



Social Dialogue in the public sectors of the EU Member States

An analysis of different models at
the level of the central public
administration



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The Swedish Presidency has entrusted the task of managing Sweden's EUPAN activities to the Swedish Agency for Public Management, in close cooperation with the Swedish Agency for Government Employers.

During the Swedish Presidency of EUPAN, between 1 July and 31 December 2009, a number of publications have been developed and commissioned. These publications are presented by the Swedish Presidency.

The report *Social Dialogue in the public sectors of the EU Member States* is hereby presented.

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Social Dialogue in the Public Sectors of the EU Member States: An Analysis of Different Models at the Level of the Central Public Administration

**Study commissioned by the Swedish Agency for Government Employers
for the Presidency of European Public Administrations Network
(EUPAN)**

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Objective of the report and added value of the analysis in the context of EUPAN

Social dialogue (SD) in the central public administrations of the European Union (EU) Member States is basically characterised by similarities and differences in relation to four criteria: structure, organisation, significance and output. This apparent diversity of SD structures across countries within the EU can be mainly explained by different national legal, institutional, cultural and political frameworks. Furthermore, a comparative report on the SD – written by the European Institute of Public Administration (EIPA), and commissioned by the French Presidency in 2008¹ – highlights the differences in national administrative contexts in which the state employer at the central administrative level, who represents the employers' side in the European social dialogue, operates.

Under the Swedish Presidency of the European Union and in parallel to the end of the social dialogue test phase between EUPAN and TUNED at the European level, the Swedish Agency for Government Employers (SAGE) assigned a research project to the European Institute of Public Administration (EIPA), with the objective of carrying out a more in-depth analysis of day-to-day practices of social dialogue systems at the level of the central public administration in selected EU Member States.

Against this particular background, the aim of the report is threefold and strives to:

- increase the comprehension of the functioning of the SD in the national public administrations across the European Union;²
- improve knowledge as regards the diversity of SD practices in central public administrations and the respective contexts in which the dialogues take place;
- create a better understanding among EUPAN members of the different rationalities guiding the national representatives in the social dialogue working groups within EUPAN.

At a methodological level, the report intends to achieve a better understanding of national social dialogue systems by illustrating and explaining the different administrative, legal, managerial and political contexts in which SD systems are embedded. The emphasis is laid on topics which affect the characteristics of the social dialogue systems, such as on:

- an analysis of the employment regimes, which link public sector staff in the different countries to the state employer;
- an analysis of the different categories of public sector staff and the impact of these differences on the social dialogue;

¹ See in this context, European Institute of Public Administration (EIPA), *The Public Administrations and the European Social Dialogue*, study carried out under the Portuguese Presidency, Lisbon 2000.

² A good overview of the actors in the field of social dialogue in the public sectors of the EU Member States is given by the following publication: Université catholique de Louvain, *Institutional Representativeness of Trade Unions and Employers' Organisations in the Central Public Services*, 2004.

- an analysis of the personnel/human resources management system, in which the social dialogue is operating;
- whether this system is centralised or decentralised, administrative or strategic; and
- whether it is political/ administrative/ strategic and influenced by private sector practices.

The report is divided into four parts:

The first part (1.1.) aims at describing the employment regimes of public sector staff of selected EU Member States and their impact on the social dialogue systems.

The second part (1.2.) focuses on the significance of the SD at the level of the central public administration, the collective bargaining rights of public sector staff, as well as on the characteristics and mandate of the state employer and the output of the social dialogue.

The objective of the third part (2.1.) is twofold: it firstly aims to describe the organisation and structure of the personnel/management function. Secondly, it illustrates how social dialogue/collective bargaining is organised at the governmental level, who are the main actors and what are their competencies and roles in the collective bargaining process, what is negotiated at which level and by whom.

The fourth part aims to highlight the major similarities and differences as regards the social dialogue at the level of the central public administrations as well as linking them to the different legal/administrative/managerial contexts.

A structured analysis of all 27+1 social dialogue practices across the EU is evidently beyond the scope of this study. This report focuses on the analysis of four SD systems, which represent different administrative systems (see table below): Germany, Finland, Italy and Poland. This selection represents a balanced and significant sample of existing administrative systems in the European Union, which will support the findings of this research.

	Administrative systems		
Traditions	Career system	Position system	Mixed system
Continental tradition	<i>Germany</i>		
Southern tradition			<i>Italy</i>
Scandinavian tradition		<i>Finland</i>	
Transition tradition			<i>Poland</i>

In the context of this report, social dialogue refers exclusively to the dialogue that takes place at central administrative level between employers' and employees' organisations. Among the different forms of social dialogue (exchange of information, consultation,

negotiation) the report focuses on collective bargaining as an important criterion in characterising and comparing the significance of social dialogue in various states.

The content of the report builds on answers to a questionnaire sent to the experts of the social dialogue working group, as well as on interviews, on previous EIPA studies carried out under earlier Presidencies, on documents from the OECD and EGPA, and on relevant academic literature and research.

The authors would like to thank Asko Lindquist (Finland), Stephan Kohn (Germany), Nicola Favia and Lorella Mastroianni (Italy) and Katarzyna Dudzik (Poland) for their valuable input, and also express their gratitude to the EUPAN human resources and social dialogue working groups delegates for their support in updating the country fact sheets on social dialogue; special thanks are addressed to Per Stengard and Elin Moberg from SAGE for their fruitful cooperation.

1 Social dialogue and employment relationships

1.1 Employment relationships in the EU Member States: a panoply of different situations

Employment regimes of public sector staff at the level of the central public administration vary widely amongst the EU Member States, although they are also characterised by some similarities³. Generally, all the States are characterised by the existence of a group of statutory civil servants, which constitute a distinct group of staff within the public sector⁴ and who are nominated unilaterally by the state on the basis of public law (statute), which defines the relationship between the civil servant and the state⁵.

Compared to private law, civil service law is usually defined by a larger catalogue of job duties and responsibilities, while civil servants can also be given far-reaching duties such as serving the state, the general interest, or the government of the day. Other differences relate to the higher job security in the civil service and the specific disciplinary legislation. In contrast to these regulations, labour law employees' only duty is to fulfil their labour contract⁶. The group of workers covered by this specific legislation varies from country to country; in some countries, it includes teachers and health workers, while in some other countries it does not. In most of the public sectors it includes the police, the diplomatic corps and the military⁷.

Besides this group of statutory civil servants, most EU Member States also employ contractual public employees under private law in order to increase flexibility and/or to reduce costs.

³ Ziller Jacques, Das öffentliche Dienstrecht aus der Perspektive der vergleichenden Verwaltungswissenschaft, European University Institute, Department of Law N°2006/09.

⁴ Literature on the particularities of employment in the public sector includes the following: OECD, The State of the Public Service, OECD 2008, p.20ff; OECD, Modernizing Government, The Way Forward, OECD 2005, p. 158ff.

⁵ Jacques Ziller mainly suggests two characteristics for defining the concept of civil servant. The first characteristic refers to the unilateral nomination of the civil servant on the basis of public law, and the second characteristic relates to the fact that they are nominated for tenure. Jacques Ziller, Administrations comparées, Les systèmes politico-administratifs de l'Europe des Douze, Montchrestin 1993.

⁶ You can find more information on this topic on the following website: <http://web.worldbank.org>

⁷ Demmke Christoph, Who is a Civil Servant and Who is not – and Why?, European Institute of Public Administration, Maastricht, 2004.

Differences between employment regimes of public sector staff in the EU Member States

Statutory civil servants governed by public law	Public employees governed by private law
<ul style="list-style-type: none"> - Unilateral appointment under public law - Employment rules are laid down in a statute that must be approved by the parliament - Employment practices: standardised 	<ul style="list-style-type: none"> - Contractual employment regime - Employment rules are laid down in collective agreements and/or in a bilateral contract with individual employees - Employment practices: more flexible

There are of course other employment arrangements at the level of the central public administration, such as part-time employment and temporary employment, whose analysis is beyond the scope of this study.

However, a comparison of employment rules of statutory civil servants in the different EU Member States illustrates huge differences: while the employment arrangements of civil servants in some countries (position systems⁸) are similar to those in the private sector, there is in other countries a clear distinction between both sectors (career systems⁹) – although we have to deal with civil servants in both systems.

In this sense, employment conditions of civil servants with regard to job security, career progression, salary system etc. in the Finnish position system are mostly similar to those of private sector employees; however, this is not the case in classical career systems such as in Germany.

As the description of the four employment systems (see below) illustrates, there is a distinction in all four countries between statutory civil servants and contractual public employees – although these two basic concepts are interpreted differently in the different contexts. The common factor is that none of the four central public sectors employs only civil servants at the level of the central public administration. If we speak of civil servants at that level in Germany, we refer only to less than half of all public employees. The remaining employees are *Arbeitnehmer*, who are submitted to labour law and who have extensive collective bargaining rights in contrast to civil servants, who have no legal right for collective bargaining. In this sense, the legal employment relationship of the public employee has a clear impact on the significance of collective bargaining. In Finland too, not all public servants are governed by public law, although this percentage is much

⁸ Position systems are mainly characterised by the following elements: recruitment – not only at entry level, but to all conceivable positions for a specific job; the recognition of professional experience in the private sector; the requirement of specific knowledge and skills for a specific post; no formalised recruitment system; no right to a career; no seniority principle for determining pay and promotion; no job for life.

⁹ Career systems are mainly characterised by the following elements: recruitment only at the lowest level; existence of careers (and/or corps); minimum educational requirements for specific careers; limited recognition of professional experience outside the public service; regulation of most of the working conditions by law; a statutory remuneration system; a job for life; the existence of a special pension scheme.

lower than in Germany. Thus only 10.7% of all public employees are covered by an ordinary employment contract.

Since the contractualisation of public employment in the Italian public sector in 1993, the great majority of public employees are bound by a bilateral contract to the state employer.

A comparison of the four case studies shows that the significance of social dialogue varies to a large extent according to the employment status under which public employees are submitted, and also according to the civil service system.

In general, statutory civil servants governed by public law enjoy fewer rights in the field of collective bargaining than public employees with a labour law contract. However, differences also exist among *civil servants* in career and in position systems. In position systems such as Finland, collective bargaining rights of civil servants are more extensive than in career systems, where working conditions (e.g. remuneration systems, promotion systems) of civil servants highlight considerable differences in comparison to those of employees of the private sector.

The significance of social dialogue for the determination of employment conditions is, for instance, well illustrated by the output of social dialogue and by the bargaining agenda, which differ in the four countries. Major differences relate to the scope of the bargaining agenda and to the topics excluded from this agenda, as well as to the binding or non-binding nature of the results of social dialogue.

In order to compare the different concepts used for the two types of public employees at the level of the central public administration in the four case studies, the survey distinguishes between the two following concepts:

- The concept of **statutory civil servant** refers to those central government employees, who are subject to public law and who are nominated on the basis of a unilateral act.
- The concept of **public employee** refers to those central government employees, who are submitted to private/labour law and who are employed on a contractual basis.

1.1.1 Germany: the significance of a distinct employment relationship

In the federal state of Germany, a high amount of the civil service workforce is employed by the regional (*Länder*) level, which covers a high number of statutory civil servants. At the local level, however, a high percentage of total public employment is public employees governed by labour law.

The share of the total public employment over the total labour force is 12,5%.

The German public sector workforce (4 million in total) is ruled by two different legal systems: on the one hand, statutory civil servants are ruled by employment rules, which are unilaterally defined by the state employer and which are mainly laid down in the Civil Servants Statute. On the other hand, the *Arbeitnehmer* (public employees) are subject to labour law, while the content of their employment relationship is written in a private law contract governed by the Civil Code and collective agreements.¹⁰ Thus if we speak of statutory civil servants at the central public administration level in Germany, we refer to less than half of the total public sector workforce. The remaining staff is governed by private law.¹¹

Number of statutory civil servants and public employees engaged at the different levels of government:

	Statutory civil servants	Public employees under labour law <i>Arbeitnehmer</i>
Level of the central administration (direct)	129 528	149 074
Level of the central administration (indirect)	38 124	239 048
Regional level (Länder)	1 238 077	390 988
Local level	183 535	1 092 982
Public sector¹² (excluding the central administration)	39 011	474 213
Railways	44 418	2507
Postal services	98 500	

The difference between these different employment statuses is well illustrated by the fact that the statutory civil servant is nominated by appointment, and not by a bilateral contract. They are furthermore guaranteed legal protection against the state employer through access to administrative courts, whilst the private employees refer to labour law courts.

In Germany, civil service staff at the various state levels is managed by three different administrations (the central, regional and local administration); each of these three administrations has its own tasks and competencies.

At the central level, the Federal Ministry of the Interior is responsible for the regulation of the legal status of civil servants as well as for the definition of framework legislation of the civil servants of the *Länder*. At that level, most employees (62.2%) are working in

¹⁰ Keller Berndt, Aktuelle Entwicklungen der Beschäftigungsbeziehungen im öffentlichen Dienst, in: Die Verwaltung, Zeitschrift für Verwaltungsrecht und Verwaltungswissenschaft, 39, S.79-99.

¹¹ Bordogna Lorenzo, Winchester David, Collective Bargaining in Europe, in Dell'Aringa, Della Rocca, Giuseppe, Keller Berndt, Strategic Choices in Reforming Public Service Employment, Palgrave 2001, p.52ff.

¹² Mostly public employees from social security institutions, which are under the supervision of the Länder.

the sector of defence, in finance administration (8.8%), general administration (6.6%) and foreign affairs (1.7%).

The central public administration comprises between 13 and 20 ministries.

In the federal state of Germany, competencies such as higher education and school education are delegated to the decentralised level of the *Länder*, which is illustrated by the fact that 39.7% of regional public employment is composed by teachers in schools and pre-schools and 7.5% of staff employed at this level is working in the field of higher education.

In many respects, employment conditions of statutory civil servants and of public employees have been approximated during the last decade. Differences remain with regard to the right to be on strike, which is limited to public employees. Statutory civil servants furthermore have a couple of special responsibilities based on their special duty of faithfulness towards their employer. In the field of job security, public employees (*Arbeitnehmer*) from the public sector are better placed in comparison to employees working in the private sector, in the sense that after 15 years of continuous service, they can hardly be dismissed, and even then only in the case of major misconduct.

According to Art. 33 of the German Constitution¹³, sovereign rights such as law enforcement and formal legal decisions should only be fulfilled by statutory civil servants. As regards the employment of public employees, the Constitution leaves some discretion to the employer, so that contractual personnel may also execute tasks related to the state sovereignty.¹⁴ In reality the division of functions in accordance to the employment status is not always respected and it happens quite often that statutory civil servants and public employees with different employment rights are sitting in the same office while performing the same tasks. This fact has so far not led to major problems and one may raise the question of whether the reason behind this is not that such a discussion would inevitably lead to a debate about the abolishment of the statutory employment relationship, which nobody really wants.

In comparison to Finland, the UK or the Scandinavian countries in general, more substantial differences persist between private and public employment relationships with regard to the high level of job security in the public sector, the remuneration and career structure, the high relevance of diplomas for access to the civil service, the significance of seniority for career progression – although the significance of seniority has been considerably reduced –, and the training system etc. Thus a statutory civil servant can only be dismissed after a lengthy disciplinary procedure, while a private employee can be more easily discharged.

The clear separation between private and public employment is based on the assumption that – due to the specific character of the state employer – the nature of public

¹³ See in this context, Demmke Christoph, Who is a civil servant and who is not – and why?, European Institute of Public Administration, Maastricht 2004, p. 59.

¹⁴ Bundesministerium des Innern, Der öffentliche Dienst in Deutschland, April 2006, p.29-30.

employment is fundamentally different from employment in the private sector and that both employment types require a different status.

Traditionally, statutory civil servants in Germany were expected to loyally devote their “full” working capacity to the state without engaging in ancillary activities, or “only” in part-time work, which is possible nowadays. Corresponding to this, the state employer would be obliged to pay a decent remuneration to the civil servant and his family (*Alimentationsprinzip*); in this way, the statutory civil servant should be exempt from economic problems. The remuneration is – according to this philosophy – not considered as a reward for the work done, but as a contribution to allow for a living standard adequate to the status of the official. It is thus more the quality of the service than the performance, which traditionally forms the basis of the remuneration¹⁵.

This philosophy has however changed with the introduction of elements of performance-related pay schemes.

The German civil service is characterised by a considerable status orientation; whilst the state is perceived as an entity transcending society, the authority of the state is not considered to be divisible and bargainable.

Contrary to states such as Italy and as already mentioned above, the abolition of the civil servant’s employment status has so far not been on the reform agenda, although there does exist – very perceivably in some public authorities such as the Federal Employment Agency - a trend to recruit public employees (*Arbeitnehmer*).

1.1.2 Finland: public servants as ordinary employees

Finland is a Unitarian, decentralised state, with no autonomous regions (except the Åland Islands) possessing law-making competencies.¹⁶ The share of the public employment over the total labour force is 22%.

In 2008, at central public administration level, 122 200 statutory civil servants and public employees were working in 13 ministries, approximately 100 agencies and other public bodies, of which most have regional and local offices.

Number of statutory civil servants and public employees engaged at the different levels of government:

	Statutory civil servants	Public employees under private law
Central public administration	100 000	20 000
Regional level		
Local level	170 000	260 000

¹⁵ Derlien Hans-Ulrich, German Public Administration: Weberian despite modernization, in: Kristna K. Tummala, Bureaucratic Systems, Rowman & Littlefield Publications 2005.

¹⁶ See for more general information: The Finnish Public Sector as Employer, Helsinki 2006.

Among the central public sector workforce, the most important groups are composed by staff employed by universities¹⁷ and defence services personnel, as well as staff working in the financial administration. Personnel of schools, inspectorates, hospitals, fire fighters, healthcare, education and culture, social welfare and community planning and public works is employed by the local sector, where most of the public sector workforce is occupied (2004: 431000). The local public sector workforce is ruled by a different public status.

In Finland, most public sector workers (approximately 83%) are statutory civil servants; only 10.7% (2003) have an ordinary employment contract covered by the Employment Contracts Act. The Finnish civil service system is more of a position system in comparison to the German career system, and is characterised by the fact that candidates are not recruited for a lifelong career related to their diploma, but for a position for which a specific experience is the primary deciding factor in choosing the most successful candidate. Thus, the two basic systems are theoretically based on different logics; a major difference being the fact that the employment conditions of the career system substantially differ from those prevalent in the private sector. In the position system, on the contrary, being a civil servant is not so different from being an ordinary employee. The more flexible approach towards mobility between the public and the private sector illustrates this similarity of working conditions in the private and public sector very well.

In Finland, it was mainly the State Civil Service Act of 1994, which aimed to align the situation of the statutory civil servant to that of private sector employees. As compared to Germany, for instance, the Finnish statutory civil servant does not enjoy a lifelong employment relationship. The rules governing the dismissal of public and private employees are to a large extent the same in Finland. The lower level of job security has surely contributed towards facilitating the reduction of the public sector workforce from 215000 in 1988 to 124000 in 2004. However, the Act of 1994 did not abolish the public nature of the employment relationship. In Finland, statutory civil servants are appointed by a unilateral act, while their employment rules are laid down in legislation (contracts of employment Act, Civil Service Act), in collective agreements and in bilateral contracts.

