

# Social models and challenges to collective bargaining 1

- ◆ Social models in Europe: social protection, labour policies, employment protection, types of employment, life-long learning
- ◆ European Employment Strategy 1997-2008
- ◆ Economic crisis from 2008
- ◆ Tendencies: Income inequalities, Towards neoliberalism, Segmented labour market
- ◆ EU level indispensable

# Social models and challenges to collective bargaining 2

- ◆ Erosion of the European tradition of collective bargaining
- ◆ ECJ judgment – what do they mean?
- ◆ Posting of Workers Directive and Lisbon Treaty
- ◆ Construction and Wood sectors – Crisis and Climate Change
- ◆ Maintaining a Social Europe

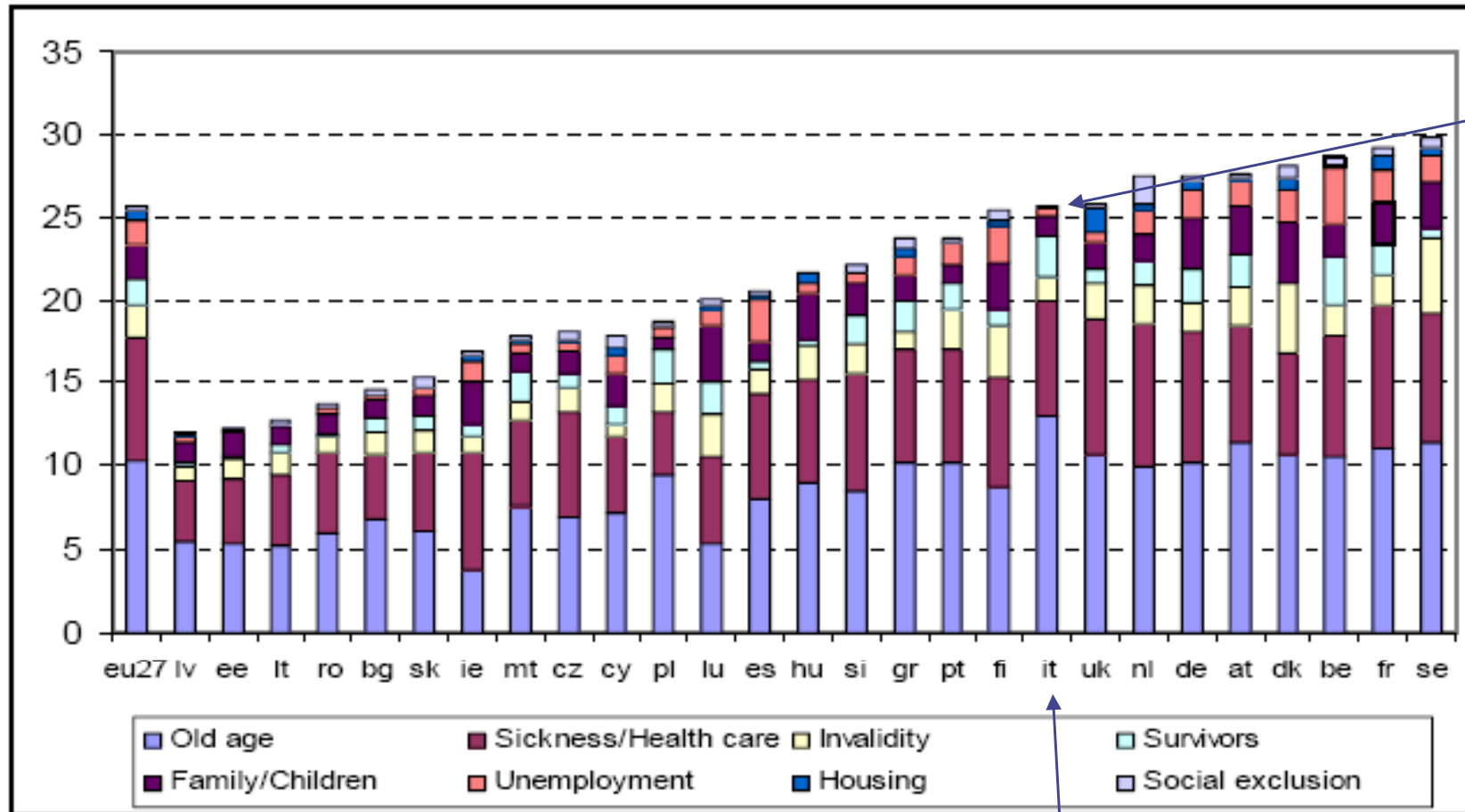
# Social and Industrial Relations Regimes in Europe 1

- ◆ **South:** State-interventionism, trade union coverage at medium level, social partners conclude social pacts with the state, conflict-oriented bargaining, segmented welfare regime
- ◆ **Centre-west:** "Social partnership", generally binding collective agreements, bargaining style integrating and not conflict-oriented, segmented welfare regime

# Social and Industrial Relations Regimes in Europe 2

- ◆ **UK, Ireland:** Liberal pluralism, non-intervention of state, employer-oriented power balance, conflict-oriented bargaining, residual welfare state
- ◆ **New Member States:** Liberal or state-centered, low trade union coverage, acquiescent bargaining style, residual welfare regime
- ◆ **Scandinavian:** Limited role of state (mediator), high trade union coverage, institutionalized role of social partners, integrating and not conflict-oriented bargaining style, universalistic welfare regime

