

The logo for the walqing project, featuring the word 'walqing' in white lowercase letters inside a dark teal speech bubble shape.

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Work and Life Quality
in New & Growing Jobs

Anchors for Job Quality

Policy gaps and potentials. Final report of work
package 8 of the walqing project.

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1 Introduction

Policy matters! Various streams of literature on social outcomes of economic and employment growth over the past two decades boil down to this seemingly simple statement. Nevertheless, when it comes to job quality the truth in this statement is far from obvious. Many aspects of job quality, such as pay levels, working-time organisation, the nature of the employment contract, or skill requirements, appear to be predetermined by economic needs, competitive pressures, management strategies, or the alleged 'nature' of a given job. As a closer look reveals, however, these needs, pressures and structural or sector-specific features interact with institutions and policy approaches. This interaction takes place at all levels involved, from the workplace and the establishment to collective bargaining and municipal or government policy, and last but not least it involves social dialogue and policy directives at EU level.

The reports compiled in the course of the **walqing** project (<http://www.walqing.eu/index.php?id=38>) provide ample evidence on the impacts of institutions and actors on work and life quality. They consist of the data analyses of the structures and features of jobs growth over the decade before the recent (or present) crisis, the report on stakeholders strategies addressing job quality, and the numerous company-related case studies in five industries with above-average risk of producing bad jobs along with overall jobs growth (elderly care, catering, cleaning, construction, and waste collection).

The impact of institutions and policies on work and life quality is what the present report is about. It is to provide, first, an overview on potential intervening factors impacting on job quality, drawing on existing literature, including earlier EU research projects and in particular the data analyses carried out in the **walqing** project. Second, it highlights the importance of particular policy approaches and institutions in the realms of the welfare state, the labour market, and product markets for job quality in the industries covered in this project. In detail, the analysis will be focused on the role of public procurement (as a major aspect of country- or sector-specific production regimes), on the interaction between law and collective bargaining (by the examples of statutory extension procedures and statutory minimum wages as major aspects of national employment regimes), and on the problematic relationship between low income, 'active ageing' and pension entitlements (as major aspects of welfare regimes). The findings will be summarised to short conclusions and recommendations.¹

2 The variation of job quality across countries

Job quality is a wide concept which needs to be specified. While quantitative analyses have to choose measurable indicators within a wider range of aspects

¹ Many thanks to Pernille Hohnen, Ursula Holtgrewe, Vassil Kirov and Monique Ramioul for their valuable comments and recommendations.

(Vandekerckhove/Ramioul, 2011; Holman/ McClelland, 2011; Poggi et al., 2011), qualitative studies can cover the full scope of job quality dimensions. For the purposes of the present report it is sufficient to draw on the overarching roundup of job quality dimensions as displayed in Table 2.1. Basically, all dimensions and individual elements included in the table have been the subject of the interviews with stakeholders, managers, workers and other experts on which the present assessment of policy gaps and possibilities is based. It is understood that, depending on the sector and activity in question, the respective emphasis on individual aspects varies. It is in the same vein that, as will be explained later in greater detail, it proves to be useful to highlight a smaller choice of elements when it comes to explore potential impacts of institutions and actors as is done in the next chapter.

Table 2.1: Main dimensions of job quality and constituent elements

Area	Dimension	Elements
Work quality	Work organisation / working conditions	<ul style="list-style-type: none"> - Job design, e.g., job discretion, job demands, ergonomics, physical conditions - Team design, e.g., off and on-line teams, autonomous work groups
Employment quality	Wages and payment system	<ul style="list-style-type: none"> - Wage level, performance related pay, benefits - Social benefits and services
	Security and flexibility	<ul style="list-style-type: none"> - Contractual status, flexible working arrangements, working time
Empowerment quality	Skills and development	<ul style="list-style-type: none"> - Skill requirements, training, opportunity for development
	Collective representation and voice	<ul style="list-style-type: none"> - Trade union agreement, employee participation practices.

Source: Holman / McClelland (2011)

What matters for the purposes of the present analysis is the strand of literature that has found distinctive cross-country patterns and trends in job quality in recent years. As both institutions and policy approaches of major actors differ across countries, these findings are crucial for the identification of what we call (and will specify in the present chapter) ‘institutional anchors’ for job quality. Thus, just to give a flavour, analyses of the European Foundation’s European survey on Working Conditions reveal for the area of work quality that task discretion is high in Denmark, the Netherlands and Sweden—for example, around four in five employees believed they had significant influence over the order of their work tasks in these countries and similar numbers were able to influence the methods of their work—but low in Spain where only half of employees exercised similar

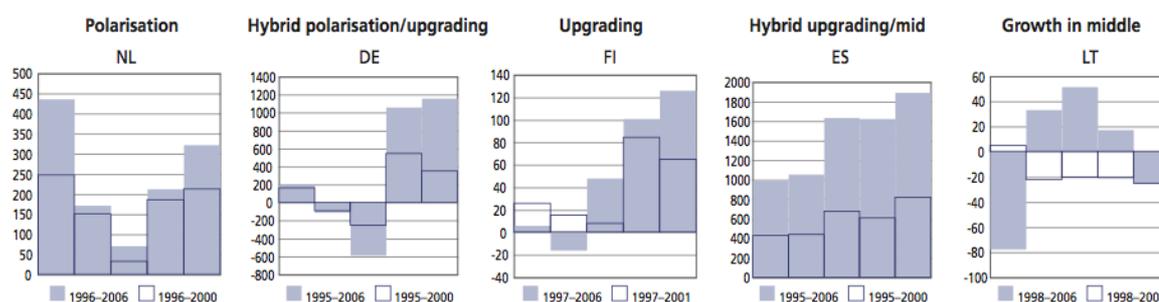
discretion over task order or work methods (Gallie, 2007, p. 113; see also Seifert / Tangian, 2009). Patterns of employment quality, too, vary markedly across countries. For example, levels of low wage work (i.e. below two thirds of the median wage) vary massively from just 5% among men in Sweden and Finland to 20% in Portugal and the US, and, among women, from 10% in Sweden and Finland to 42% in South Korea (OECD earnings database, 2006). Indeed, as a general pattern, many cross-country comparisons indicate that Nordic countries exhibit high rankings in most of the job quality indicators (Gallie, 2007; Tangian, 2007; Peña-Casas / Pochet, 2009).

In two most recent studies, both based on the European Working Conditions Survey (EWCS), the construction of composed indices of job quality has been elaborated further by establishing weighting procedures of individual sub-indicators. Muñoz de Bustillo et al. (2011) confirm by and large the 'ranking' of job quality across countries found in earlier analyses (with Northern European countries but also Luxemburg, the UK, Ireland and the Netherlands at the top ranks, followed by Belgium and France). It should be noted that the single most important factor is wages but the ranking does not change fundamentally when pay is taken out of the set of indicators, while the range of variation across countries becomes smaller. Particularly important for the **walqing** project, however, is their finding that, "although the average values vary considerably across countries, there is an even larger within-country variation in the values of our index" (ibid., p. 207). Holman/McClelland (2011) in their analysis of the European Working Conditions Survey for the **walqing** project start with a similar approach by weighting sub-indicators according to their statistical contribution to worker wellbeing. The resulting country ranking of job quality exhibits the same group of countries (if in a slightly different order) at the top. In a second step, however, these authors go beyond a cross-sectional snapshot of job quality at a given point in time and explore changes over time, using a 'job type' typology as a reference framework for analysis. They end up with a list of growing sub-sectors with the highest share of low quality jobs that contributed to the selection of sectors for deeper analysis by the **walqing** project. They conclude that, "while more 'better jobs' have been created from 2000-2008, an equal number of 'not-better' jobs have been created over the same period" (ibid., p. 104).

For the purposes of the present report on 'policy gaps', this is where the analysis of Vandekerckhove/Ramioul (2011) for the **walqing** project comes in. Focusing on the growing and (as far as job quality is concerned) most risk-prone industries or sub-sectors identified by the **walqing** data analyses, they single out individual indicators of job quality that are measured by the European Labour Force Survey, such as the incidence of temporary contracts, and analyse country by country for each of the selected industries (by business functions or types of activity) in which job insecurity is on the rise. This approach is pertinent as the most obvious assumption is that insecurity of employment is closely linked with the particular type of a job, and more generally, with the job structure of an industry in general. But again, after going through their elaborated exercise, they conclude that "no strong relations between changes in the structure of the selected sectors and changes in employment security at the functional level were found. It seems that many more factors come into play other than the structure" of the sectors (ibid., p.

25). Interestingly, it is these ‘unexplained factors’ which come into play whenever changes in job quality over time are analysed in cross-country comparisons. This applies, most prominently, to the 2008 ERM Report (Fernández-Macias/Hurley 2008) which was later elaborated further by Fernández-Macias (2010). Both analyses are focused, if not exclusively, on pay as one major indicator for job quality. What is measured is employment creation over a decade broken down by wage quintiles. Again, just to give an idea of diverging trends across countries, Figure 2.1 exhibits a small selection of EU countries.

Figure 2.1: Net employment creation by job quality, 1995-2006 (thousands)



Source: Fernández-Macias/Hurley (2008, p. 12)

The stories behind these diverging profiles of job creation are basically about the interaction of structural factors (such as the relative importance of growing industries by country, the importance of particular types of skills or jobs within these industries) on the one hand and politics on the other. To take the example of Germany, which was singled out as one of the countries which contributed most to polarised (or U-shaped) profiles of jobs growth in Europe, it is exactly this mixture of factors which was assumed to be decisive (ibid., pp. 285 ff.): On the one hand, the decline of the German construction industry, which—in the case of Germany—relies heavily on skilled labour (vocational training), lead to a tip-off of the middle quintiles of the pay hierarchy. On the other hand, the low wage sector rose in importance in this country, which can be attributed to a process of institutional upheaval from the 1990s, including the fragmentation and erosion of the collective bargaining system (Bosch/Weinkopf, 2008; Lehdorff et al., 2009).

Quantitative analyses so far provide limited insights into the ways these interactions actually work, due to many restrictions in data availability and other methodological problems. This is where qualitative studies come into play, not the least the ones produced in the course of the **walqing** project. The empirical evidence stemming from earlier projects, including the preceding EU project on ‘Dynamics of National Employment Models’ (DYNAMO), confirms not just cross-country variation in job quality, despite apparently similar global trends of changing technologies, internationalization of markets, weakening of collective labour, dominance of multinational corporations and liberalization of finance. It adds to the understanding of this variation by the appreciation of the way certain institutions associated with the particular models of capitalism shape job quality outcomes. Drawing on the two different and largely parallel streams of literature on the

varieties of welfare states (Esping-Andersen, 1999) on the one hand, and the varieties of capitalism (Hall/Soskice, 2001) on the other, the DYNAMO project established a framework for analysis displayed in Table 2.2 which distinguishes three sets of institutional 'regimes' which shape the specific employment model in each country. This concept of employment, production and welfare regimes will serve as a guideline for our present analysis.