Nowadays, there are hardly any differences between private and public law, although civil servants are in a statutory position governed by a specific legislation. Small differences exist for instance with regard to the right to strike, which is more restricted for statutory civil servants, and this is also in comparison to contracted employees. Another difference relates to mechanisms for dispute resolution, which are special for statutory civil servants.

1.1.3 Italy: a contractual relationship between public employees and the state employer

Among the four countries analysed, the Italian state has been through the most substantial changes as regards the employment relationships of statutory civil servants during the last

¹⁷ Universities engage approximately 31000 employees.

decade. At least in theory, the legal nature of this bond is characterised by a tremendous transition. Since the adoption of a decree in 1993, the status of the great majority of statutory civil servants is regulated by an individual labour law contract.¹⁸ Since then, 2.8 million out of 3.4 million public sector workforce are (contractual) public employees, while 505 000 are (non-contractual), statutory civil servants (police, military forces, judiciary services, diplomatic service, prefecture, university teachers). The Italian public sector is thus – as is the case with Germany and Finland – defined by two different employment statuses: the non-contractual staff governed by statutory law is in contrast to contractual public employees not covered by the collective bargaining agreements.

In the regionalised Italian state, the distribution of the public sector workforce among the different state levels is as follows: 41.5% are working at central administrative level; 42.7% at municipal level; 8% at regional level; and 7.7% at provincial level. A distinction is made between two employers: the state employer and the municipal employer. However, a common institution, the department of public administration, which is attached to the Council of the Presidency, “supervises” both branches of the civil service.

Number of public employees and statutory civil servants engaged at the different levels of government¹⁹

A	(Contractual) public employees governed by private law
National health system	682 183
Non-economic public entities	58 521
Research institutions	15 848
Ordinary regions and local autonomies	515 826
Special regions and autonomous provinces	70 201
Ministries	184 367
Fiscal agencies	55 661
Prime Minister's Office	2 707
State monopolies	1 330
Schools	1 137 619
AFAM	8 222
University	116 578 (minus some 52 000 professors)
Total	2 797 063

¹⁸ Bordogna Lorenzo, Dell’Aringa Carlo and Della Rocca Giuseppe, Italy, A case of co-ordinated decentralization, in: Bach Stephen, Bordogna Lorenzo, Della Rocca Giuseppe, Winchester David, Public Service Employment Relations in Europe: Transformation, Modernization or Inertia? Routledge 1999, p.94-100.

¹⁹ Ragioneria Generale dello Stato, Conto Economico, 2005-2007, Roma 2008. Approximation by the Department of Public Administration.

B	(Non-contractual) statutory civil servants governed by statutory law
Police	325 726
Military forces	124 945
Fire department	35 124
Magistracy	10 280
Diplomats	970
Prefectures	1 510
University professors	52 000
Prison police	494
Total	551 000

Most of the staff working in the Italian public sector is employed by the education sector, which covers more than a third of total public employment. Further significant fields of public employment include the local government and the health sectors, which occupy approximately 20% of the public staff. Other important sectors include central government and university.

The abovementioned decree of 1993 led to several changes in the conditions of employment of formerly statutory civil servants. The most important ones concern the fact that collective agreements since then have played an enhanced role in the public sector; topics previously regulated by law are now determined by collective bargaining; disputes are dealt with by an ordinary judge instead of an administrative judge; and the uniform personnel administration has been replaced by a more decentralized and independent HRM with substantial gains in professionalism, dynamism and individualised working conditions.

Since 1993, employment conditions of public employees are laid down in national contracts, except for the categories indicated in table B. At individual level, the working conditions are established in individual contracts, which must be in agreement with the national contracts.

However, it must be noted that although the employment relationships are characterised by an enhanced trend towards an alignment with conditions in the private sector, the reliance on traditional principles of impartiality and efficient use of the public good, and values of stability, continuity and security remain quite strong in the Italian public administration.

Noticeable differences persist even after the process of ‘privatisation’ of the employment relationship, such as in the fields of employment security, recruitment rules or, partially, promotions, which are still decided unilaterally and laid down in specific laws. Italian public employees, however, have a right to strike – although with certain restrictions for essential public services. Public employees may also be dismissed as a consequence of redundancy, although they are still better protected than private employees.

1.1.4 Poland: a small corps of statutory civil servants

In the Unitarian Polish state, competencies are divided between central government and three tiers of de-concentration and de-centralisation. The centralised public administration includes ministries, special government administrations and deconcentrated government offices in the 16 regions (voivodships). The voivodships constitute the delegated government administration headed by a Voivode, a representative of the Council of Ministers in a given region.

The local government, which includes municipalities (*gminas*), self-governing districts (*powiats*) and self-governing voivodships (marshal offices) is not part of the central public administration. Employees in the fields of education and healthcare are basically submitted to the labour law. Those competencies have been mostly transferred to the *gminas* and *powiats*²⁰.

Number of statutory civil servants engaged at the different levels of government:

	Number of statutory civil servants	Total employment in the civil service
Ministries	1 333	11 383
Central offices	415	9 192
Voivodship offices	420	7 535
Services under the supervision of the Voivode	222	14 096
Poviat services under the supervision of the Voivode	0	2 353
Tax chambers	433	3 795
Tax offices	990	38 488
Tax control offices	698	5 117
Services under the supervision of ministers or other central government bodies	332	24 570
Foreign service	145	1 267
TOTAL	5 046	117 796

Data from 31st December 2008

In Poland, public sector workforce is submitted to two different employment regimes. A distinction is made between statutory civil servants employed on the basis of a nomination, which means a unilateral administrative act, and (civil service) public employees, bound to an employment contract: both types of staff are part of the civil service corps.

The civil service corps comprises some 117 796 (2008) members employed in official positions such as the Chancellery of the Prime Minister, Offices of Ministers, Chairpersons of committees, offices of central agencies, voivodships offices, inspectorate

²⁰ SIGMA Assessment, Civil Service, Poland, June 2002, p.2ff.

and registration offices. Among the civil service corps, only 5046 (2008; 6153 in 2009) employees are appointed statutory civil servants, who have either passed a difficult qualification procedure or who are graduates from the National School of Public Administration. There is, however, a trend to further increase the number of appointed civil servants. Appointed civil servants and (civil service) public employees are subject to the civil service law (Act on the Civil Service from 21 November 2008).

In Poland, working conditions in the public and private sector are characterised by different traits: civil service corps members have a limited right to strike and a special salary system. They are recruited through an open competition, and must (with some exceptions) follow a preparatory service before being appointed as a civil servant. The ethos of the civil service corps members differs considerably from the ethics of private sector employees: statutory civil servants as well as (civil service) public employees holding a senior position are not allowed to establish or participate in political parties²¹, civil service corps members at the senior level are not allowed to hold a position in a trade union organisation. Civil service corps members are also not allowed to combine employment in the civil service with a councillor's mandate, to undertake additional employment without permission of the director general or to publicly manifest their political beliefs. They are also urged to behave in a dignified manner, both within and outside the service, to preserve statutory confidential information and to develop professional knowledge. Furthermore, statutory civil servants have some additional rights such as more holidays and a higher degree of job security.²²

Besides the civil service corps members, the Polish public sector consists of 4.3 million employees. Outside the civil service corps, public employment covers staff working in schools, hospitals, universities, in the judiciary, in the armed forces or also fire fighters, policemen, self (local) government administration etc.. They either have their specific statutes, or their employment status is regulated by a specific law or by labour law.

In total, less than 20% of the total labour force is employed by the public sector.

1.2 The significance and output of social dialogue and collective bargaining

Social dialogue is a rather broad concept: it defines different forms of cooperation and interaction between the employers' and the employees' organisations, which vary in intensity, outcome, frequency, style, form and scope. The most important forms include the process of consultation on the one hand, including discussion and debate; on the other hand, the process of collective bargaining, during which social partners aim to reach collective agreements through negotiation.

A general tendency is that collective bargaining correlates strongly with contractual employment conditions, while the form of consultation takes a more significant meaning

²¹ Civil servants may however hold a position in a trade union organisation.

²² For more details, see the Act of 21 November 2008 on Civil Service.

in the context of the existence of statutory employment relationships, such as is for instance the case of statutory civil servants in Germany or also in Poland.²³

1.2.1 Germany: two completely different dialogues between employers' and employees' organisations

In the federal, neo-corporatist²⁴ German state, the political culture is characterised by consultation and/or concertation through negotiations between the employers and employees of the public sector. The dialogue culture is integrative and aims at reaching compromises, so that both sides can benefit from the results achieved. The social dialogue actors are highly organised and they tend to negotiate within the framework of national peak organisations. The role of the state is to facilitate the various processes as a so-called “manager in the middle”²⁵.

In the field of the central public administration, the two different employment statutes applied in the public sector have led to two different forms of social dialogue. All government workers, for whom the civil servants status is not applicable, have the same collective bargaining rights as their counterparts in the private sector. Thus, both, employees working in the private sector and public employees of the public sector are covered by the same act regarding collective bargaining, namely the Collective Agreements Act (*Tarifvertragsgesetz*).

As opposed to public employees employed under private labour law (*Arbeitnehmer*), statutory civil servants have no legal right for collective bargaining. The determination of their pay and of other conditions of employment is unilaterally decided by the federal parliament, which has the prerogative to determine the rights and duties as well as the remuneration of statutory civil servants.

Statutory civil servants are however allowed to participate in the development of rules, which regulate the legal status of and the conditions of employment of statutory civil servants. Civil service laws even contain provisions that oblige the government to consult with trade unions before adopting unilateral measures. Thus, the top organisations of trade unions (and professional associations) are regularly involved in the process of the preparation of the general regulations of statutory civil servants.

This participation takes the form of an information and hearing process at the federal level before any pertinent legal provisions are adopted.

²³ For more details on the social dialogue in the public sectors of the different EU Member States, see: Université catholique de Louvain, Institutional Representativeness of Trade Unions and Employers' Organisations in the Central Public Services, 2004, p.61.

²⁴ Neo-corporatism refers to a political culture, which is characterised by far-reaching processes of consultation and concertation between unions, the private or public sector and the government. A neo-corporatist culture is opposed to a pluralist culture, where the state is passive and hardly interferes in industrial relations.

²⁵ Søren Kaj Andersen, Public Sector Social Dialogue, Paper prepared for the Hungarian Phare/Twinning project, February 2003, p. 3ff.

In this same context, experts also note that differences for instance in remuneration between statutory civil servants and public employees under private labour law should not be exaggerated²⁶. Thus, the remuneration and employment conditions of statutory civil servants are adjusted to the outcome of the collective bargaining negotiations with employees and workers.

Major topics of the bargaining agenda	Topics excluded from the bargaining agenda
Predominantly topics related to pay, employment and working conditions	Topics which do not fall under the competencies of the social partners (e.g. pension insurance)

Collective bargaining rights for public employees under labour law are – compared to statutory civil servants – much more extensive and carried out according to the same procedure as in the private sector.

The output of the collective bargaining process is binding collective agreements. There is no legal obligation to reach agreements; it is only laid down in Art. 9, paragraph 3 of the Constitution, which states that working conditions can be regulated between employers and employees.

	Output of collective bargaining
Public employees (<i>Arbeitnehmer</i>)	Binding agreements
Statutory civil servants	No collective bargaining, consultation

1.2.2 Finland: the existence of extensive collective bargaining rights for statutory civil servants

In the same way as in Germany, public sector workforce can be employed in neo-corporatist Finland under an ordinary employment contract or under statutory law. In the same way, two different forms of social dialogue apply, whose rules are laid down in the *Act on Collective Agreements for State civil servants* for statutory civil servants and in the *Collective Agreements Act* for public employees under an ordinary employment contract.

Provisions also exist that are common to both types of employees, such as the act on mediation in labour disputes and the labour court act and decree, as well as stipulations for the protection of employees and stipulations regarding the representatives of employees in the public sector.

²⁶ Soren Kay Andersen, see above, p. 10.

Statutory civil servants who are representing the employer are excluded from the collective agreements (top civil servants and some others, e.g. civil servants in the Office for the State as an Employer). For this group of statutory civil servants, matters that are covered by collective agreements are effectively realised by employer decisions.

The main differences in the field of collective bargaining as regards rights, negotiation procedures and the implementation of the outcome between the private and public sector refer to the more restricted negotiable issues in the case of statutory civil servants and to the more limited right to take industrial action of the latter. Thus, some issues are excluded from the field of collective agreements for statutory civil servants, such as pensions, responsibilities and qualification requirements etc.

Issues related to the development of working life may be included. It may be agreed, for instance, to make joint development efforts by the parties.

Issues such as pensions are regulated by law and not included in the bargaining process; however, during the process of drafting legislation such as for instance on pensions, the parties and the state²⁷ consult with each other on a tripartite basis.

The results of the bargaining process are collected in one main document, entitled 'Collective Agreement of the Civil Servants and the Employees under Contract'.

Major topics of the bargaining agenda	Topics excluded from the bargaining agenda
- Pay, working hours, annual leave and other terms of employment relationships, issues related to the development of working life	- Pensions - Qualifications requirements

Moreover, collective bargaining is more centralised in the public sector than in the private sector in the sense that government agencies are automatically bound to centrally concluded collective agreements for statutory civil servants. In the private sector, an employer may be "unorganised" and thus only bound to his own agreements or only submitted to other contracts if these are decided by a body that is nationally representative.

Collective agreements concerning statutory civil servants from the central level are regulated separately for central and local government sectors.

Compared to their German counterparts, collective bargaining rights of Finnish statutory civil servants are more extensive; statutory civil servants have wide-ranging legal rights to conclude collective agreements. According to a central level agreement, it is obligatory to start a collective bargaining process concerning statutory civil servants when a party demands it. Collective bargaining may only concern the conditions of the employment

²⁷ The state is represented by a ministry, for instance the Ministry of Social Affairs and Health in the case of pensions or social benefits.

relationship and the negotiation must not necessarily have to end up with an agreement. There is no minimum duration or timeframe set for the negotiations.

Like in Sweden, a distinction is made in Finland between two types of agreements:

On the one hand, there are agreements on pay and closely related issues, which are generally limited in time (e.g. one, two or more years). During this time, a social partner is bound to follow the agreement and cannot renegotiate it.

On the other hand, there are agreements, which are in force until one of the social partners decides otherwise.

	Output of collective bargaining
Statutory civil servants	Binding collective agreements, protocols, plans of action, reports, legislation – depending on the issue
Public employees	Binding collective agreements

Depending on the issue, the output of the negotiations can be collective agreements, protocols, plans of action, reports and legislation. Collective agreements are implemented by legislation and must also be incorporated into legal acts.

1.2.3 Italy: a growing significance of collective bargaining

In comparison to Germany and Finland, Italy is characterised by a stronger “etatist” tradition, while the cooperation between the employers’ associations and the employees’ associations is weaker. The intervention of the state in labour market regulation is therefore often seen as important.

One of the most important reforms implemented under Italian legislation in the 1990s was the “privatisation” of public sector employment.

Before 1993, the public sector workforce was mostly composed of statutory civil servants. With the legislative decrees N° 29/1993 and N° 165/2001, all civil servants were “contractualised”, with the exception of a few categories, such as the police and armed forces, diplomats and prefects, State advocates and attorneys, public prosecutors, judges and university teachers. This meant that public sector employment came under the same statutory provisions as private employment: i.e. collective labour contract, civil code, Workers’ Statute, and all other legislation applying to private sector employees. Employment relations of those employees became ordinary dependent labour relations, which are distinct from private sector relations due to the fact that the employer is characterised by its public nature and by specific laws such as the Constitution, the legislative decree n° 165 of 30 March 2001, recently modified by the legislative decree n° 150 of 27 October 2009 and the annual budget law. They are thus subject to the general

provisions of the Civil Code²⁸. As is the case in the private sector, the public employment relationship of contractual public servants is grounded in civil law. Furthermore, particular provisions apply to (non-contractual) statutory civil servants, who remain bound to public law with some particularities which will be later highlighted.

Thus, only a few groups of public sector staff such as the armed forces, diplomats, judges, university professors (in total about 15% of public employees) are excluded from this ‘privatisation’ of the employment relationship and are subject to administrative law.

The changes of legislation in 1993 meant a strengthened significance of collective bargaining and a more extensive agenda of negotiations, which now also includes topics that were previously unilaterally determined by law. However, a difference with regard to the private sector is the fact that certain topics are excluded from collective bargaining such as recruitment, internal mobility and individual careers, which remain regulated unilaterally. Other differences refer to the still higher degree of regulation in general as compared to the private sector.

In certain areas, information and consultation rights prevail, whilst there is no obligation for collective bargaining.

In Italy, the right to negotiate and conclude collective agreements on the employers’ side belongs to ARAN (*Agenzia per la rappresentanza negoziale delle pubbliche amministrazioni*), an independent agency created by law in 1993. Being represented by ARAN is compulsory for all public administrations in the bargaining system.

Major topics of the bargaining agenda	Topics excluded from the bargaining agenda
Pay, rights and duties of public employees	Recruitment, promotion, internal mobility, individual careers, organisation of the offices, managerial prerogatives, assignment and removal of managers.

Since 1993, the agreements on remuneration and working conditions have binding value as such and do not need to be laid down in legislation. Thus, whilst previous to 1993, the parliament intervened in the determination of remuneration, nowadays salaries are nearly entirely in the hands of collective negotiations, within the limits established by the budget law.

	Output of collective bargaining
(Contractual) public employees	Binding agreements
(Non-contractual) statutory civil servants	No collective agreements, special forms of agreements and procedures of automatic adaptation

²⁸ The ordinary judge deals with disputes concerning labour relations.

Exceptionally, the law exempts certain categories of personnel from the collective bargaining performed by ARAN to take account of the particular nature of certain highly strategic institutional functions and their relevance to the national interest, such as security, defence and international relations.

These personnel categories are specifically identified in the law: members of the police forces (the civilian ‘Polizia di Stato’ police force, the prison police, the Forestry Corps and the military police – Carabinieri, Guardia di Finanza), the armed forces (Army, Navy and air Force), the diplomatic career, the prefect career and, since 2006, the Fire Brigade and prison governors.

From a formal point of view, the employment of these categories of personnel is not governed by a private law-type “contract”, but by a decree of the President of the Republic, which includes the substance of the agreements with the trade unions or the coordination agreements with the military representatives of the personnel.

Precisely because of the strategic nature and importance of the functions entrusted to these particular careers for the protection of the country’s strategic interests, such as security, law and order, defence and international relations, the negotiations to establish agreements with the trade unions and the military representatives – subsequently taken up in the decree of the President of the Republic – are conducted by a delegation representing the highest political tier in the public sector, more specifically: the Minister of Reforms and Innovations in public administration, in the Chair, and the other relevant minister or delegated undersecretaries (Minister of the Economy and Finance, Minister of Home Affairs, Minister of Defence, Minister of Justice, Minister of Agriculture, Food and Forestry Policies).

