



European Foundation
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Conditions

The tripartite EU Agency providing
knowledge to assist in the development
of social and work-related policies

The capacity to negotiate and to enter into contractual relations of the European Social Partners

Christian Welz, Eurofound

SSDC Chemical Industry, expert group meeting, 24 February 2017

Outline

1

Objectives, background, method

2

Key findings

3

A short text analysis

4

Conclusions and policy pointers

Objectives

- key questions of the project are
 - Do EU-level social partners – at cross industry and sectoral level – have the **capacity to negotiate and enter into contractual relations** including agreements, as foreseen in article 155 TFEU?
 - How are they mandated to do so?
 - Where is this documented?

Background

- the Commission (EC) first used capacity to negotiate in its 1993 COM
- “organisations (which) are potentially eligible to be consulted” under Articles 154 TFEU must:
 - consist of organizations, which are themselves an integral and recognised part of Member State social partner structures and with the **capacity to negotiate agreements**, and which are representative of all Member States, as far as possible (EC, 1993).”

Background

- In 1994 the EP proposed to the following condition:
 - “eligible organisations should have a **mandate from their members** to represent them in the context of the Community social dialogue and are to demonstrate their representativity.”
- 1997 Opinion the EESC reiterated that representative organisations
 - “(...) must have a **mandate from its member organizations** to negotiate at European level.”

Background

- 27.06.16 the Presidency of the Council, the EC and the European Social Partners signed a quadripartite statement *'new start for social dialogue'*.
 - “The cross-industry and sectoral social partners will (...) improve membership and representativeness of both trade unions and employers’ organisations, and ensure that there is **capacity to enter into negotiations with an appropriate mandate.**”

Method

- research into public sources such as the statutes and bye-laws of the European social partners (110 documents) as well as academic literature and documents of the EU institutions and social partners
- complemented by an email questionnaire directed to the relevant organisations

Outline

1

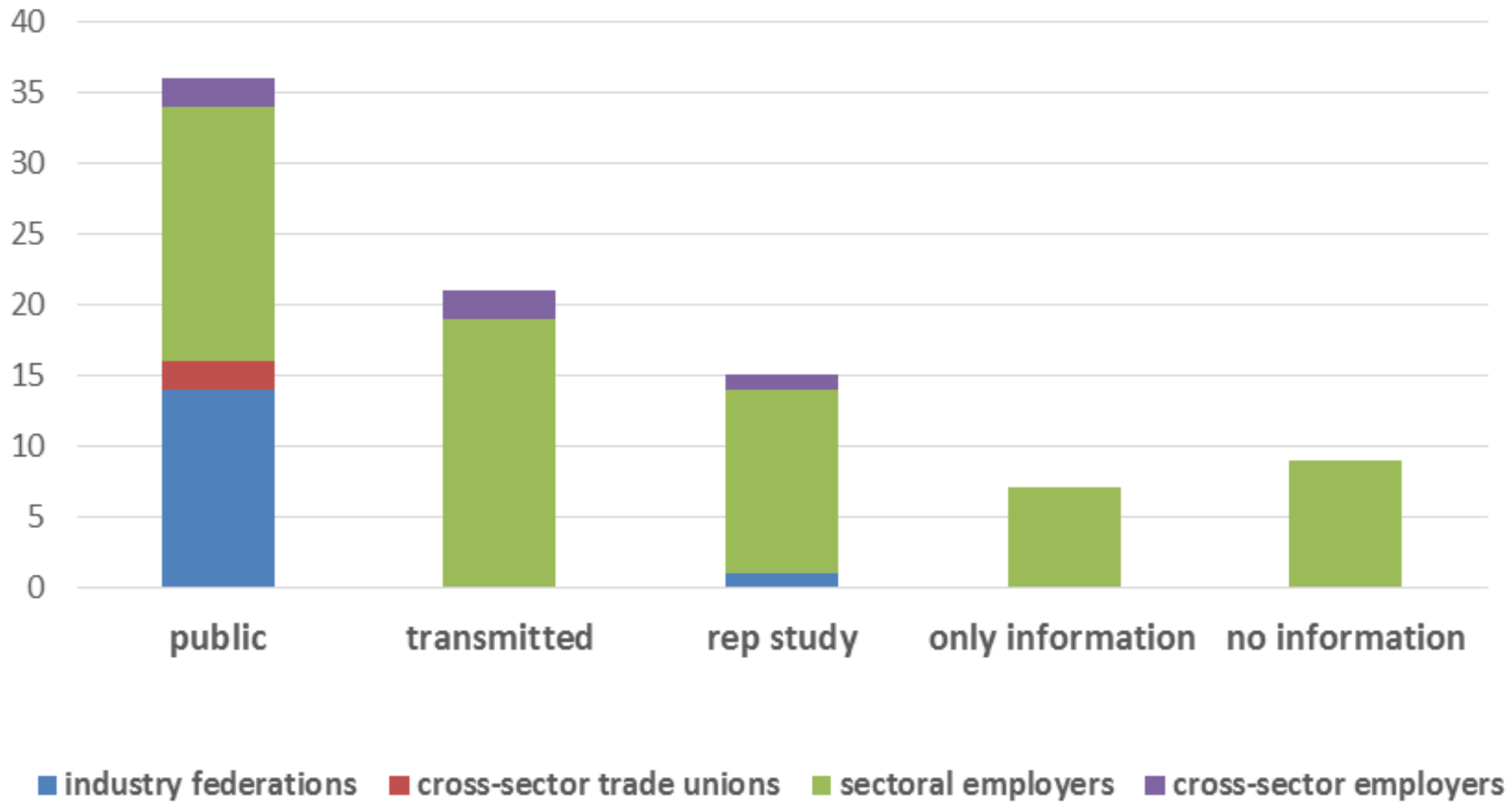
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Key findings

