airline Malev.

Alongside the cases of hostile employers, there are also many cases of employers quite willing to negotiate with new, as well as existing, union organisations. However, willingness to communicate is only one stage. The content of an agreement is also important. The level at which bargaining takes place in practice has varied over time and between countries. The most important in terms of content has increasingly become company-level bargaining, as explained below. Collective agreements are legally binding documents, but there is no central collation enabling detailed analysis and comparison.

Information from a number of countries shows very severe limitations:

1. The presence of a union organisation does not always lead to a collective agreement. This may reflect passivity on the union side and/or opposition from the employers' side. Important cases are presented below from Poland, where even negotiating an agreement proved impossible. Indeed, it appears that there were agreements in only about half of workplaces where a union organisation is present, and the figure was even lower, at 41%, for Estonia (Kallaste 2019: 179). There was no agreement in Czechia in organisations covering 23% of employees in workplaces with a union organisation in 2009 (Myant 2010: 20);
2. A collective agreement does not always improve on the existing legal provisions. Evidence from all countries points to a very common practice of copying and pasting from the labour code (referred to explicitly for Lithuania, Hungary and Poland in Müller *et al.* 2019), albeit often with small improvements in some areas. Almost all Czech collective agreements included some improvements in holiday entitlements and often better conditions on working hours plus a range of further benefits. It should be added that repeating basic provisions of the law could strengthen the unions' position in defending legal rights that employers might otherwise prefer to ignore, a point taken up below;
3. Agreements do not always cover pay issues. Half of those in Croatia appear not to have addressed the issue. An analysis of data for Czechia showed that agreements in the enterprise sphere involving the main union confederation covered a pay increase in less than half the cases in the post-crisis year of 2010, rising to 70% in 2017, although even then an actual pay increase was in some cases linked to enterprise performance. Survey evidence from Hungary suggested no perceived impact on wages or conditions from over 40% of employees covered (Borbély and Neumann 2019: 308).

## 7. Changes after EU accession

The most important legal changes after EU accession were in Slovenia and Romania. The first of these had established effectively a corporatist framework in 1990-1991. Unions agreed to a degree of wage restraint in exchange for access to political decision-making. This cemented a system of centralised collective bargaining providing near universal coverage. However, after Slovenia joined the eurozone in 2007, bargaining was substantially decentralised, in line with the wishes of MNCs for more ‘flexibility’. Bargaining coverage still remained high by standards of the region.

The system in Romania, established in the 1990s, was one of universal bargaining that gave coverage even where unions were not present, thereby reaching a figure of 82.5% before the economic crisis (Delteil and Kirov 2017: 191) (although this may exaggerate genuine union influence as many agreements were cut-and-paste jobs from labour law). However, the law was an issue of conflict from 2003 and foreign investors, through their own organisation, the Council of Foreign Investors, and with backing from the American Chamber of Commerce, pressed for removal of the obligation on employers to bargain with unions. The involvement in policy-making by foreign MNCs was greater and more direct than in other countries where they generally kept a distance from internal politics. In Romania the big change came in 2010 when the then right-wing government agreed to conditionality terms for an IMF loan, supported also by the EU and foreign investors, that included an overhaul of the Labour Code. The stated aim was to ‘increase flexibility of employment and wages’, which meant creating scope for wage reductions and easier dismissals. Changes were approved in 2011, with certain parts copied word-for-word from the American Chamber of Commerce recommendation (Delteil and Kirov 2017: 199). Collective agreements then applied only in firms that were members of the employers’ organisation that had signed the agreement, rather than all firms in the sector. A requirement was set for 50% membership in a company before a union could negotiate and a minimum of 15 employees in the same company before a union organisation could exist. Bargaining coverage and also union membership dropped dramatically, notably in retail. Most employees were in small enterprises where unions were effectively not allowed.

This denial of rights to organisation and collective representation, implemented with EU support, was met by unions in two ways. The first was a complaint to the ILO which led to confirmation that that organisation considered Romania to be in breach of conventions on the right to organise and on the freedom to bargain (Delteil and Kirov 2017: 335). A subsequent change in government led



to some relaxation allowing collective agreements where union density was below 50%.

The second response was to reinforce the organising strategy that had been started in the preceding years with international help. This had been a novelty for Romanian unions, as was the need to convince managements that they should actively recognise unions. The focus was on MNCs in retailing (Trif and Stoiciu 2017: 170) and advice and help were sought from UNI Global and the German union for the service sector, ver.di. The latter provided training in organising and access to German senior managers. An important success was achieved in the French company Carrefour in 2009. UNI Global put pressure on the Carrefour management after harassment of union members, citing the fact that the company had signed an agreement to recognise freedom of association. An EWC member managed to win an acceptance from the company headquarters that unions would be allowed and recognised, and that victimised employees would be reinstated. A company-level agreement was then reached, including a permanent consultation structure. As a result of the organising efforts, the necessary 50% targets were reached in Carrefour, Selgros, Metro and Real, and company-level agreements were signed by 2012 in all of these (Trif and Stoiciu 2017: 171).