Because of this particular political composition of the public sector delegation (which at ARAN plays an almost exclusive technical role) in the sectors in question, there is also closer coordination between personnel policies and institutional policies. A respective example is the Security and Defence sector, which comprises all the police forces and the armed forces, and for which the current 2006-2009 negotiation round was conducted by two working groups with the trade union organisations representing the civilian police and the representatives of military personnel.

1.2.4 Poland: the predominance of consultation and the absence of forms of collective bargaining

In Poland, the public sector workforce is not regulated in a uniform way: employment conditions of staff are mainly laid down in two separate legal acts. A major distinction exists between civil service corps’ members (government administration) and all other employees who have their own regulations (e.g. the law on self-government employees, the chart of teachers rights etc.).

In great contrast to Finnish statutory civil servants, who are mostly considered as ordinary employees with far-reaching collective bargaining rights, this is not at all the

case for Polish civil service corps members (statutory civil servants and public employees).

Unlike in Finland, social dialogue in Poland at the level of the central public administration only takes place in the form of consultation. The representative trade unions and representative employer organisations are consulted before legal acts are adopted in the field of the statutory scope of the trade unions and employers' organisations tasks. The consultation procedure is compulsory and laid down by the law. According to legislation, the following rule applies in case of disagreement: if the opinion of one of the two organisations is entirely or partially rejected, the state administration must inform the representatives of the respective organisation in writing, whilst justifying their position.

The output of these consultations is, however, not legally binding; it is used as a guideline for the legislative process. Other outputs are political statements about salary and changes in regulations.

Major topics of the trilateral consultation process	Topics excluded from the consultation process
<p>In general, it can be every topic that is within the scope of competences of the trade unions on the basis of binding law issues concerning the economic and social situation as well as working conditions such as:</p> <ul style="list-style-type: none"> - Act on civil service and related acts; - Executive acts on conditions and method of carrying out of first evaluations of civil service corps members; - Benefits for the civil servants transferred to the job in different localities; - Detailed principles for description and valuation of the job positions; - Draft act on customs employees; - Remuneration for overtime work in the civil service; - Draft executive act on particular privileges for some categories of civil service corps members; - Distribution of EU funds; - Assumption of the amendments of the civil service law in the field of working hours; - Draft execution act on the rate of the basic salary in the civil service, the amount and detailed rules of awarding and paying bonuses to the basic salary. 	<p>Topics that are not covered by the competences of the trade unions.</p>

In comparison to the other three case studies, social dialogue in Poland has the least influence on the legislative process in the field of working conditions. Statutory civil servants and (civil service) public employees are not subject to collective bargaining agreements; there are no binding agreements for central government in the Polish civil service.

Compared to other fields of activities in the private sector, social dialogue in the public administration is less significant. The main institution at national level is the Tripartite Commission for Social and Economic Affairs. The Ministry of Labour and Social Policy plays a leading role in carrying out, coordinating and promoting the social dialogue through the trilateral Commission. This Commission includes the government, the trade unions and the employers' organisations. For a long time, this Commission did not include a sub-committee dealing with specific civil service problems. Social dialogue with trade unions mostly took place in the Office of the Civil Service, and after its integration in the Chancellery of the Prime Minister in 2006, during debates with the representative organisations on issues with an influence on the civil service.

A special sub-group on self-government administration employees and civil service dealing with special civil service related issues was only created in 2009 on the basis of the resolution n° 34 of the Tripartite Commission for Social and Economic Affairs. Social dialogue in the government and self-government administration thus became more significant through the introduction of this measure.

The rather informal character and the low degree of institutionalisation and formalisation of the social dialogue are characteristic for the cooperation between employers' and employees' organisations in the Polish public administration. There are however some elements of the social dialogue which will be formalised, such as the committee or council to provide permanent relations between the government and the trade unions.

	Output of collective bargaining
Civil service corps' members (statutory civil servants and (civil service) public employees)	No collective agreements
Some other public employees	Collective agreements

2 The administrative/managerial contexts of social dialogue

Research evidence²⁹ clearly shows that staff is not managed in the same way across Europe and that the practices used may vary from a pure personnel administration to a strategic HRM.³⁰ While the major task of the personnel office is in the first case to ensure compliance with the legislation, the multiple tasks of well-trained HR officers also consist of facilitating a process according to which all activities of the organisation are linked to strategy that is ‘owed’ by all employees. Most of the Member States are on their way between these two management systems. Generally speaking, it seems that in the same way as is the case with NPM, in many career systems like Germany or France strategic HR management meets “with cultural premises that differ from those in the Anglo-Saxon countries”³¹. These differences might at least partly explain why the personnel/HR function and the division of competencies and responsibilities in the field of personnel policy/HRM is not uniform all over Europe, and why there is still a distinction to be made between more administrative and more managerial systems.

These differences do have an influence on the significance, structure and output of the social dialogue. The chapter below illustrates clearly that the structure of the social dialogue correlates with the organisation of HRM: thus, in Finland, where only the general guidelines in the field of HRM are set at central level, and the managers at agency and unit level are responsible for the implementation process, social dialogue is also rather decentralised and takes place at different levels.

In contrast to Finland, the personnel management is much more centralised in Germany: thus in the fields of pay and working time policy, decentralised actors such as managers or unit heads are hardly involved. In the same way, lower levels of the public administration are hardly involved in the collective bargaining process.

²⁹ UK Presidency of the EU 2005, Report on the survey into social dialogue, p. 5ff.

³⁰ See in this context also: World Public Sector Report 2005, Unlocking the Human Potential for Public Sector Performance, Department of Economic and Social Affairs, United Nations, 2005, p.7-25; p. 69-99.

³¹ Pollitt Ch., Bouckaert Geert, Public Management Reform, Oxford University, New York 2004, p. 53.

2.1 The management of human resources and social dialogue across the European Union: from a centralised, uniform and administrative model towards a more decentralised and strategic model based on a more individualistic approach

2.1.1 Germany: towards a less uniform HRM-approach and towards a less centralised collective bargaining system

As compared to the Finnish civil service (see above), where statutory civil servants are seen as ordinary employees, statutory civil servants in Germany are mostly perceived as representatives of the sovereign state power to whom a specific mission is attributed and who must consequently be submitted to different employment conditions than private sector employees. In the field of collective bargaining this is illustrated by the fact that statutory civil servants have no right to conclude agreements, compared to private sector employees.

Against this background, personnel management in the legalist German public sector is characterised by a rather homogenous and uniform approach. Rules as regards promotion, remuneration, evaluation system, training etc. are laid down unilaterally in the statute of civil servants, which is applicable in the same way to all statutory civil servants. Although public employees ‘Arbeitnehmer’ are bound to private law, it is to be noticed that the content of their working conditions is largely aligned to the regulations of statutory legislation.

Since modernisation of the statutory regulations requires constitutional and legislative amendments, which can be time consuming and difficult to implement, this system has for a long time been relatively resistant to any changes³².

In comparison to Finland – and in general to the Scandinavian and Anglo-Saxon countries – innovative HRM practices from the private sector, or also instruments in the field of strategic HR management, are only very slowly entering the sphere of the public sector and are only slowly changing the public employment relationship based on a the specific bond of loyalty between the statutory civil servant and the state employer. At the level of the central public administration, personnel management has thus for a long time remained largely administrative and untouched by the market-oriented doctrine of NPM. In this same logic, the HR management practice has never shifted from personnel management by *hierarchy* to HR management by *contract*, as strongly emphasised by the NPM philosophy.

In the field of personnel policy, the possibilities of heads of units, directorates and general-directorates to recruit, dismiss, reward, promote and motivate their staff are framed by uniform, statutory regulations and superiors in Germany; in general they do not have the same tools and instruments to manage their personnel as is the case in

³² However, there are of course also other reasons for this change resistance.

countries where employment relationships are much more decentralised and based on a contract, such as in the UK or in some Scandinavian countries.

A good example for such a rule is, for instance, the uniform salary system according to a grading system, which is fixed in the status of civil servants.

The supreme authority as regards personnel management belongs to the Minister of the different departments.

Which of the following actors are involved in the decision-making of the different fields of HRM, and to what extent?

(4 = not at all involved; 3 = exclusively involved; 2 = involved to a certain extent with another actor).

	Central coordination authority/ministry at the central government level	Minister of a ministry/agency	Manager of a ministry/agency	Manager at a lower level
Pay	2	2		
Performance-related pay	2	2	Only individually	Only individually
Recruitment	2	2	2 (individual decision)	2 (individual decision)
Health and Safety at Work	2	2	2	2
Working Time Arrangements	2	2		

The recent changes in legislation³³ as regards the remuneration, career and evaluation system, which put a stronger emphasis on performance and result-orientation through the introduction of performance-related pay and target agreements, underline a trend towards a more differentiated, decentralised and flexible HRM. This reform has led to a more extensive delegation of HR responsibilities and competencies to HR units of line ministries.

In this field, small differences such as for instance in the field of performance-related pay³⁴ or longterm-time accounts persist between statutory civil servants and public employees. As explained more extensively above (see under 1.1.1.), the fact that

³³ These changes focus on the introduction of different career paths, a new remuneration system, the introduction of performance-related pay etc. For more information on this topic, see the new civil service law of 2009 (Dienstrechtsneuordnungsgesetz).

³⁴ Rules with regard to performance related pay are laid down for public employees in the collective agreement and for statutory civil servants in the new civil service law. The possibility of longterm-time accounts only exists for statutory civil servants.

sometimes public staff with different employment rights and status is fulfilling the same function has so far not led to major discussions in Germany.

Collective bargaining in the German public sector is rather uniform and centralised (see under 1.2.1.); although a certain trend towards fragmentation and decentralisation can be observed in the same way as is the case in the field of personnel policy.

Until 2000, collective bargaining of public employees took place in a rather centralised system: the agreements reached by the social partners covered all public employees at central, regional (*Länder*) and local level.

In that framework, the public employers' collective bargaining association was composed of:

- The Ministry of the Interior (Representative of the central public administration)
- The Bargaining Association of the German Länder, TdL (Representative of the regional level)
- The Municipal Employers' Association (Representative of the municipalities)

This bargaining association was formed after World War II in order to guarantee uniform working conditions in all the German *Länder*.

Who represents the state employer at the level of the central public administration?	What is the mandate of the central state employer?
Ministry of the Interior & municipal employers' association	All statutory civil servants and public employees of the direct and indirect administration as far as the collective bargaining law is applicable

Against the background of tighter and more limited state budgets and after some dissatisfaction of certain *Länder* with some agreements, the association of the *Länder* left the bargaining association after some internal conflicts³⁵. Since then, they negotiate separately with trade unions.

Since then, the federal authorities, represented by the Minister of the Interior constitute a bargaining committee with the municipal representatives for the employer side. There is thus no division between the local and federal state government sectors³⁶.

At the level of the central public administration, the main actor on the employers' side is the Ministry of the Interior, whereas the Minister of the Interior himself leads the

³⁵ Keller Berndt, see above p.82.

³⁶ Soren Kay Andersen, see above, p.9.

bargaining unit during negotiations and must approve collective agreements.³⁷ In this sense, he plays an important role in this process. Agreements in the field of remuneration cover all different groups of public employees of the central public administration in the same way.

In general, agreements contain regulations, which are valid for all public employees covered by the agreement, whilst they also include special regulations for the public employees of the different sectors (hospital sector, education etc.).

In contrast to public employees ‘Arbeitnehmer’, statutory civil servants have their pay, as well as all other employment conditions, determined by unilateral regulation as prepared by the Ministry of the Interior. During the consultation between the government and the trade unions, the Ministry of the Interior – as main actor on the employers’ side – acts much more in this role as a political authority than as a government employer.

Since the breakdown of the bargaining association in 2003, collective bargaining in Germany is – as in many EU Member States – characterised by a trend towards decentralisation and fragmentation. It can moreover be noticed in this context that decentralisation of HRM and social dialogue is to a certain extent also encouraged by the introduction of an increased number of service agreements (‘Dienstvereinbarungen’) at ministerial or agency level and in the framework of the implementation and concretisation of centralised agreements (as regards for instance the content and design of evaluation forms). In the same way, the introduction of performance-related pay promotes the delegation of HR responsibilities to lower levels of administration.

The involvement and role of the different actors on the employer side in the collective bargaining process

Minister of the Interior	The Minister of the Interior leads the negotiations at the central public administration level
Relevant department in the field of social dialogue within the Ministry of the Interior	The relevant department in the field of social dialogue is responsible for the preparation and the implementation of negotiations

2.1.2 Finland: a decentralised strategic HRM correlates with a partly decentralised social dialogue

Among the four case studies, the management/HR system³⁸ of the Finnish position system is strongly influenced by NPM concepts that are closest aligned to practices used

³⁷ The following publication provides a useful comparison of different government employers in the EU Member States: Nomden Koen, Labour Relations in the Belgian, French, German and Dutch Public Services, Paper presented to the permanent group on personnel policy of the annual conference of the European Group of Public Administration, Vaasa, 5-8 September 2001, p.11ff.

³⁸ Bertelsmann Foundation, Ministry of the Interior, Strategic Management for the State, International Approaches in Comparison, Bertelsmann Foundation 2007, p.20ff.

in the private sector. The far-reaching similarities of working conditions in both sectors are also well illustrated by the fact that staff mobility is easier in the Finnish public sector than in many of the career systems – although it is in practice rather limited.

The openness of Finland to NPM concepts has since the 1990s led to a shift from a static, bureaucratic model towards a more market-oriented, contractual-based model of management. In the field of personnel policy, this transition went hand in hand with a more flexible, professional, pro-active, decentralised and strategic HRM³⁹; while the main goal has been to make full use of personnel and resources in the same way as in the private sector⁴⁰.

Contrary to Germany, where the public sector is considered as a distinct employer characterised by its own rules and employment conditions, the public sector in Finland is mostly considered as an ordinary employer among others on the national labour market.

The substantial reforms of the 1990s, which aimed to increase productivity, efficiency and result orientation, were followed by a modern, innovative and performance-oriented HRM policy. Major characteristics of this “renewed” HRM are a stronger focus on individual job performance, individual pay and competencies. As compared to Germany Italy and Poland, the Finnish public sector went very far in terms of differentiation, individualisation and decentralisation of employment conditions (e.g. appraisal system, performance-related pay), as well as regarding the abandonment of the classical administrative model, characterised by a control and compliance oriented approach and a pure administration of personnel.

In the Finnish public sector, most HR responsibilities and competencies are not only managed at the level of the central public administration, but are delegated to a rather large extent to the HR units of line ministries or agencies. Thus, line managers mostly have responsibilities in the field of performance management, performance-related pay, career development and training issues and dismissal of employees. However for some of the HR responsibilities such as recruitment, codes of ethics, decisions on disciplinary procedures or head count reductions, the line minister is also involved⁴¹.

³⁹ See in this context the Government Decision in Principle on State Personnel Policy Line, Helsinki 2001.

⁴⁰ Tiihonen Seppo, From uniform administration to governance and management of diversity, OECD 1999, p. 18.

⁴¹ Demmke Ch., Decentralisation and Accountability as focus of public administration modernisation, Study carried out under the Austrian Presidency, EIPA Maastricht 2006, p. 62ff.

Which of the following actors are involved in the decision-making of the different fields of HRM, and to what extent?

(4 = not at all involved; 3 = exclusively involved; 2 = involved to a certain extent with another actor).

	Central coordination authority/ministry at the central government level	Minister of a ministry/agency	Manager of a ministry/agency	Manager at a lower level
Pay	2 Set up of guidelines for the salary system	2 Minister of Public Administration signs the agreement	2 Set up of pay strategy of the agency	2 Pay based on the appraisal of the performance of the individual employee
Performance-related Pay	2 (see above)	4	2 (see above)	2 (see above)
Recruitment	2 Set up of legislation and general guidelines	2 Minister nominates his/her candidates for the top civil servant posts, for approval by the government	2 Recruitment strategy, recruitment of the next layer of managers	2 Recruitment of employees in his/her unit
Health and safety at work	2 (see above)	4	2 Set up in the whole agency	2 Set up in his/her unit
Working time arrangements	2 Set up of guidelines, bargaining at the central level	2 Minister of Public Administration signs the agreement	2 Set up of working time strategy of the agency	2 Set up of working time arrangements of individual employees within the agency strategy

As a general rule, one can say that the management of HR lies with each government's department or agency; while the framework and the right conditions for the operational environment is set at central level. Thus in the field of pay for instance, each government agency has its specific pay system, which is designed according to uniform common principles that are set at central level. Each pay system builds on sector-specific agreements, while pay consists of a job-specific component based on the complexity of the job and an individual pay component based on the performance and competence of the employee (<http://www.vm.fi>).

The main actor of collective bargaining on the employers' side is the 'Office for the Government as Employer' (a department within the Ministry of Finance), which covers

staff at central, regional and local public level (in total some 120 000 employees). There is a certain trend towards a fragmentation of collective bargaining arenas. As of 1 January 2010, universities will no longer be included in the state budget administration; they have established an employer organisation of their own and joined the private sector employers' central organisation, the Confederation of Finnish Industries. Universities employ some 30 000 employees.

At the local level, it is the Commission for Local Authority Employees, which has the bargaining mandate for the municipalities. The municipalities are responsible for the majority of local administration and they employ some 430 000 employees. The Commission represents the municipalities in the negotiation process with trade unions on remuneration and working conditions and is the competent authority to sign the collective agreement.

Who represents the state employer at the level of the central public administration?	What is the mandate of the central state employer?
The <i>Office for the Government</i> as Employer (a department within the Ministry of Finance)	The <i>Office for the Government</i> covers all state employees (statutory civil servants and public employees) on central, regional and local level

In the field of pay negotiations, the Office for the Government as Employer operates according to the strategies and decisions of the Government and the Ministry.

Collective bargaining is centralised/ decentralised and takes place at different levels such as is the case with the management of HR and involves a wide range of actors from central level to agency level.

<p>The combined agreement at central level, the Collective Agreement for State Civil Servants and Employees under Contract, is agreed by the Ministry of Finance/Office for the Government as Employer and the three representative unions, JUKO, Pardia and JHL. The agreement comes into force once it has been approved by the government. If the agreement involves additional expenditure, it has to be forwarded for approval to the Parliamentary Finance Committee. This central agreement sets the overall cost framework and contains provisions on terms of service for central government as a whole and any negotiation and review clauses.</p> <p>Agency-specific collective agreements are handled by the agencies and the unions at agency level. There are around a hundred agency-specific collective agreements for statutory civil servants, and around seventy for public employees under contract.</p>

The involvement and role of the different actors on the employer side in the collective bargaining process

Government	- The government as a whole follows the general labour market situation and may or may not intervene. During recent negotiation rounds, the government remained in the sidelines.
Minister of Public Administration	- The Minister of Public Administration is consulted and also signs the central agreement.
Director-General	- The Director-General has the mandate to negotiate the collective agreement at central level. He consults with the Minister of Public Administration (in the Ministry of Finance) and receives the authorisation to conclude the agreement.
Minister of Finance	- The Minister of Finance has to approve the financial costs relating to the agreement as they need to be included in the national budget.