Table 2.2: Elements of employment, welfare and production regimes

Regime	Elements
Employment regime	<ul style="list-style-type: none"> - labour market regulation / employment protection - LM regulation effects on gender / equal opportunity (segmentation, atypical employment) - education / training system - industrial relations system - unemployment insurance / labour market policy
Welfare regime	<ul style="list-style-type: none"> - welfare state / social protection - gender regime / role of family - social services
Production regime	<ul style="list-style-type: none"> - specialisation patterns - ownership / governance - product market regulation - industrial specialisation / innovation / skill development

Source: Bosch et al. (2009)

These institutions can be understood as a set of mechanisms, rules and processes that, in a particular time and context, establishes what we refer to as potential 'anchors' for job quality. Two reservations, however, have to be made. Firstly, it is understood that these institutions are under constant pressure for change (for an elaboration of these pressures and their outcomes cf. Bosch et al., 2009). Secondly, in order to understand to what extent these anchors actually work, actors and policies have to be taken on board. Much of the institutionalist literature on these subjects addresses the relationship between market and state. When it comes to understanding the actual use of institutions, however, it is necessary to bring the wider group of social, economic and political actors back in.

Within this framework we will now single out major institutions and policy approaches which are used, or not used, for the containment or avoidance of bad jobs within growing industries.

3 Anchors for job quality

For a better understanding of our 'anchors for job quality' approach, it should be useful to keep in mind the interlocking and interacting nature of institutions and their potential effects on job quality. This approach draws on the integrated view on the architectures of

national employment models suggested by Bosch et al. (2009), including the nexus between employment, production and welfare regimes within these models, and the approach of major actors to the use, reform, or dismantlement, of these architectures.

Table 3.1: Anchors for job quality - The case of elderly care

Place in national model	Institutional anchors	Linkages with job quality of workers
Welfare regime / gender regime	Social protection	Protects workers through 'decommodification' (e.g. access to unemployment benefits, pension provision). Also shapes the market for elderly care according to the commitment to, and channels of, spending as part of the public social security system
	Social services	The level of public spending and governance of recipients of public spending ("care regimes") shapes the division of labour between households and professional care services, as well as the importance of informal labour markets (e.g. role of migrant workers)
Employment regime	Organised labour / Industrial relations system	Presence and coverage of collective agreements and bodies for worker representation establishes potential to sustain and improve job quality (especially pay)
	Labour market regulation / employment protection / labour law	Major impact on job quality shaped by legislation on a minimum wage, working hours, holiday entitlement, pension provision, job security, etc.
Production and employment regimes interface	Industrial organisation / innovation Education / training system	Capital available for market expansion/service improvements shapes opportunity for improvements in work organization Quality and reputation of skill formation system (intermediate skills) influences role of skills in career pathways of carers in organisations
Production regime	Specialisation patterns / value added base	Need for high value added and employment levels to provide for sufficiently large tax base
	Ownership / governance Product market regulation	Approach to ownership and tendering influences the extent to which job quality is vulnerable to market pressures Policy concern over quality of care services may feed back into efforts to improve employment quality (e.g. skill levels specified in competitive tenders)

Source: Grimshaw/Lehndorff (2010) drawing on Simonazzi (2010)

The case of elderly care provides a striking example for the complexity of these potential interactions (Table 3.1). As Simonazzi (2010) spells out in greater detail, a specific 'care regime' (which corresponds to the more general typologies of welfare regimes) is constituted by, first, the funding strategies which affect the potential for developing a market for care (whether formal or informal), second, the public-private divide which

affects the extent to which job quality is directly subject to market pressures, provided by public or private services or within private households, and third, the predominant (or required) skill levels which impact also on the origin of care workers. It is the ensemble of these arrangements that influences the size of the sector, the nature of the workforce (e.g. qualified care workers, informal immigrant labour, or unpaid family members), the quality of care services, and—last but not least—the quality of care jobs. Using the example of elderly care, which is one out of five industries covered by the **walqing** project, Table 3.1 gives an overview on the institutional *architecture* behind the *individual* anchors for job quality which will be highlighted in the following sub-chapters.

For the purposes of the present report, which is to highlight ‘policy gaps and potentials’, it makes sense to focus on particular ‘anchors’, i.e. policy approaches, regulations, and instruments. The typology of regimes shows the complexity and interrelatedness of particular institutional configurations that may offer specific complementarities (Hall/Soskice 2001). Regimes have developed historically and are deeply embedded in cultural traditions and frameworks of mutual expectations. Consequently, it would be misleading to use individual cases of ‘good practice’ from one country or company as a blueprint for all other countries. Keeping the interlocking nature of institutions in mind, however, it is possible to learn from individual cases as they help to develop agendas for institutional reforms. If it is, in general, not possible to transplant particular ‘examples of good practice’ from one country (or one institutional setting) to another, it is interesting to learn about the respective institutional background which may point at preconditions and side-effects which have to be taken into account when it comes to think about new approaches to the improvement of job quality. Thus, the cases presented in the following sub-chapters are not only about providing insights into the experience with particular approaches. What we do aim to is trigger debates about *how* to learn from them and *how* to translate them into different institutional contexts and policy backgrounds.

In the following chapters we present some major examples of policy gaps as well as of potential institutional anchors for job quality within the production, employment and welfare regime. If not stated otherwise the cases and assessments draw on the **walqing** case studies as well as the **walqing** report on stakeholder strategies (Kirov, 2011).

3.1 Production regime: The role of public procurement

The notion of a production regime, as used in the literature on ‘varieties of capitalism’, refers to an institutional framework ‘embedding’ or channelling the strategic action of firms when trying to solve their coordination problems – e.g. with respect to vocational training, inter-firm relations or corporate governance (see Hall and Soskice, 2001). The approach stresses that instead of converging on a single type, capitalist economies have developed different sets of mutually reinforcing and equally competitive institutional frameworks. The well-known distinction between liberal market economies (LMEs) where coordination takes the form of hierarchical and/or competitive arrangements and coordinated market economies (CMEs) which rely more strongly on non-market arrangements has been frequently used to describe and explain different outcomes, not least with regard to employment structures and trends. Most importantly in our context, employment dynamics

and the quality of jobs are traced back to structures and regulations that do not directly address the capital-labour nexus, like wage-setting or collective bargaining, but different aspects of the firms strategic environment, like ownership structures or regulations shaping the relationships among competitors.

Sectors and industries differ considerably with regard to e.g. the firm structure (large or small businesses), the extent to which markets are globalized etc.. One transversal feature across the industries under study however is the importance of the state as a customer. In all five industries studied for the **walqing** research project, if varying by country and sector, purchases by public authorities make up for an important share of the demand. A recurrent issue in the company case studies and sectoral analyses therefore is the impact of public procurement on competitive structures and working conditions in the occupations under study; therefore we will focus on this issue here.

3.1.1 The state as a customer – trends and implications for the regulation of job quality

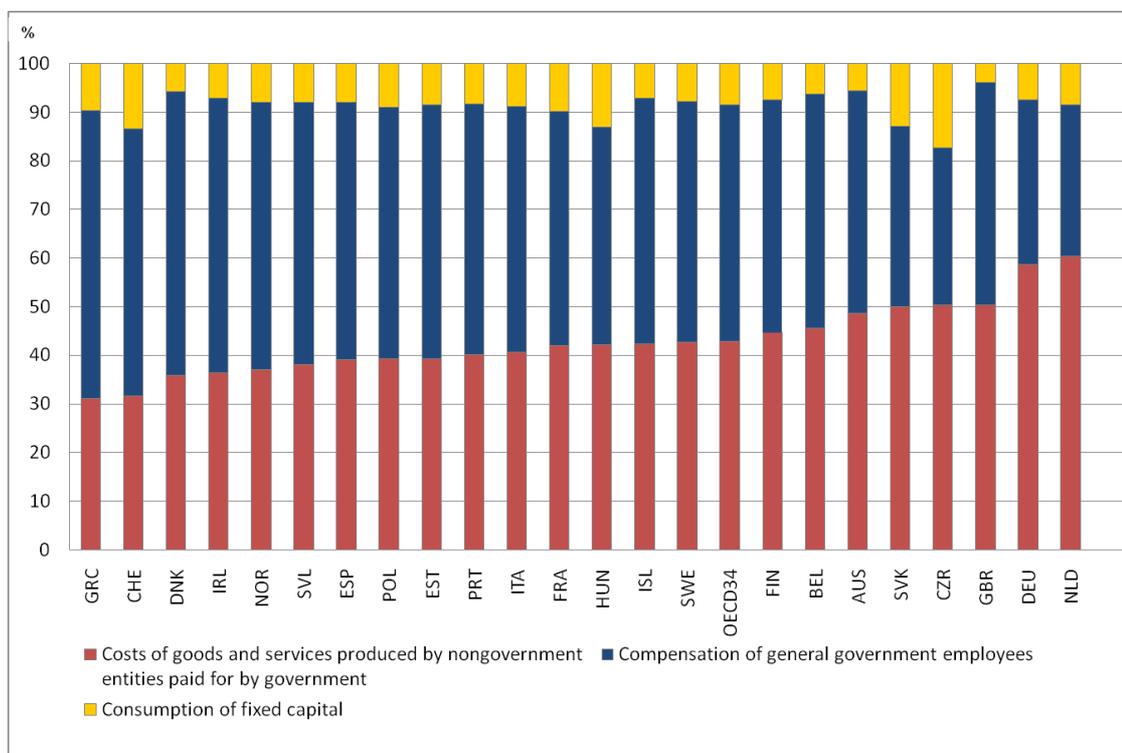
The market share of private contractors in the provision of services and goods financed by the state has increased throughout Europe. In 2009, public expenditures for goods and services produced by non-governmental entities amounted to an average of 10.1 % of GDP in the OECD (OECD, 2011a, p. 169).² In some European countries public expenditures for outsourcing even outweighs the cost of public sector employees, as exhibited in Figure 3.1: In the Netherlands and Germany close to 60% of the value of government goods and services is outsourced, while the share was close to or even below 40% in countries like Norway, Denmark, Hungary or Greece.³

Hence countries differ considerably with regard to the share of publicly funded tasks provided by non-governmental bodies. The country differences reflect both historical choices and more recent political decisions. To an important extent, different ownership and governance structures within the health, education and social services sector in particular account for the country differences; in the Netherlands, for instance, the high share of outsourcing in government expenditures is due, in part, to the country's traditionally high share of private schools.