## 8. Are foreign companies better?

As already indicated, MNCs vary in terms of willingness to recognise trade unions, to accept collective bargaining in principle and then to make significant concessions to employees. A first division to make is between market-seeking and cost-reducing MNCs. The former, including banks and other financial services and retail, come to exploit a market. In almost all cases they are either based or have substantial operations in western Europe where they have mostly accepted trade unions and undertaken collective bargaining. That is not true of all, and practical obstacles for unions are especially stark in retailing where investment is strongly biased towards completely new, greenfield operations, meaning that any union presence has to be developed from scratch. The latter, cost-reducing MNCs, come to take advantage of cheaper labour and often export almost all of their production. These are typically modern manufacturing companies and, if they have substantial operations or their home base in western Europe, they are likely to recognise unions and undertake collective bargaining. However, the aim of reducing costs can push them in opposing directions, both towards accepting unions to appease critics at home, where jobs and conditions may be seen to be under threat, and towards a harder line to keep wages down, both in the host and possibly also the home country.

The different processes and behaviours of foreign MNCs can be illustrated by examples of individual firms and branches in different countries. A crucial point remains that union recognition may mean no more than acceptance of the existence of a union organisation; even acceptance of collective bargaining is compatible with conceding very little to employees. It nevertheless appears that foreign ownership gives unions new forms of leverage that can, although they need not always, increase their bargaining power. However, foreign ownership in manufacturing also integrates plants into international multi-plant operations which gives the MNCs opportunities to play off employees in one country against another, increasing their bargaining power both in eastern and east-central Europe and in western Europe. The following eight subsections cover a variety of experiences which are then discussed in the conclusion, pointing to generalisations about how and why MNCs behave differently in the different cases.

### **8.1 Large western European companies with good employee representation in their home countries will suffer if they try to prevent union organisation.**

A few that tried to ignore trade union rights were forced to concede. An example is Robert Bosch which tried to prevent union organisation in a new plant linked to an enterprise it had taken over in Jihlava in Czechia in 2001, where it was

making components for diesel engines to a design already tested in production in Germany. These could then be manufactured at a lower cost in Czechia thanks to the substantially lower wages. The new management tried to prevent the appearance of a union organisation, threatening that it would lead to lower pay levels. They even organised a demonstration of workers convinced by their arguments which disrupted the union organisation's founding meeting. This received substantial publicity in Czech media and also some coverage in Germany. The company conceded when faced with increasing public coverage and active involvement from the then chair of ČMKOS (Českomoravská konfederace odborových svazů, Czech-Moravian Confederation of Trade Unions), Richard Falbr. For a major company with a reputation to lose (and particularly a German company, in view of that country's past history), the costs of refusing to recognise a union were evidently greater than the costs of conceding (Myant 2013; Bluhm 2007). Recognition, as indicated above, did not mean equal conditions with those in the same company's plants in Germany. It meant considerable autonomy for the local management in negotiating over working conditions, pay scales and the relative pay of different groups within the enterprise. The main immutable constraint was the total wage bill, set by the company's central management. This would make sense as it was the key to their calculation of profitability. As long as production was guaranteed at this lower cost, the outcome of negotiations and indeed also the fact of collective bargaining were logically lesser concerns to the management in Germany. This was probably an important lesson for large German MNCs in general, as there was no such determined subsequent attempt to prevent trade union organisation.

### **8.2 Where a foreign MNC took over a major manufacturing concern during privatisation, it was likely to accept the existing union organisation and collective bargaining procedures, but not to concede equal pay levels.**

A supreme example from Czechia of a company that recognised unions without question is the Škoda car manufacturer, taken over by Volkswagen from 1991. There was no exact transfer of the German system: there could not be without major changes, as works councils did not exist in Czech law or Czech practice. Nevertheless, there was no question of not continuing recognition of a union organisation with membership still equivalent to 70% of the workforce in 2013. Collective bargaining, based on the model in Czech law, continued with the new German owner and the agreements became pacesetters for wage increases across the economy. An important background issue behind the outcomes of collective bargaining was the willingness of Volkswagen to maintain or expand its Czech operations. Thus, more investment and/or reduced risks of cutbacks and redundancies were on offer, at least informally, if the union did not press too hard with wage demands and responded positively to management demands on flexibility in working hours, in line with the German *Flexikonto* system (Myant 2013; Drahokoupil *et al.* 2015). Czech employees' bargaining power was also constrained by the MNCs' strategy of placing less profitable products (in this industry, smaller vehicles) in its peripheral operations. This sort of strategic issue remained a management prerogative outside the scope of collective bargaining. It meant that productivity measured in nominal terms

was always lower, even if the same work tasks were performed, and that was used to justify lower wages than in Germany (Myant 2018). In fact, Volkswagen quite often does shift production of particular models between countries over short time periods, making nonsense of claims that different pay levels between countries – the Czech level was still below half the level of average nominal pay in Germany in 2019 – reflect different levels of labour productivity.