At agency level, negotiations are held and agreements made on the basis of the central agreements. These types of negotiations are normally pursued between heads of administration/personnel and local trade unions. The agency-level agreements have to be approved by the Ministry of Finance.

In view of an optimal coordination of the different interests on the employers' side, the 'Office for the Government as Employer' consults regularly with a number of consultative bodies in order to form the joint employer view. These include the *Board of State Personnel and Employer Policy*⁴² and *employer groups*⁴³.

As regards the role of the Office for the Government, one potential conflict of interest arises from a kind of double role of the Office representing the state operating units in the negotiations at central level and, on the other hand, as a department of the Ministry of Finance. In preparation of the negotiations, the viewpoints of the operating agencies are collected and discussed jointly. Differences mainly appear between those which receive part of their financing from the market and those which receive it from the budget; therefore, the trend has been towards more local negotiating. Nevertheless, the Office for the Government needs to coordinate the different positions. This is being done through close contacts with the units, both bilaterally, in different groupings of the units, and collectively with them all together. Through this coordination, a joint state employer view is being formed.

2.1.3 Italy: the introduction of a more managerial approach in the field of HRM and collective bargaining

In the same way as in Germany, the public administration system in Italy was traditionally characterised by a classic, rule-oriented personnel management. Provisions

⁴² The Board represents secretaries general of the ministries and directors general of the agencies.

⁴³ They represent heads of administration or personnel of ministries and agencies.

with regard to recruitment, promotions, salary as well as other working conditions were unilaterally determined by the state employer and were laid down in detailed laws, regulations, codes and contracts, while modernisation efforts took place by finding a new balance in the system by redefining existing laws, regulations and guidelines⁴⁴. In this system, the leeway of heads of units, directorates and general-directorates to manage and supervise their staff and to control financial resources was rather limited. All questions regarding the link between the organisation and personnel were decided and defined by law. The dominant culture in which the statutory civil servant worked was mostly more administrative/legalistic/input-oriented.⁴⁵

This system, which was distinct from management/HRM systems in the private sector, has been increasingly changed since the reform of 1993, which aimed towards introducing labour competitiveness and market orientation, as well as more professional management with a clearer separation between political and administrative responsibilities. In the field of personnel management, major changes of the NPM inspired changes include the following⁴⁶: firstly, decentralisation of responsibilities for HRM from central government to line ministries/agencies; and within the different organisations the devolution of competencies to line managers. Each organisation can determine its own career paths and system of evaluation. Top civil servants are held more responsible and accountable for achieving measurable results by the introduction of management by objectives; the remuneration system was designed in a more flexible way to allow a greater differentiation between staff (broad-banding system with 3-4 categories) such as is the case in the private sector.

With regard to the centralisation/delegation of HR responsibilities, Christoph Demmke⁴⁷ arrived at the following results for Italy. His research shows in general a rather strong involvement of central units ministry-wide in HR issues (also in comparison to Germany, Poland and mainly Finland); while line management only has a few decision-making rights. Thus, top officials do not assume considerable responsibilities for HR topics as compared to other EU Member States; while line ministers in Italy and also in other career systems do assume more competencies than in position systems. However, law decree N° 150 of 2009 has considerably reformed public sector employment, especially the role and the responsibilities of its management. This reform envisages the decentralisation of human resource management. It includes an increased role of managers in the organisation, management, performance evaluation, awarding and reprimanding of the staff under its supervision. This increased role is accompanied by greater responsibility of the supervisor.

⁴⁴ Farnham D., Horton S., *Human Resources Flexibilities in the Public Services, International Perspectives*, Palgrave MacMillan 2000, p. 136.

⁴⁵ See also on the Italian Administrative Reform, Meneguzzo Marco, Mele Valentina, *Designing and Implementing Innovation Policy in the Public Sector, The Italian Experience*, Presentation to the Sixth International Research Symposium on Public Sector Management, Edinburgh, Scotland, 8-10 April 2002.

⁴⁶ Literature on this topic includes the following: Dell’Aringa C., Della Rocca G., Keller B., *Strategic choices in reforming public service employment*, Palgrave 2001, p. 24ff; Ruffini R., *Employment flexibilities and the new people management in Italy*, in: Farnham D., Horton S., see above, p. 138ff.

⁴⁷ Demmke Chr., Hammerschmid G., Meyer R., *Decentralisation and Accountability*, EIPA, Maastricht 2006, p. 64ff.

In Italy, collective bargaining is more centralised in the public sector than in the private sector. The centralisation refers mainly to the fact that on the employers' side, all public administrations in the bargaining system are obliged to be represented by ARAN (*Agenzia per la rappresentanza negoziale delle pubbliche amministrazioni*), the body which represents the employers' interests in the negotiations, and also at the level of local and regional government. Thus ARAN is the main actor in the majority of national negotiations. Negotiations take place in separate rounds with the most representative trade unions.

Who represents the state employer at the level of the central public administration?	What is the mandate of the central state employer?
The Agency for the Representation of Public Administration Negotiation (ARAN)	ARAN is the representative Employer for all negotiations at central level

A certain trend towards a fragmentation, differentiation and decentralisation of collective bargaining is characterised by the division of the public sector into 4 sub-sectors for employees and 4 for managers. Each of these sectors comprises sectoral committees, which must be informed and consulted by ARAN during the process of negotiations.

The legislative decree N° 150 of 27 October 2009 has modified the composition of the ARAN as follows: a President appointed by a decree of the President of the Republic upon a proposal of the Minister of Public Administration and Innovation and an executive committee composed by four members. Two of them are appointed by decree of the President of the Council of Ministers: the associations of regional and local governments are represented by other two members. The regional representative is designated by the Conference of Presidents of the Regions, while the municipal representative is designated by the association of the Italian municipalities and provinces.

The main actor on the employers' side is ARAN, a technical agency, which carries out collective bargaining for the public sector based on guidelines provided by the sector committees and by the Prime Minister who is involved as a representative sector committee for the administrations and autonomous state agencies.

The involvement and role of the different actors on the employer side in the collective bargaining process

The Agency for the Representation of Public Administration Negotiation (ARAN)	ARAN is responsible for the negotiation of collective agreements on the basis of guidelines provided by the sector committees.
Sector Committees of the collective bargaining arena	Sector Committees must give their final approval to the agreement

As regards pay, most decisions are taken centrally, while bargaining at the decentralised level must remain within the financial limits determined at national level by the budget financial platform. Limited possibilities do exist to negotiate additional financial resources. Since the adoption of a law in 1997, however, the extent of bargaining of individual administrative units has been extended in the sense that they have more possibilities to decide on their own resources within their budget constraints. In this same vein, one objective of the ‘contractualisation’ of employment relationships in 1993 was to encourage a greater differentiation and individualisation of remuneration, which was previously rather uniform⁴⁸.

The negotiations take place within a budgetary framework laid down by law, which is determined at the central political level.

Considering the recent adoption of the new legislative decree n° 150 of 27 October 2009, the main aspects of this reform on the optimisation of productivity in the field of public labour and of the efficiency and transparency of the public administrations are as follows: the focus of the reform is the selective attribution of economical incentives in order to reward the more competent and worthy employees. Thus, there is a turnaround compared to the general tendency of the past decades to distribute benefits to everybody.

The decree sets a series of new principles which can only partially be removed by the collective agreements: e.g. only a maximum 30% of employees in each administration can take advantage of extra benefits in the highest amount foreseen by the agreements, with only 50% of the resources destined to the extraordinary remuneration.

Furthermore, there are some additional rewards for excellent performance and for innovative projects: meritocratic criteria for the economical progressions; the possibility for the best employees to be admitted to a high level training.

2.1.4 Poland: social dialogue and personnel management in a context of change

During the last decade, the Polish HR/management system has been in a continuous process of change and reorganisation⁴⁹, and has been strongly influenced by the French model of administration. Major objectives of this change process include the development of a professional, apolitical civil service, the promotion of a professional integrity and the modernisation of the management of personnel through a more coherent and structured approach, as well as a modern Civil Service Act. The Polish public administration, which is a mixed system, builds upon the classical Weberian principles of

⁴⁸ Dell’Aringa Carlo, della Rocca Giuseppe, Keller Berndt (Ed.), see above, p. 60ff. Soren Kay Andersen, see above, p. 11ff.

⁴⁹ Bouckaert Geert, Nemec Juraj (Edit.), Public Management Reforms in Central and Eastern Europe, NISPACEE 2008.

bureaucracy⁵⁰, while some elements of NPM are increasingly incorporated in the current system. However, this transition has never gone so far as to jeopardise the orientation towards rules and procedures, which remains a dominant trait.

Currently, reform efforts in the field of personnel policy focus on an improvement of managerial competencies and on efforts to introduce common management standards in the whole public administration. Personnel policy of statutory civil servants illustrates characteristics, which are typical both for career systems, such as the trend towards a rather uniform personnel policy and for the position system. However, there are also differences in the field of salaries in the different institutions, in the same way that a diversified approach has been adopted between the nominated civil servants and the remaining staff in the administration.

In the field of management of personnel, the central government unit – the Chancellery of the Prime Minister – plays a key role. This body is in charge of the management processes in the civil service such as recruitment and training. Other competencies include the co-organisation of competitions for high level posts and the preparation, proposal and amendments of legislative acts in the field of civil service, as well as the supervision of the National Public Administration School.

Which of the following actors is involved in the decision making of the different fields of HRM, and to what extent?

(4 = not at all involved; 3 = exclusively involved; 2 = involved to a certain extent with another actor).

	Central coordination authority/ministry at the central government level (e.g. Head of Civil Service)	Minister of a ministry/agency (e.g. Head of Chancellery)	Manager of a ministry/agency (Director General of the Office)	Manager at a lower level (Director or Deputy Director of the Department)
Pay	2	4	To a large extent	2
Performance-related pay	2	4	2	2
Recruitment	2	4	To a large extent	2
Health and safety at work	2	4	2	2
Working time arrangements	2	4	2	To a large extent

⁵⁰ Classical Weberian principles are: clear systems of supervision and subordination, rule-based approach, clear vertical line of command, specification of jobs etc.

There is a trend to decentralise the responsibility to carry out personnel policy to director-generals or to those offices that are directly subordinated to the relevant Minister.

Social dialogue is rather centralised at the level of the central public administration; consultation takes place at the level of the Chancellery of the Prime Minister.

The main organ, in which consultation regarding the public administration (government and self/local government) is taking place, is the sub-group on self-government of administration employees and civil service, which functions under the Tripartite Commission for Social and Economic Affairs. Its main goal is to work out and to agree on topics such as the remuneration system, performance appraisals, job evaluations in particular, as well as the rules concerning labour law and the functioning costs. The sub-group is composed of 14 members: 4 representatives of the government; 2 representatives of the self-government administrations; 10 members of the trade union organisations; and 1 member of one of four representative employers' organisations in Poland (Business Centre Club – Employers' Union).

The involvement and role of the different actors on the employer side in the collective bargaining process

Ministry of Labour and Social Policy	This Ministry plays a leading role in supporting, coordinating and promoting the social dialogue in general. It provides the service to the Tripartite Commission for Social and Economic Affairs, which is the most important organ in the field of social dialogue in Poland.
Chancellery of the Prime Minister	The sub-group on self-government administration employees and civil service, which functions under the Tripartite Commission, is chaired by the Head of the Civil Service in the Chancellery of the Prime Minister – the representative of the government appointed by the Chair of the Tripartite Commission. The sub-group deals inter alia with specific civil service issues. It is composed of the employers' and employees representatives, as well as the representatives of the government and self-government.

The sub-group is chaired by the representative of the Government appointed by the Chair of the Tripartite Commission, the head of the Civil Service in the Chancellery of the Prime Minister.

3 Conclusions: differences and similarities in the field of social dialogue at the level of the central public administration

In the European Union, the national public administrations are on the one hand embedded in different legal, cultural and administrative contexts, and on the other hand they have to cope with different economic and political reform pressures; in the European Member States this has led to different reform agendas – although common challenges and trends can be observed.

These reform processes, the dynamics of which vary, but whose direction is similar (privatisation, differentiation, decentralisation, individualisation), do have an impact on the significance, structure and output of the social dialogue/collective bargaining at the national level across the EU 27.

3.1 Key similarities

As for the similarities, this report illustrates the following common trends in the four central public administrations:

- The significance of social dialogue/collective bargaining in the central public administration tends to increase further. The Finnish public administration has for a long time been characterised by a very developed social dialogue and far reaching rights in the field of collective bargaining; meanwhile in Poland, a slow formalisation of social dialogue in the public sector can be observed. In Germany, there is a clear trend to recruit more employees than civil servants, which will further promote social dialogue. In Italy, the contractualisation of public employment has led to an increased significance of social dialogue/collective bargaining for most of the public workforce. In the end, the report illustrates that for more and more public sector staff, most of the employment rules are no longer regulated by law, but are determined by collective bargaining.
 - In contrast to collective bargaining in the private sector however, the countries analysed display a trend to exclude certain topics from the bargaining agenda, such as pensions and qualification requirements in Finland or recruitment, promotion and internal mobility in Italy.
- Except for Poland, there appears to be a certain move towards a privatisation of the employment relationship and a slowly growing significance of the contractual relationship, which is in parallel to the strengthening of the rights of public employees to negotiate collective agreements. It must however be underlined in this context that the content of the contractual relationship of public employees tends to differ from the one applied in the private sector. In this sense the rights and duties of a contractual employee in the public administration are not per se identical with those of a contractual employee working in the private sector.

Most of the countries are also characterised by the existence of a group of statutory civil servants with no bargaining rights.

Furthermore, a slow move towards a fragmentation, sectorisation or decentralisation of the social dialogue can be observed. In Germany, for instance, the representatives of the regional level, the *Länder*, left the centralised bargaining association and have since then been negotiating separately with trade unions. In Finland, the universities have established an employer organisation of their own and have joined the private sector employers' central organisation. In Italy, the public sector has been divided into four sub-sectors for employees and four for managers.

Moreover, in all four countries differences with private sector practices in this same field continue to exist: Differences persist as regards rules governing social dialogue in the public and in the private sector as well as with regard to the right to strike and employment security.

To conclude this section, we can observe in the four countries mainly the following similar trends: First the structure of social dialogue tends to become more decentralized and fragmented; second, the significance of social dialogue tends to increase through a growing number of public sector staff, which is subject to collective bargaining, third, its output is in most of the cases of binding nature; fourth, its organisation is characterized in all four countries (even in the decentralized States) by a quite important role of the central state employer. Thus, the decentralisation move never goes as far as is the case in the private sector. Also in decentralized public sectors such as is the case in Finland, the decentralized agreements need approval from the centralized level before they become valid.

3.2 Major differences

A deeper study of the different countries, although, reveals that these common trends must be nuanced, that they are not uniform and do not justify speaking of the emergence of a "European Administrative Space". Each country is characterised by its very specific management system and system of social dialogue, which clearly differ from other national central public administrations.

With regard to the differences, the following nine major distinctions in social dialogue across the four selected countries relate to:

- the management system, in which the social dialogue takes place;
- the size of the public workforce, which has collective bargaining rights;
- who represents the state employer;
- the involvement and role of the different actors as well as the actors involved in general;
- the degree of decentralisation of collective bargaining;
- the agenda of social dialogue;

- the topics excluded from the bargaining agenda;
- the binding/voluntary nature of the output;
- the division of bargaining arenas.

A comparison of the four countries – Germany, Finland, Italy and Poland – illustrates, that the employment system and HR management system, in which the social dialogue is operating, has an impact on the significance, structure and output of the dialogue.

Germany:

- In the career system of Germany, there are substantial differences between public and private employment, such as is underlined for instance by the high level of job security of civil servants, or also by their remuneration, career structure and the conditions for access to the civil service etc. All these employment rules are laid down in a statute that must be approved by the parliament. The rules are rather detailed and only leave a small leeway of interpretation for the superiors in the field of management; employment practices are standardised and traditionally the same for the entire staff.
- Traditionally, the level of mobility between the public and the private sector is also rather low.
- In the field of management, personnel administration was for a long time characterised in the legalist German culture by a homogenous and uniform approach. At the level of the central public administration, personnel management has for many years remained largely administrative and untouched by the market-oriented doctrine of NPM. Only since recently, has a more dynamic, strategic HRM evolved, with a stronger focus on the individual performance and an increased delegation of HR responsibilities to HR units of line ministries. However, the table on the division of competencies in the field of HRM (under 2.1.1.) also shows that the degree of delegation is rather low as compared to Finland.
- Civil servants in Germany are managed differently from private sector employees. In the same way, collective bargaining is distinct in the private and public sectors. In contrast to their counterparts in the private sector, civil servants have no legal right for collective bargaining.
- Only public employees (Arbeitnehmer)⁵¹, who constitute a little more than half of all public employees and who are submitted to labour law, can conclude binding agreements.
- The collective bargaining process is – similarly to the management of personnel – rather centralised, while the bargaining agenda focuses very strongly on pay and working conditions.
- The main actor involved in the social dialogue is the Minister of the Interior, who leads the negotiations at the level of the central public administration. The

⁵¹ Although, it is to be noted that their working conditions, which are largely aligned to the regulations of statutory legislation, are different from those of private sector employees.

relevant department in the Ministry of the Interior is responsible for the preparation and the implementation of the negotiations.

Finland:

- In the position system of Finland, the employment conditions and the HR management system are very similar to those in the private sector. Statutory civil servants are mostly governed as ordinary employees. There are thus hardly any obstacles to statutory civil servants moving between the public and the private sector. In contrast to many career systems, Finnish civil servants do not have a lifelong employment relationship.
- In the field of management, Finland has for a long time been influenced by NPM concepts and is characterised by a rather advanced strategic HRM. The management system furthermore illustrates a far-reaching individualised approach to HRM, which focuses on individual job performance, performance-related pay schemes and competencies.
- HRM is also rather decentralised and lies to a considerable extent with each government's department or agency; whilst the framework for the operational environment is set at central level.
- As is the case in the private sector, most of the public sector workforce has wide-ranging legal rights to conclude collective agreements, which must be implemented by legislation. In the same way as is the case with the management of HR, which takes place at different levels, collective bargaining also involves different actors and is rather decentralised. Agency-specific agreements are handled by the agencies at agency level on the basis of the central agreements.
- The main actor in the context of social dialogue is the Director-General, who has the mandate to negotiate the collective bargaining at central level; while the Minister of Public Administration is consulted and signs the central agreement. The bargaining agenda is rather extensive and includes the possibility to jointly agree upon protocols, plans of action, reports etc.