² These expenditures include social transfers in kind via market producers that are initially paid for by citizens but are ultimately refunded by government, such as medical treatments refunded by public social security payments (see OECD 2011a: 72).

³ The country order is largely consistent with the ranking order based on another indicator, namely the employment in general government as a percentage of the labour force: while in Norway, Denmark or Sweden the share is above 25%, it is only close to 10% in the Netherlands and Germany (OECD 2011a: 103).

Figure 3.1: Structure of government expenditures for production of works, goods and services, 2009



Source: OECD National Accounts Statistics, data published in OECD 2011a, p. 72

It is important to retain that the high and partly increasing relevance of contracting out is not an irreversible trend, as recent decisions by municipalities to re-insource contracted out services in several of our case studies indicate (e.g. the case of re-municipalisation of waste collection presented by Peycheva et al., 2011; see also Hall 2012 for further examples). It remains to be assessed by further research if these re-insourcing initiatives gain momentum and if they extend to all services evenly or will be focused on certain services like the utilities (electricity, gas, water). But even though the option of outsourcing has so far not been chosen to the same extent across countries, and current levels of outsourcing might be reduced in the future, in most countries outsourcing is an option considered by public authorities for many services, and will remain so in the medium term. Moreover, the use of outsourcing has come along with changes in the economic governance of public service provision which also affect the remaining ‘in-house’ units, as we shall see. Partly at least, these changes can be assumed to have lasting effects for the employment conditions in the services concerned, even if in-house service provision will regain importance.

What implications does this have for the regulation of job quality? The gradual shift of public tasks to private providers implies a gradual transformation of the state from an ‘employer’ to a ‘customer’ buying products and services from private providers. By transferring public tasks to private contractors, public authorities also convey on them the responsibility of defining or negotiating wages and other working conditions for the

employees affected, hence public authorities in these cases no longer act as social partners in bipartite collective negotiations (or as employers unilaterally defining working conditions for their own employees, as in the case of civil servants). But they can still exert considerable influence on the employment conditions offered by their private contractors through a different set of policies: Through general policies covering the whole work force (like labour market regulation and social policies), and, more importantly in our context, through policies and practices which are based on the demand power of public authorities – for instance by making certain social standards a selection criterion in public procurement procedures. Job quality in the contracted out segments of the public sector is therefore not out of reach of public authorities. But the latter become a ‘third hand’ in the definition of employment conditions, in addition to the two other parties involved, namely (representatives of) the private contractors and their employees.

The current debate at the European level deals among other issues with the question to what extent public procurement regulation should be used more ‘strategically’, i.e. for purposes that go beyond ensuring undistorted competition, such as promoting decent work. Before discussing our own findings, we will therefore start with an overview on this debate, after which we will explore the role of public authorities and political regulation as a ‘third hand’ in shaping the employment conditions in contracted out segments of the public sector.

3.1.2 Using public procurement for social goals: Current debates and legislative trends

The way in which public authorities decide how to spend money and to award contracts is subject to detailed regulations at the local, national and international levels. In addition to general laws providing for the fundamental freedom of market access public authorities are bound by public procurement legislation prescribing certain procedures and criteria to be observed when choosing among potential private contractors. To use a widely established distinction loosely based on Karl Polanyi’s notion of ‘embedded markets’, public procurement legislation was primarily established with the aim of ‘market-making’, less so with the aim of ‘market shaping’ or ‘market embedding’. Hence public procurement legislations’ main ‘mission’ is to promote competition and ensure undistorted competition between companies who principally qualify for the provision of the goods and services which are put on the market by public authorities. At the same time, attempts to use public procurement for social or environmental purposes and to integrate additional rules into public procurement legislation to achieve this end date back a long time as well. The ILO Convention 94 adopted in 1949 built on approaches to use public procurement for labour law enforcement that were in place even before World War II in a number of countries (McCrudden 2004: 265). The ILO Convention requires the signatory states to include clauses in their public contracts ensuring that wages, hours of work, and other working conditions be not less favourable than those established for the industry and region where the work is carried out. Moreover, several states introduced regulations making public procurement a tool to combat discrimination based on race, gender or religion, or to enhance labour market participation of the long-term unemployed and of disabled persons

(McCrudden 2004; 2007). Additionally, provisions to promote environmental issues were increasingly built into procurement procedures, in particular in European Union member states. But while an evaluation of the 'strategic use' of public procurement legislation in the EU Member States' implementing procedures found relatively advanced policies for 'Green Public Procurement' (GPP), there were comparably lower levels of Member State activities in 'Socially Responsible Public Procurement' (SRPP). "Policy approaches integrating environmental objectives in public procurement generally date back longer, are far more elaborate, and are furnished with more supportive programs than those for socially responsible procurement" (Kahlenborn et al. 2011 : 48).⁴

The reasons for the asymmetry between environmental and social goals in public procurement can at least partly be attributed to the rather limited scope that EU Procurement legislation has offered in this regard so far (Arrowsmith, 2009, p. 192) as well as a rather restrictive judicial interpretation of the EU Treaty by the European Court of Justice. The so called 'Rüffert' judgement in 2008 (ECJ C-346/06) in particular received much attention and was followed by extensive discussions, not least on the wider consequences for the prospects of including societal goals into public procurement legislation and practice (see e.g. Arrowsmith/Kunzlik 2009a; McCrudden 2011). The Rüffert judgement ruled that the pay clauses in the public procurement law of the federal State of Lower Saxony in Germany were not in compliance with the freedom to provide cross-border services (Article 49 of the EU treaty). Against the background of declining collective bargaining coverage, an increasing number of federal states in Germany had introduced prevailing wage laws ('*Tariftreugesetze*') over the course of the 1990s and 2000s. These laws required foreign as well as domestic companies to agree in writing to pay their employees according to the locally applicable collective agreement in order to qualify for contract awards by public authorities. In 2008, half of the federal states had passed *Tariftreugesetze* (Schulten/Pawlicki 2008:186). This trend came to a halt after the Rüffert judgement. Even though the Posting Directive in principle offers scope for defining work related standards to be observed, according to the Rüffert ruling, this does not cover the right to oblige companies under public contracts to apply collective agreements that *have not been declared legally binding*. The Rüffert ruling was not followed by a uniform suspension of pay clauses in the legislation of the German federal states (Sack 2012), but the ECJ ruling still limits their possibilities to promote *higher* labour standards than those already defined by general law or by collective agreements declared universally binding (see also Schulten, 2012a). Along with other ECJ rulings (Viking, Laval) the Rüffert case has raised public awareness for the tension between competing principles within EU law, i.e. between the fundamental economic freedoms guaranteed by the EU Treaty and social regulations specified in Member States legislation or in EU secondary law such as public procurement legislation.

⁴ Based on an analysis of documents and a survey among contracting authorities, the study identifies Norway, the UK and the Netherlands as 'front runners' in the use of SRPP, hence countries with quite different levels of contracting out public services (according to the data presented above).

This tension is also reflected in the current discussion accompanying the revision of the European Public Procurement Directives, which are scheduled to be adopted by the end of 2012 (European Commission 2011a and 2011b). The revision is partly motivated by the aim to simplify tendering procedures and to clarify the scope and requirements of European public procurement law. But the reform also seeks to “enable procurers to make better use of public procurement in support of common societal goals” (European Commission 2011a), which encompass not only environmental but also social goals like non-discrimination issues, gender equality and decent work. The subject of socially responsible public procurement has been on the European agenda for more than a decade already. Apart from the communications and initiatives by the European Commission (see e.g. European Commission 2001) and the European Parliament, stakeholders within the European social dialogue have published manuals for public authorities on awarding contracts in specific sectors (catering, cleaning, private security and textiles)⁵, which seek to encourage public purchasers to take into consideration quality and social criteria and opt for selection procedures based on the ‘most economically advantageous’ offer instead of the ‘lowest price’ criterion. In 2010, a similar publication was issued by the European Commission (Buying Social), paralleling the ‘Buying Green’ guide. The social partners at EU level welcomed this step, in particular against the background of the financial and economic crisis which put public budgets severely under pressure and was likely to further encourage public authorities’ resort to bidders offering the ‘lowest price’ in public procurement procedures. The promotion of the ‘economically most advantageous offer’ is also an element of the proposal for a new Procurement Directive. However, this reform might share the same fate as the previous reform of the public procurement directives in 2004, which “has by no means closed the debate on horizontal policies, but has merely heralded a new phase in its development” (Arrowsmith/Kunzlik 2009: xix). While some comments argue that the current reform implies a “mission drift” from the primary purpose of the procurement rules, in that it turns public procurement legislation from a tool designed to develop the internal market (=market-making) into a tool for “market-closing” (Boyer 2011: 177), others – foremost unions – criticize that the new proposal is not pushing the matter far enough into the direction of market-shaping. The critical assessment in particular refers to the fact that the proposal doesn’t require the Member States to abstain from the ‘lowest price’ criterion (as an alternative to the ‘economically most advantageous offer’) and doesn’t make the inclusion of quality and social criteria mandatory.

To conclude, the issue of socially responsible public procurement might continue to remain in the discretion of the Member States, within the rather narrow limits set by European case law. Two aspects need to be retained in our context: Firstly, the current debates at European level seem to indicate a growing consensus that public purchasers can be expected to assume responsibility with regard to the way how public goods and

⁵ Private security: ‘Selecting best value — A manual for organisations awarding contracts for private guarding services’ (CoESS/EURO-Fiet 1999); Cleaning: ‘Selecting best value — A guide for organizations awarding contracts for cleaning services’ (EFCI/Uni-Europa 2004); Catering: ‘Guide to most economically advantageous offering in contract catering’ (EFFAT/FERCO 2006); Textiles: ‘Public procurement awarding guide for the clothing-textile sector’ (PROMPTEX/EURATEX/ETUFTCL 2005).

services are produced, even if they no longer produce them on their own. Secondly, the public responsibility in this realm is not just an evolving norm, but reality already. The so far weakly established legal provisions directly addressing labour standards in public procurement procedures are not to be confounded with a lack of influence exerted by public authorities: Evidence from our research reveals that the question is not *if* the rules currently governing the commissioning of public services effectively have impacts on employment conditions or can be geared more effectively towards the end of ensuring decent work, but rather *what* impact they have and *how* they affect the job quality of the employees involved.

3.1.3 Impact of public procurement on job quality: Findings from the case studies

Empirical research has shown that contracting out of public tasks is frequently accompanied by a deterioration of job quality (see e.g. Dube/Kaplan, 2010). A recent comparative re-analysis of an extensive number of empirical studies on the effects of contracting out on costs, quality and working conditions in Denmark and other countries of the Western world in the period between 2000 and 2011 concludes that the negative effects on employment terms are relatively well-documented. Contracting out, according to most studies, is usually accompanied by lower wages, faster pace of working, lower job satisfaction, less job security, more stress and burn-out (Petersen et al. 2012).