The Czech union is helped by international contacts and structures, including the European Works Council and a Volkswagen global agreement signed in 2012. However, implementation of the agreement depends on insistence at local level. Thus, a key element was a commitment to keep temporary agency workers to no more than 5% of total employees, roughly the average for the Volkswagen group as a whole. They had been well above this level in Škoda, reaching 16% in 2007, and the union accepted this as a guarantee against job losses in the core workforce. They made some efforts to approach agency workers, but did not bargain on their behalf. The number fell rapidly during the economic crisis.

The issue received publicity that was potentially damaging to the company early in 2008 after agency workers from Poland complained through their ombudsman and it was confirmed that there had been breaches of the law, including paying wages below the legal minimum level. Over the following years it was agreed that agency workers would come from only one agency and that that firm would consult with the union over employment conditions. The number of agency workers rose again to around 10% of all employees, above the level stipulated in the global agreement. Rather than pressing to reduce this, the union set the aim of equalising their conditions to those of the core workforce by negotiating with the agencies and sub-contracting firms, such as those providing catering. In 2017, agency workers became entitled to an annual bonus, as were permanent employees, and in 2018 they received additional payments for anti-social shifts, as had always been the case for permanent employees.

This example confirms the willingness of a major MNC to accept a union presence. Translating that into concessions on pay and employment conditions was less automatic and depended on union assertiveness, the effects of bad publicity and some degree of international union involvement. However, as the union organisation chose to break from ČMKOS and to operate as an independent union, the effect on strengthening the position of Czech trade unions as a whole was unnecessarily limited.

A further example of a company prepared to continue trade union recognition, albeit without granting the same pay as in western Europe, is the chemical works in Sokolov in Czechia.<sup>2</sup> It produced acrylic compounds, used in paints and coatings, and built up debts while modernising its equipment before being

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2. Information on this case and the following is from press reports and from Jiří Vrabec, Vice President of the chemical section of the trade union ECHO, interviewed on 23 May 2019.

sold to the US firm Eastman in 2000 when it had 920 employees. It then became part of an integrated European group with the headquarters in the Netherlands which brought more investment and a narrowing of the product range. The labour force was reduced over time, quite markedly after the economic crisis, to 350. Ownership of this group changed several times, but the system and practice of collective negotiations remained unchanged. Contact with unions in western Europe helped the Czech union by providing ideas on further benefits they could claim, but were otherwise not important to their bargaining strength or strategy.

The Czech union stuck to moderate demands and never pressed with, for example, threats of strike action. That they judged would have been unrealistic not least because of the difficulty of stopping a continuous production process over a short time period. Managements were also happy to appear amenable in view of their need for a stable and skilled workforce. Benefits were consistently above the legal minimum and job reductions were achieved with additional compensation to former employees and efforts to minimise social disruption. Nevertheless, wages remained well below western European levels. The company consistently located its least profitable activities in Sokolov, in line with the standard strategy of MNCs that led to lower measured productivity, and Czech unions had no involvement in such location decisions.

### **8.3 A takeover by a foreign MNC may open new possibilities for unions, both thanks to international contacts and to the appeal across the workforce of the slogan of reaching western European pay levels.**

Such an example is provided by the Czech company Mitas. Collective bargaining was well established, but there were major issues that the domestic labour force had been unable to resolve. Foreign ownership did not bring immediate solutions, but greater financial strength (and possibly also a more professional approach of the new owner), combined with new possibilities for union pressure, eventually led to a favourable outcome.

The origins of the company were in the privatisation of the Czech tyre producer, Barum, mostly sold to Continental in 1992. Mitas, part of the combine that was a major world producer of tyres for tractors and other off-road vehicles, was privatised separately into Czech ownership. It had three plants, in Prague, Zlín and Otrokovice, which was only a few kilometres from the Zlín plant and based in the Barum facility until a new, independent factory was built. The long-standing issue was the pay being lower in Zlín than in Otrokovice: equivalent, according to the union, to about one third of take-home pay in the latter plant. There were 700 employees and 440 union members in the Zlín plant.

The union did not press the issue during the economic crisis, accepting low pay in the interests of preserving jobs. It became more assertive as the economy recovered. Mitas was then taken over by the Swedish firm Trelleborg on 1 June 2016, a company with 23,000 employees worldwide, aspiring to become a world leader in these products. The union organisation decided not to press the issue until the new owner felt established, and negotiations started only in

September. Union rhetoric was then strengthened by the fact of a foreign owner, with arguments that the employees should be recognised as being worth as much as Swedish workers and noting the EU's stated commitment to reducing social differences between countries.