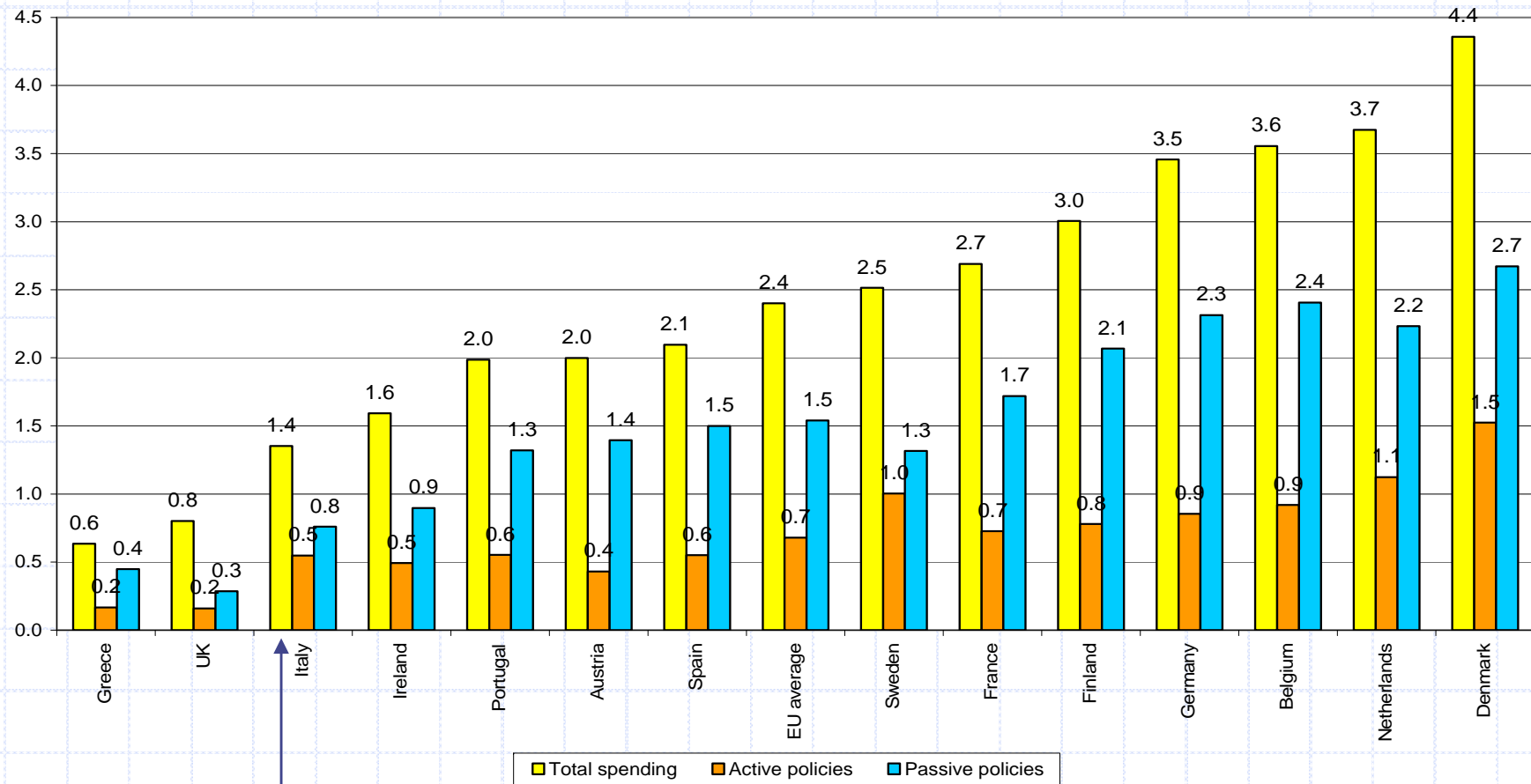
Figure 4: Social protection benefits, by function, in % of GDP - 2006



Source: Eurostat

# The spending for labour policies

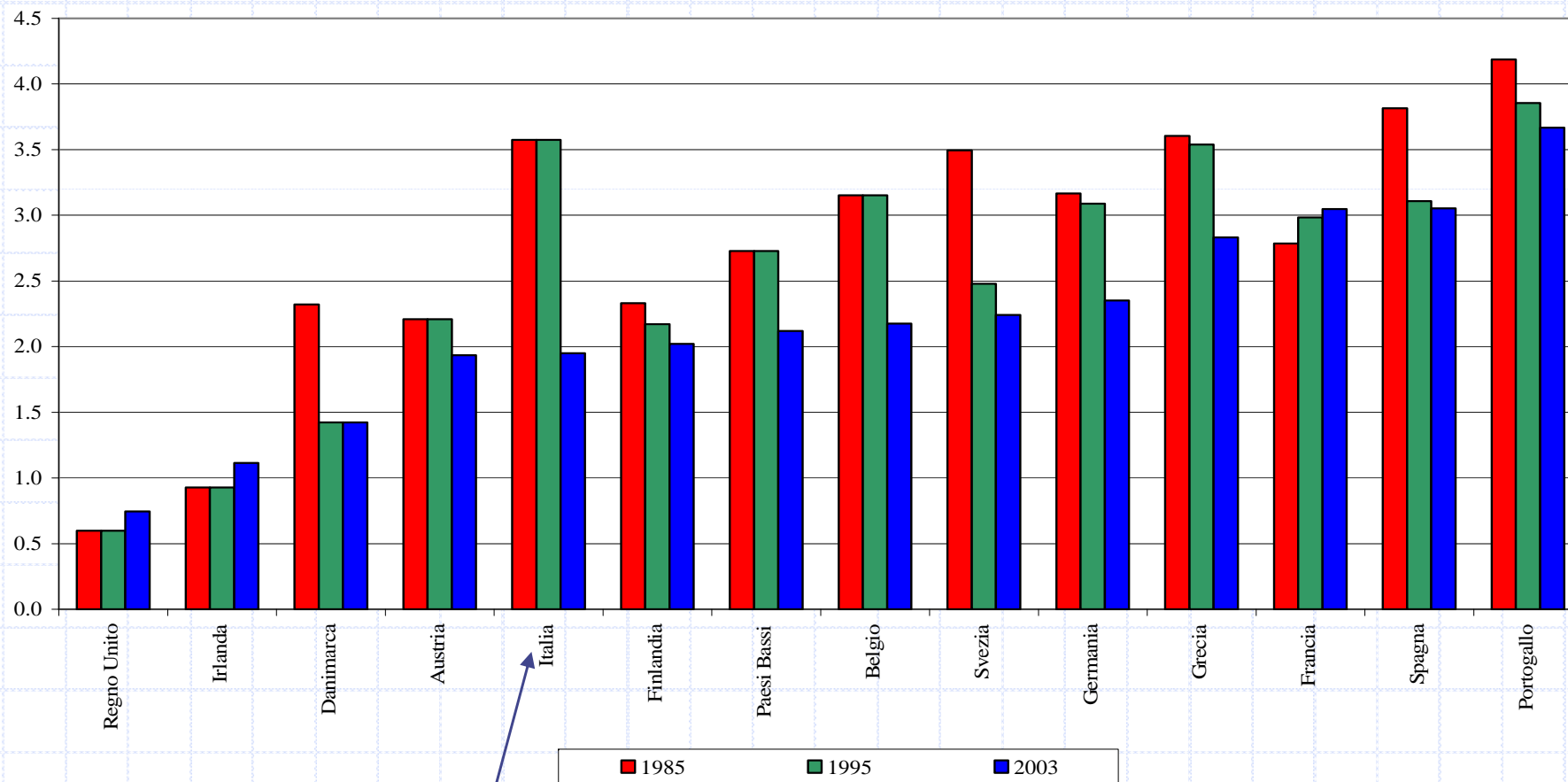
Spending for labour market policies in 2004 in EU15 countries.  
Source: elaborations on Eurostat - Labour market policy database