But there is also some evidence for differences across countries: As the authors of the study note, the Danish and partly also the Swedish studies report less negative results in terms of job quality. The authors also offer a possible explanation: “In the case of contracting out, this may possibly indicate that, in Denmark, factors related to regulations and labour market agreements ensure that employees have better terms than in some other countries. Future studies in the area should examine this possible difference in employees’ rights and working conditions in more detail.” (Petersen et al., 2012).

This question on reasons and driving forces is one where the **walqing** case studies can provide some insight: What stabilizes job quality in the contracted out segment of the public sector, and what contributes to downward trends? One might conclude that the reasons are to be found in the different ownership of the providers: Private firms are likely to score lower in terms of job quality, because, firstly, they follow a different mission (profit maximization instead of providing services of general interest) and secondly, they tend not to be covered by the same set of protective rules and institutions that used to characterize public sector employment in many European Countries – like for instance strong dismissal protection, generous pension plans and highly centralized collective bargaining. Although these differences certainly facilitate a downward spiral and to a ‘dualisation’ of labour markets – which is also documented by some of the **walqing**-sector reports and case studies – the mere juxtaposition of private and public providers seems to be too shorthanded in order to fully grasp the dynamics in the realm of job quality in contracted-out services.

For one, the presence and strength of industrial relations and collective agreements as well as labour market regulations are likely to mediate the effects of contracting out on job

quality – these institutional anchors and related policy gaps will be discussed further below (section 3.2). Another factor which has so far attracted less attention is what we might call ‘procurement regimes’, i.e. *the way how public authorities organize competition among private contractors*. It may after all not be coincidental that Denmark, where outsourcing seems to have less negative effects, has also been identified as a ‘frontrunner’ in terms of social responsible public procurement, as mentioned above.

The way in which public authorities organize competition among private contractors firstly differs by sectors, since different forms of contracting out are used: in the ancillary services (e.g. contract catering and cleaning), competitive tendering is frequently used, while in the utilities (e.g. waste management) service concessions are quite common⁶, and in the social services (e.g. elderly care) still other contractual forms are widespread. While in competitive tendering procedures, the lowest price offered by bidders is often the decisive criterion taken into consideration by public authorities – thereby relying more or less on market mechanisms and creating strong price competition – the processes are somewhat more complex in the social services. Here, the price for the services to be delivered (e.g. certain tasks in elderly care) is usually fixed beforehand; then private providers are reimbursed for the services they render to citizens. Hence private providers in these cases compete directly on price in order to get a contract, but the contract awarding procedure is based on a sort of licensing procedure: Providers have to meet several criteria in order to qualify for public funding. Still, public authorities can ‘make markets’ and exert pressure on prices (and wages) to a varying extent. On the other hand, the ‘making’ of markets also implies the possibility to establish barriers against the lowering and undercutting of labour standards.

This dual potential can be illustrated by the example of a case study in Danish elderly care sector (for the following see Hohnen, 2011a).

“The municipality cooperates with a limited number of private providers in addition to the municipal units providing elderly care. An administrative unit of the municipality purchases and pays for care services from the municipal units and private providers alike. The citizens in need of care choose which of the available providers (public or private) to use, but don’t pay for them out of their own pocket. The providers do not compete directly on price because the price paid to private and public providers for a certain task is calculated according to a scheme specified by the municipality. In order to avoid having to estimate very detailed time and costs related to single work tasks, the municipality some years ago chose to specify services in so called ‘care packages’ laid down in the service quality standard of the municipality. The packages represent a certain time value and are used to assess payment to the

⁶ An internationally compatible typology which clearly distinguishes different forms of contracting out has not yet been developed. At the European level, a new directive is currently being prepared which tries to clarify the definition and the legal provisions applying to ‘service concessions’ – defined as “partnerships between the public sector and mostly private companies, where the latter exclusively operate, maintain and carry out the development of infrastructure (ports, water distribution, parking garages, toll roads) or provide services of general economic interest (energy, water and waste disposal for example)” (see European Commission 2011b).

provider. The introduction of service packages replacing the purchase of single work tasks has given the employees more responsibility and possibility to adjust work tasks according to their own professional judgement. But the package system becomes problematic if time allocation is so tight that it is impossible to make reasonable choices” (Hohnen, 2011a). To some extent, this could also be observed in the municipal provider that was chosen as case study for **walqing**: the company responded to the increasing pressure to reduce public expenditure, not least following the financial crisis, by changing quality level agreements and thereby reducing the amount of time allocated, among other instruments. Quality standards are continuously changing in order to meet public demand and to save public expenditure. “One example of changing quality standards from 2011 concerns the quality level around ‘making beds’ where service specifications changed from providing a service termed ‘making the bed’ into a service termed ‘smoothing the bed’. Many of the home care workers found the difference hard to specify in practice, however, time allocation was reduced accordingly” (Hohnen, 2011a).

Hence, by defining the time units allocated to the tasks and fixing prices per time unit, the municipality prevents the competition on price among providers. In fact, there is hardly any competition on price at all. Each year the independent (if municipality based) assessment unit calculates a ‘free choice price’ usually set a bit lower than the cost estimated by municipal providers for their own services. Private providers are invited to offer their services based on this price as well as on the quality service level of the municipality. If they comply with the quality criteria set by the municipality, they are included as possible suppliers for the elderly. It is the elderly themselves who choose their care provider. All providers know beforehand what care services (and at what quality level) they have to provide for this price. An assessment of the entitlement of each client is made by the assessment unit and an estimation of the time necessary is also made. Private providers are then paid for the time they actually need to deliver which is documented electronically. However, time use must not exceed 95% of the working hours predicted and if changes in entitlements take place, the assessment unit must be informed. The private providers are paid each month based on the number of hours worked for the respective clients (municipal districts are paid in the same way). After one year, when the actual costs of the municipal provider is known, the ‘free choice price’ for that particular year is recalculated on real terms. If (which is often the case) the actual ‘free choice’ price is higher than estimated the year before, the private providers will receive a reimbursement of the difference between the number of hours actually worked and the ‘free choice’ price. If, in turn, the municipal costs end up lower than estimated, the private provider may keep the surplus (which is why the municipality takes care to estimate the costs a bit too low every year).

Thus, while there is a general pressure on working conditions exerted by the definition of time units per service unit, there is also a correcting mechanism which, in the Danish case, prevents the time allocated and the time actually needed for the services from diverging too much. This is unlike the Germany case, where time units and their price are fixed as well (by the social insurances who finance elderly care), but private and public

providers broadly receive these as flat-rates, regardless of the time the task delivery effectively takes (see Kümmerling, 2012). A contrasting example against this unilateral imposition of workloads can also be found in the Austrian cleaning sector and in the Norwegian construction sector, where the social partners are involved in the definition of maximum workloads by defining time units per task (see Holtgrewe/Sardadvar, 2011a, p. 14; Finnestrand, 2012a) (see also section 3.2.4 below).

In the catering sector as well, municipalities are impacting on the wages indirectly, by defining the price per meal or the budgets allocated to caterers in advance. They thereby can be described as a 'hidden' third hand in the industrial relations of the sector, as the following example illustrates:

One private (non-profit) nursing has contracted out its catering services to an own subsidiary a few years ago. Although the nursing home does not use competitive tendering but simply awards the catering contract to its own subsidiary, competition with other, cheaper nursing homes (and their own kitchens or external catering service providers) nevertheless impacts on the price paid to the subsidiary. This is because the lower pay rates of the other nursing homes automatically pull down the average regional costs for board and lodging, on which every nursing home has to base its fees. This automatism is built in the financing rules: Although in principle the board and lodging costs have to be paid by the residents themselves and would therefore be freely negotiable between the nursing home and the residents, a considerable proportion of residents cannot afford them. These residents therefore receive benefits from the local authority to help pay for their board and lodging costs. The nursing homes therefore have to negotiate the fees they can charge residents for board and lodging each year with representatives of the local authorities. In these negotiations the regional average functions as an upper limit. This presents a particular problem for organisations with higher wage costs, as the managing director of the nursing home explains: *"And of course, if you have older employees (...) then you have higher average wages than your competitors who are just starting out and taking on young employees based on completely different collective agreements. But that's irrelevant in the negotiations. They just say 'That's your problem'" [managing director of nursing home].* This means that the budget negotiations with the local authorities are an important factor influencing the contracts, and therefore the working conditions, of the catering subsidiary. The public authorities can therefore be called a 'hidden third hand' (alongside the employers and the employees) determining wages and working conditions for caterers in the health care sector (Mesaros/Jaehrling, 2011).

Another instructive example can be found in the Hungarian catering sector, where the price for catering services delivered to public authorities is even fixed by national legislation:

The price hospitals and educational institutions are allowed to pay to catering service providers is fixed in a national norm and amounts to 2 EUR per person and

day in hospitals, for instance. The norm was set in 2007; inflation and increase of VAT has lessened the real value of budget by at least 25% since. Moreover, after 2006, more and more public institutions had problems to pay for the services provided in schools and hospitals and delayed their payments to service providers. As a consequence, a number of smaller domestic firms pulled out of the market, while large multinational firms with their larger financial assets gained market shares. On the other hand, the larger firms reacted to the crisis as well, as the case study in one large multinational firm shows: The company, faced with the fact that the budget for provided food had not increased since the beginning of the crisis, had to change some of the employment policy practices to cut cost in order to be able to remain in business. Employees in canteens of schools and education institutes who are closing down in summertime are now laid off at the end of school year (in June) and re-employed in September (Toth/Hosszu, 2012).

The impact on working conditions is not restricted to wages and workloads, but also relates to health and safety issues. Case study reports recurrently show the link between public procurement regulation and a modernization of technical equipment better suited to reduce accidents and health risks. The close relationship is related among other to the fact that the infrastructure and technical equipment that is needed to carry out a public tasks requires investments which do not necessarily pay off within the rather narrow time span of the service contracts or tender periods. This the case for instance in the Lithuanian Catering sector, where the Public Procurement Law determines that service contracts are to be signed for three years. In the catering companies visited, this rule limits the companies' investment in the modernization of kitchens, with problematic consequences for the work environment (e.g. lack of air-conditioning in the kitchens) (see (Kuznecovienė/Čiubrinskas, 2012a). Another example with more ambiguous consequences can be found in the Danish Waste sector:

“In the area of waste collection, the specific condition of the technology to be used is determined by the contract requirements in the municipality and this varies across the country. Some municipalities require citizens to use containers on wheels (container carts) whereas others still have garbage bags. The safety manager of one company states that from a health perspective, all trucks should have low entrance height to the cabin. But as such trucks are more expensive than regular garbage trucks, the companies' investment policy is to let the municipality decide the working environment level in the tender documents. If the tender allows for taking particular measures to improve the working environment to a level exceeding what is prescribed by the working environment legislation, the company invests in e.g. trucks with low entrance height. As the authors of the case study report conclude, the company “is proactively working on improving the working conditions, but is reluctant to invest in training and in health and safety unless the municipality specifically requires above average standards in the tender documents and preferably finance what they perceive as added operational costs. Consequently, the company is actively working on improving health and safety standards in the

industry, because it would put all competitors on equal footing” (Sørensen/Hasle, 2011).