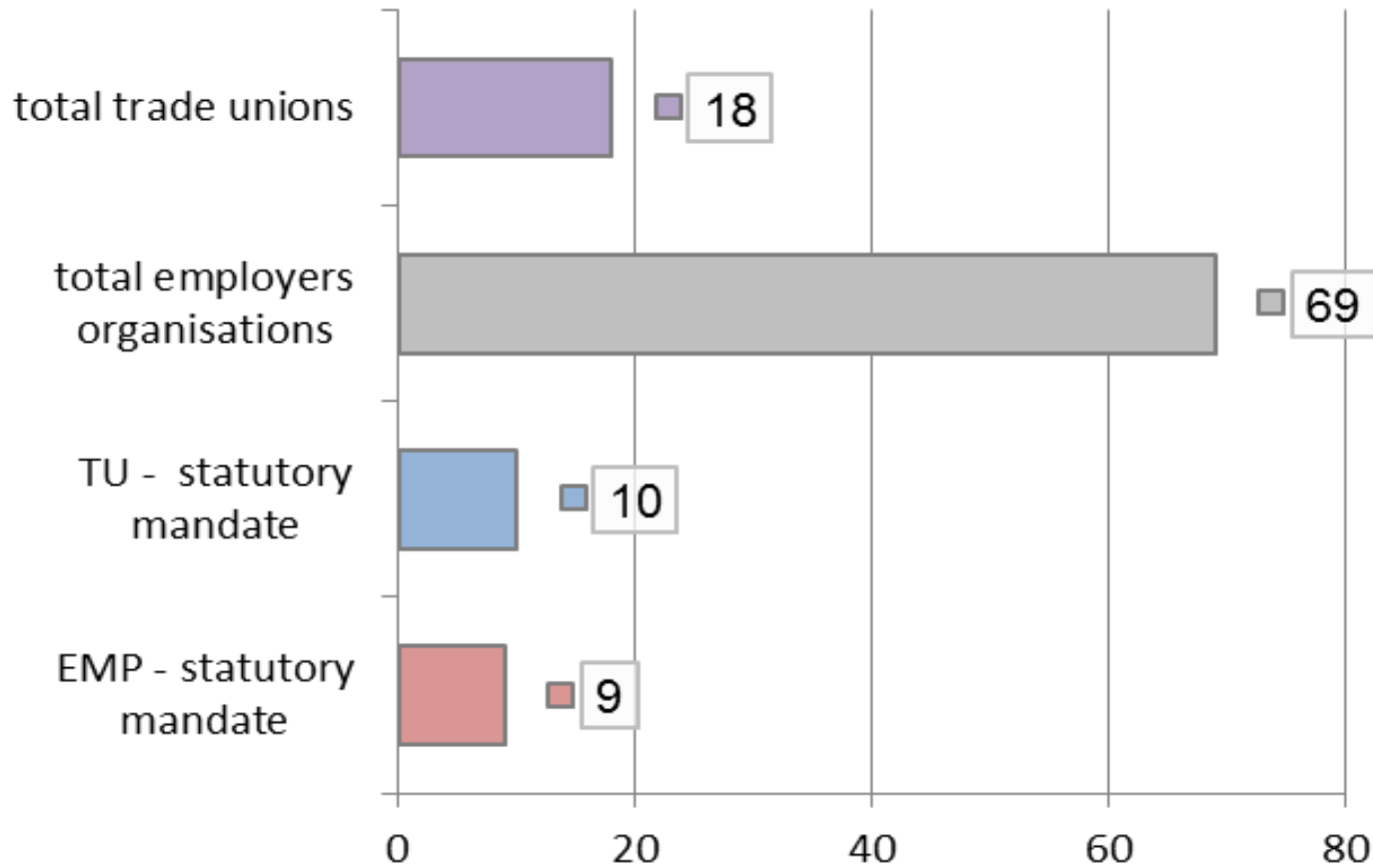
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Data availability