The management had promised that more resources would be made available for wages, but then switched to imposing limitations and giving only a general statement of intent to increases over a number of years, which would be part of a new wage system being worked out at the time. There was also the issue of productivity, which was lower in Zlín than in Otrokovice. The union was not concerned about the new wage system as such, but in response to the question of productivity it pointed to the different conditions in the plants, to the company policy of locating small-batch production in Zlín, and to the negative impact of wages being low in comparison with similar employers in the area. Negotiations were reportedly difficult, but at least conducted in a more professional and less personal manner than had been the case under the former Czech ownership.

With no satisfactory progress from negotiations, the union organisation announced a strike alert on 10 March 2017, followed two weeks later by a similar announcement in the Prague factory. Agreement had been reached without difficulty in Otrokovice. On 2 April, two one-hour strikes, demanding a 24% pay rise, were held in Zlín, supported by the presence of ČMKOS chair Josef Středula. The union claimed participation of 500 employees and also received verbal support from Swedish trade unions. The new collective agreement, finally signed in May, included a three-stage pay increase, reaching the target in July 2018, two years after the arrival of the new owner.

Thus, this example shows that a foreign owner can be more professional in negotiations and can be put under pressure in their own country. Its appearance also helped to stimulate a more combative approach from the union organisation, raising hopes of a favourable outcome and enabling the issue to be presented as one of the right of Czechs to be fully valued within Europe. Even then, the employees had to resort to the strike weapon, extremely rare in Czech manufacturing, to reach an acceptable outcome.

#### **8.4 Some western European manufacturing companies exploit the bargaining power they derive from multi-plant operations across Europe to make trade union organising more difficult and to make the outcomes of bargaining more favourable to themselves.**

An example is the French auto parts manufacturer Faurecia, majority-owned by the French MNC PSA. It set up new factories in Poland from 1998 and was reported by Solidarity in 2009 to be preventing union organisation in three of its four Polish plants, including dismissals of union representatives. At the Wałbrzych plant, Solidarity claimed that the majority of the 400 employees were willing to join a trade union and to start a dialogue with the employer. They cited acceptance of unions in France, and a company ethical code that declared respect for the law, including the right of workers to organise in trade unions: in spite of this, the company had dismissed five founders of the

Solidarity organisation (<http://solidarnosc.mazowsze.pl/?p=21539>). Similarly, in the Grójec factory in October 2007, the union claimed 1,000 workers took part in a demonstration, handed in a petition and wrote to company management in France, complaining about excessive overtime, low pay and forced downtime. They were still pressing in 2015 for union recognition and for improved working conditions.

The company did indeed not seem to be opposed to unions on principle, even recognising the United Auto Workers (UAW) in plants in Kentucky and Alabama and also a union in its Czech operation in Písek. However, the issue between Poland and France was complicated by the transfer of production between the two and by the use of the threat of transfer as a weapon against employees. Thus, there was a unanimous strike vote in a French plant employing 508 set for closure (*L'Humanité*, 7 March 2009), with the argument that there would be adequate work for all employees if work outsourced to Poland were to be returned to France. In 2013, the management reportedly used the threat of transferring production to Poland if workers did not accept a wage freeze. This, then, is an example of an MNC using the greater power associated with a multi-plant operation to weaken labour's position in both western and eastern Europe.

**8.5 Considerable hostility is common among Asian MNCs which have less to worry about in terms of threats to a domestic reputation. They are also often less committed to collective bargaining at home and European trade unions have fewer contacts there than they do within Europe. They are also more likely than western European MNCs to be hostile to trade unions.**

The ITUC surveys reported that Bridgestone, the tyre manufacturer, was obstructing trade union organisation in Hungary in 2011. In 2008, the South Korean Hankook tyre company abused employment law and used the works council as the only means of communication with employees, and was fined for abusing trade union rights, albeit by an amount judged by the union side to be little more than symbolic. Suzuki was found guilty of two cases of unfair dismissal of union representatives in 2006 and 2009 but, despite an intervention from the then Hungarian Prime Minister, did not change its policy. Hyundai set up a plant in Czechia in 2008, reaching 3,400 employees and 15% union membership in 2013. The company did operate in western Europe and a European Works Council was formed, but the Czech union organisation had little by way of international contacts, either in Europe or elsewhere in the world. The company did not prevent formation of a union, but introduced Korean practices of confrontational industrial relations and made life difficult for union representatives, allowing no time off for union work and no union activities on the company premises. Compulsory overtime at minimal notice, in conflict with the legal provisions, led to a spontaneous strike of 400 employees in December 2009. The Labour Inspectorate found almost 50 breaches of employment law and imposed a fine. After this, the company generally kept closer to the law, negotiating extra shifts and paying bonuses to those taking part (Drahokoupil *et al.* 2015).