This example illustrates the responsibility of the public purchasing authorities in rendering high health and safety standards not a disadvantage in public tenders. At the same time, it is a case in point for the well-established institutional infrastructure in the area of health and safety in Denmark (sectoral committees for health and safety, see also section 3.3.2) which leads companies to actively engage in the establishment of industry-wide health and safety standards and encourages them to develop an interest in a level playing field.

To conclude, while there appears to be an evolving normative consensus with regard to public authorities’ responsibility to ensure decent work (at the European level, at least), the prospects for realising this goal are currently narrowing rather than improving. As a result of the financial crisis but also of more longstanding budget pressures, it doesn’t appear to be an exception, to put it mildly, for public authorities across countries and sectors to have lowered the prices paid to private operators unilaterally. The use of competitive tendering based on the ‘lowest price’ criterion is but one possible way of reducing the price, as the examples provided above show. All cases illustrate that the way in which public authorities are ‘making markets’, i.e. are defining the conditions and terms for competition and are setting prices, can impact considerably on the working conditions for employees – in public and private providers of public services alike. Therefore if working conditions deteriorate after outsourcing public services to private providers, this certainly can often be attributed to the terms and conditions defined by the purchasing authorities.

One might argue that paying higher prices to private providers is no guarantee for better employment conditions in these firms either, as long as the latter are in the discretion of the private employer. However, it seems fair to assume that *lowering* prices paid to either public or private providers is quite likely to impact negatively on working conditions, unless companies discover spaces for considerable productivity gains that do not harm working or employment conditions (an option, however, hardly encountered in our case studies, with the possible exception of ‘cold line’ catering in Spain which allows for greater regularity in time schedules of the organisation and the workers; cf. Antentas 2011).

National legislation, industry-wide standards and collective agreements can of course restrict the competition on prices and workloads – e.g. by statutory minimum wages or collectively agreed wage levels extended by law, (see also section 3.2). If wages are fixed and at the same time prices are lowered or fixed at a critical level, other cost cutting strategies at the expense of working conditions are a likely result, such as the use of informal work, non-compliance with labour laws or collective agreements etc. This strengthens the case for better controls ensuring law enforcement and compliance with existing rules – and indeed compliance is also an issue taken up in the current discussion on the new European procurement directives. But if low compliance becomes an issue, this also strengthens the case for properly assessing what the driving forces behind these company strategies are – and to what extent low compliance is also a consequence of inadequate procurement regimes and prices paid by public authorities. As stated at the

beginning of this chapter, the limited provisions in public procurement legislation directly addressing labour standards are not to be confounded with a lack of influence exerted by public authorities. Our empirical analysis draws attention to the rather simple but often neglected fact that, regardless whether public authorities are flagging out social criteria in procurement-related procedures or not, the decisions that public authorities take *are* effectively contributing to the shape of working conditions in contracted out services. Public procurement regulations requiring companies to observe certain social standards such as minimum pay rates can certainly attenuate price competition. However, our cases illustrate that regulations relating directly to the remuneration of employees can be undermined by regulations and practices concerning the price of services. In order to prevent this, socially responsible procurement legislation is an important tool, but it needs to include policies at the macro-economic level aimed at increasing or stabilising public revenues. They are the most important precondition for giving public authorities the necessary leeway to assume responsibility for the working conditions in the contracted out segments of the public sector.

3.2 Employment regime

Looking at the main elements of employment regimes as listed in Table 2.2, the **walqing** case studies provide insights into various potential institutional anchors. Some case studies, most notably the ones from construction, highlight the importance of *training systems*. Just to pick the example highlighted by one of the Bulgarian case studies on construction (Kirov/Markova, 2011), management of the construction company deplores the lack of qualified staff from technical and vocational schools and identifies „broken ties between education and practice“ as one major shortcoming. To avoid such problems, upskilling and training in construction may be regarded as one major pathway to generalise the internalisation of costs which otherwise could be externalised, i.e. turned into costs to be borne by the society in the longer run (Bosch/Philips 2003). Equally importantly, a whole range of labour market regulations addressing the *stability of employment* is confirmed to be crucial for job quality in particular in industries with an above-average risk of poor job quality. What is more, some case studies provide insights into special labour market regulations of individual countries, such as the *service voucher* scheme in Belgium (cf. on this the **walqing** report on stakeholder strategies, Kirov 2011). While all these regulations or approaches are crucial the purpose of the present chapter is to highlight an aspect which is covered less frequently, that is, the *importance of collective bargaining in connection, and interaction, with statutory minimum working conditions*.

To begin with, the awareness that such connections do exist cannot be taken for granted. In some EU countries the prevailing policy approach continues to be based on the assumption that the regulation of employment and working conditions must remain in the responsibility of collective bargaining actors while the state limits its own activities to guaranteeing basic or minimum labour standards. While this ‚division of tasks‘ approach is still being practiced with regard to some aspects of job quality in various countries, it proves to be less and less effective, as is demonstrated by the rise in importance of a low wage sector in Germany. Thus, the more interesting case with regard to the focus of the

present project, is the existence of connections and interactions, in one way or the other, between the realms of collective bargaining and statutory regulation.

To highlight the importance of interactions, it is useful to draw on the distinction between inclusive in contrast to exclusive wage setting systems: “Firstly, it is not only the working and employment conditions of those workers with considerable bargaining power that are collectively negotiated. Rather, the outcomes of the negotiations are extended to all employees in a firm, industry and the economy as a whole. Secondly, a minimum level of income that enables independent living above mere subsistence is guaranteed” (Bosch (2012, p. 4). As will be demonstrated in the following paragraphs, the interactions between the institutions providing for a greater or lesser inclusiveness may either work in favour of job quality or foster a weakening of social protection by mutually reinforcing downward spirals. The latter gives rise to important policy gaps producing exclusiveness.

3.2.1 Collective bargaining coverage and extension procedures

Given the **walqing** selection criteria of ‘growing sectors with high risk of poor job quality’ it is understood that minimum standards are particularly pertinent in the industries covered by our case studies. This applies in particular for catering⁷ and cleaning which are definitely low-wage industries across the board (with very few notable exceptions such as the Norwegian cases where the wages of cleaning staff come close to the national average for unskilled workers). It may also apply to care workers in some countries such as Lithuania where care workers earn roughly between one half and two-thirds of average wages in the public sector, or in the UK where pay rates in the case study organisations were at 6.50 to 8.00 £, which for the lower sections of the grid was not much more than the statutory minimum wage of 6.00 £. Thus, both the normality and the Norwegian outlier underscore the obvious, that is, effective collective bargaining plus high coverage rates are crucial for moving these industries out of the low wage zone.

The problem here is that it is exactly these industries that are least likely to develop major prerequisites for effective collective bargaining, such as a reasonable number of flagship companies involved with employers’ associations and a high propensity to unionisation amongst workers. Given the latter shortcoming, the main driver for bargaining will be the interest of some employers to attract skilled and motivated staff⁸, and at the same time to prevent competition in the sector to be spoiled by ‘junk enterprises’, as Torvatn (2011) has it for the case of the cleaning sector.

⁷ The following short sketches copied from the three Lithuanian catering case studies are to make clear what we are talking about when regulation is largely absent in an industry like catering: “Cooks receive a minimum wage and irregular wage supplements of unfixed size; overtime is not paid; high workload and stress caused by an accelerated pace of work; fixed-term contracts provide only a temporary employment and no training opportunities.” - “The company’s cooks receive a salary whose larger proportion consists of overtime pay.” - “This job is chosen by social groups that are marginalised in the labour market (e.g., young people) and have limited job selection options or no choice at all. Cooks see their job as temporary.”

⁸ The construction industry case studies provide ample evidence on this motivation. For example, one of the Bulgarian companies visited offers higher wages than stipulated in the sector agreement as a part of its ‘quality product’ approach.

Thus, if there is any collective bargaining at all, the contracting parties will be most interested in high collective bargaining *coverage*. Either, as is the case in the Belgian cleaning sector, they manage to organise a high coverage rate by negotiating a wide range of issues which make their agreements attractive for both sides of the industry.⁹ Or, which is the more typical case in various sectors and countries, the high coverage will be made possible by statutory extension mechanisms.¹⁰

Looking at our sample of cases, the picture across industries and countries in this respect is multifaceted. Taking waste collection and catering as contrasting examples, coverage in waste collection appears to be reasonably high from Denmark to Italy (as collective bargaining in waste collection is still linked to a greater—if weakening!—extent to the public sector background it used to have or continues to have), whereas in catering occasional company agreements, sometimes seconded by regional agreements, appear to represent much more the normal case. Interestingly, the two outliers in our set of five countries¹¹ are Spain with its prevalence of sectoral agreements, stipulating minimum pay rates, and Hungary. Before turning to the Hungarian case, which is particularly interesting with respect to the importance of minimum wages, an emerging ‘policy gap’ regarding the extension of collective agreements can be demonstrated by the Spanish example.

In Spanish labour market regulation, most sectoral collective agreements, either at regional or at national levels, will be declared generally binding for the respective industry (c.f. eironline database). This applies also to low-wage industries such as catering. Given the prevalence of small and medium enterprises in the Spanish economy, these sectoral agreements tend to provide for minimum pay levels which can be exceeded by company agreements. This practice, however, is less common in low wage service industries in contrast to manufacturing such as the motor industry. Thus, in the case of catering (and similarly, in the cleaning business), the low pay levels agreed in sectoral bargaining may be regarded as a basic standard. The emerging problem, as pointed out by the respective case studies for catering and cleaning in Spain, may be triggered by the recent labour market reforms in the course of the current economic crisis. The Labour Act reforms of September 2010 and February 2012 have touched upon the complex hierarchy of collective agreements in this country. While company or establishment agreements used to outstrip the pay rates stipulated in regional or national agreements for the respective industry, the new legislation has opened the door to local downward derogations from sectoral standards. Firms may now opt out of sector agreements for reasons of economic difficulties. Given the small number of companies where industrial relations actors are by and large on a par with each another, and given the increasing difficulties in the Spanish

⁹ Another, and notable, exception is Austria with its nearly comprehensive coverage by collective agreements due to employers’ compulsory membership in the Economic Chamber. Ironically, however, the restructuring of the waste industry across sectors fragments established practices of social partnership (Holtgrewe/Sardadvar 2011a).