Italy:

- In the mixed Italian system, the employment conditions of statutory civil servants have been through a substantial change process. In 1993, a decree determined that the great majority of public sector staff would be submitted to common labour law and employed on the basis of a contract. This privatisation of the employment relationship meant for instance that the whole area of rule-making has since then been implemented by national collective agreements. This transition meant a substantial change of culture from a hierarchical, legalistic, rule-bound career system, whose working conditions are distinct from those in the private sector, to a more 'privatised' system based on a dialogue between the representatives of the employers' and employees.
- Since the change of the employment status in 1993, social dialogue has also changed. The contractualisation of public employees has led to a strengthened significance of collective bargaining and a more extensive agenda of negotiation, which also includes topics previously determined unilaterally by law. The

agreements have binding value as such and do not need to be laid down in legislation.

- In the field of human resources, the management responsibilities are characterised by a rather large involvement of central units on a ministry-wide basis, while line management has only a few decision-making rights. In comparison to career systems, line ministers are also more involved in the Italian case study.
- Likewise, collective bargaining is rather centralised. The main actor representing the employers' side in nearly all negotiations is ARAN (Agenzia per la rappresentanza negoziale delle pubbliche amministrazioni), a technical agency, whose membership is compulsory for all public administrations. ARAN carries out the negotiations based on guidelines provided by the sector committees and by the Prime Minister who is also involved in these committees.

Poland:

- In the mixed Polish system, there is a small corps of statutory civil servants who work under employment rules, which are different from those applied in the private sector. The other overwhelming majority of public administration employees are governed either by a specific statute or their employment status is regulated by a specific law or by labour law.
- Personnel policy is rather centralised at the Chancellery of the Prime Minister, who is in charge of the different management processes in this field.
- In the field of management, there is a trend to decentralise the responsibility for implementing personnel policy to the Directors-Generals of the Offices.
- Statutory civil servants and public employees do not have collective bargaining rights; the representative organisations must however be consulted before legal acts are adopted. However the output of this consultation is not legally binding.
- As is the case with personnel management, social dialogue is rather centralised; consultation takes place at the level of the Chancellery of the Prime Minister. Major topics of the consultation process include acts or draft acts in the field of civil service law and issues linked to remuneration and working conditions.
- The main actors of social dialogue are the head of the Chancellery of the Prime Minister, the Ministry of Labour and of Social Policy, the Head of the Civil Service in the Chancellery of the Prime Minister and the sub-group under the Tripartite Commission for social and economic affairs.

The report has clearly shown that the concept of 'social dialogue' carries a different meaning and status in the four EU Member States – as is already illustrated by the different **union density rates**. While in Finland 85% of statutory civil servants and public employees are members of a trade union organisation, in Poland only 3% of staff have joined such an organisation. In Germany, this percentage amounts to 40-55%.

In the same way as the union density rates differ widely, so too vary the **topics negotiated** by social partners. In Germany and Poland, major topics of social dialogue refer to classical issues related to pay, working conditions and the rights and duties as laid down

in the civil service law; meanwhile, the bargaining agenda of Finnish social partners is wider and also includes “softer” topics related to the development of working life, annual leave etc.

These differences in terms of the negotiation agenda are to a certain extent linked to the role and policy played by the state employer in the four systems. Thus the report – and particularly the chapter dealing with the HR management systems – has revealed that the principles of personnel/HRM differ widely between Finland, where HRM is managerial, market-oriented and strategic, rather than in the private sector and Germany or also (partly) Poland, where personnel policy remains quite standardised and uniform in comparison to most position systems – although, all the countries have to deal with similar challenges such as stress, financial pressures etc. Italy, however, seems to be on its way between the two systems.

The following table describes the two basic models according to which employment, HRM and social dialogue are managed. Most of the EU Member States lie somewhere between these two management systems.

Employment, HR management and social dialogue at the level of the central public administration

	Career system	Position system
Employment status	Statutory	Contractual
Determination of employment conditions	Unilateral	Collective bargaining
Employment policy	Two separate employment spheres	Alignment with private sector
Management system	Administration/management of Personnel	HRM/strategic HRM
Tasks/function of HR departments	Administrative, compliance oriented (with law)	Linkage of HRM to business operations; development of performance measures
HRM management	Uniform, centralised	Individualised, flexible, decentralised
Style	Legalistic	Managerial
Employment relationship	Paternalistic	Rational
Actors involved in social dialogue	Political, administrative	Administrative, (political)
Structure of social dialogue	Centralised, uniform	Decentralised, differentiated
Form of social dialogue	Information, consultation	Collective bargaining
Topics of consultation/ bargaining agenda	Limited (pay, working conditions)	Wide
Output of social dialogue	Voluntary collective agreements, political commitment	Binding agreements

As is moreover shown in the report, the **status of social dialogue** is not the same in the four countries. In Poland, where employees' representatives are only consulted and where civil corps members are not allowed to participate in strikes, the role of social dialogue is quite weak. Comparing the four case studies reveals that social dialogue has a very strong position in the Finnish public sector, where public employees as well as statutory civil servants have far-reaching rights to start negotiations, and where both groups of staff negotiate binding agreements about a wide range of "hard" and "soft" issues at the different levels of government.

In Germany, the status of social dialogue is very ambivalent in the sense that it takes a different meaning for the two groups of staff. While social dialogue is of high relevance for German public employees, whose negotiation rights are laid down in the same Collective Agreements Act as is the case for private employees, it takes place on a purely consultative basis for the statutory civil servants.

In Italy, the status of social dialogue has substantially changed since the 1990s, when the great majority of public sector staff gained the right to conclude collective agreements.

A final striking difference between the four countries relates **to where the mandate of the Employer is located**: thus in Finland it is a department within the Ministry of Finance that is responsible for the employers' policy and for social dialogue; in Italy it is a technical agency that acts as employer; in Germany it is the Ministry of the Interior plus two bargaining associations; and in Poland it is the Chancellery of the Prime Minister that acts as employer, whilst the Ministry of Labour and of Social Policy plays a leading role in supporting and coordinating the social dialogue.

The different institutional arrangements in the four countries as well as the different political administrative cultures have an impact on the involvement and role of the different actors in the process of collective bargaining. The report (see tables under 2.1.) has established that it is mostly politicians that play a role in the process of bargaining, although, their roles do differ. While in Germany, the Minister of the Interior leads the negotiations, in Finland the political level (the Minister of Public Administration) is only consulted, whilst the Minister also signs the agreement. Generally, politicians play a role in the formal conclusions of the social dialogue, while they often sign the official agreements. However, a distinction must be made between countries where politicians are largely involved in the process, countries where politicians only play a marginal role, and countries where they are not involved at all⁵².

As compared to Germany, Finland and Poland, Italy is in this regard a special case. In this country, an independent, technical agency – ARAN – acts and negotiates for the employer on the basis of guidelines of the public administrations from the different administrative levels, and for whom representation within ARAN is compulsory.

⁵² Such as is the case for Sweden. See more on this topic, European Institute of Public Administration, 2000, see above, p. 24ff.

The differences related to the nature of the dominating actors in the field of social dialogue should not be underestimated with regard to the content and the priorities of the national bargaining agenda – although more research must be carried out, before general conclusions in relation to the differences are possible.

Finally, we can conclude that all four countries illustrate similar development trends in terms of the structure, organisation, significance and output of social dialogue, and that as an effect of a certain alignment of working conditions in the public sector to those in the private sector, the rights of public sector staff to negotiate collective agreements are increasing in all four countries. However, it can also be observed that these similar trends are shaped by different historic, cultural, political and legal traditions, which have led to different interpretations in the different EU Member States with regards to who should be the employer and main actor in the field of social dialogue, what should be their mandate, which topics should be negotiated by the social partners, what should be the output of collective bargaining, and more generally, what should be the status of social dialogue within the public sector for determining the working conditions of public sector staff.

4 ANNEX: FACT SHEETS

4.1.1 Austria

I. Specific employment rules

1. Existence of separate rules for civil service and public employees?

The staff regulations for officials (“Beamte”) are governed by Federal law (“Beamtendienstrechtsgesetz”). The staff regulations for contract agents (“Vertragsbedienstete”) are also regulated by Federal Law (“Vertragsbedienstetengesetz”).

Social Dialogue about working conditions, etc (excluding legislation) is taking place at ministry level with elected staff representatives in the framework of the Federal Staff Representatives Act (“Bundes-Personalvertretungsgesetz”)

2. Sources of specific civil service employment rules

Beamtendienstrechtsgesetz for civil servants, the Vertragsbedienstetengesetz for contract agents and Bundesbedienstetengesetz for occupational safety and health

3. What is the importance of collective bargaining?

Bargaining (wages, staff regulations) between the government and the Public Sector Trade Union is following established procedures; they do not have legal status. However the results of this bargaining have a big factual and political impact as they are usually the basis of the draft legal proposal of the government.

II. Collective bargaining /social dialogue

1. The representation of the employers’ side in the social dialogue

Currently the employers’ side is represented by the Federal Minister for Women and Civil Service Reform in the Federal Chancellery.

2. The representation of the employees’ side /trade unions in the social dialogue

The Trade Union of the Public Service (Gewerkschaft des öffentlichen Dienstes - GÖD), a member of the Austrian Trade Union Federation (Österreichischer Gewerkschaftsbund, ÖGB).

3. Union density

53 % (2007)⁵³

⁵³ Central government only

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Bargaining (wages, staff regulations) between the government and the Public Sector Trade Union is following established procedures; they do not have legal status. However the results of this bargaining are usually the basis of the draft legal proposal of the government.

Rules governing pension funds for contract agents are established following a collective agreement between the GÖD and the Federal government. Most recently this arrangement is applicable to officials as well.

Employment in externalized public institutions is governed on the basis of collective agreements between the unions and the respective employer representatives; however these institutions do not belong to the central government.

Art 12 and 13 Staatsgrundgesetz über die allgemeinen Rechte der Staatsbürger RGBI 1867/142 and Art 10 and 11 EMRK form the basis of collective action. Most recently a Constitutional Amendment has recognized the role of the Social Partners (Article 120a para 2 Bundes-Verfassungsgesetz, BGBl. Nr. 1/1930 amended by BGBl I Nr. 2/2008).

5. Existence of a right to strike for public employees/ civil servants

There is no specific legislation concerning the right to strike.

Strike and passive resistance exercised by officials and contract agents may involve the violation of statutory duties on conduct in the service (breach of the duty to observe working hours or a failure to perform the tasks assigned).

Strike is not explicitly regulated but considered to be part of the constitutionally guaranteed right of association and assembly

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Wage bargaining is taking place for all Federal employees at central government level. Social dialogue about working conditions etc. (excluding legislation) is taking place at Ministry level with elected staff representatives in the framework of the federal Staff representatives Act.

7. Key topics dealt with by the social dialogue

The key topics are: Pay and reform of pay systems, the pension system and the staff regulations.

8. Outcomes of the collective bargaining

draft legal proposal of the government

9. Obligation to implement collective bargaining agreements (legally binding)

pension fund for contract agents and officials

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Yes, they are applicable to all employees of the Federal Public Administration.



4.1.2 Belgium

III. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes

2. Sources of specific civil service employment rules

Most of the members of personnel of the Belgian civil service are under the rule of a statute.

The other members of personnel are submitted to the law of 3 July 1978 on the work contract. Some provisions of the statute, some leave provisions for instance, are made applicable to the contractual personnel.

3. What is the importance of collective bargaining?

The law obliges the authority to submit the general measures she wants to take towards her personnel, to a preliminary bargaining or consultation with the representative trade unions.

It is also an obligation according to the Human Rights convention.

IV. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

There is no central public sector employers' organization. Collective bargaining agreements are negotiated with those political authorities that are responsible for determining working conditions and the level of remuneration.

2. The representation of the employees' side /trade unions in the social dialogue

The General Confederation of Public Services (*Centrale Générale des Services Publics*), CGSP/ACOD

The Federation of Christian Public Service Unions (*Fédération des Syndicats Chrétiens des Services Publics*), FSCSP/FCSOD

The Free Trade Union of Civil Servants (*Syndicat Libre de la Fonction Publique*), SLFP/VSOA

3. Union density

40-55%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

There is a legal right for collective bargaining but the agreements are not legally binding, they have the value of a political commitment.

5. Existence of a right to strike for public employees/ civil servants

Yes

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

The social dialogue in the public sector is characterized by elements of centralization and elements of decentralization: negotiations are conducted at various levels. Element of centralisation: “Committee A” deals with topics concerning all public services. Elements of decentralization: 20 “sectoral committees” at federal, community and regional level.

7. Key topics dealt with by the social dialogue

Statutory regulations, issues related to remuneration and pensions, working time and work organization, relations with trade unions.

Besides the negotiations, an other form of social dialogue exists: the consultation of employee’s organizations before decisions are taken on topics such as ‘Welfare’ at work.

8. Outcomes of the collective bargaining

The outcome of negotiations is a protocol, which has the value of a political commitment. If negotiations fail, the government can act unilaterally.

9. Obligation to implement collective bargaining agreements (legally binding)

The outcome of negotiations is to be considered as a political engagement, although it is not legally binding.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

All members of the personnel who come under a bargaining committee and who are concerned by the measure proposal submitted to bargaining are concerned by the political agreement produced by this bargaining. Then 100 %.

4.1.3 Bulgaria

V. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes

2. Sources of specific civil service employment rules

The Constitution, the law for civil servants and the labor code

3. What is the importance of collective bargaining?

There is no collective bargaining permitted by law within central government and wage levels and increases are determined by governmental regulation.

VI. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The centralized social dialogue is carried out by the National Council for tripartite partnership. The National Council consists of two representatives from the Council of Ministers, two representatives of the employee's organizations and two representatives of the employer's organizations. This body is chaired by the deputy prime minister, while the employee's and employer's organizations are electing the deputy chairperson according to the rotation principle.

2. The representation of the employees' side /trade unions in the social dialogue

- The Confederation of Independent Trade Unions
- The Confederation of Labor Podkrepa

3. Union density

25-40%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

No

5. Existence of a right to strike for public employees/ civil servants

Yes

Civil Servants have right to strike when the presented requirements connected with the official and insurance relations are not met the civil servants shall be able to declare strike. The implementing of the strike shall be accomplished carrying and mounting

appropriate signs and symbols, protest posters, ribbons etc without terminating the fulfillment of the civil service. During the strike the representatives of the civil servants and the body of appointment shall make efforts for solving the disputed issues.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

There are no differences in the institutional framework between public sector labor relations and private sector labor relations. Differences in the social dialogue relate for instance to some differences for different sectors, for example for health, for education or for culture. Currently, collective bargaining between the employer's and employee's organizations is rather limited.

7. Key topics dealt with by the social dialogue

Working conditions (remuneration, holidays etc.), performance appraisal, legal framework.

8. Outcomes of the collective bargaining

Legal texts, political statements, agreements.

9. Obligation to implement collective bargaining agreements (legally binding)

There is an obligation to implement collective bargaining agreements.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

No available data

4.1.4 Cyprus

VII. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes

2. Sources of specific civil service employment rules

The Public Service Law, the Pensions Law and Regulations issued based on the special provisions of the Public Service Law.

3. What is the importance of collective bargaining?

Collective bargaining is very important to secure peaceful industrial relations in the public service. Based on the established framework of collective bargaining, for the formulation or any modifications that affect the terms and conditions of employment of the public employees, the government has to negotiate with the public servants' trade union that is the Pancyprian Union of Public Servants (PASYDY), with the aim to come to an agreed formula.

VIII. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The employers' side is represented by the Permanent Secretary of the Ministry of Finance (Chairman of the Joint Staff Committee) and the Director of the Public Administration and Personnel Department.

2. The representation of the employees' side /trade unions in the social dialogue

- The Pancyprian Union of Public Servants (PASYDY)
- The Pancyprian Organization of Greek Teachers (POED)
- The Organization of Greek Secondary Education Teachers (OELMEK)
- The Organization of Greek Technical Education Teachers (OLTEK)

3. Union density

Almost 80% of the statutory civil servants civil servants belong to the Pancyprian Union of Public Servants (there is also another 10% of employees belonging to other trade unions).

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

In Cyprus there is a right for civil servants to conclude collective agreements, but it is not a legal right. As it is referred to the first report forwarded in November 2008, the public service labour relations are set out in the “Rules of Constitution of the Joint Staff Committee”, that is a Gentlemen’s Agreement and has no legal basis.

5. Existence of a right to strike for public employees/ civil servants

The existence of the right to strike for civil servants is stated in the “Constitution of the Republic of Cyprus” but there are restrictions for judges, armed forces, police and fire brigades.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

In Cyprus, social dialogue is very centralized: Negotiations take place at the central public administration level, while the results affect all public employees.

7. Key topics dealt with by the social dialogue

Recruitment issues, promotion issues, working time, leave, holidays, medical treatment issues, different issues which affect the terms of employment related to any position or the civil service as a whole, disciplinary issues, salary issues, training issues, pension benefits, changes in legislation and issues related with the welfare of civil servants.

8. Outcomes of the collective bargaining

Collective agreements do not create legal rights and obligations. The decisions of the Joint Staff Committee are submitted to the Council of Ministers as recommendations.

9. Obligation to implement collective bargaining agreements (legally binding)

After the recommendations of the Joint Staff Committee are approved by the Council of Ministers, there is an obligation to implement the “Council of Ministers’ Decisions” mostly by binding legislation subject to the approval of the House of Representatives.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Yes



4.1.5 Czech Republic

IX. Specific employment rules

1. Existence of separate rules for civil service and public employees?

No: Act 262/2006, Labour code;

Act 218/2002 Coll., Civil Service Act is not yet in force (planned by 1. 1. 2012).

Decree 564/2006 Sb., about salaries of employees in public service and administration.

2. Sources of specific civil service employment rules

None

3. What is the importance of collective bargaining?

High

X. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

There are several types of social dialogue. In simple terms: a part concluding collective agreement as an employer is a ministry. In the other forms of social dialogue, namely in the legislative process, the trade-unions also negotiate with ministries or other central authorities.

In the tripartite body – the Council of Economic and Social Agreement (RHSD) – there are seven representatives of the Government, five of them ministers and two of them deputy ministers as statutory representatives of the members of the Government,

The Government represents the employers' side. The Government is represented by six ministers and one deputy minister in the tripartite Council of Economic and Social Agreement (RHSD).

2. The representation of the employees' side /trade unions in the social dialogue

The Czech-Moravian Confederation of Trade Unions (CMKOS) and its member Trade Union of State Bodies and Organisations (STATORG).

3. Union density

No precise data are available

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Yes, but with a limited scope for pay bargaining in central administration

5. Existence of a right to strike for public employees/ civil servants

Yes, but with restrictions for the courts, the state prosecution service, the armed forces and the security forces.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Social dialogue is characterized by its rather informal nature; the launch of collective agreements depends on concrete situations. There is no obligation to set-up committees or other formal structures.

7. Key topics dealt with by the social dialogue

Working conditions, equal opportunities, modernization of social security systems, training etc.

8. Outcomes of the collective bargaining

Binding collective agreements and sometimes political statements.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes, in case of binding agreements.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Yes

4.1.6 Denmark

XI. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes

2. Sources of specific civil service employment rules

The Civil Servants' Act, The Civil Servants' Pensions Act and specific provisions in the Danish Constitution.