**8.6 There are cases of opportunistic adaptation, in which companies have switched from their assumption that home practices would be transferred to an acceptance of somewhat arbitrary management methods (reflecting the host country's practices) when a union organisation was weak and irrelevant.**

Such an example was that of a larger German bank buying an existing Polish bank (Hunek and Geary 2017). Union membership remained below 10% of the workforce and the organisation undertook limited activities that presented no threat to management. No works council or consultation procedure was established, and the Polish managers of the branch implemented forms of performance management and a restructuring plan leading to removal of older, apparently underperforming, staff and their replacement with new employees. The methods used were apparently not actively welcomed by the German management, but the local Polish managers in turn felt under pressure from performance targets from above and saw their methods as the best way to ensure their own positions. Despite its weak position, the Polish union organisation was represented on a European Works Council.

In this case, then, the German management might have been willing to transfer its domestic practices, but was under no pressure to do so from the Polish union organisation. Employee relations were left to a local management which followed established Polish practice, an outcome that was fully in line with the German management's central objectives.

**8.7 Union strength in some sectors depends very much on an active organising approach which needs resources, expertise and a break from inherited practices.**

The case of Polish retail chains has been covered by Jan Czarzasty (2010; 2014). The foreign MNCs' activities in retail in Poland are an example of opportunistic adaptation that included reluctant recognition of trade unions and some willingness to share information and consult, but no acceptance of collective bargaining. It is a low-paying sector with quite intensive work, with employees often required to switch between tasks depending on the needs of the moment. It is also a sector with apparently systematic abuses of employment law. Organising trade unions required starting from scratch and this was very difficult, albeit given some help as the reality of work in the sector gained wider publicity.

An important element in this was the exposure of working practices in the Biedronka chain, owned by the Portuguese company Jeronimo Martins. Bożena Łopacka left her job in a Biedronka branch in despair over the working conditions in 2003. Rather than leaving the issues behind her, she then took legal action against the employer to claim for unpaid overtime, making public a world of overtime and nightwork without extra payment, of falsified reports on hours worked and of breaches of health and safety rules. Other former employees came forward reporting similar experiences, gaining media coverage, and they formed an association to fight the legal cases.



The Labour Inspectorate undertook investigations and confirmed the existence of multiple violations, albeit with limitations to its evidence, as many existing employees were unwilling to be associated with formal complaints. Inspections were also undertaken in other retail chains, revealing essentially similar conditions. Thus, in Lidl in 2004 they looked at a sample of outlets and found nearly all breaking working hours rules, and the majority not paying overtime, although they did at least pay employees their basic wages on time. However, the inspectors did little more than report problems and the Labour Inspectorate director was strongly criticised in parliament for not pursuing the issues adequately. Much therefore depended on the court actions.

Lopacka's legal action made slow progress, the company using opportunities to delay and to appeal against decisions. Finally, in 2007 the company was definitively ordered to pay the required compensation. Responsibility for transgressions was attributed to lower management levels and not to a systematic company approach ordered from the top. This was important, as it was the first case of a successful court action over employment rights against a foreign retail chain. Trade unions were very weak in the Biedronka chain and played no role. There was a Solidarity organisation at the time in a quite different Biedronka branch, but it kept its distance, suggesting that its concern was with current and not former employees (Czarzasty 2010: 173).

For trade unions to play an active role they had to adopt an organising approach. Solidarity was the most active among Polish unions in this, starting in 1993 with a training programme provided by the Service Employee International Union (SEIU), a US-Canadian union which was reportedly devoting 50% of its budget to 'organising' (Mrozowski 2014: 156). At the time, this made little impact. In 1998, Solidarity set up a small organisation to promote recruitment and the first union organisation in a foreign retail chain was established in Real in Szczecin. Efforts gradually expanded, with training programmes using some EU funding support, and success in winning members helped gradually to shift attitudes towards an organising approach within Solidarity.

The first contacts typically came from workers themselves. With limited resources, the union had to target its efforts and chose first German chains where there were many complaints from employees. Organisers would respond by bringing together contacts and, once they had the ten signatures needed for registration, they would contact the media to set up an organisation publicly. They met hostility from managements, including dismissals for those setting up organisations (Czarzasty 2010: 202). Union responses included petitions demanding recognition of employees' rights, picketing some individual shops and blocking tills. They also sought support and cooperation from UNI Commerce and the German services union Ver.di.

Better results were achieved in the years after 2000 in Auchan, Carrefour and Tesco where emerging unions signed so-called cooperation agreements, confirming the right of unions to exist and committing the managements to giving information to employees. The hope had been that these would be a

prelude to full collective agreements, but unions, with at best 10% of employees as members, lacked the strength to achieve this.