¹⁰ Even the Norwegian outlier cannot rely on strong collective bargaining parties only. As pointed out by Torvatn (2011), there is a joint understanding amongst collective bargaining actors in the Norwegian cleaning industry that statutory extensions of their agreements are crucial.

¹¹ Catering case studies have been conducted in Germany, Spain, Hungary, Lithuania and the UK.

economy in general, entailing an enormous pressure on industrial relations actors at local level, this change in labour law may “potentially (be) a radical change”, as Banyuls/Recio (2012: 213) have it. This reform, among many others over recent years, served to comply with the demands of the economically and politically most powerful actors in the EU, the IMF, and the capital markets. It may prove to have opened the doors to a gradual erosion of the protective potentials of the collective bargaining system particularly in low wage industries such as catering or cleaning. What is widening in Spain, and presumably in other EU countries with similar problems, may be called a *policy-driven policy gap* that may easily exacerbate a downward movement of wages and working conditions that affects the lowest wage groups disproportionately.

In contrast, the Norwegian construction case studies demonstrate the positive potentials of extension practices regarding collective agreements. One major company, irrespective its abstention from joining an employers’ association, respects the sectoral agreement. As is spelled out in the respective case study,

“the agreement establishes a uniform minimum level of wages and rights within the sector and has been declared generally binding. Thus, construction companies are perfectly entitled to hire Poles, Swedes or any other nationalities, but they have to pay collective agreement wages, and these wages are regulated by the largest blue-collar union in the construction sector (The Norwegian United Federation of Trade Union) and the largest employer’s organization within construction (NHO). It is left to the Labour Inspectorate to enforce the generalization of collective agreements” (Finnestrand, 2012b).

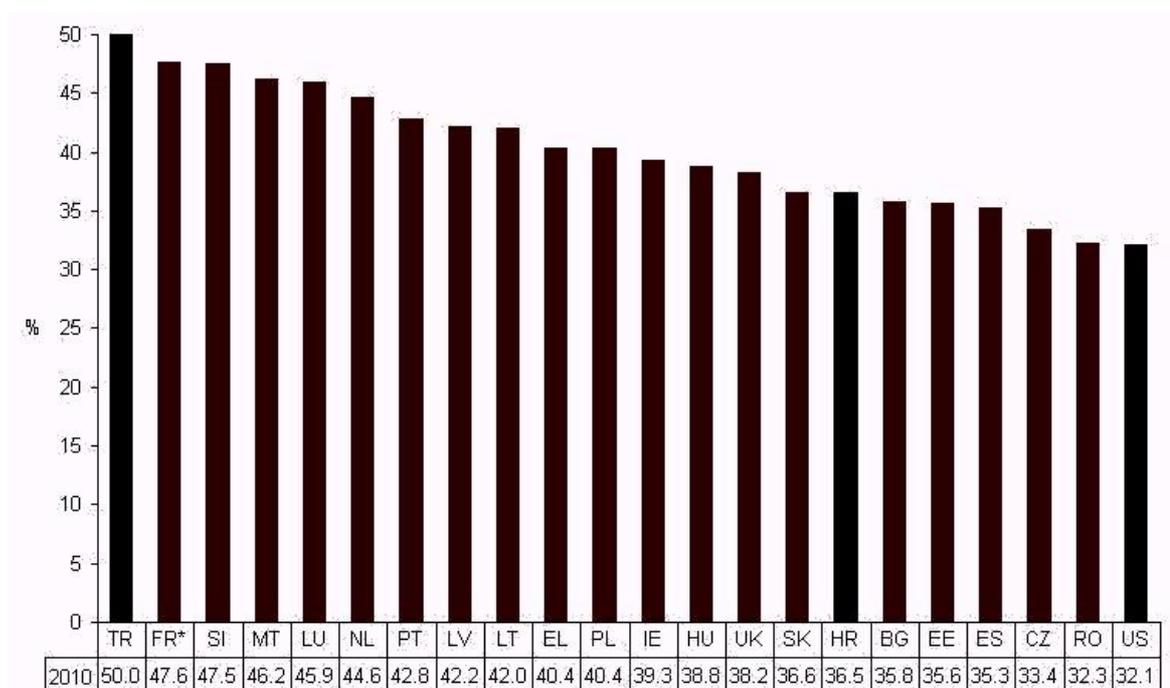
That is, the story does not end once a collective agreement has been signed, nor after its extension by the government. It is a continuing story which entails enforcement—and to be sure, public authorities will only be in a position to enforce compliance with the law, not with private contracts.

3.2.2 Collective bargaining and statutory minimum wages

The second pertinent lesson from the case studies with regard to pay levels as agreed in collective bargaining in low wage industries refers to the importance of statutory minimum wages. In both Spain and Hungary, pay levels stipulated in sectoral agreements for catering are extended and declared as generally binding by the government. In fact, in Hungary the agreement which has been extended to the whole sector since 2001 is one out of not more than four extended agreements in the country. Its main goals are to combat undeclared work in the sector and to set some thresholds for employment. Next to extensive regulation of trade union rights and prerogatives the agreement also sets sector-specific rules for the case of transfer of undertakings at the end of tendered periods of service for the winner of the new tender (we will come back to this issue later). Regarding pay, the sectoral agreement stipulates a minimum wage in the sector for skilled employees which is set at 110% of the national minimum wage for skilled workers. At first glance, the situation may be regarded differently in Spain where the sector agreement on catering stipulates a floor wage of 875,49 € per month which is well above the statutory

minimum wage of 641 € per month. Still, even the agreed wage level is low, which highlights the definitely low level of the statutory minimum wage. In fact, taking the examples of Spain and Hungary, the levels of statutory minimum wages amount to roughly 35% of median wages in Spain, and to 39% in Hungary (Figure 3.2).

Figure 3.2: Minimum wage relative to median gross monthly earnings, 2010*



* EU member states, Croatia, Turkey and USA

Source: Eurostat (2012)

Hence the picture is ambiguous. Obviously, the minimum wages in both countries serve as a reference point for collective bargaining actors when it comes to protect workers in industries such as catering from wages below the minimum needed for independent living. Given the weak bargaining power of trade unions in these industries, it is fair to assume that without this reference point the outcome would be much worse for workers (and equally for all those employers, for that matter, who are interested in remaining competitive without having to give in pressures exerted by sweat shop practices). On the other hand, statutory minimum wages in some countries are at levels which make it more than difficult for workers to make ends meet. Thus, bargaining outcomes could be supported by a steady increase in minimum wages at the pace of average pay increases in the economy.

Thus, in principle, minimum wages can be regarded as a valuable backing for collective bargaining on pay in risk-prone industries. While the evidence gathered in **walqing** supports this assumption, it should be added that the present case studies help to understand why the relationship of collective bargaining and statutory minimum wages is a much more complex story. As Grimshaw et al. (2012) have found in their recent

analysis, it cannot be taken for granted that wage *grids* as agreed in collective bargaining in low wage industries benefit from higher levels of minimum wages. If the minimum wage is low, as is the case in Spain, there is leeway for collective bargaining actors to make sure that their pay agreements stay well above the statutory minimum wage level (an approach branded by Bosch/Weinkopf (2012) as ‘distant co-existence’ of both arenas). The case of Hungary, in contrast, leads (in the wording of these authors) to a more ‘direct interaction’ as the level of minimum pay relative to median wages is somewhat higher than in Spain and, arguably even more importantly, includes a two-tier wage floor (for unskilled and skilled workers) which includes the possibility for collective bargaining actors (explicitly authorised by a clause in the tripartite agreement on minimum wages) to set a pay level for skilled workers between the levels stipulated for skilled and unskilled workers in the statutory regulation. While in the case of catering this potential has not been used, that is, wages for skilled workers in the sector agreement have been set above the level stipulated for skilled workers in the statutory minimum wage, the overall picture shows an overlap of pay levels stipulated in the realms of statutory minimum wage and collective bargaining (Grimshaw et al. 2012).¹² If the level of the statutory minimum wage is higher, as is the case in France, while the bargaining power of trade unions tends to be limited, the (in this case: implicit) interaction may entail a crowding out of the lower wage grids as agreed in collective bargaining, thus, as a consequence, compressing wages at the bottom end of the wage scale.¹³ That is, while the general assumption about the supportive nature of statutory minimum wages for collective bargaining in low pay industries still holds, the extent to which collective bargaining can actually use this potential depends very much on trade unions’ bargaining power. At the end of the day, there is no statutory substitute for trade unions’ capacity to bargain, and no substitute for both sides in industrial relations to protect the respective industries from competitive pressures exerted by ‘junk enterprises’.

The insights into the importance of statutory minimum wages for collective bargaining on pay in low wage industries provided by the **walqing** case studies is crucial for a better understanding of the risks entailed by present policy approaches in some EU countries. Under the pressure of capital markets and the ‘new economic governance’ at EU level, statutory minimum wages have been frozen in some of those countries which suffer most under the present crisis (and have been cut substantially in Greece).¹⁴ As a consequence, in 2011 minimum wage earners suffered a drop in their real income in a majority of EU countries (Schulten 2012b). This trend may entail implications for future wage

¹² Furthermore, as pointed out in the case studies on catering in Hungary, the pay level for unskilled workers may be roughly at the level of the statutory minimum wage as the collective agreement is focused on skilled workers. Thus, in the two companies visited, large shares of the workers are paid at minimum wage level, i.e. at around 300 € per month for an 8 hours a day job.

¹³ This phenomenon is widely discussed in France as a process of “the SMIC eating the low collectively agreed salaries”.

¹⁴ The so-called “Memorandum of Understanding” between the Portuguese government and the IMF may be regarded as emblematic in this respect. It stipulates that, “over the program period, any increase in the minimum wage will take place only if justified by economic conditions and agreed in the context of regular program reviews” (IMF 2011, p. 14).

developments in general, and for the institutional basis for pay bargaining in low wage sectors in particular. While in general the relationship between statutory minimum wages and collective bargaining tends to be at best mutually supportive, and at least partly capable of compensating for limited bargaining capacities of industrial relations actors, a new twist may be given to this interaction in some countries in the course of the present crisis. There is the imminent danger that public policy tends to exert a downward pressure on wages agreed in collective bargaining and on future pay negotiations. In a nutshell, a mutually supportive interaction between public policy and collective bargaining may turn into a maelstrom of mutually reinforcing downward pressures. The impacts of this approach are extremely problematic, to say the least, for growth prospects, domestic demand and social equity (Leschke et al. 2012). What is more, given the interaction between statutory minimum wages and collective bargaining in industries which are particularly exposed to low wage pressures, in the longer run the implications for the industrial relations architecture in these countries and industries may be even more dramatic. This bleak assessment is based on the simultaneous process of breaking up the prevalence of sector-level relative to local bargaining in the same countries as put forward by recent policy approaches following the guidelines of the ‘New Economic Governance’ at EU level (Leschke et al. 2012, Banyuls/Recio 2012, Karamessini 2012). Thus, the insights provided by our case studies may also serve as a warning sign pointing at upcoming dangers in the near future. And again, the emerging policy gap is policy-induced or even more so, policy-driven.