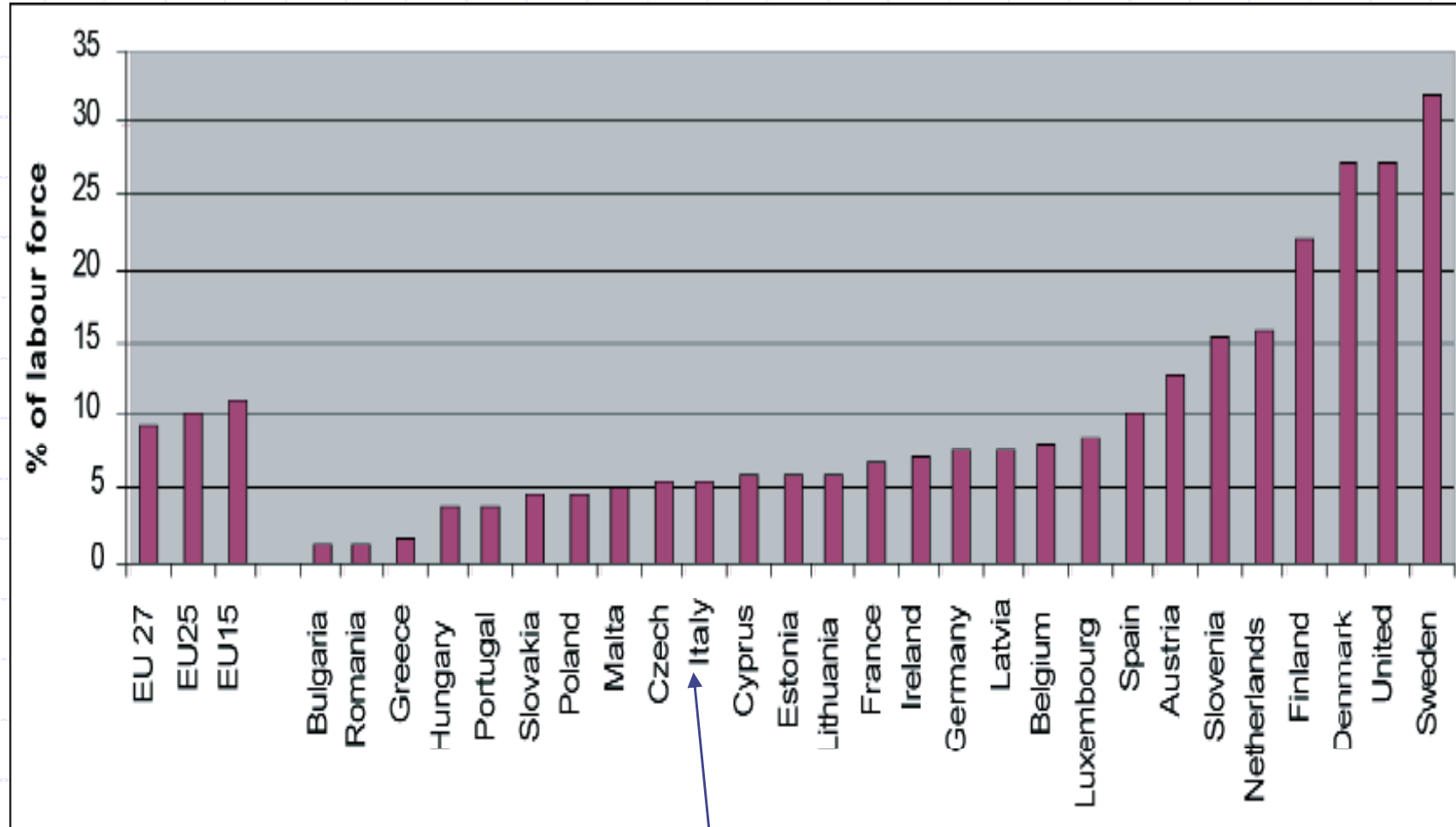
# The employment protection legislation (EPL) index

Fig. 4.3.1: Andamento dell'indice di *employment protection legislation* (EPL) nei paesi di UE15 fra il 1985 e il 2003.