Thus, in Tesco, five unions were present, weakened by 'competitive pluralism' (Gardawski 2003), meaning that unions competed for members and for the attention of management. Among these may have been yellow unions (organisations created by managements) and this is reported to have contributed to a strike in a Tesco branch in February 2008. The initiator was the WZZ Sierpień 80 union organisation (<http://www.wzz.org.pl/>), a small confederation that used leftist and anti-capitalist rhetoric and advocated direct action to achieve employees' aims. The strike lasted two hours with a demonstration outside the shop that involved 100 to 150 people, not necessarily all Tesco employees. It was dismissed as illegal by the management who did not communicate directly with the strikers and did not agree to the demands from all unions for collective bargaining.

Thus, employees' representatives could communicate with management, pressing wage demands which might or might not influence the management's final decision, but they did not end up with a formal agreement. Tesco could still victimise union representatives, notably the deputy chair of the Solidarity organisation for the chain who was dismissed in March 2015 after collecting signatures to support strike action. The following months saw protests at her workplace in Łódź plus involvement from UNI Global. On 29 December 2017, a court finally ordered her reinstatement. By 2017, with recovery from the economic crisis and a more favourable labour market situation for employees, Tesco employees pressed demands for pay rises to match those in Lidl and other chains. WZZ Sierpień 80 then claimed in May 2017 to be signing the first ever collective agreement in a retail chain, with no involvement from other unions that represented far more of the company's employees.

The idea of cooperation agreements was taken up in other chains and these were established in Auchan and Carrefour as well as Tesco. Others proved resistant even to this, with particularly Lidl strongly opposed to unions, while Kaufland yielded to reach a cooperation agreement in 2010, after a rapid organising campaign.

This experience illustrates the shift to an organising approach in the difficult conditions for trade unions of the retail sector. Ultimately, the outcome depended on the MNC's approach. The reality remained that 'if the employer doesn't want it, it simply won't happen, either at workplace or at branch level' (Czarzasty 2010: 129). Those retail companies that had relations with trade unions in their home countries were more amenable, but they still avoided full union recognition when they could, and the power resources at the unions' disposal were not enough to persuade managements that there were significant costs from refusing full recognition. Lidl was exceptionally reluctant to concede any ground and this reflected its general philosophy in all countries. It was a hierarchical and secretive company that ignored employment law where possible in the countries where it operated (Hamann 2006). It fought hard to prevent union organisation and even the establishment of works councils in its

outlets in Germany. It reportedly tended to pay higher wages than other retailers, a result of a highly profitable business model that focused on selling narrow ranges of goods, suggesting that it could easily have afforded a more collaborative approach. Company cultures clearly do play some role.

### **8.8 Organising in retailing may be easier where the law is more supportive and where unions can win support from the media and from unions in other countries.<sup>3</sup>**

A comparison with Czech retail chains shows both similarities to the Polish experience, including in the approaches of the same companies, and some differences in the scope for formal establishment of collective bargaining. Development of the sectors was very similar. Western European chains first came into the country in the early 1990s with privatisation. They expanded from the end of that decade to dominate large-scale retail, converting existing facilities and building on greenfield sites. The nature of the work and the issues confronting employees were also very similar. An investigation by the Ministry of Labour and Social Affairs, followed up by journalists, showed that foreign companies were not bringing improved employment practices (Hospodářské noviny 2 July 2004). Instead, they reproduced the same regularised phenomena of compulsory overtime, often unpaid, and also extended trial periods on lower pay, intimidation, bullying and in some cases instant dismissals for those who argued. Employees were often scared to speak to the media about these issues.

Where new organisations were established, the method was similar to that in Poland. Leaflets and canvassing employees yielded no results. Successes came when a small group contacted the union's national organisation and then received help and advice on how to establish an organisation. They would then introduce themselves to management with modest demands (Myant 2010: 49). However, none of the incoming retail chains recognised unions as bargaining partners when first approached and some actively blocked trade union organisations, notably the German chains Kaufland, Penny Market and Lidl, the last of which refused to comment on reports, with the words 'we do not respond to the media'. Unions faced major difficulties in establishing themselves, starting often from a base close to zero and working with employees, many of whom were foreigners often recruited through employment agencies and all of whom were aware that the labour market situation meant they could easily be replaced. Many employees were reportedly unaware of whether a trade union existed or not. Complaints were often brushed aside. An example was a letter to the central management, signed by 35 employees and organised by the local trade union organisation in a Kaufland branch, complaining about bullying, but the only response was rapid demotion for those in responsible positions. The firm strongly denied the possibility of any such problems in its branches, claiming to have excellent HR practices and good relations with trade unions over many years (Liberecký deník 16 July 2010,

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3. Information on this case is from press reports and from Renáta Burianová, President, and Ivo Grossmann, legal adviser, of the trade union UZO (Unie zaměstnanců obchodu, logistik a služeb), interviewed 9 March 2020.