3.2.3 Loopholes, and how to close them

It is understood that even collective agreements with full coverage, possibly supported by statutory minimum wages and other labour market regulations, may be undercut—either informally, or in full compliance with the law and collective agreements. The following overview just gives a flavour as there is a wide array of possibilities to circumvent regulations of any kind. Some of these loopholes, however, can be closed or at least can be made less attractive to use. Given the focus on ‘policy gaps’ in the present report it is this what we look at in the following paragraphs.

Some of these policy gaps or gaps in regulation are policy-induced or even policy-driven as well. The arguably most prominent is the rising importance of fixed-term contracts in some EU countries. There can be no doubt about the usefulness of these contracts for particular purposes. However, when fixed-term employment contracts are the usual practice for new hires, as is the case most prominently in Spain, the purpose is the avoidance of dismissal protection and of seniority rules, and it appears that government policy prefers to choose this route as a way to liberalise the labour market without major political conflicts, concentrating the employment risks of flexibility on new hires. Thus, to what extent the prevalence of fixed-term contracts are a general problem in a given country is clearly connected to national labour market regulation. In the following, we highlight two examples of less obvious policy gaps which are more closely connected to particularities of some of the industries covered in **walqing**, in combination with institutional particularities of the countries covered.

Long hours and involuntary part-time

Once minimum wages are fixed by law or collective agreement, working-time comes in as a variable. Our case studies reveal the use of this variable in either direction. First, overtime and long working hours as a chance to improve pay in low-wage industries. This option is chosen much more frequently than what might be expected. By way of example, a recent study on working-times of low-wage earners in Germany found that full-time workers in the low-wage segment of the labour market (according to the OECD definition, i.e. wages below two thirds of the median) report an average working-time per week which is two hours longer than the one of their counterparts with higher wages (Brenke 2012).¹⁵ Industries notorious for this pattern include transport and restaurants. Amongst the **walqing** case studies the most prominent example, for that matter, has been reported from the private elderly care organisation in the UK where managers indicated that a small part of the workers opted out of the EU Working-Time Directive and selected to work up to 80 hours per week (McClelland 2011). This practice is far from unusual in the UK and has become a highly controversial issue in the public (Lehndorff et al. 2010). But again, it is a policy-induced policy gap which could be closed easily by political choice. It is fair to assume that in this case the pressure for higher wages would increase, an option fully in line with the ‘inclusive growth’ objectives of the Europe 2020 agenda.

In many cases working-time extensions in low pay jobs will be driven by the need of employees to make ends meet, even if they are welcomed by some employers and may compensate deficits in work organisation or planning. The opposite option, involuntary part-time in low pay jobs, is primarily employer-driven. This problem has been reported from various industries and countries covered by the **walqing** case studies. The rationale behind it is also mostly rooted in work organisation problems. For example, cleaning of office buildings is mostly done before or after office hours, which is easier to organise on a part-time basis.¹⁶ A similar problem may be faced by domiciliary care providers when services are distributed unequally over the day. Thus, many employers faced with difficult flexibility challenges tend to delegate these challenges 1:1 to their workers, unless alternative approaches are developed in local negotiations between workers and management. However, the gendered employment regime of various countries operates as a hidden ‘facilitator’ behind such practices which makes it easier for workers in Conservative “modified male breadwinner” countries to come to terms with involuntary part-time of shorter hours than they would prefer in low pay jobs. Indeed, in Austria office cleaning concentrates in a very narrow timeframe due to client preferences and also a pay supplement of 50% for “night” work in between 8pm and 6 am. This contributes to the fact that one in five women in cleaning (and one in four of Austrians) now has a so-called “minijob” (Holtgrewe/Sardadvar 2011). As European comparisons of working practices in the retail trade have shown it is, for example, much easier for German employers than for

¹⁵ In fact, the working-time structure is U-shaped as has been the case in the U.S. for a long time: Those with the lowest and those with the highest wages work the longest hours.

¹⁶ In principle, as demonstrated by the Norwegian cases, it is possible for suppliers of cleaning services to convince their customers that cleaning during office hours is an option. However, this approach is not the norm (Kirov 2012).

their French counterparts to convince their—predominantly female—workforce to work part-time (Jany-Catrice/Lehndorff 2005). One major reason is the importance of elements in the German labour market regulation as well as in the tax and social security system which make it financially attractive for married women to reduce working hours. It is a well-known ‘policy gap’ whose removal would arguably trigger greater pressures for higher wages in low pay sectors.¹⁷

Temporary agency labour

Next to working-time changes, the use of temporary agency staff may also be used as a loophole. In the Italian care sector this option is reported to be particularly prominent but it is far from unknown in other industries, too. It is understood that the leeway for a legal use of this option depends very much on national labour law. By way of example, when the EU directive on equal pay can be circumvented by deals struck between temp agency employers and ‘unions’ supported or even initiated by the same employers, as was the case in Germany until recently (invited by the qualified adaptation of German labour law to the EU equal pay directive), it is only too obvious that the doors for wage dumping are wide open. Similarly, temp agency labour may be made more attractive for employers the more the economic risk entailed by discontinuous use of agency workers is shifted from the agencies to their workforce (by establishing the legal possibility of a so-called ‘synchronisation’ of time spells of employment). Hence, here we observe another policy-driven policy gap. However, once these doors are closed, the story does not end, and enforcement comes back on the agenda. The Norwegian case studies on construction are particularly instructive for that matter which justifies a more detailed quotation from one of the cases:

“Because the construction industry is faced with more migrant workers than most other sectors and the use of temporary staff recruitment agencies, the union at Scancon makes an effort in following up the work situation of foreign workers. The union sometimes checks the agencies to make sure that the employees there are treated rightfully. Usually, they ask for the construction workers' pay conditions, working conditions, and whether they pay the necessary taxes. (...) Also, the largest recruitment agency have a worker union of their own where 90 % of the members are Polish workers and this union participates in the different arenas organized through the Norwegian United Federation of Trade Unions. (...) The union's effort on following up the recruitment agencies this is not solely done in order to safeguard foreign workers, but also in order to make sure that the use of temporary staff recruitment agencies takes over the practice of permanent employment” (Finnestrand, 2012a).

¹⁷ This policy gap points not just at labour market regulations but even more so at hidden connections with the welfare regime. The same applies to the issue of irregular work which is particularly prominent in Italian elderly care. A formalised labour market for care services cannot be dominant in a country without a powerful public scheme for domiciliary elderly care (Simonazzi 2010).

It needs a strong union to do this, of course. And of course, in the industries covered by **walqing** this is rather the exception than the rule. This is why statutory regulations are so important when it comes to close policy gaps in industries particularly risk-prone to produce bad jobs. The EU equal pay directive is a good starting point for that matter and it should be useful to monitor its 1:1 transfer into national law and enforcement.

3.2.4 The open question of time, money, and workload

Arguably one of the most complex problems as far as policy gaps are concerned is the relationship between time, pay and workload. The less clearly this relationship, or ratio, is defined, the greater the indirect pressures on wages. As pay has been defined, if implicitly in most cases, on the premises of a given workload, any increase in workload without accompanying (either technological or organisational) rationalisation of the work process is implicitly calling into question these premises. The indirect pressure on wages may turn into a direct one once unmanageable workloads induce workers to reduce their working-time, which cuts their wages. This implication is particularly problematic in low pay industries.

The importance of this issue has already been highlighted in the report on stakeholder strategies (Kirov 2011). By way of example, the European service union UNI-Europa tries to promote standards setting procedures for the cleaning industry (for example, stating how many square meters a cleaning worker could be expected to clean in one hour). The case studies on catering and elderly care, too, underscore the urgency of this issue, as may be illustrated by the following quotations:

Elderly care case studies, Denmark: “The work load has increased gradually in recent years. During a workday a care helper usually visits 6-8 citizens, while an assistant has more and shorter visits. This does not necessarily mean that employees have a very heavy work load – but it does mean that time is tightly scheduled. (...) Care workers experience an increasing demand in work intensity and speed. This is an issue that has a negative effect on the workers’ sense of doing a good job” (Hohnen, 2011a; Ajslev et al. 2011).

Catering case study, Lithuania: “The main thing that informants would like to change is the workload (that can be reduced by employing more staff) and salaries, which many cooks consider inadequate to the workload. (...) The cooks also said that recently their workload has very much increased. The main reason, according to them, is the lack of staff” (Kuznecovienė/Čiubrinskas, 2012a).

Catering case study, Germany: “The employees are unanimous in identifying the increasing workload as the main factor limiting job quality. Unlike wages, there are no vested rights guaranteeing the previous status quo in this regard (partly because it is not really possible to define standards for workforce numbers in collective agreements), so conditions here have worsened considerably over time. (...) Some employees say that the workload is just about manageable with the current staffing levels. But it only works because they are working much faster than before and are

increasingly going without unofficial breaks. One employee says that because she is working so fast, she is not as focused, which increases the risk of accidents when working with knives and hot pans. In addition, the stress is noticeable even after work. (...) Employees working in the central kitchen also report that they have asked the management to employ more people so they can cope better with the workload. Their request was rejected on the grounds that the company had to make savings” (Jaehrling/Mesaros, 2012).

Thus, from a job quality perspective, the workload issue has implications not just for pay (workload-to-pay ratio) but also for health and the sustainability of work. From a management (and also workers’) perspective there are also implications for product quality and staff retention.

The workload-to-pay ratio issue is not a new one, of course. In manufacturing, in particular, there has been a long tradition of piece wage systems. Depending on technological change, country, and work culture, it has always been highly controversial, sometimes prompting trade unions to step back from piece wage and preferring time-based fixed hourly or monthly pay. Sometimes, however, the opposite route is taken and trade unions seek for new ways of integrating bargaining on workload issues into pay agreements. From a trade union perspective the crucial question, however, has always been to what extent the workload-to-pay ratio can be made subject to collective bargaining.