Number of statutory mandates



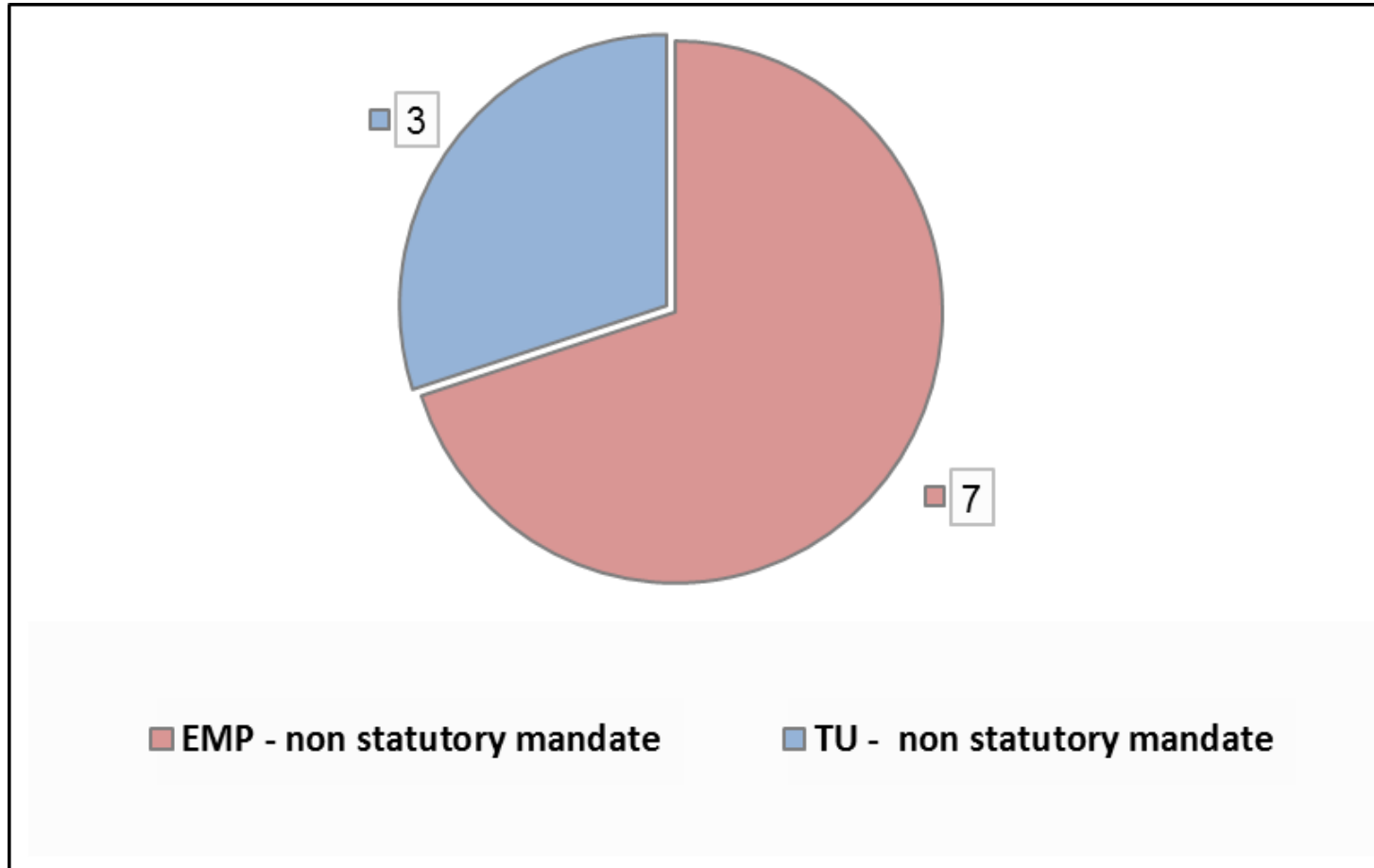
EMP - statutory mandate

TU - statutory mandate

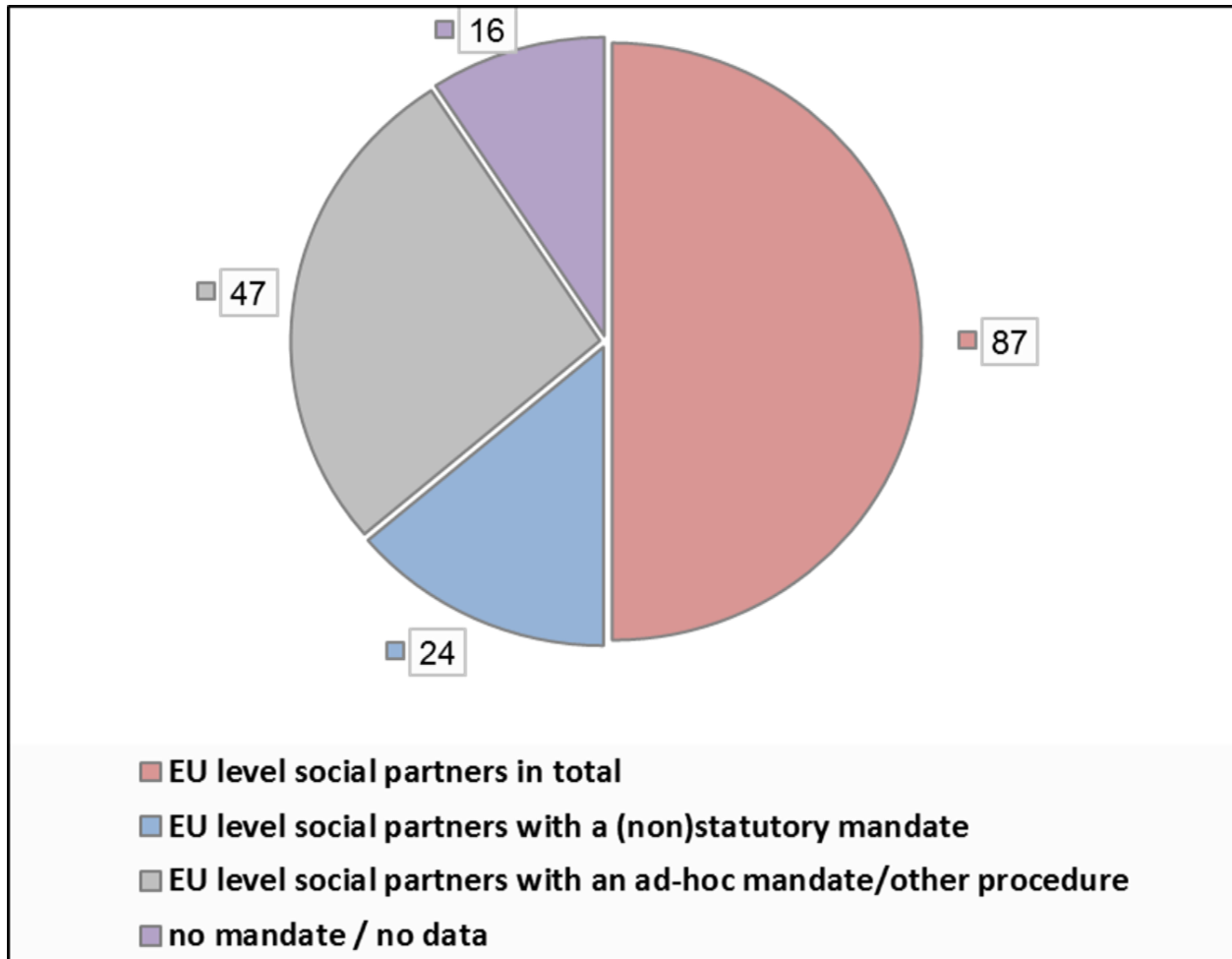
total employers organisations

total trade unions

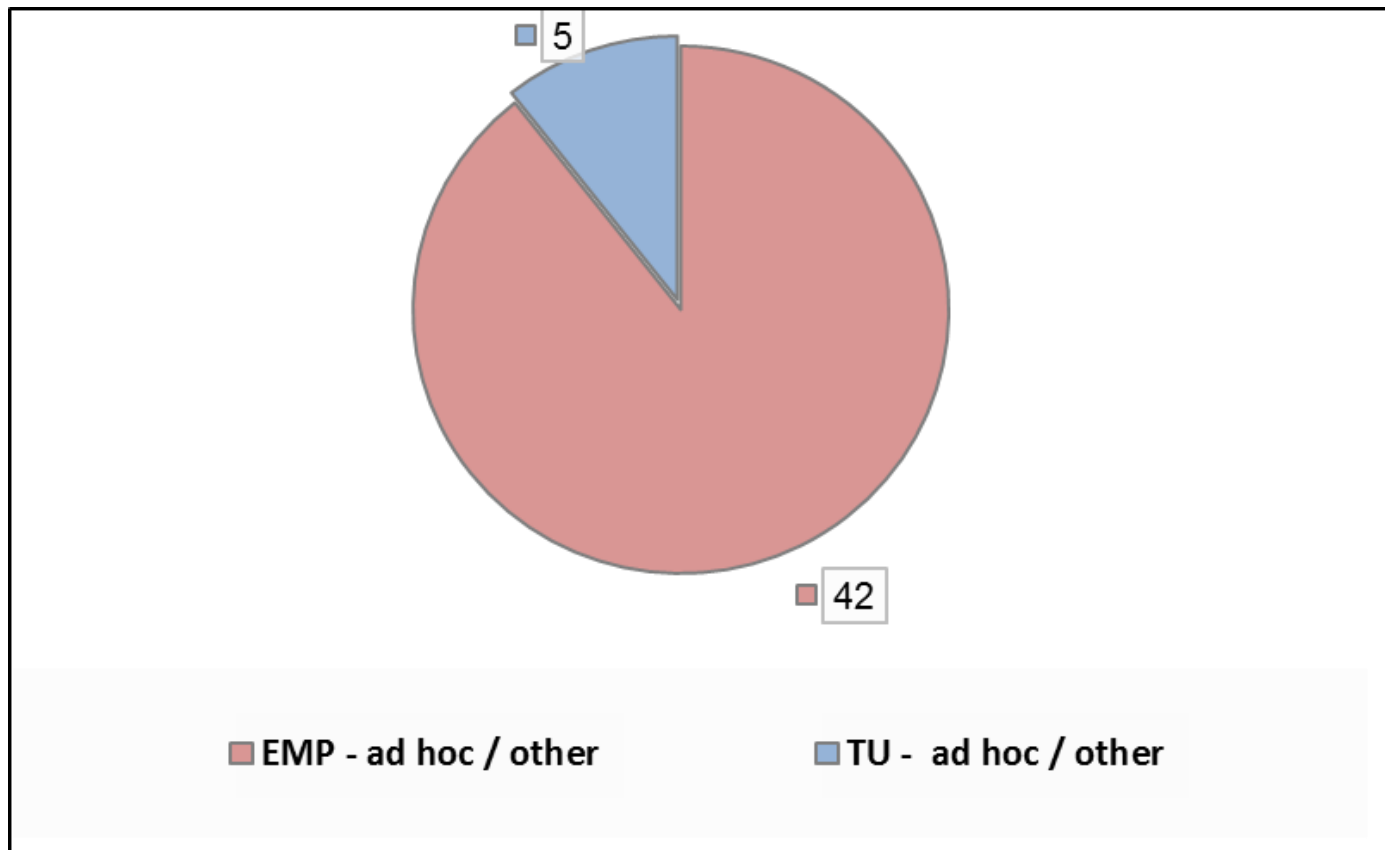
Number of non-statutory mandates



Total of statutory/non-statutory mandates/other procedures



Ad hoc mandates / other procedures



| mandate | statutory | non-statutory | ad hoc / other procedures | ad hoc / other procedures |
|-----------|---|---|---|---|
| employers | BUSINESSEUROPE EBF European Broadcasting Union European Club Association ECEG EFEE Eurociett/World Employment Confederation-Europe HOSPEM UEPG | CEEP UEAPME ECEG EFEE GEOPA-COPA IMA Europe Insurance Europe | AER CANSO CEC CEEMET CEI-Bois CER CoESS Coiffure EU Confederation of European Paper Industries COTANCE EACB EBF ECSA EFCI EPFL ERA ESBG ESO ETNO ESPO Euracoal EURATEX | EURELECTRIC EuroCommerce EUROFER EUROGAS EUROMINES European Barge Union European Coordination of Independent Producers EUROPECHE FEPOR FIAPF FIEC FoodDrinkEurope FoodServiceEurope HORTREC Intergraf IRU PEARLE* Posteurop SEA Europe UEA |