3. What is the importance of collective bargaining?

XII. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The Ministry of Finance, which is represented by the State Employer's Authority. The task of this agency is to carry out the state's overall function as employer, i.e. to conclude collective agreements, to provide advice to ministries and agencies and to manage responsibilities such as pay, HRM and management policy etc.

2. The representation of the employees' side /trade unions in the social dialogue

The Danish Central Federation of State Employees' Organisations (CFU), which is set-up by the three central organisations in the state sector:

- The Organisation of Public Employees – Denmark (OAO). OAO is a federation of trade unions, which organise skilled and unskilled workers as well as salaried employees and civil servants and of which the most part are affiliated to The Confederation of Danish Trade Unions (LO).

- The Joint Secretariat of Central and Local Government Employees (SKAF). SKAF is a joint structure set-up by three federations (LC, OC and COII) of trade unions, which organise salaried employees and civil servants and are affiliated to The Confederation of Salaried Employees and Civil Servants (FTF),

- The Danish Confederation of Professional Associations (AC), which organises professional and managerial staff.

3. Union density

90-95%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Yes

5. Existence of a right to strike for public employees/ civil servants

Civil servants : No.

Employees on collective agreement terms : Yes.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

At the central level, a general agreement is concluded in connection with the collective bargaining (normally every 3rd year) by the Ministry of Finance (State Employer's Authority) and CFU. This agreement covers general working conditions for state sector personnel such as general wages regulations, general working time provisions, parental leave schemes, competence development etc.

Also in connection with the collective bargaining round, specific collective agreements, which cover specific personnel groups and mainly regard wages and working time, are concluded by the State Employer's Authority and the relevant, individual trade unions.

At the work place level local agreements may be concluded between the employing authority and the local trade union representative. Such agreements can cover either a group of employees or an individual employee, and may for instance settle qualifications- and functions-related allowances or local working time conditions.

The trend is to conclude framework agreements at the central level leaving the conclusion of more specific agreements on employment terms – within the centrally agreed framework – to the local actors.

7. Key topics dealt with by the social dialogue

All issues related to wages and working conditions, including wage systems, pensions, working time, personnel policy, work environment, competence development, parental leave and senior schemes. According to Danish tradition, the social dialogue is carried out formally (e.g. collective agreements) as well as informally (e.g. joint initiatives in between collective bargaining periods).

8. Outcomes of the collective bargaining

Mutually binding collective agreements.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes

10. Coverage rate [RATE?] of collective bargaining (i.e. percentage of public employees / civil servants covered)

By and large all state sector employees (I .e. 36 pct civil servants, 63 pct on collective agreement terms) are covered by the collective bargaining.

4.1.7 Estonia

XIII. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes (The Public Service Act)

2. Sources of specific civil service employment rules

3. What is the importance of collective bargaining?

XIV. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The employers' side is represented by an Inter-ministerial committee, which is chaired and coordinated by the Ministry of Social Affairs

2. The representation of the employees' side /trade unions in the social dialogue

The Confederation of Estonian Trade Unions, which also represents the interests of civil servants.

3. Union density

Below 15%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

In Estonia, collective bargaining is very limited at central administrative level.

5. Existence of a right to strike for public employees/ civil servants

No

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

The social dialogue is characterized by its rather informal and decentralized character. Its frequency depends on the needs of the participants, although collective bargaining, which concerns the issue of remuneration is rather formal.

There are no established committees and hierarchical levels; the dialogue is based on ad-hoc delegations and meetings.

7. Key topics dealt with by the social dialogue

Remuneration, working conditions, modernization of social security systems, public sector reform etc..

8. Outcomes of the collective bargaining

Principles of legal acts and collective agreements.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes, it will be applied by legal acts.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Yes

4.1.8 EU Commission

XV. Specific employment rules

1. Existence of separate rules for civil service and public employees?

There are separate rules for civil servants and other public employees, but with respect to Social dialogue the same rules apply, if the contract of the other public employees has a specific minimum duration (for more than one year, or, if less than one year, employed already for at least half a year at the time of the elections).

2. Sources of specific civil service employment rules

The Regulation laying down the Staff Regulations of Officials and the Conditions of employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ P 45, 14.6.1962, p. 1385, as last amended by Council Regulation (EC, Euratom) No. 1324/2008 of 18 December 2008, and Council Regulation (EC) No 160/2009 of 23 February 2009.

3. What is the importance of collective bargaining?

XVI. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

On the employers' side, the administration is represented by the Commissioner in charge of the administration, of audit and the fight against fraud.

2. The representation of the employees' side /trade unions in the social dialogue

The Staff Committee, sub-divided in local sections and the Central Staff committee, and the representative trade unions and staff associations, often composed of several smaller trade unions, represent the employees side (representative trade union = minimum 5% in local Staff committee elections and 6% on central level, 400 members).

The Staff Committee is responsible for questions arising from application of rules and its opinion is requested in case of modification of the Staff regulations or adoption/modification of General implementation provisions. Questions arising from the application of rules are regularly discussed in so called Contact Commissions of the Local sections of the Staff Committee or the Central Staff Committee with the Administration.

The representative trade unions are consulted within the framework of a formalised Social dialogue with three consultation levels, as laid down in a Framework agreement between the European Commission and the representative trade unions.

3. Union density

About 20% according to an estimation, since trade unions cannot be forced to make the number of their members public. They only have to prove that they have at least 400 members working for the Commission or retired staff of the Commission (to be verified by an independent body) if they want to be recognised as representative.

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

The Administration is obliged to consult representative trade union in case of modifications of existing rules or the adoption of new rules.

There are, however, no collective agreements in the classical sense (agreements concerning the whole staff of a branch). The only agreements concluded between the Commission and its representative trade unions are those concerning the Social dialogue procedure and the resources attribution.

All other staff rules are adopted unilaterally by the Commission after consultation of representative trade unions (no co-management) and after having obtained the opinion of the Staff committee, where applicable.

5. Existence of a right to strike for public employees/ civil servants

Yes, although certain functions have to be maintained in case of a strike.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

In the European Commission, the social dialogue with the representative trade unions is centralised for the 40 directorates general and offices at the directorate general of personnel and administration (DG ADMIN).

The Staff committee is sub-divided in Local sections, which in turn designate the Central Staff committee members. Matters concerning all staff are discussed on central level, matters concerning staff on a specific site are discussed locally.

7. Key topics dealt with by the social dialogue

Working conditions, equal opportunities, modernisation of social security systems, human resource management, reform of the public sector

8. Outcomes of the collective bargaining

The outcome of social dialogue with representative trade unions will be the elaboration of legal texts (Commission decisions, general implementing provisions) and (rarely, see above) agreements.

The outcome of the social dialogue with the Staff committee will be the solutions to local of generalised problems by adjustments of the administrative practice, if this is considered necessary.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes, in as far as agreements exist (no true collective bargaining, see above). However, they may not amend the Staff Regulations. They thus have to be interpreted in line with the latter.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

As explained above, there is no true collective bargaining. The agreements concluded are limited to rules applying to the Staff representation itself.

4.1.9 Finland

XVII. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes, both the employment rules and the rules for collective agreements have separate basis in the legislation for civil service and public employees. However, the terms of employment agreed in the collective agreements in the central government sector are mainly uniform for both types of employment relationships.

2. Sources of specific civil service employment rules

Civil Servants Act and related Degree.

3. What is the importance of collective bargaining?

Collective bargaining enables the exercise of general labour market and pay policy that are consistent with the interests of the representative parties as well as national economy. It also secures industrial peace in an effective way. At the same time collective agreements cover essential terms of employment (pay, working time, annual leave) contributing to equal treatment of the civil servants/employees and relieving the administrative work load of the government agencies. Thus, collective bargaining is important.

XVIII. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The Ministry of Finance, who is represented by the State Employers' Office, which manages the State's general employer policy and personnel policy. It gives further on advice on the economic and social policies.

2. The representation of the employees' side /trade unions in the social dialogue

The three representative employees' organizations determined by the Ministry of Finance as counterparts for negotiations are: The Public Sector Negotiating Commission JUKO ry, the Trade Union for the Public and Welfare Sectors JHL ry and the Federation of Salaried Employees Pardia ry.

The counterparts at agency level may be the same ones or one of their affiliated associations.

3. Union density

About 85 %

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

The right of representative unions to conclude collective agreements is based in the Act on Collective Agreements for State Civil Servants and Collective Agreements Act (for contract employees). The central level parties in the central government sector have concluded a procedural agreement according to which it is obligatory to start a collective bargaining process concerning civil servants when a party demands it.

5. Existence of a right to strike for public employees/ civil servants

The right to strike is more limited for civil servants than for public employees. The right to strike depends basically on the status of the civil servant, the aim and object of the industrial action and on whether there is a collective agreement in force or not.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

In Finland, it is distinguished between the national collective agreements for civil servants and public employees and between the agency-level or branch-level agreements for civil servants and public employees. The complementary collective agreements between agencies or administrations and trade unions can specify and to some extent alter the central agreements. 57 Government authorities can conclude specifying agreements in their areas. But before being signed, the agreements have to be approved by the Ministry of Finance.

The collective bargaining system can be characterized as being rather formal. The frequency of negotiations varies depending on the terms of agreements. A typical term of a central-level agreement is around two years. The matter-specific sub-committees prepare the issues for the head negotiation group which negotiates the agreements in the end.

In general, the collective bargaining system has become more decentralized during the past years. The pay systems are agreed nowadays at agency level.

7. Key topics dealt with by the social dialogue

Centralized agreements are made on the total amount and guidelines for allocation of rises in salaries, on working time, general conditions of work and leaves on absence, annual holidays and reimbursement of traveling expenses.

The topics of pay system, pay adjustment and, with certain limits, of working hours are negotiated at agency-level or branch-level within the framework of national collective agreements.

8. Outcomes of the collective bargaining

Binding collective agreements, protocols, plans of action, legislation, reports – depending on the issue in question

9. Obligation to implement collective bargaining agreements (legally binding)

Yes, there is an obligation to implement collective agreements by legislation.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Collective agreements in the government sector are extensive and cover all employment relationships with some marginal exceptions.



4.1.10 France

XIX. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes (The constitution, the general status of civil servants)

2. Sources of specific civil service employment rules

The statutory framework is laid down in the laws of 19 October 1946 and 13 July 1983.

3. What is the importance of collective bargaining?

Agreements between the government and the Public Sector Trade Union do not have legal status. However the results of this bargaining have a big factual and political impact as they are usually the basis of the draft legal proposal of the government.

XX. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The Minister responsible for the Civil Service represents the employers' side if agreements apply to all civil servants. The Minister of health represents the employers' side if agreements apply to civil servants of the civil service being responsible for health issues (*'fonction publique hospitalière'*); the Minister of subnational entities represents the employers' side if agreements apply to civil servants of subnational entities (*'fonction publique territoriale'*).

2. The representation of the employees' side /trade unions in the social dialogue

Six trade unions are considered as representative in the public sector such as for instance:

- The French Democratic Workers Federation (Confédération Française Démocratique du Travail, CFDT)
- The French Christian Workers Federation (Confédération Française des Travailleurs Chrétiens, CFTC)
- The General Federation for Executive Staff (Syndicat des Cadres et du Personnel d'Encadrement, CFE-CGC)
- The General Employees Federation (Confédération Générale du Travail, CGT)
- The General Workers Federation (Confédération Générale du Travail-Force Ouvrière, CGT-FO)

-The National Association of Independent Unions (Union Nationale des Syndicats Autonomes, UNSA)

3. Union density

15-25%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Trade union organizations don't have a right to initiate negotiations. The Government cannot be obliged to negotiate with trade union organizations, except for wages increases (legislative obligation). Nonetheless, this fact hasn't prevented the development and the enrichment of negotiation practices during the last ten years (for instance, for working conditions, training, social action, etc).

5. Existence of a right to strike for public employees/ civil servants

Yes, but with restrictions for some specific civil servants (such as armed forces and judges)

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Collective bargaining is centralized at the national level; the negotiations over wage increases take place at the central level within budget limits determined by the Ministry of Finance.

According to a very recent text, an agreement between the employers' and employees' representatives is to be considered as valid if two trade unions representing at least 20% of the votes of all the unions representatives sign the agreement and if the agreement isn't opposed by organizations which are representing the majority of votes.

7. Key topics dealt with by the social dialogue

Pay determination, working conditions, status, modernization of social security systems, training issues, hygiene and security issues, employment of disabled employees.

8. Outcomes of the collective bargaining

Agreements without a legal status but with political weight.

If negotiations fail, the French government can act unilaterally.

9. Obligation to implement collective bargaining agreements (legally binding)

No

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Yes (State administrations and public bodies, local authorities (regions, departments, towns and their public bodies) and social and medical authorities (hospitals, etc).

4.1.11 Germany

XXI. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes

2. Sources of specific civil service employment rules

The civil servants law

3. What is the importance of collective bargaining?

XXII. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The Ministry of the Interior

2. The representation of the employees' side /trade unions in the social dialogue

The two dominant peak organizations in the public sector are the following:

-The German Trade Union Federation (Deutscher Gewerkschaftsbund, DGB), which is the dominant union confederation in Germany and which is composed by 8 member unions.

-The German Civil Servants' Federation (Deutscher Beamtenbund, DBB), which comprises 39 member unions and which rather exclusively organizes public sector employees.

3. Union density

40-55%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

In Germany, civil servants have no legal right for collective bargaining, although they are allowed to participate in the development of rules regulating the legal conditions of civil servants. Thus civil service laws contain provisions that oblige the government to consult with trade unions before adopting unilateral measures.

Their pay and working conditions are adjusted to the collective bargaining results' of negotiations between employees and workers.

5. Existence of a right to strike for public employees/ civil servants

No

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Until 2003 collective bargaining was highly centralized in the sense that the agreements covered the whole public sector at the three governmental levels (federal level, *Länder* and local level).

Nonetheless in 2005, the Employers' Association of the German *Länder* left the negotiations and since then there are separate negotiations.

7. Key topics dealt with by the social dialogue

Working conditions, equal opportunities, training, public sector reform

8. Outcomes of the collective bargaining

Binding collective agreements

9. Obligation to implement collective bargaining agreements (legally binding)

Yes

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

No

4.1.12 Greece

XXIII. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes (The Civil Servants Code for the established officials and the Presidential Decree 410 for the auxiliary officers).

2. Sources of specific civil service employment rules

Law 2738/1999 provides the framework for organising social dialogue in the civil service. Also, these sources laid down on Greek Constitution (esp. at article 103); there is the Civil Servants Code for the established officials (3528/2007) and the Presidential Decree 410 for the auxiliary officers. Furthermore, there is the special Code for the local government officers.

3. What is the importance of collective bargaining?

The collective bargaining is of great importance in Greece but the main problem is that agreements on pay, retirement pensions or job creation are not binding on administrations, whereas those concerning matters of training, social security and union rights are mandatory. The Ministry of Interior sends every year an invitation for collective bargaining to the Supreme Administration of Greek Civil Servants Trade Unions (ADEDY), but the last four years, ADEDY has not submitted any demands and denied to proceed to negotiations, as the new payment law was at that time elaborated inside the system of collective bargaining. In order to improve the system of collective bargaining it would include financial demands, which are currently examined by the Ministry of Finance outside of the system of collective bargaining.

XXIV. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The Ministry of the Interior, who concludes agreements on behalf of the State. Usually, agreements are negotiated by a specific body, which includes besides the Ministry of the Interior representatives of the Ministry of economics, the Ministry of Health, the Ministry of Employment and the relevant line ministry.

2. The representation of the employees' side /trade unions in the social dialogue

-The Supreme Administration of Greek Civil Servants' Trade Unions, ADEY, which is composed by 56 federations.

3. Union density

No data available

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Yes. The employers' side is obliged to consult with trade union organizations. The legal character of this obligation is laid down in the statute for civil servants.

5. Existence of a right to strike for public employees/ civil servants

Yes, but the details are regulated by special rules and with restrictions for judges and for armed forces.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Social dialogue is characterized by its formal and centralized nature. Collective bargaining takes place every year, while the agreements cover the whole public sector.

7. Key topics dealt with by the social dialogue

Pay issues, working conditions in general, modernization of social security systems etc..

8. Outcomes of the collective bargaining

Agreements concerning pay, pensions and the creation of jobs are not legally binding, whereas agreements are binding on matters such as civil service training, hygiene and safety matters, social security issues (apart from pensions issues), leaves issues and the exercise of trade union rights.

If negotiations fail, the Greek government can act unilaterally.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes, the implementation agenda of agreements is laid down in particular programmes.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

There is a big coverage range of collective bargaining. Almost the 100% of public employees are covered by the collective bargaining generally but the real percentage depends on the specific matters every time.

4.1.13 Hungary

XXV. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes (The legal status of civil servants, of public servants, of officials of the armed forces and of soldiers of the Hungarian Army).

2. Sources of specific civil service employment rules

Act XXIII of 1992 on the Legal Status of Public Servants.

3. What is the importance of collective bargaining?

Collective bargaining ensures the discussion of debated issues and conciliation of interests. National Council for the Conciliation of Interests may also issue recommendations. However, there are no collective agreements.

XXVI. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

A Government delegation, which comprises high-ranking officers from several ministries

2. The representation of the employees' side /trade unions in the social dialogue

Social dialogue takes place in the National Council for the Conciliation of Interests, where the employees' side is represented.

3. Union density

25-30%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

A law is determining the topics on which the employer's side is obliged to consult with trade union organizations.

5. Existence of a right to strike for public employees/ civil servants

Yes, but regulated by special rules and with restrictions for armed forces

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Social dialogue is characterized by its centralized structure.

7. Key topics dealt with by the social dialogue

Living and working conditions, remuneration, principles of HR management etc..

8. Outcomes of the collective bargaining

National level agreements, recommendations and methodologies.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes, both parties consider the content of agreements as legally binding.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

No

4.1.14 Ireland

XXVII. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes. Civil servants in Ireland are appointed under the Public Service Management (Recruitment and Appointments) Act 2004 and serve under the Civil Service Regulation Acts 1956 to 2005. Other public sector employees serve under the relevant law governing their sector. In addition, civil servants and public servants are subject, as appropriate, to the labour law as it applies to private sector employees.

2. Sources of specific civil service employment rules

Civil servants in Ireland are appointed under the Public Service Management (Recruitment and Appointments) Act 2004 and serve under the Civil Service Regulation Acts 1956 to 2005. Civil Servants are also bound by the Civil Service Code of Standards and Behaviour and any Circulars or Letters issued by the Department of Finance relating to the operation of the civil service.

3. What is the importance of collective bargaining?

Collective bargaining is an important feature of social dialogue in the Irish civil service as it provides a mechanism for management (the Official Side) and employees (the Staff Side) to engage with each other to discuss claims and proposals relating to the conditions of service of civil servants. The main implementation mechanism for social dialogue in the Irish civil service is the Scheme of Conciliation and Arbitration for the Civil Service (the C & A Scheme).