Fonte: elaborazioni su dati OCSE



## Participation of the labour force in lifelong learning (2007)





# Types of employment contracts

The share of fixed-term contracts has increased constantly since 1997 (but declining since 2008).

27% of the EU workforce has a fixed-term, 37% part-time and 10% are self-employed.

◆ **Part-time:**

18% EU-27; from 2% of Bulgaria to 47% of the Netherlands

◆ **Fixed-term:**

14% EU-27; from 5% of Greece or the Baltic States to 29% of Spain

◆ **Self-employed:**

16% EU-27; from 4.8% of Sweden to 24.5% in Italy, > 40% in Greece or Romania.

# European Employment Strategy 1997-2008

## ◆ Employment rate

from 57% to **65.9%** (EU-27; 67.3% EU-15)

## ◆ Female employment rate

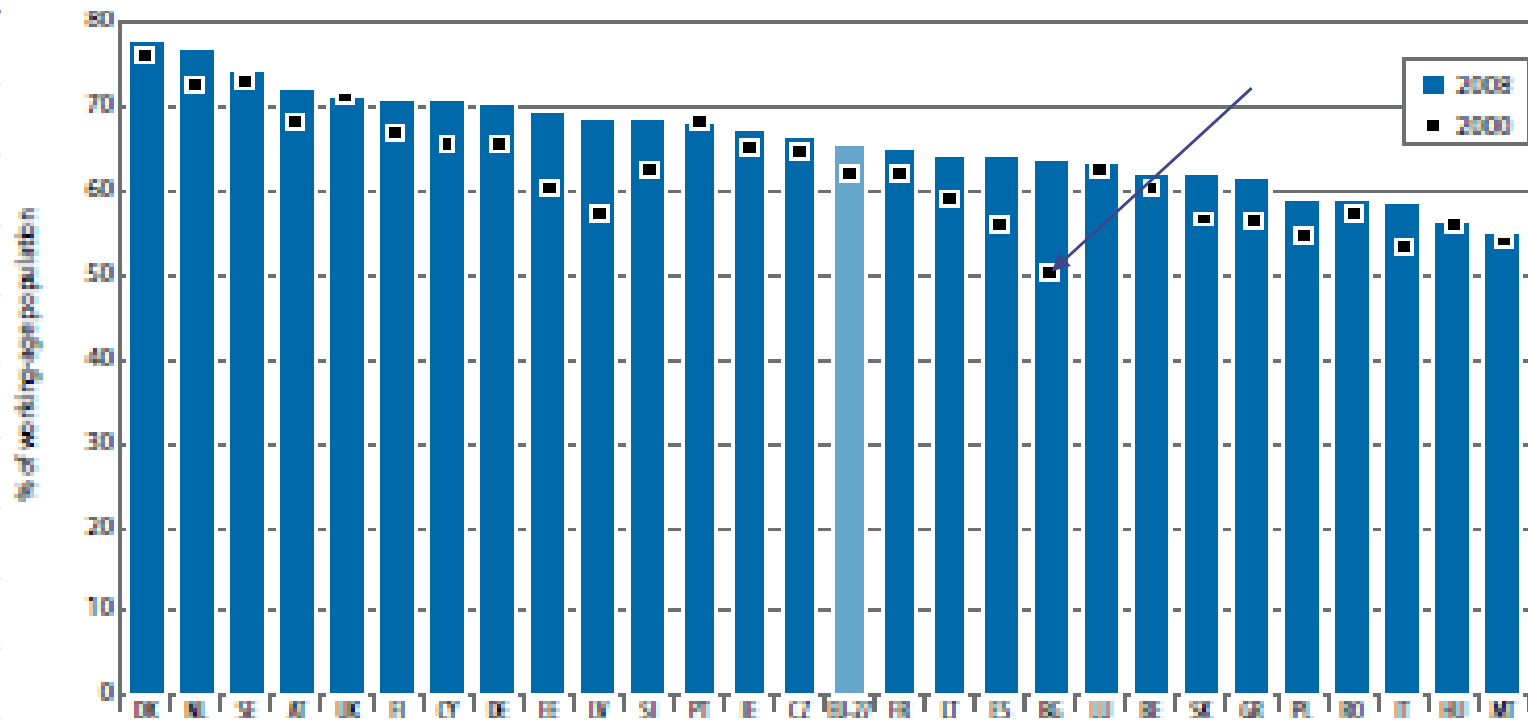
from 51% to **59.1%** (EU-27)