| mandate | statutory | non-statutory | ad hoc / other procedures |
|--------------------|---|--|--|
| trade unions | ETUC EUROCADRES EAEA EFBWW EFFAT EPSU ETF FifPRO industriALL UNI | EFBWW EFATT ETF | CEC EUROCADRES ECA CESI EFBWW FIA FIM |
| total employers | 9 | 7 | 42 |
| total trade unions | 10 | 3 | 7 |
| total | 19 | 10 | 49 |

Mandates chemical sector - ECEG

- Article 5 of the **statutes** (29.11.2016)

“(...) has a **mandate** from its members to engage in a permanent and constructive social dialogue at the European level (...). Moreover, to **negotiate**, agree on and sign formal joint statements and **agreements** with those and/or other relevant European organizations and/or European Union institutions (...).”

- Article 1 of the **ECEG by-laws**

“(...) the opinion (...) **to legislate** or to search for a **European agreement** (...) shall be prepared by the Secretariat together with the Steering Committee and the relevant Expert Groups and approved by the General Assembly (....)

(...) a **mandate** to start the **negotiations** is given to the delegation approved by the General Assembly; (...) this **mandate** explains the object of these negotiations.”

Mandates chemical sector - industriALL

- Article 21 of the **statutes** (16/05/2012)
the Executive Committee “(...) give **mandates** and make decisions according to the mandate procedure (cf. rules laid down in Appendix II)

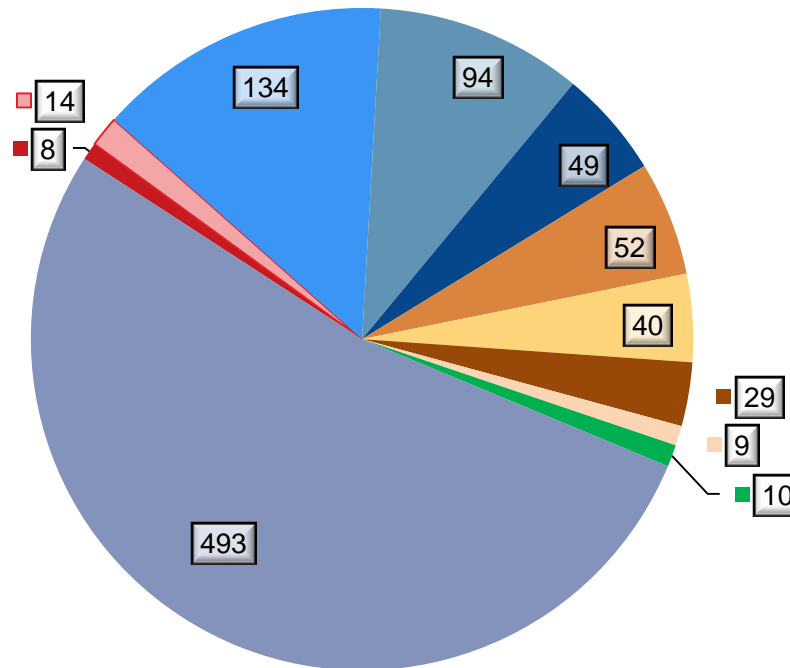
- **Appendix II** contains very detailed provisions on the mandating procedure, the **negotiations**, information and consultation duty towards affiliates, the adoption of texts, what happens if no agreement is reached and the implementation of agreements