The purpose of the Scheme is to provide means acceptable both to the State and to its employees for dealing with claims and proposals relating to the conditions of service of civil servants and to secure the fullest co-operation between the State, as employer, and civil servants, as employees, for the better discharge of public business.

XXVIII. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

In Ireland, the Department of Finance acts as the employer representative in social partnership negotiations aimed at concluding agreements affecting the civil service.

2. The representation of the employees' side /trade unions in the social dialogue

-The Irish Municipal, Public and Civil Trade Union (IMPACT) is the largest public sector trade union in Ireland with members in health, local government, education sectors and in the civil service, and state-owned companies, telecommunications etc.

-The Civil and Public Services Union (CPSU)

The membership of the CPSU is mainly composed by clerical and administrative grades and some first line managers.

-The Public Service Executive Union (PSEU)

The membership of the PSEU is mainly composed of executive grades in the civil service, state commercial and non-commercial bodies, the Revenue Commissioners (tax collection), social welfare, employment, customs, the diplomatic service etc.

-The Association of Higher Civil and Public Servants (AHCPS)

The AHCPS mainly represents senior civil servants and managers in the commercial and non-commercial state sector.

-The Prison Officers Association (POA) represents the interests of officers serving as prison officers in the Irish Prison Service

3. Union density

55-70%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Yes

5. Existence of a right to strike for public employees/ civil servants

Yes – the majority of civil and public servants have a right to strike with restrictions applying only to the Garda Síochána (police) and the Defence Forces.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Social Dialogue in Ireland takes place at national and sectoral level. In respect of the civil service, the C & A Scheme provides for centralised dialogue at General Council between the Department of Finance and the civil service unions. The General Council meets at least every 2 months and deals with claims and proposals relating to the conditions of service of civil servants. The scheme also provides for Departmental Council meetings at the level of each department (ministry).

7. Key topics dealt with by the social dialogue

Collective bargaining deals with a broad range of topics such as working conditions, public sector reform, civil service modernisation etc.

8. Outcomes of the collective bargaining

Discussions at General Council result in written agreements; if no agreement can be reached, certain issues may be taken to third party arbitration.

9. Obligation to implement collective bargaining agreements (legally binding)

Social Partnership in Ireland operates on the basis of voluntary participation and agreements are not enforceable in civil law and it is not required that they are approved by the Oireachtas (Parliament).

10. Coverage of collective bargaining (i.e. percentage of public employees / civil servants covered)

Yes. As stated at 3 above, collective bargaining affecting the civil service takes place in the forum of General Council under the Conciliation and Arbitration Scheme. The outcomes of agreements at General Council apply as appropriate to the grades affected by the agreements.



4.1.15 Italy

XXIX. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes

2. Sources of specific civil service employment rules

The laws 165/2001; 93/1983; 29/1993

3. What is the importance of collective bargaining?

XXX. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The employers' side is represented by the Agency for the Representation of Public Administration Negotiation (ARAN), which has legal status and which is governed by an executive committee of five members. The President of ARAN is appointed by the President of the Republic on a joint proposal by the Ministers of economics and Public Administration; ARAN's members are appointed by a decree of the Presidents of the Council of Ministers; furthermore, one of them must be designated by the Conference of Presidents of the Regions and another by the association of the Italian municipalities and provinces.

ARAN representation of the PA is compulsory. They can as well forward guidelines to ARAN, while they must give their approval to the final agreement.

2. The representation of the employees' side /trade unions in the social dialogue

The employees side is characterized by a high level of fragmentation; nonetheless most trade unions are members of the three main confederations:

- The General Confederation of Italian Workers
- The Italian Confederation of Workers' Unions
- The Union of Italian Workers

3. Union density

40-55% (?)

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Yes.

In lack of conclusion, the PA can act unilaterally on salary matters. The PA cannot act unilaterally on right and duties.

5. Existence of a right to strike for public employees/ civil servants

Yes, but with special rules for certain public services

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Since a law of 1993, the employment relationship of most civil servants has been contractualized and is in essence determined by collective bargaining. Nonetheless, as regards the employment status, there still persists differences between the public and the private sector.

The Social dialogue has a rather decentralized structure, which is however characterized by its strong coordination mechanisms through the creation of ARAN, which is the representative employer for all negotiations at central level.

All contractualized public employees are divided into 4 sub-sectors for employees and 4 for managers.

7. Key topics dealt with by the social dialogue

Payment, right and duties.

8. Outcomes of the collective bargaining

Binding collective agreement

9. Obligation to implement collective bargaining agreements (legally binding)

Yes

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Yes

4.1.16 Latvia

XXXI. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes (The legal frameworks governing public service labour relations laid down in Labour law and in the State civil service law).

2. Sources of specific civil service employment rules

Stated in the State Civil Service Law.

3. What is the importance of collective bargaining?

Used by public employees, mostly members of the unions. Collective bargaining more practiced in local governments or specific employees groups in state level, like, policemen, doctors, teachers.

XXXII. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

Representatives of agencies and ministries are concluding agreements on behalf of the employers' side.

2. The representation of the employees' side /trade unions in the social dialogue

The main actor on the employee's side is the Free Trade Union Confederation of Latvia - it encompasses the majority of trade unions. Nevertheless small unions are independent representatives regarding bargaining on employment conditions in local level.

3. Union density

Below 15%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

In Latvia, collective bargaining can be initiated by the state employer, by employers' representatives or by employees' representatives as is laid down in article 18 of the Labour Law. An employer or an employees' organization or an employers' organization is not entitled to refuse to enter into negotiations.

Collective bargaining is very limited at central administrative level. In general, the social dialogue in the Latvian public sector is not characterized by detailed rules.

There are furthermore different regulations for different sectors such as for instance for health, education, internal affairs etc. The main differences concern for instance the regulation of wages, holidays etc..

5. Existence of a right to strike for public employees/ civil servants

Yes, but regulated by special rules

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

In Latvia, there is no obligation to negotiate collective agreements.

7. Key topics dealt with by the social dialogue

Remuneration, labour protection, employment relationships, development, work procedures, social security issues etc.

8. Outcomes of the collective bargaining

Results of collective bargaining are legal texts, political statements, collective agreements, simple agreements.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

No data available

4.1.17 Lithuania

XXXIII. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes ()

2. Sources of specific civil service employment rules

The Constitution; the Law on civil service; statutory civil servants statutes; Law on the Diplomatic Service; other laws.

3. What is the importance of collective bargaining?

In the Law on Civil Service was amended and prescribed that the service pay of civil servants is calculated by applying the service pay coefficient. The unit of the service pay coefficient is the basic rate of service pay for civil servants. The basic rate for the following financial year is defined in the national collective bargaining agreement taking into account the average annual inflation of the previous year (calculating the national consumer price index) and other factors which impact the rate and alternation of average pay in the public sector. The basic rate agreed in the national collective bargaining agreement is approved by the Seimas (Parliament). If the national collective bargaining agreement is not concluded, the basic rate for the following financial year is approved by the Seimas.

P.S. the national collective bargaining agreement is not concluded at this moment.

XXXIV. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The representation of the employer's side in the social dialogue - The government of the Republic of Lithuania represents the employer's side in the the national collective bargaining agreement and in the branch collective bargaining agreement. The head of a public of municipal agency or institution or his/her authorised person represents the employer's side in the institution's collective bargaining agreement.

2. The representation of the employees' side /trade unions in the social dialogue

-The Lithuanian Trade Union Confederation; the main sectors represented are the private industry, the private service and the state sector (created in 2002)

-The Lithuanian Trade Union 'Solidarumas'; the main sectors represented are the private industry, the private service and the state sector (created in 1989)

-The Lithuanian Labour Federation; the main sector represented is the state sector (created in 1991)

-The Trade Union of Lithuanian Interior Administration

-The Trade Union Group of Pre-trial Investigation Institutions of the Republic of Lithuania

-The Trade Union of Customs Employees

-The Trade Union of State Tax Inspection the Trade Union of Administrative Officials

-The Trade Union of Public Servants

-The Alliance of Trade Unions of Lithuanian Fire Rescuers

-Other Trade Unions

3. Union density

Data is'nt numbering. But it can be below 20%.

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Existence of a legal right for civil servants to conclude collective agreements:

a) the national collective bargaining agreement is a written agreement between trade union organisations (association, federation, centre, etc.) representing civil servants on the one hand and the Government on the other, which stipulates remuneration terms, service/work and rest time and other social and economic conditions for Lithuanian civil servants;

b) the branch collective bargaining agreement is a written agreement between trade union organisations (association, federation, centre, etc.) representing civil servants who work in the same sphere of public administration on the one hand and the Government or its authorised agencies on the other, which stipulates remuneration terms, service/work and rest time and other social and economic conditions for all civil servants within the specific sphere of public administration;

c) the institution's collective bargaining agreement is a written agreement concluded between the head of a public or municipal agency or institution or his/her authorised person on the one hand and the public servants' trade union operating at the public or municipal agency or institution and representing civil servants on the other, which stipulates service/work terms and other social and economic conditions for civil servants at the public or municipal agency or

institution. The institution's collective bargaining agreement may not provide for additional terms concerning additional funds of the national or municipal budgets or state monetary funds.

5. Existence of a right to strike for public employees/ civil servants

Article 19 of the Law on Civil Service provides: Civil servants shall have the right to strike, except for civil servants occupying the post of the head of a department in a state or municipal institution or agency or any other senior post.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

In Lithuania, social dialogue at national level takes place at the Tripartite Council of the Republic of Lithuania. Permanent members of the Tripartite Council are the representatives from trade union organizations (see above), from employers' organizations and the Government (Ministry of Finance, Ministry of Economy, Ministry of Education and Science, Ministry of Social Security and Labour, Ministry of Agriculture).

The Tripartite Council is composed by specialized tripartite councils and commissions. Within this body, there doesn't exist a separate dialogue body of the public sector.

7. Key topics dealt with by the social dialogue

Remuneration, working conditions

8. Outcomes of the collective bargaining

Collective bargaining agreements (legal texts)

9. Obligation to implement collective bargaining agreements (legally binding)

Yes.

Chapter 10 of the Labour Code governs the procedure for collective labour disputes, which are disagreements between employees and their representatives and the employer and his representatives regarding conclusion of the collective bargaining agreement or incompliance with or undue fulfilment of collective bargaining agreements and regulatory labour legislation, which impairs employees' collective interests.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Collective bargaining agreements are not registered, therefore it is impossible to say what their exact number is.

4.1.18 Luxembourg

XXXV. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes (Statute of the civil servants of 16 April 1979; Law regulating the remuneration system of civil servants of 22 June 1963)

2. Sources of specific civil service employment rules

Please see above under 1.

3. What is the importance of collective bargaining?

Collective bargaining is of high relevance for the determination of remuneration and all statutory questions.

XXXVI. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The Ministry of Civil Service and of Administrative Reform

2. The representation of the employees' side /trade unions in the social dialogue

The by far most representative trade union in the public sector is the General Confederation of Civil Servants (CGFP), which has the leading role in all negotiations dealing with issues concerning civil servants and public employees. The CGFP is composed by over 60 affiliated unions and federations such as the National Union of Teachers, the General Federation of State Clerical and Secretarial Staff, The General Association of Managers etc..

3. Union density

It is quite high, although precise data are not available.

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

In theory, remuneration and working conditions are determined unilaterally by law, although in practice social dialogue plays an important role during decision-making processes in the public sector.

5. Existence of a right to strike for public employees/ civil servants

Yes, but with a special mechanism for dispute resolution and with a ban for some civil servants

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Social dialogue is centralized at central Governmental level in the sense that the agreements concluded between the Minister of Civil Service and of Administrative Reform and the CGFP are valid for all public employees, which are covered by the status of civil servants.

7. Key topics dealt with by the social dialogue

Remuneration, pensions and questions linked to the status of civil servants

8. Outcomes of the collective bargaining

Agreements signed by the Minister of Civil Service and of Administrative Reform, which are binding for the Government.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Civil servants and other public employees

4.1.19 Malta

I. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes

2. Sources of specific civil service employment rules

Public Service Management Code, Collective Agreement and Sectoral Agreements

3. What is the importance of collective bargaining?

High

II. Collective Bargaining /Social Dialogue

1. The representation of the employers' side in the social dialogue

The Joint Negotiation Team

2. The representation of the employees' side /trade unions in the social dialogue

Various Registered Trade Unions

3. Union density

No data available

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Yes

5. Existence of a right to strike for public employees/ civil servants

Yes, but with restrictions to categories of employees listed as essential services

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Given the small size of the country the sectoral approach is the most widely spread

7. Key topics dealt with by the social dialogue

Remuneration and career progressions

8. Outcomes of the collective bargaining

Positive

9. Obligation to implement collective bargaining agreements (legally binding)

Signatories are expected to implement and honour agreement

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

High

4.1.20 Netherlands

XXXVII. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes (The constitution and the civil service law and the executory regulations on pay for specific sectors).

However differences between public sector labour relations and private sector labour relations are reduced to a bare minimum (process of normalization). Slight differences refer to the end of contract litigation and the employment rules of judges for instance. In general there exists a judicial Civil Service system.

2. Sources of specific civil service employment rules

There are various sources next to the Civil service Law (Peter Krekel
Is engaged in a wrapping up codification-project 070-4266921)

3. What is the importance of collective bargaining?

The importance of collective bargaining is great in the field of conditions of employment, in the sense that an egalitarian bargaining power exists all over the public sector in conformity with ILO-treaties etc (See Dutch Annex treaty 151!).

XXXVIII. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The Ministry of the Interior represents the employer's side in the social dialogue in the Police and in the Central Government sector. Furthermore the Ministry of the Interior and Kingdom relations performs the co-ordinating role over the whole of the Civil service in the Netherlands

2. The representation of the employees' side /trade unions in the social dialogue

- The General Confederation of Public Sector Personnel (ACOP)
- The Christian Confederation of Educational and Public Sector Personnel (CCOOP)
- The Centre of Public Sector Employees (AC)
- The Confederation of Managerial and Professional Personnel employed in the Public Sector, Education, Companies and Institutions

3. Union density

25-40%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

In the Netherlands, there exists a 'requirement of agreement', which establishes an obligation to consult the trade unions on the conditions of employment. There is no obligation to consult trade unions on political or organizational matters, though employers might seek opinions or agreement on so called flanking policies.

5. Existence of a right to strike for public employees/ civil servants

Yes, but with restrictions for police and armed forces

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Collective bargaining takes predominantly place at sectoral level. Before the 90s, collective bargaining was taking place at central level, but since 1993 the public sector is divided into 16 sectors which each of them have their own agreements.

Matters affecting the whole of Government are discussed in the Foundation of government employers on an equal footing, where the representative of the "Co-ordinating Minister" is trying to further a common stand. Furthermore there is a collection of agreements between the Government and the sectoral employers.

For pensions an egalitarian structure exists(Pensioenkamer) where unions and representative of the sectors negotiate on pensions.

7. Key topics dealt with by the social dialogue

With the exception of pensions, all topics which relate to working conditions are subject to discussions at sectoral decentralized level.

8. Outcomes of the collective bargaining

New conditions of employment, which are later on codified administratively in certain cases.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

100%

4.1.21 Poland

XXXIX. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes (The constitution, the civil service act, the labour code, the trade union act, the tripartite commission for social and economic affairs act).

2. Sources of specific civil service employment rules

Act of 21 November 2008 on Civil Service.

3. What is the importance of collective bargaining?

According to the Polish legal system, especially under labour code (art 239 § 3), collective bargaining doesn't exist in the civil service (which contains governmental administration), self-government administration (workers employed by appointment), prosecutors, judges. The collective bargaining taking place in the public sector in another professional groups especially in education system and healthcare system, then negotiations are taking place on a agency level or in a workplace. There is no binding agreements for central government in Poland in civil service.

The representatives of the Government consult opinions of trade unions' and employers' organizations on propositions and drafts of legal acts in the framework of the cooperation during the special Sub-group on self-government administration employees and civil service meetings, called into being on the basis of the resolution no 34 of the Tripartite Commission for Social and Economic Affairs, passed on the 16th February 2009 (the Tripartite Commission for Social and Economic Affairs is a main body of social dialogue which focuses especially on: labour law, public finances and mechanism of determining pay in the public sector).

During the meetings, both trade unions and employers' organizations can pose additional questions and doubts.

XL. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

During the meetings of the Sub-group on self-government administration employees and civil service meetings, the government is represented by the Head of Civil Service as the Chair of the Sub-group, representatives of the Chancellery of the Prime Minister, Ministry of Interior Affairs and Administration, Ministry of Labor and Social Policy, Ministry of Finance. In the work of the Sub-group participate 2 members of two out of four representative employers organizations in Poland (Business Centre Club – Employers' Union (BCC – ZP) and Polish Confederation of Private Employers – Lewiatan).

2. The representation of the employees' side /trade unions in the social dialogue

The members of the representative national trade union organizations (see point 6) Independent Self-Governed Trade Union "Solidarność" (NSZZ "Solidarność"), All-Polish Trade Union Alliance (OPZZ) and Trade Union Forum (FZZ).

3. Union density

The public administration does not possess any information or figures concerning the union density in Poland.

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

No. In principle, social dialogue in the public sector is characterized by the fact that the central government administrations consult the trade unions as regards their opinion on proposals and drafts for legal acts.

If there is a political will to implement results of the discussions with the trade unions, the Government can elaborate a proposal for a new or modified regulation.

5. Existence of a right to strike for public employees/ civil servants

Civil Service Corps members shall not be allowed to participate in strikes or actions of protest, which would interfere with regular functioning of an Office.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

The special Sub-group on self-government administration employees and civil service aims mainly, inter alia, to work out and agree different solutions concerning self-government administration employees and civil service related to remuneration system, performance appraisal, job evaluation in particular as well as special rules concerning a labor law and funds for functioning (the presidium of the Commission has the right to charge the Sub-group with other tasks when necessary). In the Sub-group there are 14 members: 4 representatives of the government, 2 representatives of self-government administrations, 6 members of the representative trade unions organisations (Independent Self-Governed Trade Union "Solidarność" (NSZZ "Solidarność") – 2 representatives, All-Polish Trade Union Alliance (OPZZ) – 2 representatives and Trade Union Forum (FZZ) – 2 representatives), 2 members of two out of four representative employers organizations in Poland (Business Centre Club – Employers' Union (BCC – ZP)- 1 member and Polish Confederation of Private Employers – Lewiatan – 1 member). The Sub-group is chaired by the representatives of Government appointed by the Chair of the Tripartite Commission – Mr. Sławomir Brodziński, the Head of the Civil Service in the Chancellery of the Prime Minister. The Sub-group meets once a month. Its functioning is foreseen till the end of 2011.

7. Key topics dealt with by the social dialogue

There is no formal list of topics to be discussed with the trade unions. Discussions in the framework of the Sub-group cover such topics as labour relationship, working conditions, remuneration, social benefits, and other issues of economic policy of mutual interest and competence.