## ◆ Unemployment rate

from 11.4% to **7.0%** (EU-27). Increasing again to approx 10 % 2010

## ◆ Unemployed: 16.7 million. May be 20 million 2010

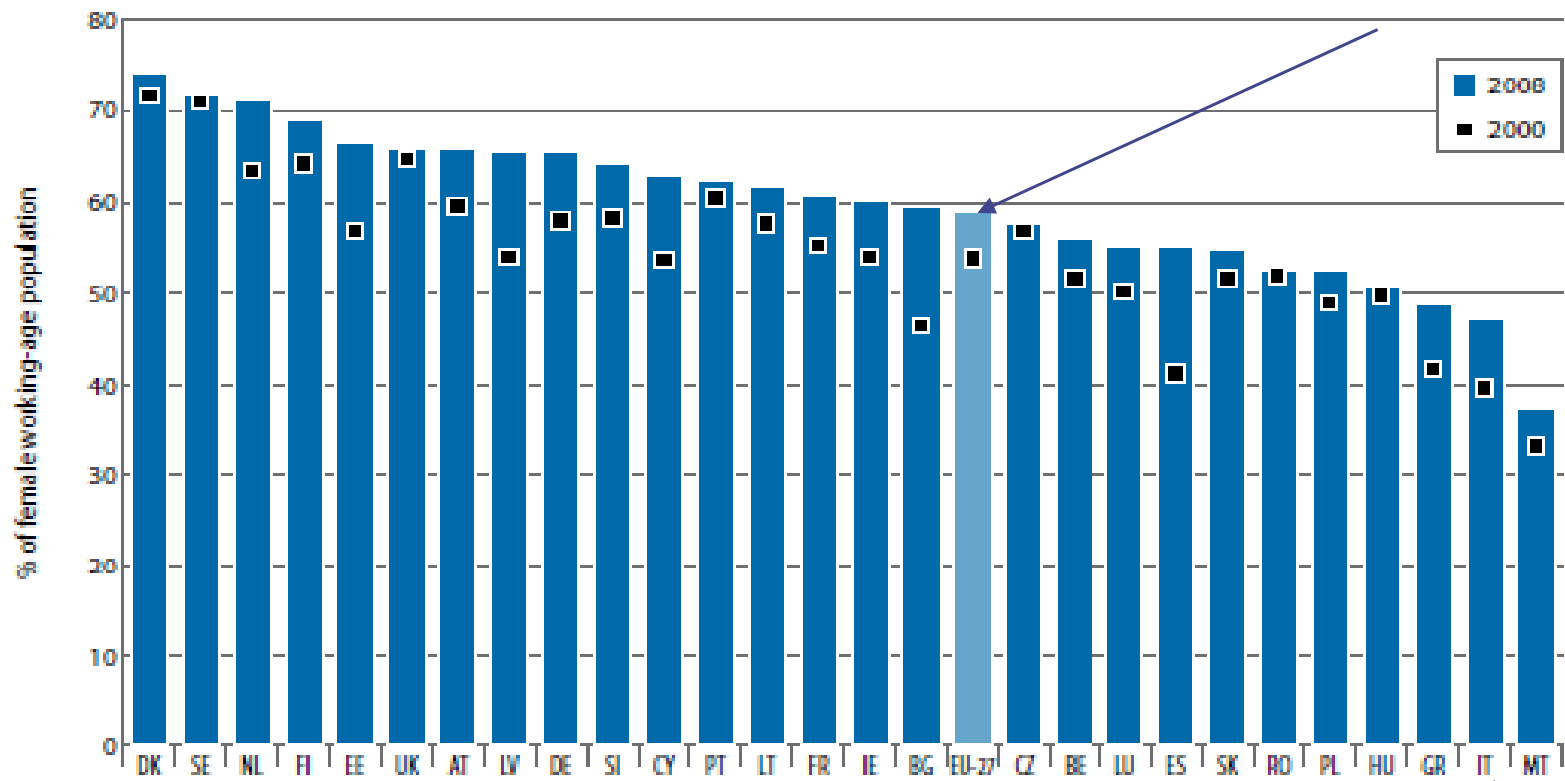
Chart 12: Employment rates for Member States, 2000 and 2008



Source: Eurostat, EU LFS.

Note: Data for RO 2002 instead of 2000.

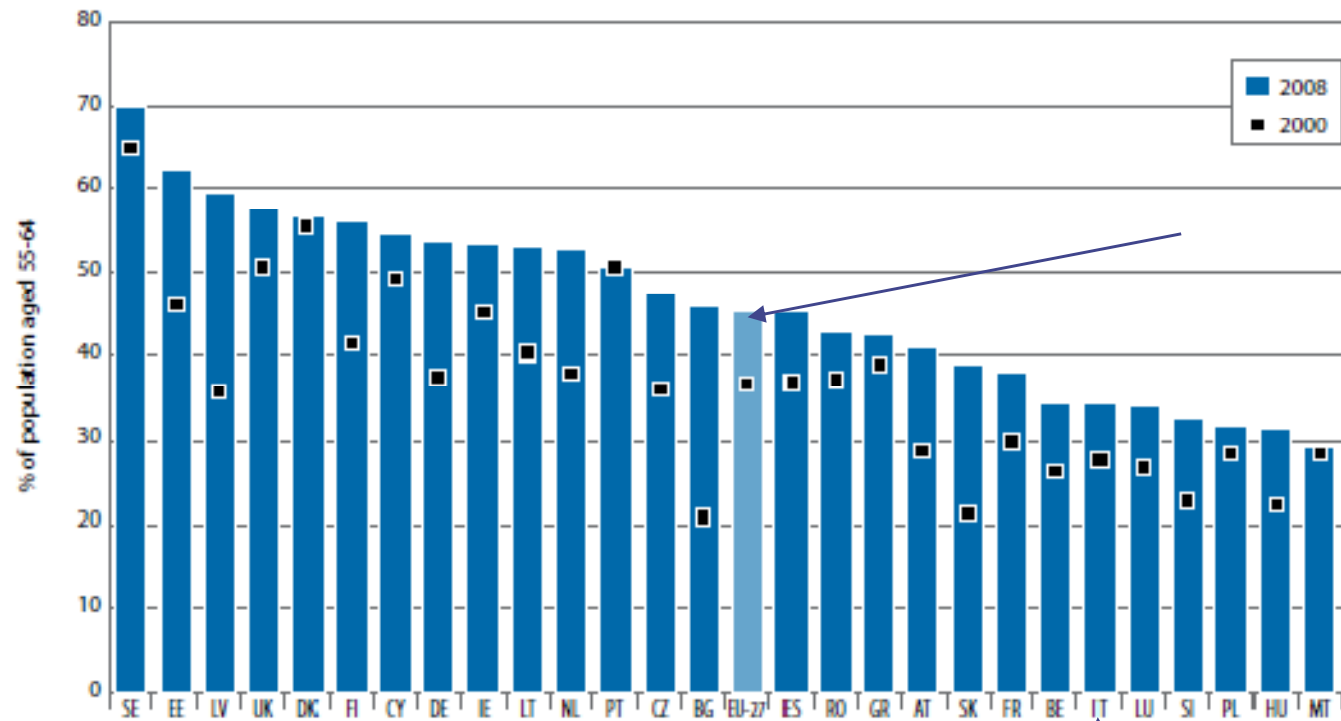
Chart 13: Female employment rates for Member States, 2000 and 2008



Source: Eurostat, EU LFS.