[https://liberecky.denik.cz/zpravy\\_region/makej-i-za-tri-a-bud-rad-ze-mas-vubec-praci.html](https://liberecky.denik.cz/zpravy_region/makej-i-za-tri-a-bud-rad-ze-mas-vubec-praci.html)). Such press reports gave the union a powerful weapon. Bad publicity was especially unwelcome for companies that sought customer goodwill in a competitive environment, and establishing credibility with media contacts became an important part of union work. MNCs were more likely than domestic firms to become targets of press criticism simply because their large size made them more visible.

A second key weapon, which also helped only unions in MNCs and not those in domestically owned firms, was help from international contacts. This was required for winning recognition in every case. Sometimes this meant unions in the company's home country applying pressure on top management. In one case the union leader from the home country came to Prague to speak to the local management there. The responses were most favourable from Tesco and Carrefour, as in Poland, while Lidl remained the most hostile. Membership gradually increased in foreign retail chains to possibly 6–7% in 2016. This did not give anything close to universal coverage across the branches of any chain, reaching, for example, just 29 Tesco branches out of a total of over 200 (including some quite small outlets) in 2019. However, this was enough in Czechia for recognition of unions as representatives of the workforce for the whole chain and for signing collective agreements.

There was also a sectoral collective agreement for the retail sector, signed and regularly updated at least from 2007, with the OSPO (Odborový svaz pracovníků obchodu, Union of Commercial Employees) union and then its successor UZO (Unie zaměstnanců obchodu, logistik a služeb). This covers only members of the relevant employers' organisation, thereby excluding some foreign chains, and did not include specifics on pay levels or pay increases: they could be negotiated at company level. The wording included a commitment to mutual respect between unions and employers, but not to collective bargaining at company levels. There were provisions on working conditions better than those guaranteed by law, but it is not clear whether they were enforced in workplaces where there was no union presence. In all, company-level representation and agreements were much more important.

The situation in retail shifted further with the economic recovery after the crisis of 2008–9. This brought a change in the labour market, with all sectors of the economy facing labour shortages. At the same time, the main trade union centre, ČMKOS, launched a campaign for 'An End to Cheap Labour' in September 2015, calling on union negotiators to press for a 5% annual pay increase in the coming bargaining round as a first step in a longer-term effort towards closing the gap with western Europe (Myant and Drahokoupil 2017). The achievement of this in the Albert chain (17,000 employees, owned by the Dutch firm Ahold), was taken up by Czech trade unions, alongside Mitás (discussed above), as an example for other union organisations to follow in the fight to end cheap labour.

The important conflicts came in 2015 and 2016. In 2015, the management finally yielded to union demands for a 3% pay rise for 2016 after public

intervention from ČMKOS chair Josef Středula who attended the negotiations, speaking afterwards of the possibilities for escalating protest actions and also contacting Dutch unions to win their support. The demand for 2017 was for an immediate additional 1,000 Kc (about 8% of pay as estimated by the union side) and then a 7% pay rise, backed by the claim that Albert was the second-worst retail chain for pay levels. This the union calculated to be only about 25% above the statutory minimum wage, taking its information from employees. Although the company claimed that pay was a little higher, the whole system was chaotic, with some newly recruited employees, and also some agency workers, paid more than their colleagues as the management improvised to cope with labour shortages. They therefore could not refute the union's arguments. The union's Facebook discussion page was full of talk of a strike, with arguments that the labour shortage meant that they should not be afraid. In fact, publicity over pay levels became more frequent over the following years, with retailers breaking from their previous practice of secrecy, and advertising what they claimed a new employee could expect to earn, as part of their efforts to recruit. Comparisons of this information certainly suggested that Albert was well behind the highest level, a place apparently occupied by Lidl, and that was an uncomfortable position for a company already facing labour shortages.

The union leadership played down talk of a strike. With membership at only 6–7% of employees, it would seem impossible to reach the necessary threshold in a ballot for legal strike action. However, they held a press conference expressing their exasperation, their conclusion that negotiations were leading nowhere, and that they would not attend further meetings. The government at the time, dominated by the Social Democrats, was sympathetic to union approaches. The Minister of Labour Michaela Marksová issued an open letter, appealing for a wage increase. The Prime Minister Bohuslav Sobotka then intervened stating that he was seeking a meeting with the Dutch ambassador who he hoped would report the reality to the Dutch government. On 26 November, after a few days of bluster and claims that the prime minister had been misinformed about the reality of pay levels, the management offered an 8.5% pay increase and asked the trade union to rejoin negotiations. This was judged acceptable. Subsequent rounds saw much easier negotiations and more substantial pay increases, reportedly almost 50% over the following two years.

## 9. Conclusion

Trade unions in east-central Europe facing incoming MNCs have had mixed results in their efforts to achieve recognition, to develop collective bargaining and to achieve good results from that bargaining. Experience around the world has pointed to the power and strong bargaining position of incoming MNCs, and their strength is confirmed in a number of the cases here, notably in retail (8.7 and 8.8) where concessions have been consistently slow and partial. However, there have also been cases of winning recognition against initial hostility (8.1), of maintaining recognition and collective bargaining (8.2), and of achieving better results from a foreign than a domestic owner (8.3).