8. Outcomes of the collective bargaining

n/a

9. Obligation to implement collective bargaining agreements (legally binding)

n/a

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

n/a

4.1.22 Portugal

XLI. Specific employment regulations

1. Existence of separate rules for civil service and public employees?

Yes

2. Sources of specific civil service employment rules:

Laws and collective labour regulation instruments namely:

- [Law no. 53/2006](#), of 7th of December - related to the mobility of public employees;
- [Law no. 66-B/2007](#), of 28th of December – stipulates the performance assessment system;
- [Law n.º 58/2008](#), of 22nd of January – establishes the new disciplinary statute for staff fulfilling public functions
- [Law no. 12-A/2008](#), of 27th of February – establishes the new legal employment system, new career system and new pay steps;
- Law no. 59/2008, of 11th of September – lays down the new employment contract in the public functions system;
- [Law no. 4/2009](#), of 29th of January – defines the new social protection scheme for staff fulfilling public functions;
- Decree-Law no. 91/2009, of 9th April - defines and regulates parenthood protection in the ambit of possible maternity, paternity and adoption in the welfare system and the solidarity subsystem.
- General Careers Collective Agreement
- Special Medical Career Collective Agreement

3. What is the importance of collective bargaining?

Collective bargaining is seen as a mechanism that allows for the joint settlement of regulations governing labour relations. It is also an element in the settling of labour conditions permitting the promotion and defence of employees' rights and interests.

XLII. Collective bargaining /social dialogue

In Portugal there are two types of social dialogue, the first is collective negotiation; the second is collective bargaining.

1) In collective negotiation what is in question is collective negotiation within the scope of normative Government activity – it deals with the negotiation of pieces of legislation or matters that are set out therein – in which trade unions give their opinion concerning the content of the measures, making demands that are deemed fair and just; however, it is always incumbent upon the Government to make the final decision should there be lack of agreement, unilaterally imposing the position that is deemed more suitable.

2) On the one hand, the designation of collective bargaining is negotiation carried out by employer entities with trade union associations representing workers affiliated therein; on the other hand, its purpose is to conclude any collective labour agreement in which the various aspects of the labour relationship are regulated.

In collective bargaining the parties concerned are on an equal footing, and neither can impose its wishes in relation to the other.

The coming into force of a collective labour agreement, necessarily, presupposes the agreement of both parties with regard to the wording of its contents.

1. Representation of employers in social dialogue

The two social dialogue types present the following features:

1) Collective negotiation – has two levels – one that covers general matters applicable to the public administration in its entirety and one that deals with the sectoral level.

In negotiations of a general nature, employers are represented by the member of the government responsible for Finance and for Public Administration. At sectoral level, the representation is assumed by the member of the government responsible for the sector which coordinates and by the Minister of Finance and Public Administration.

2) Collective bargaining – There are two types of Collective agreements: agreements applicable to careers (general careers or special careers), irrespective of the bodies or services in which staff are integrated and carry out functions; or collective agreements of the public employer entity, applicable to a public employer entity with or without legal personality.

In the former case, competence for bringing agreements to a conclusion is the duty of those members of the government responsible for the areas of finance and public administration. In the latter case, the aforementioned members of the government may

approve agreements along with the member of the government who supervises the respective public employer entity as well as the public employer entity itself.

2. Representation of employees/trade unions in social dialogue

In the Portuguese public administration, employees, in both types of social dialogue, are usually represented by the following trade union organizations:

- The Frente Comum, Federação Nacional dos Sindicatos da Função Pública, FESAP, Frente Sindical da Administração Pública and STE⁵⁴, Sindicato dos Quadros Técnicos do Estado.

At the sectoral level, there is, for each sector, a greater number of trade union organizations, which represent different sectors/professions such as doctors, nurses, teachers, prison warders, forest and fireguards, etc.

3. Union density

Under the Portuguese Constitution Trade Unions are not obliged to supply information related to the number of associated employees or their organization and functioning. Nevertheless, the new employment contract in the public functions system grants to an undetermined number of trade union board members the right to time credit to fulfil trade union related tasks. The number of trade unions board members to whom this right may be applied is defined through a proportional criterion based on the number of associated employees (union density).

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Yes – Through trade unions

5. Existence of a right to strike for public employees/ civil servants

Yes, but with restrictions for judges, the armed forces and the police. There is also an obligation to guarantee the carrying out of minimum services to meet essential social needs.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

See question 1 above.

7. Key topics dealt with by the social dialogue

Regarding collective negotiation:

At the level of general negotiations in the public administration: salaries, allowances/supplements, questions related to the status of civil servants.

At a sectoral level: negotiations focus on salaries, training, health and safety, recruitment etc.

⁵⁴ In 2009 a new trade union organization led by STE was set up to negotiate the General Career Regime Collective Agreement.

As regards collective bargaining, negotiation of statutory aspects of the labour system is excluded, for example: remuneration, career structures and professional advancement.

Among other matters, the following may be the object of collective labour agreements: creation of pay supplements, forecast of performance rewarding systems, creation of systems adapted and specific to performance appraisal and, in general, all the issues covered in the Public Functions Employment Contract Regime, provided that the norms do not have a contrary result and that the agreement stipulates more favourable conditions for the worker.

With regard to collective agreements of a public employer entity, it should be noted that in the absence of a career collective agreement that indicates the matters that may be regulated by such an entity, matters of the duration and organisation of working time only, may be debated, matters related to pay supplements, and health and safety at work are excluded.

8. Outcomes of collective bargaining

Outcomes of collective negotiation are legally binding agreements which need to be incorporated in legal texts.

The outcomes of collective bargaining are agreements that bind the contracting parties.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Collective negotiation – 100%

Collective Bargaining – variable according to union organizations that conclude the agreement.

4.1.23 Romania

XLIII. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes (The Statute of the civil servant – law no. 188/1999).

2. Sources of specific civil service employment rules

3. What is the importance of collective bargaining?

XLIV. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The employers' side is represented by the Government of Romania. The general coordinator of the social dialogue is the Ministry of Labour, Family and Equal Opportunities.

2. The representation of the employees' side /trade unions in the social dialogue

Employees of the public sector are represented by five trade union organizations, which are not clearly delimited by sectors and which are characterized by sectoral and regional structures.

3. Union density

55-70%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

No

5. Existence of a right to strike for public employees/ civil servants

Yes

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Social Dialogue takes place at the Tripartite Economic and Social Council, which includes members from the Government, the employees' side and the employers' side.

Since 2005, a Department for social dialogue was established at Governmental level. It is coordinated by a Secretary of State, whose competencies include the management of social dialogue commissions in ministries as well as organizing meetings between the Prime Minister and the Tripartite Council.

7. Key topics dealt with by the social dialogue

Working conditions, remuneration, public sector reform

8. Outcomes of the collective bargaining

The outcome is most of the time a legal text.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Yes

4.1.24 Slovakia

XLV. Specific employment rules

1. Existence of separate rules for civil service and public employees?

No

2. Sources of specific civil service employment rules

3. What is the importance of collective bargaining?

XLVI. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

Collective agreements are concluded at branch level at the employers' side with the different ministries such as the Ministry of Labour, Social Affairs and Family, the Ministry of the Interior and the Ministry of Finance.

2. The representation of the employees' side /trade unions in the social dialogue

Collective agreements are concluded at the employees' side with the sectoral trade unions such as the trade unions of the education workers, the trade union of healthcare and social services workers.

3. Union density

10%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Yes. The legal framework for the management of industrial relations is provided in the Constitution of the Slovak Republic, in the Act No.311/2001 Coll., the Labour Code, as amended, in the Act No. 2/1991 Coll. On collective bargaining, as amended, in the Act No. 312/2001 Coll. on the civil service, as amended, in the Act No. 552/2003 Coll. on the performance of work in the public interest and others.

5. Existence of a right to strike for public employees/ civil servants

Yes, but not for top civil servants, fire brigades and police.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

The social dialogue is rather decentralized and takes place at different levels (national level, branch level and company level).

The state employer is not obliged to conclude a collective agreement. There is no duty to reach an outcome.

7. Key topics dealt with by the social dialogue

Working conditions (working time, holidays, severance pay after the termination of an employment relationship, salary, equal opportunities) and the modernization of the social security systems.

8. Outcomes of the collective bargaining

Agreements that have to be approved by the Government.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

No

4.1.25 Slovenia

XLVII. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes (Constitution, Civil Servants Act, Public sector Wage System Act, Employment Relationship Act, Collective Agreement Act, Rules of procedure regulating co-operation between trade unions and employers).

2. Sources of specific civil service employment rules

3. What is the importance of collective bargaining?

XLVIII. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The employers' side is represented by the governmental bargaining group, which is composed by representatives of all ministries, agencies, some governmental offices, parliament and the associations of municipalities.

2. The representation of the employees' side /trade unions in the social dialogue

Public sector employees are represented by over 20 trade union organizations, for instance the Trade Union of State Bodies of the Republic of Slovenia.

3. Union density

10-40%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Yes

5. Existence of a right to strike for public employees/ civil servants

Yes, but with a special mechanism for dispute resolution and a minimum service provision

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

In Slovenia, social dialogue is centralized: Negotiations take place at the central public administration level, while the results affect all public employees. In certain fields, collective bargaining is compulsory in the public sector.

Collective bargaining is characterized by its rather formal character. Negotiations are taking place usually two to four times per year, although no additional committees or other institutions have been set-up. Social dialogue and collective bargaining are almost a constant process in the Slovenian public sector.

7. Key topics dealt with by the social dialogue

Working conditions, modernization of social security systems, training, public sector reform, quality management, performance management.

8. Outcomes of the collective bargaining

Legal texts, collective agreements and other agreements or statements.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes, collective bargaining agreements are treated as binding agreements. Both parties are obliged to act in accordance with the signed agreements.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

Yes



4.1.26 Spain

XLIX. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Yes. To start with, public employees is a big definition that includes civil servants and contracted employees. They have different rules although the Basic Statute of the Public Employee refers to both of them. Statutory civil servants also have their own regulation. The Basic Statute of the Public Employee contains main and general rules for civil servants and redirects to specific regulation for contracted employees and statutory civil servants.

2. Sources of specific civil service employment rules

The constitution and the statute of employees and the basic statute for public employees and for statutory civil servants.

3. What is the importance of collective bargaining?

High degree of importance of collective bargaining for both civil servants and contracted employees.

L. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The Ministry of the Presidency is responsible for the development and the implementation of the Social Dialogue.

2. The representation of the employees' side /trade unions in the social dialogue

The employee's side is characterized by its great variety. The employee's organizations are structured according to the different professional groups or according to the different sectors. The most important ones are the following:

-The Workers' Commissions (CCOO), which comprises for instance professional organizations in different fields such as in the field of health and education.

-The General Workers' Confederation (UGT), which groups different federations representing different occupational groups.

-The Independent Trade Union Confederation of Civil Servants (CSIF) was founded in the 80s by a number of professional associations with the objective to present an alternative approach to that of the CCOO and UGT.

3. Union density

27%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

There is a legal recognition of the right to collective bargaining. The negotiating rights of civil servants are laid down in a specific law. Thus, the employer's side is obliged, by law, to negotiate on all topics related with their working conditions.

5. Existence of a right to strike for public employees/ civil servants

Yes, except for judges, magistrates, public prosecutors, police and military personnel.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

The collective bargaining system is quite formal: There are different committees for negotiation:

- 1) For all the Public Administrations. The committee responsible for the negotiation of working conditions common to all staff of the whole public administration (state, regions and local administration)
- 2) For the Central State Administration. The committee responsible for the negotiations dealing with topics related to statutory civil servants only and the committee responsible for the negotiation of working conditions common to contracted employees and civil servants. Besides these committees there is a committee which deals just with collective bargaining of state employees. Finally there are other committees dealing with different scopes of negotiation.
- 3) Other frameworks of negotiation. There are other specific committees for specific issues and frameworks.

Social Dialogue has become much more important since the adoption of the law that modifies collective bargaining at the beginning of the 90s and the strengthening of the trade unions.

7. Key topics dealt with by the social dialogue

Remuneration, working conditions in general, evaluation of positions, conditions of service, training

8. Outcomes of the collective bargaining

Collective bargaining agreements are legal texts.

9. Obligation to implement collective bargaining agreements (legally binding)

Yes, but normally agreements need to be incorporated into legal texts or other instruments.

10. Coverage rate of collective bargaining (i.e. percentage of public employees / civil servants covered)

Yes



4.1.27 Sweden

LI. Specific employment rules

1. Existence of separate rules for civil service?

In Sweden, employment rules are very similar in the public and in the private sector.

Employment (Co-Determination in the Workplace) Act (1976) providing the framework for co-determination in the workplace;

Trade Union Representatives (Status at the Workplace) Act (1974) regulating the status of trade union representatives;

The Labour Disputes (Judicial Procedure) Act (1974), providing the legal rules for settling disputes in the Labour Court.

The abovementioned regulations are common for all of the Swedish Labour Market.

Additionally the Public Employment Act (1994), is mostly regulating disciplinary action in the Public Sector.

Rules of procedure for central overall negotiations between the social partners are laid down in agreements.

General pay conditions are laid down in a framework agreement.

Rules for organization based (so called local) agreements are also laid down in the general framework agreement of pay.

Rules for handling job security are laid down in a job security agreement.

Rules for handling working conditions are laid down in a central and a lot of agency based complementary agreements.

Rules for getting additional pension is laid down in a pension agreement complementary to law.

2. Sources of specific civil service employment rules

Law, to a very limited extent, and agreements between social partners to the most.

3. What is the importance of collective bargaining?

LII. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

The public sector's employers' side is represented by SAGE (The Swedish Agency for Government Employers), a special state agency, which bargains autonomously from the government and which is responsible for the conclusion of agreements with the employees' side. Membership of SAGE is compulsory for all the state agencies and government offices.

SAGE is fully financed by membership fees and having its mandate to operate from the member agencies only, and not from the government or the Riksdag (Parliament). The coordination mechanisms take their shape in the form of employers' cooperation between agencies.

2. The representation of the employees' side /trade unions in the social dialogue

- The Central Organisation of Professional Associations (Saco-S)
- The Central Organization of Salaried Employees (OFR)
- The Swedish Union of Service and Communications Employees

3. Union density

About 80%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Yes, since 1966 an agreement between the predecessor of SAGE and the central trade unions gave the governments employees a right to negotiate their salaries and other working conditions.

5. Existence of a right to strike for public employees/ civil servants

Yes, there are almost no exceptions

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

Collective bargaining is characterized by its rather decentralized nature. SAGE acts as a coordination mechanism in the sense that the agreements, which are concluded at agency level, are negotiated according to framework agreements applicable to the entire administration. These framework agreements are concluded between SAGE and the national trade unions.

The actual pay of each employee is negotiated locally between the agency as an employer and the local trade unions. A development towards pay setting dialogues between manager and employee is in place.

The procedure for collective agreements is rather formal and as such agreed between the social partners. The length of these agreements may vary, but pay agreements are usually running for three years.

The trend towards framework agreements at the central level have left the conclusion of mere specific agreements of pay and working conditions to the local actors at organizational level. Still job security and pension allowances are agreed at central level. So are the rules of procedure for negotiations between the national social partners.

7. Key topics dealt with by the social dialogue

Topics at central level: Rules of procedure for the relationship between national social partners. rules for agency based negotiations, obligation to keep industrial peace, overall salary policies or level, general working conditions,

Topics at agency level: Individual pay, local working conditions, local work environment.

8. Outcomes of the collective bargaining

Legally binding collective agreements

9. Obligation to implement collective bargaining agreements (legally binding)

Yes, they must be implemented when they have been signed by the social partners.

10. Coverage range of collective bargaining (i.e. percentage of public employees / civil servants covered)

About 99 per cent of the central government workforce is covered. Specific statuses and conditions of employment only apply for some magistrates, some employees of the Ministry of Foreign Affairs and the some senior staff in the Police authorities.

4.1.28 United Kingdom

LIII. Specific employment rules

1. Existence of separate rules for civil service and public employees?

Framework provided in the Civil Service Management Code. Departments produce their own handbooks based on this. Wider public sector organizations will have their own equivalents

2. Sources of specific civil service employment rules

Please see above but need to add Civil Service Code which includes political interface, behaviors, etc.

3. What is the importance of collective bargaining?

Maintaining and improving relationships with the TU side is regarded as important in the UK. The process will vary from department to department ranging from the fairly informal to the formal.

LIV. Collective bargaining /social dialogue

1. The representation of the employers' side in the social dialogue

In Social Dialogue, the Treasury and the Cabinet Office play an important role on the employer's side. Although each department and agency sets up its own pay system, the Treasury places certain constraints on pay discretion, while the responsibility for pay and performance management frameworks in the civil service belongs to the Cabinet Office. It is important to distinguish between the departmental role and central role. The the key players from both management and the TU side will be different in both situations.

2. The representation of the employees' side /trade unions in the social dialogue

Most of the trade unions focus on the representation of a particular occupational group eg administrative, specialist, senior managers etc. It should be noted that they represent employees in the public and to a lesser extent in the private sector.

3. Union density

Between 65-70%

4. Existence of a legal right for public employees/civil servants to conclude collective agreements

Yes

5. Existence of a right to strike for public employees/ civil servants

Yes subject to certain conditions and following due process.

6. Main characteristics of the social dialogue (i.e. at which level: national/regional/sectoral)

The single-level collective bargaining system is decentralized; it takes place in approximately 90 bargaining units. The most significant bargaining units are the Department for Work and Pensions, HM Revenue and Customs, the Home Office, Ministry of Defence and Ministry of Justice.

Since the creation of executive agencies and the far-reaching reform of the unified civil service during the 90s, pay determination below the Senior Civil Service has been delegated to departments

The social dialogue is characterized on the one hand by strong governance arrangements: Key committees include the Permanent Secretaries Employee Relations Group (PSER), the Permanent Secretaries Management Group (PSMG), HR Directors, etc. Ministers can also be actively engaged. Nationally, the Cabinet Office meet formally with Trade Unions to discuss; Reward, Efficiency and Relocation and Work and Wellbeing. Separate meetings take place each month on each of the topics. A group of Permanent Secretaries meet every month to progress significant Employee Relations issues. The social dialogue can also be characterized – depending on the issue as rather informal while the frequency of meetings and contacts also depends on the issue. This ensures that all issues are dealt with at the appropriate level and are not escalated.

7. Key topics dealt with by the social dialogue

Modernisation of public management/services and HRM, pensions, compensation, work life balance, job security, minimizing redundancies, reward, outsourcing/privatization, equality issues, absence management, sustainability, skills, apprenticeships etc.

8. Outcomes of the collective bargaining

Change in policies/conditions, working practices etc., occasional ministerial announcements, more often a document outlining a policy to HR Directors. Key is to get corporate buy in

9. Obligation to implement collective bargaining agreements (legally binding)

Mainly general statements. In case of an agreement with the TU side, this needs to be implemented. Corporate buy in is normally secured through Permanent Secretaries, HR Directors or Ministerial endorsement. This ensures implementation happens.

10. Coverage of collective bargaining (i.e. percentage of public employees / civil servants covered)

All civil servants covered