Note: Data for RO 2002 Instead of 2000.

Chart 14: Employment rates for persons aged 55–64 for Member States, 2000 and 2008



Source: Eurostat, EU LFS.

Note: Data for RO 2002 instead of 2000.

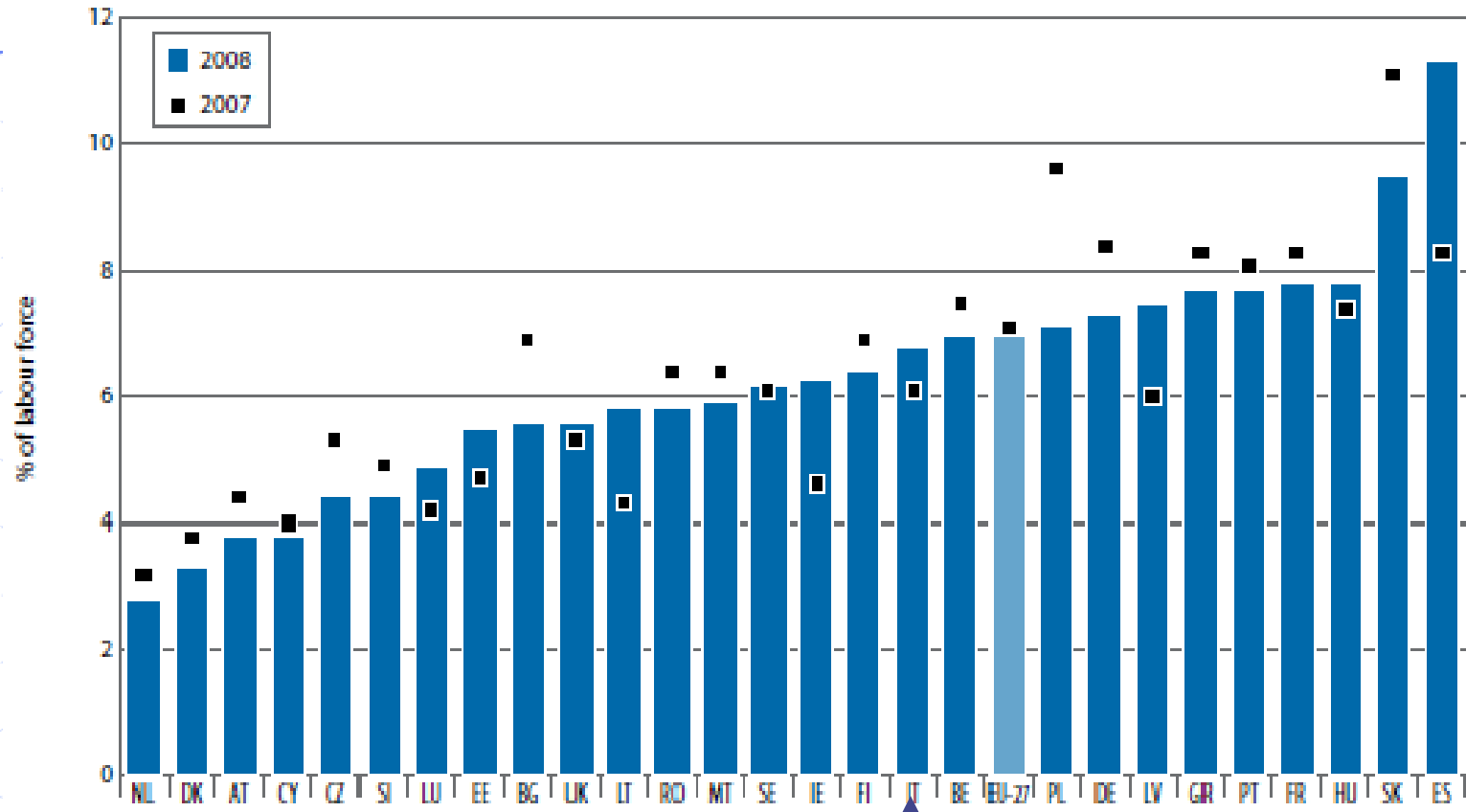
# The economic crisis and employment in Europe

- ◆ 35 % of the active and population in working age are out of work (either unemployed + non-active)
- ◆ Workers with “atypical contracts” are much more at risk of poverty
- ◆ The crisis aggravates problems and persistent exclusion of groups from the labour market
- ◆ Social Europe is threatened, both at EU and national level. The crisis is taken as an excuse to cut down on social spending

## **After the crisis: return of mass unemployment or a “new social deal” based on Climate Change measures?**

- ◆ Up till now, the unemployment has been relatively contained by internal flexibility measures (e.g. reduced working time)
- ◆ Europe is still expected to lose more than 8 million jobs over 2009-10
- ◆ General unemployment could reach over 10% by 2010 if not co-ordinated measures are taken