The number of cases covered here is too small to provide evidence on the frequency of these and other kinds of behaviour, but the case study approach is the only realistic way to show how firm behaviour can be changed by trade unions. As indicated in the introduction, some academic literature has seen MNC behaviour in terms of an export of practices from a home base or an acceptance of practices in the host country, with various combinations of those two also possible. This can appear to characterise the outcomes, but the cases here do not show MNCs voluntarily exporting apparently good employee relations practices. There have been cases of trying to transfer whole employee relations systems, as indicated in Section 2, but they are rare enough not to have figured in the cases covered here. It rather appears that MNCs can be persuaded to transfer a general recognition of trade unions and respect for collective bargaining under certain circumstances. The so-called home country effect is very visible in the transfer of many other practices, including work organisation and some HR systems, but cannot be a complete explanation for the development of employee relations systems. That depends also, if not primarily, on trade union involvement and activities.

The example of the bank in Poland (8.6) points to a common theme. The priority of the head office is not a system of employee relations but financial return from its foreign operations, and that trumps any intention it might have of replicating domestic practices. In other cases too, companies proved adaptable: for example, accepting a union organisation and whatever its bargaining led to as long as the head office kept control over the wage bill (8.1), albeit in the case of Robert Bosch with considerable reluctance and only when facing strong pressure. In general, the results and effectiveness of collective bargaining from the trade union point of view have depended on the initiative and strength of union organisations relative to that of the company. As illustrated in several examples, such as the Škoda car manufacturer (8.2), they took their agendas from the domestic situation and bargained over issues

relevant to their own members. They sometimes took up issues raised in international-level agreements, such as the limitation on temporary agency work in Škoda, but they ultimately did not reach identical outcomes to those in other parts of the same MNC. Without union action at the lower level adapting and applying what had been agreed elsewhere, the international agreement would have remained on paper only.

The cases covered show two ways in which a home-country effect appeared to apply. The first was in influencing directly an MNC's approach. The fact of union recognition and collective bargaining at home created a direct channel for pressure on managements, as in Czech retail chains (8.8) where MNCs were confronted directly by union representatives in their home countries. It also made managements more likely to accept unions as bargaining partners. Thus, there were differences between specific retail chains (confirmed across countries in 8.7 and 8.8) that reflected their practices elsewhere. However, none gave full recognition to unions in Poland, where unions had a weaker bargaining position than in other countries due to their fragmentation, and all needed some persuading to treat unions with respect in other countries too. Thus, the outcome depended both on a company's approach and on the strength of the trade union side, without which the issue of recognition would never have been raised.

The second way in which a home country effect appears to apply is in strengthening employees' bargaining power in the host country. Media publicity, exposing a company's approach towards its employees and its apparent hypocrisy if it does not live up to standards of good employee relations that it claims to pursue elsewhere, can be embarrassing to an MNC. That is especially true in the European context, in view of the EU's proclaimed standards and principles. Support from western European unions contributes to publicising bad practices. Support from trade union leaders and leading politicians may also be important, as in the cases of the Mitas dispute (8.3), of Robert Bosch (8.1) and of a Czech retail chain (8.8). Visible media coverage remains largely in the host country, including reports of political involvement and support from trade unions in other countries. This sort of support helps strengthen employee morale and resolve, which were crucial for positive outcomes in all cases where there was conflict. Bad media coverage can also be very uncomfortable for a company that is dependent on a good reputation for its customer base.

Expressions of solidarity from unions in other countries seemed to apply as much for market-seeking as for cost-reducing MNCs, the former being represented by retail chains (8.7 and 8.8). In the latter case there could be good reasons for solidarity with their colleagues in lower-wage countries, those wage levels being a potential threat to standards at home – although that was not a visible factor in any of the cases here. Indeed, there may even be some difficulties between union organisations in different countries if the MNC does succeed in playing one off against another, a theme present in the Faurecia case (8.4). The importance of the European context is indicated by the cases of Asian MNCs (8.5) some of which stood out for their hostility to unions and which

usually do not face the same pressures from potential bad publicity at home. Where they are well established across Europe, as in the case of Toyota, they do not have reputations as anti-union firms.

It should be emphasised that the willingness of an MNC to recognise unions and undertake collective bargaining does not mean that it will make serious concessions. Wages are still much lower in east-central Europe. Moreover, manufacturing companies with complex value chains typically keep the high-value operations in higher-wage countries. Employees in east-central Europe have no say in such strategic decisions and that ensures that those employees continue to appear to be less productive (as in the cases in 8.2), keeping their wage levels below those in western Europe. If this gap is to be narrowed then past experience suggests that a key factor will be active pressure from trade unions, both to increase wage levels and to ensure that government policies encourage the establishment of high-value-added activities in their countries.



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