Mandates chemical sector

- **ECEG and industriALL have a very precise and detailed statutory mandate**

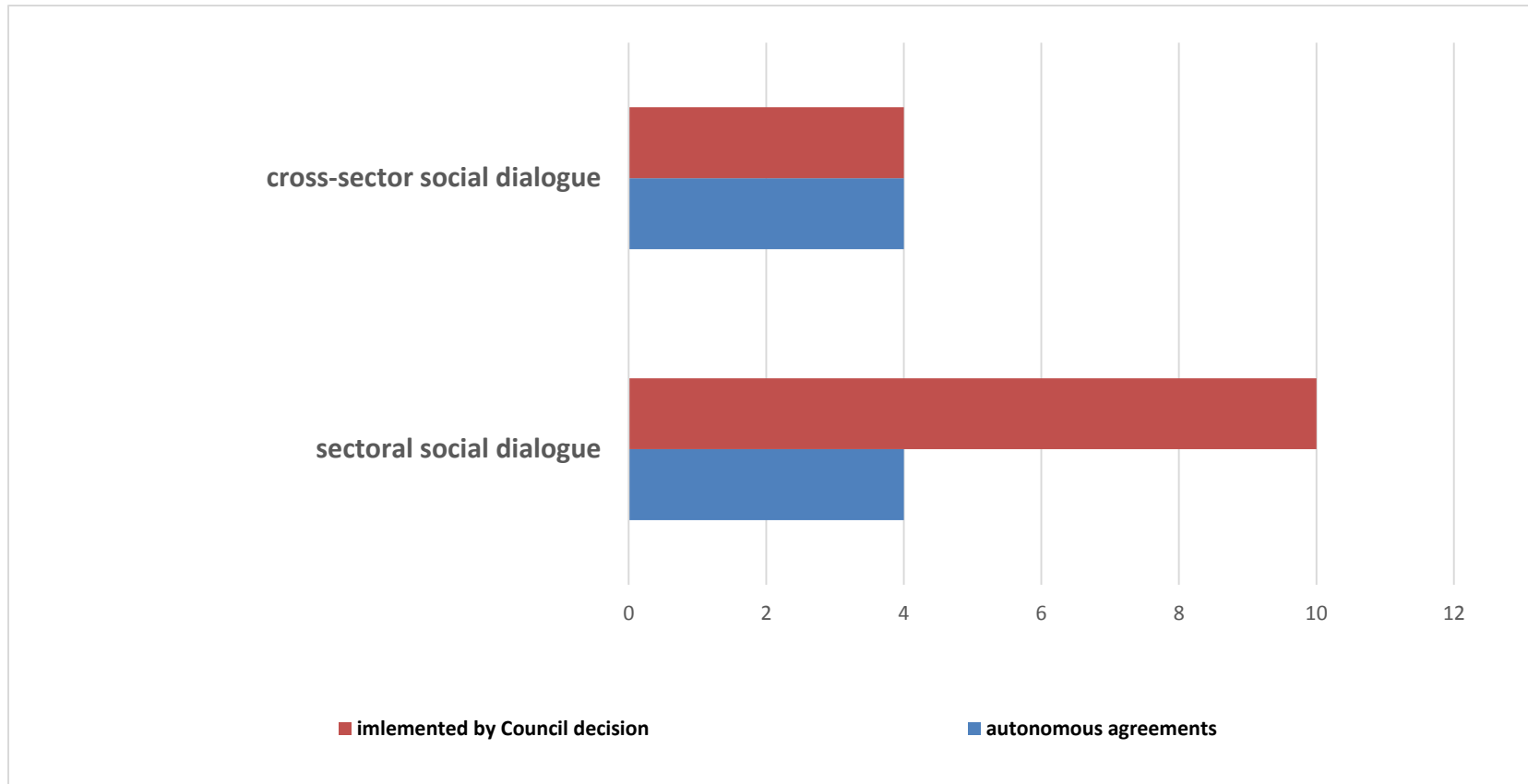
- **ECEG also disposes of a non-statutory mandate**