Chart 16: Unemployment rates for Member States, 2008 and 2007



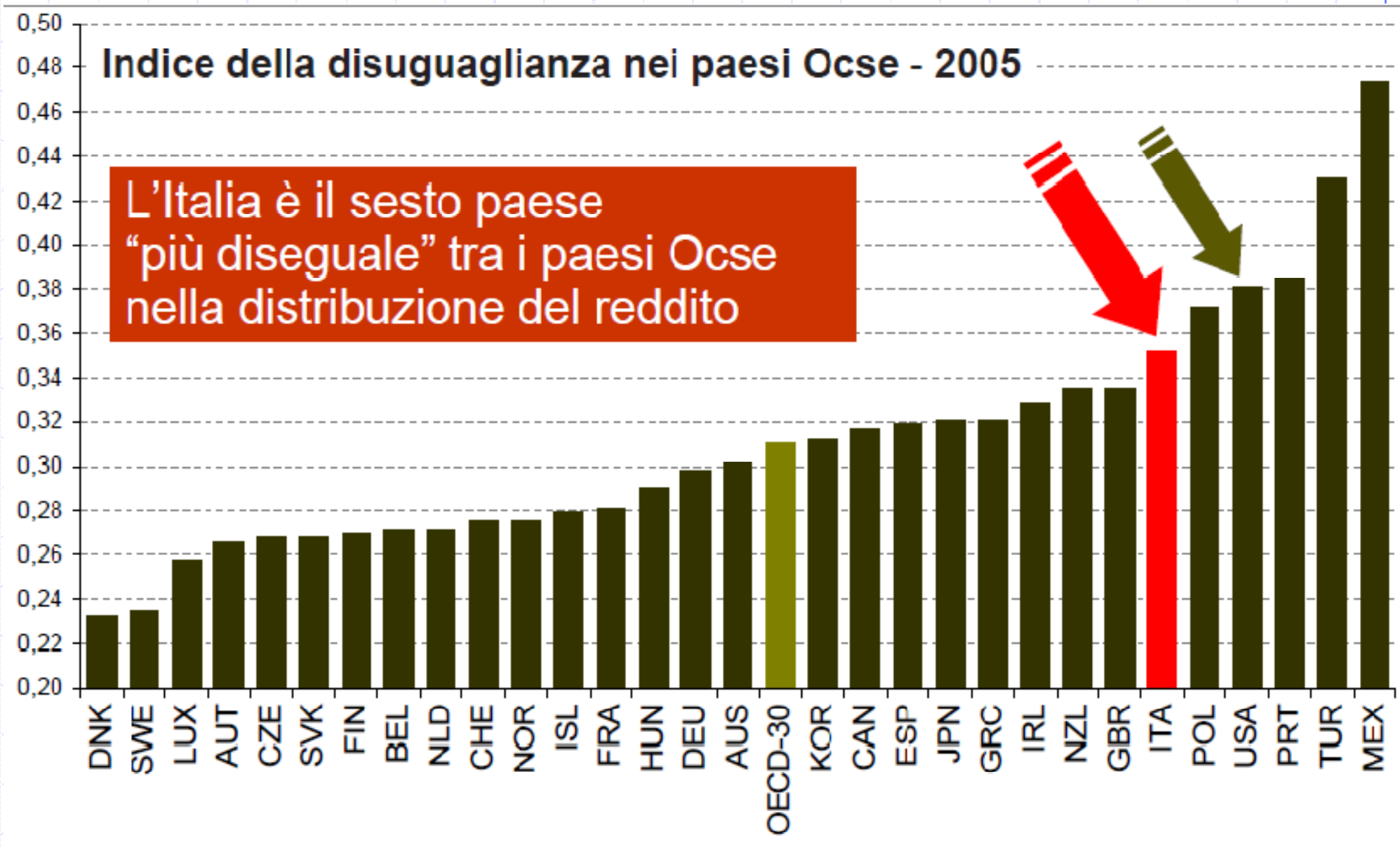
Source: Eurostat, EU LFS.



# Income inequality in the EU

- ◆ Income differences between countries have decreased (until 2008); but income differences within countries have increased
- ◆ Downward pressure on wages, towards minimum levels
- ◆ The “bottom collapse” and growing wage gaps
- ◆ Flexible jobs haven’t been created in high-paid/productive sectors, but mostly in low-paid sectors
- ◆ Risk of poverty when workers outside of social protection lose their jobs
- ◆ Low wage/household debts could function as a surrogate and survival mechanism

# Incomes inequalities



# Political shift towards the neo-liberal model

## Political change in the EU:

- ◆ enlargement of the EU, neo-liberal governments
- ◆ shift to the Right in the European Parliament
- ◆ from Prodi to Barroso in the Commission
- ◆ Lack of the social partners' involvement
- ◆ Standstill of social directives in the EU
- ◆ The re-interpretation of EU law by the ECJ

## Economic approach:

- ◆ The National Reform Programmes
- ◆ Employment no longer singled out as priority
- ◆ Removal of obstacles to flexibility; Employment Protection and demand for equal treatment = "market imperfection" and an obstacle for free movement of services

# Inclusion/exclusion in the labour market

- ◆ Labour market segmented in terms of: gender/age, contractual flexibility, welfare guarantees, wages, career opportunities; unemployment risks
- ◆ A broad participation in the labour market doesn't always reach the most excluded. The jobs created do not always provide for decent living standard
- ◆ Precarious jobs are not stepping stones towards better jobs
- ◆ When you are outsider in the labour market, you stay and outsider, when you a precarious job, you stay in precarious jobs

# **In spite of problems, the EU level as indispensable as ever**

- ◆ **One country cannot act in isolation from all the others, because of inter-dependencies**
- ◆ **EU level is necessary to avoid that national problems are “exported” to neighbours (also in the case of trade unions’ policies)**
- ◆ **We need an agenda for more social cohesion and less inequality between the different member states in Europe**
- ◆ **Fundamental rights have to be protected at EU level. Otherwise national provisions can be outruled by a reference to Internal Market freedoms (Laval, Ruffert etc)**

# Capital “escaping” from industrial relations through

- a) *Decentralisation* in decision-making, new work organisation and search for direct/informal participation of individual employees or team work;
- b) *Threat of industrial relocation* through trans-nationalisation. Trade union demands and EU legislation are fought this way

# The slow erosion of the European tradition of collective bargaining

- ◆ Globalization has led to shifted power balance capital/labour due to exit threats
- ◆ Tendency towards decentralization in society
- ◆ Tendency towards individualization
- ◆ Framework constraints from the EU stability pact
- ◆ ECJ sentences in the Viking, Laval, Rüffert and Luxembourg cases



# The ECJ judgments – what do they mean?

## ***1. Restrictions to the right to strike:***

- ◆ Proportionality rules
- ◆ Only minimum conditions according to PWD
- ◆ Horizontal direct effect of EU law

## ***2. Equal treatment for posted workers restricted***

- ◆ Through collective bargaining and action (Laval case)
- ◆ Through social criteria in public procurement (Rüffert case)
- ◆ Through legislation (Luxembourg case)

## ***3. Social models of Member States are not respected***

- ◆ The Posting of Workers Directive can only be implemented in the way explicitly mentioned in the Directive
- ◆ Member States can not use their traditional means of combating social dumping



# The ECJ judgments and the Posting of Workers Directive

- ◆ PWD has been re-interpreted from a minimum co-ordination Directive into a maximum harmonization Directive
- ◆ EU law has been given horizontal direct effect, meaning that employers can make trade unions liable for damages directly towards EU law (cf the final Laval ruling)
- ◆ PWD restricts the possibility to demand equal treatment for posted workers
- ◆ The difference between “migrant workers” and “posted workers” is institutionalized. Only for migrant workers can equal treatment be enforced

# Posting of Workers Directive – recent development

- ◆ October 2008, the European Parliament – 474 in favour, 106 against, 93 abstentions – criticized the ECJ rulings and the new interpretation of the PWD
- ◆ December 2008, the EFBWW Executive Committee decided to work for a revision of PWD
- ◆ March 2009, the ETUC Executive Committee put a revision of the PWD as a top item on their European Election Manifesto
- ◆ September 2009, Mr Barroso said that the PWD threatens fundamental social rights and the free movement of workers. He promises a legislative initiative
- ◆ October 2009, Spanish government says it will – during the Spanish EU Presidency – “take an initiative” related to Mr Barroso’s statement on the PWD
- ◆ November 2009, John Monks meets with Barroso and receives promises that the ETUC will have a say on the forthcoming legislative initiative
- ◆ December 2009, Luxembourg government says it is in favour of a revision of the PWD

# Posting of Workers Directive and the Lisbon Treaty 1

- ◆ The Lisbon Treaty came into force 1 December 2009 including the Charter of Fundamental Rights into the Treaty
- ◆ Article 28 in the Charter says that workers and employers have the “right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.”
- ◆ Article 52 connects the EU Treaty with the European Convention for the Protection of Human Rights and Fundamental Freedoms. There it is stated that the rights in the Charter “shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection”.

# Posting of Workers Directive and the Lisbon Treaty 2

- ◆ The European Court of Human Rights in Strasbourg (ECHR) is the Court that protects the European Convention of Human Rights
- ◆ In 2009, the ECHR has delivered 4 judgments saying that the right to strike is part of the freedom of association.
- ◆ This means that we from 1 December 2009 have conflicting “judicial spheres” in the EU, the ECJ case-law versus the ECHR case-law.
- ◆ Additional problem is that the UK, Poland and the Czech Republic (?) has been allowed to opt-out from the Charter, and thus from the “fundamental rights”.
- ◆ The “Brussels I Regulation” in the EU allows “Forum shopping”, which means employers can use courts in the UK, Poland and the Czech Republic in disputes with international back-ground

# Economic crisis and Climate Change

- ◆ Construction and Wood are key sectors for combining Climate Change measures and job creation
- ◆ New investment plans should be launched at EU level. EU is lagging behind the US and China
- ◆ EU Investment Programs should be focused on Green investments. Construction and Wood sectors can contribute
- ◆ “Green Deal for the construction industry” – Joint demands from the EFBWW and FIEC



# "Green Deal for the construction industry"

- ◆ Energy-saving investments – public infrastructure, renewable energy production, upgrading energy efficiency in buildings
- ◆ Funding for home renovation
- ◆ EU should support investments in R & D and innovation in the construction industry to come up with new energy-efficiency technology
- ◆ EU should support investments in vocational and professional training for new skills related to energy-efficiency technology
- ◆ Financial market should be regulated to guarantee access for individuals and SMEs to building credit
- ◆ The EU fund for recovery, climate change and infrastructure is insufficient

# Maintaining a Social Europe

- ◆ A Social Dimension at EU level is necessary – otherwise we risk an erosion of the European Social Model
- ◆ No trade-off between social and economic goals. Social protection is a competitive advantage
- ◆ Not only “more” but also “better” jobs must be created. This means regulations also at EU level to improve working conditions, combat social dumping and guarantee equal treatment

# Equal treatment 1

- ◆ A Social Progress Protocol should be attached to the Treaty, ensuring harmonization upwards of social standards
- ◆ The Posting of Workers Directive needs to be revised to 1) make it possible to demand equal treatment and to use industrial action to enforce this, 2) restore the Directive into a minimum Directive, and 3) respect different social models
- ◆ “Forum-shopping” – i.e. employers choosing national Courts most likely to be employer-friendly - in industrial action conflicts should be restricted
- ◆ All migrant workers – also third-country nationals – should be entitled to equal treatment according to the Charter of Fundamental Rights. Admission of third-country nationals should not be used to undercut national or regional collective agreements



# Equal treatment 2

- ◆ Public Procurement Directives should be revised to make it possible to lay down social and equality criteria in public procurement
- ◆ Abuses of extensive sub-contracting should be prevented by an EU regulation laying down a chain liability, encompassing the whole chain of production
- ◆ Bogus self-employment should be combated at EU level by 1) defining a set of common European criteria for an employment relation, 2) overturning the ECJ rulings that have established a country-of-origin principle regarding the definition of type of employment