Social dialogue outputs until 02/2017

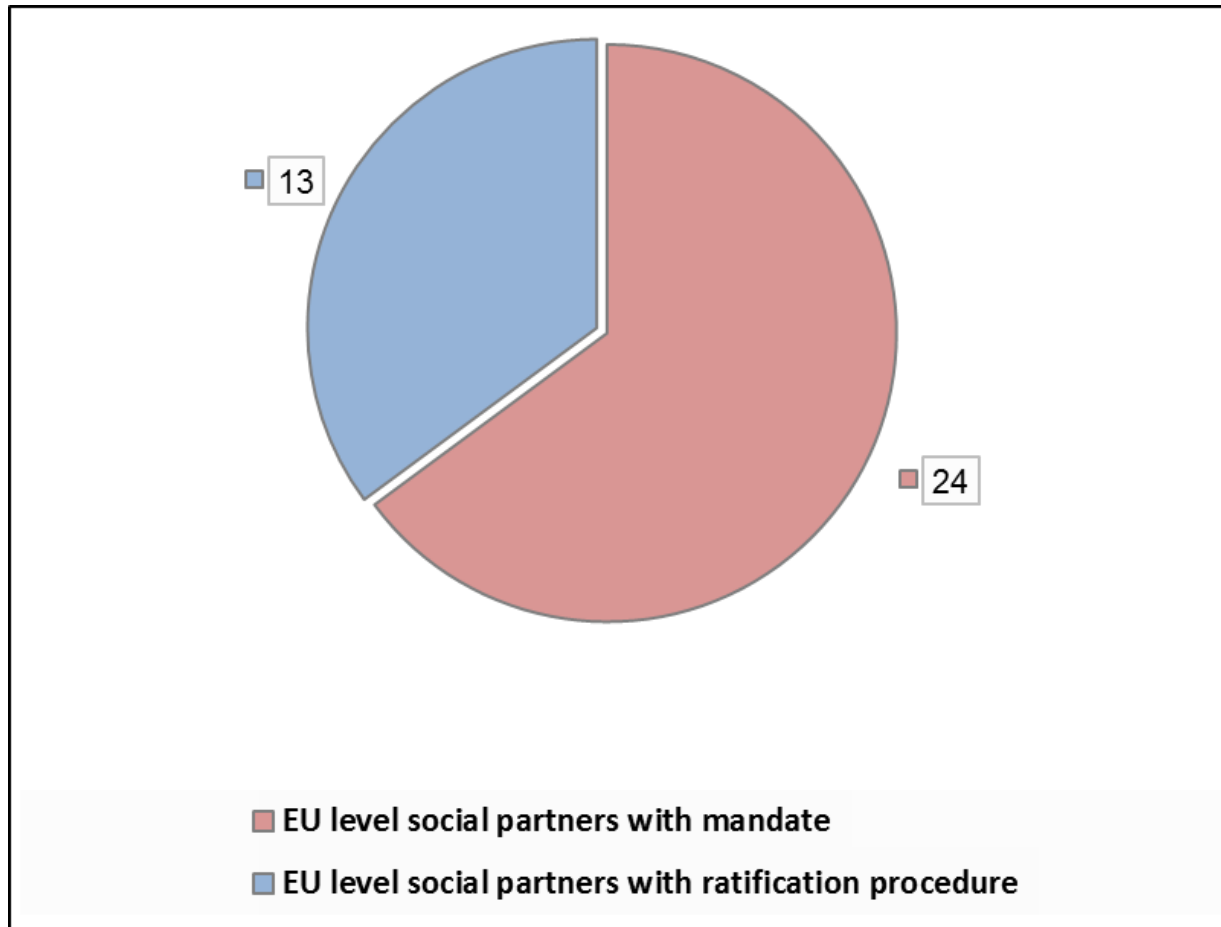


- Autonomous agreements
- Agreements Council Decision
- Declarations
- Tools
- Procedural texts
- Follow-up reports
- Guidelines
- Policy Orientations
- Codes of conduct
- Framework of actions
- Joint opinions

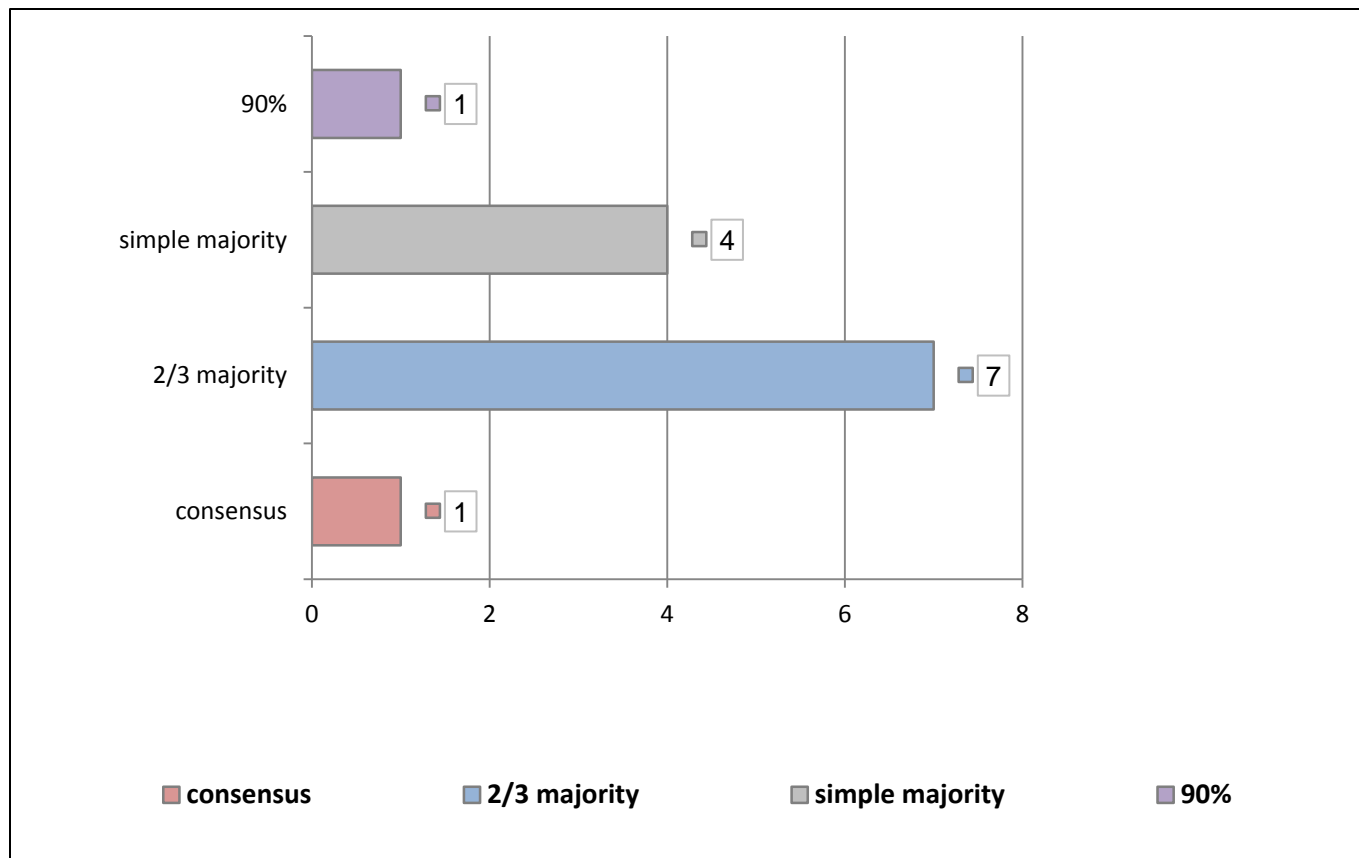
Social dialogue agreements until 02/2017



Ratification procedures



Majorities applied in ratification procedures



Outline

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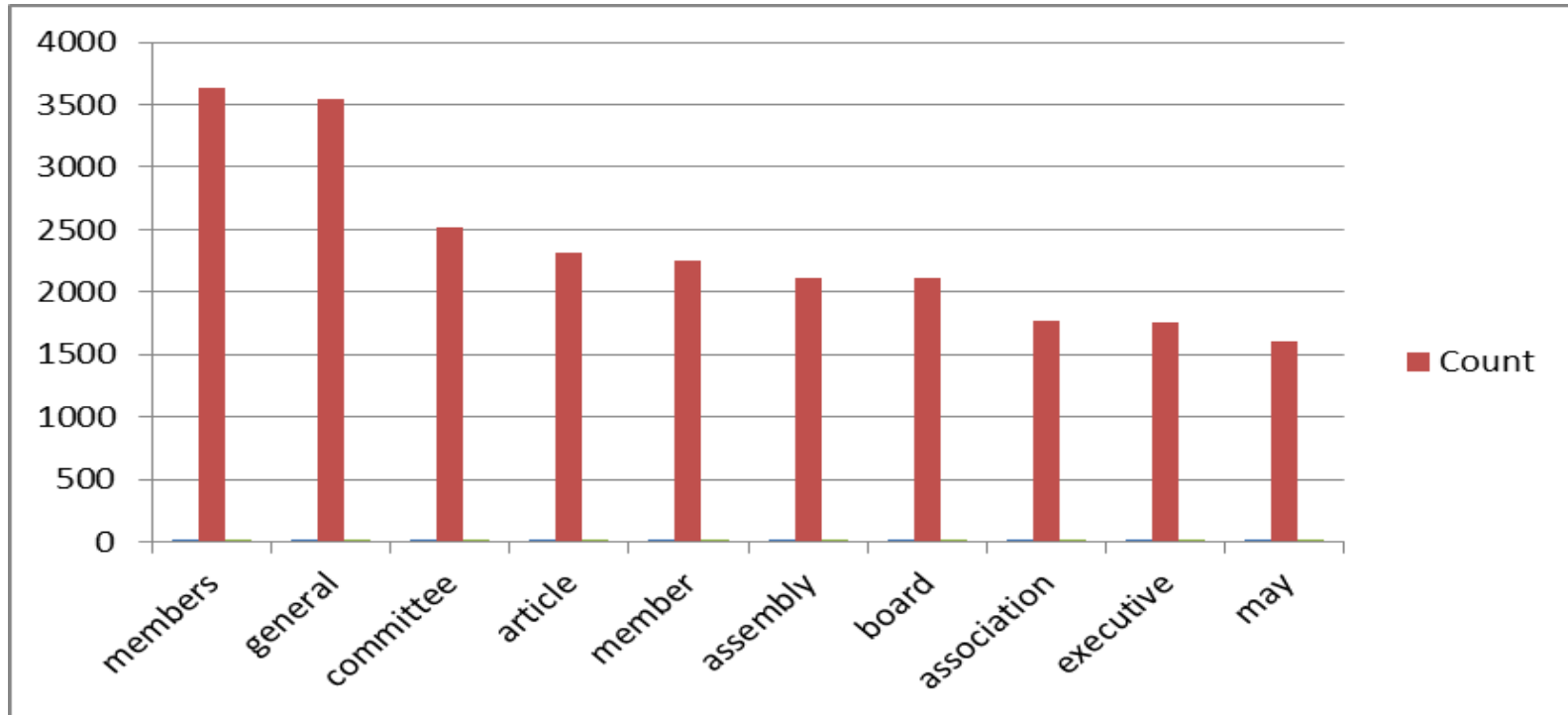
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A short text analysis

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10 most used words



Most used words in relation to capacity to negotiate

| term | no. documents | total references |
|--------------------------------|---------------|------------------|
| negotiate | 38 | 205 |
| implementation | 37 | 72 |
| social dialogue | 36 | 163 |
| ratification | 19 | 27 |
| sectoral social dialogue | 13 | 39 |
| collective bargaining | 12 | 22 |
| industrial relations | 9 | 17 |
| representativeness | 5 | 7 |
| capacity to negotiate | 4 | 6 |
| collective agreement(s) | 3 | 16 |
| European collective agreements | 3 | 5 |
| framework agreement(s) | 2 | 2 |
| labour agreements | 1 | 1 |
| binding declarations | 1 | 1 |
| contractual relations | 1 | 1 |

Outline

1

2

3

4

Conclusions and policy pointers

Conclusions and policy pointers

- 36/87 organisations make their statutes available on their home page
 - ➔ the European social partners could seek for more transparency;

- 24/87 organisations have a statutory and/or non-statutory mandate
 - ➔ in line with the statement of 27 June 2016 the EU social partners could strive to “ (...) ensure that there is capacity to enter into negotiations with an appropriate mandate;”

Conclusions and policy pointers

- 9 employers associations and 2 industry federations have a statutory and/or non-statutory mandate, but did not sign an agreement to date
 - ➔ there might be room for more initiatives from both sides of the industry
- notions linked to the capacity to negotiate, mandate and ratification procedures and are not frequent in the statutes
 - ➔ the European social partners might want to discuss this situation

Conclusions and policy pointers

- the statutes of 13 of the 24 mandated social partners include a ratification procedure
 - ➔ the European social partners might want to discuss to include such procedures to render the European social dialogue more efficient and effective
- the current project has rather closely mapped the existence of statutory and non-statutory documents on the basis of the documents provided
 - ➔ there is room to further analyse whether or not more ad hoc mandates are in place

Further information

christian.welz@eurofound.europa.eu

ph. + 353-1- 204 32 54