In two of the industries covered by **walqing** bargaining on workload continues to be practiced to a comparatively large extent, in some cases this has been well established for a long time. In waste collection the definition of workload standards is relatively easy for large parts of the business and has been widely practiced in some countries (at least as far as the number of waste bins per day is concerned).¹⁸ Depending on the industrial relations system the standards are subject to negotiations. Of course, all the conflicts and ambiguities known from manufacturing apply but in principle neither side is interested in scrapping the system. In construction the approach to handling the workload-to-pay-ratio issue may be more informal, depending on the country and the sub-sector or type of company, but in the end the issue is handled in one way or the other. The most organised approach, in our set of case studies, is described by the example of one Norwegian construction company:

“The Norwegian United Federation of Trade Unions on regional level is directly involved when deciding the wage rate on project level. This means that the union has employed representatives who survey the different projects together with the company's management. The manager and the union representative decide how much time the construction workers will spend on the different jobs. They call this a

¹⁸ These systems tend to trigger a rationalisation of the work process self-managed by the workers, leading to the design of the shortest and most efficient route, a high speed at work, and shorter workdays. It is exactly these implications which, in the old days of mass production, used to be well-known in manufacturing. Hence the controversial nature of these issues once they are at stake, which in waste collection usually happens in the process of outsourcing and privatisation - see below.

"time factor". To change a window or to set in a new door is given a specific "time factor". The "time factors" vary from task to task while the amount of Euros per "time factor" is fixed. This means that there is no fixed salary and that the amount of payment is dependent on whether the workers are able to work according to the "time factor" or not. (...) That the union takes such a role in the companies is not common in other sectors in Norway and is therefore a typical construction practice. Also, the practice of involving a time factor surveyor from the regional level of the union is only common in the companies that observe the tariff regulations between the employee- and employer organization" (Finnestrand, 2012b).

Coincidentally or not, it is the two male-dominated industries in our sample in which piece-wage systems are applied. The workforce in the other three industries covered by **walqing** is either gender-mixed (catering with predominantly male cooks and female kitchen staff) or predominantly female (cleaning and elderly care). In these industries piece-wage systems are widely unknown or not practiced.

Interestingly, with the exception of catering, in two out of these three industries the definition of tasks per time unit is quite advanced nevertheless. In fact, in cleaning and care, it is at the core of management's rationalisation efforts. The following examples from **walqing** case studies give a flavour:

Cleaning case study, Belgium: "The Cleaning Excellence concept boils down to a strict rationalisation, if not Taylorisation, of the office cleaning functions. All tasks to be conducted are strictly timed, starting not only from time saving considerations but from ergonomic principles as well. Since then, the way how different items should be cleaned is standardised. This pertains as well to the products and the equipment to be used, leading to a striking professionalization of the industrial cleaning business. The way offices are kept in order by CENTIPEDE is far removed from domestic cleaning, and the workers have to attend specific training initiatives on the spot and adhere to detailed procedures in order to keep up with the tight time schedules team managers impose. The efficiency of the cleaning process is closely monitored by the direct supervisor. Blue-collar workers are given immediate feedback if they fail to adhere to the norm. Control and adjustment is exerted by the team manager..." (van Peteghem et al. 2011).

Elderly care case study, Denmark: "Care workers experience an increasing demand in work intensity and speed. This is an issue that has a negative effect on the workers' sense of doing a good job. However, the fact that the time pressure is experienced to be high might be caused by general cuts in the elderly care sector combined with a pressure to be economically competitive for the company, and the gradual 'standardization' of care work in recent years is regarded as problematic by most care workers" (Ajslev et al. 2011).

Elderly care case study, Germany: "According to the care service manager, all care staff are under a lot of strain, both physical and mental. *'No one stays in the job for long – the workforce changes completely every five years. We don't have anyone here who has been here longer than five years, apart from me.'* (...) The timings

prescribed for care work have a particularly negative, stressful impact because *‘it’s impossible to stick to them.’* *“Lots of our customers are already showing the first signs of dementia, and that delays everything, how long everything takes, and that time isn’t paid for because the patient is not yet suffering from full-blown dementia. You get 16 minutes for the morning wash and in that time I have to prepare the bathroom, bring the customer to the bathroom, undress him, wash him, dress him again, brush his teeth – all that in 16 minutes and that’s the time they think it takes a non-expert. Then I’m paid another three minutes to make breakfast. How’s that supposed to work?”* The organisation has an average sick leave rate of 15% (Kümmerling 2012).

The key words here are “time schedules team managers *impose*”, “timings *prescribe*”, and “*general cuts* in the elderly care sector”. That is, given the background of increasing competitive pressures, in particular when connected to privatisation and scarce public funding in social services, the standardisation or even ‘Taylorisation’ of tasks is regarded as a unilateral management prerogative. Thus, the problem is not the lack of possibilities to define and measure tasks per time unit. The problem is the lack of bargaining capacities devoted to handling these issues which entails a failure of social partners to take into account the experience gathered with the effects of unilaterally taken management decisions on service quality and working conditions.

However, this would require bargaining on the sector level. If there were negotiations on ‘piece rates’ in, say, one elderly care organisation whereas the competitors could continue to compete by increased time pressure, and procurement were solely focused on price, the economic outcome could be negative for the organisation with better job quality. Still, there would be the option to look for further improvements in the work process but as demonstrated by the few examples given earlier there are certain limits to this in personnel intensive services. While the option of continuous improvement of the work process can never be neglected the core issue here will continue to be—next to the procurement regime which was discussed in the preceding chapter—the generalisation of agreements on standards. To deal with this issue in service industries with weak bargaining structures is far from trivial, as has been highlighted before.

The **walqing** case studies provide scarce evidence on how to tackle that matter. As to the cleaning industry, an interesting hint is given in the Austrian report which documents the practice of defining standard maximum workloads by a Parite Commission for Prices and Wages (“Paritätische Kommission für Preis- und Lohnfragen”), established in 1957 with representation of employers, employees and government to coordinate both the development of wages and prices. In cleaning it still retains authority over prices and also over performance, limiting a cleaner’s workload at 195 square meters per hour. The standards themselves are technically rather simple to define¹⁹ but, unsurprisingly, much less simple to agree upon. Thus, unless there are legacy institutions similar to the Austrian one, it boils down to bargaining capacities and coverage.

¹⁹ With machines, the standard goes up to 350 sqm.

The second example is taken from elderly care in Denmark. The municipality as the purchaser of (potentially outsourced) care services develops a service quality level standard, specifying demands on quality and services for private as well as municipal providers. A central *assessment unit* purchases and pays for care services from the municipal units and the private providers alike. That is, in this case all boils down to the question how pay-time-workload aspects are made part of the definition of service standards.

The latter case points once more at the importance of how public procurement of services is organised. We have highlighted this crucial issue in chapter 3.1. What must be underscored at this stage, however, is that collective bargaining is inevitably to be involved in this decision making process.

One final aspect should be mentioned. As illustrated by many case studies time and workload pressures may impact on the health of workers. Hence, it should be possible to take health at work as a doorway to greater workers' voice in the work process. Following EU directives on occupational safety and health, national regulations may be scrutinised for potential 'anchors' relevant here. Beyond the well-established importance of labour inspectorates, an example worth mentioning is the German Works Constitution Act which gives works councils a right of co-determination when it comes to avoid health risks, including the right to ask for, and to take part in, a review of the work process regarding potential health risks (*'Gefährdungsbeurteilung'*). For the time being, this entitlement is not really established and well-known and far from being widely used. What is more, it takes a works council to use this entitlement. All this cannot be taken for granted, to say the least, in the industries highlighted in **walqing**. Anyway, the potential institutional anchor is interesting as the policy gap is all too obvious. And again, it is statutory regulation which proves to be crucial for the range of subjects in collective bargaining. We will come back on this issue in chapter 3.3.2.

3.2.5 Mutually supportive interaction between the law and collective bargaining

As discussed at the beginning of this chapter, there are various possible types of interaction between statutory regulation and collective bargaining. While more or less distant co-existence may have been a usual concept and practice in many countries and industries over past decades, a closer look at risk-prone industries in particular reveals the importance of statutory regulation of minimum standards as a floor for effective collective bargaining. Some **walqing** case studies go beyond this important insight and point at particular subjects of collective bargaining which are triggered, or induced, by specific regulations of labour or product markets. In these cases the interaction between law and bargaining may become mutually supportive or reinforcing.

Service vouchers in Belgium

One example for this type of interaction is, as already mentioned, the *service vouchers in Belgium* which are widely used for regularising cleaning jobs in households. Given the description of the scheme by Kirov (2011) all what has to be added in the present report is

that the cleaning sector is covered by a collective agreement which addresses the service voucher scheme. That is, which is worth mentioning as it is far from being the rule, a public scheme provides a floor for a collective agreement while the collective agreement supports the reinforcement of the public scheme. One of the Belgian case studies on cleaning highlights the beneficial role of this interaction at the workplace level.

Public procurement

The second example draws on the discussion of *public procurement regimes* in chapter 3.1. As explained there in greater detail, the rulings of the European Court of Justice have made it difficult for public authorities to declare respect for labour standards as stipulated by collective agreements as selection criteria in the bidding process. The Danish case studies on waste collection and on elderly care are particularly informative for that matter, given the tradition of strong trade union influence in Danish municipalities. Indeed, to some extent, they are contrasting examples. In waste collection, the case studies

“illustrate how a transition from municipal employment can be carried out in a way which – at least in the short term – has few negative consequences for the workers. The municipal area has been, and still is, a union stronghold, and union representatives have fought to retain the relatively good working conditions after the work has been outsourced to private contractors. (...) The salary is determined by the collective agreement and the local agreement which is written into the contract with the municipality. (...) The collective agreement is a major safeguard towards an erosion of working conditions due to competitive bidding in the tendering case. The agreement creates equal terms for competition and it is therefore not criticized by the employer” (Sørensen/Hasle, 2011).

It is obvious from this description that the starting point, and major precondition, of this approach is the strength of the trade union and their capacity to transfer regulations and agreements across sectors. Given their bargaining power wages cannot (or only to a minor degree, for the time being) be made part of the competition. Once wages are taken out of the competition, which is the core rationale behind any collective bargaining on pay, every private employer will accept this and will be happy with it. Competition will be focused on efficiency and quality of service, which has always been the official justification for privatisations. It must be kept in mind, however, that even under these circumstances competition may entail the deterioration of other working conditions, including workload pressures, as highlighted above. Nevertheless the bottom line of what has been found in **walqing** is that, only if trade unions have strong bargaining power, and only if collective bargaining coverage is universal, privatisation gets a chance (!) to deliver what is declared its strategic purpose. In this case—which should be regarded as exceptional by European standards—the ECJ ruling poses no major problem for job quality as none of the actors involved will challenge the importance of collective agreements in the bidding process.

The—to some extent—contrasting example is given by the trends in elderly care in the same country as described in the Danish case studies. Here, a gap is opening between municipal and private providers, as far as wage levels are concerned, which in turn exerts

pressure on collective bargaining in the remaining municipal areas of the sector. The municipal provider is characterised as follows:

“Most employees are members of a union. The workplace has a collective agreement, but the wage level is increasingly under pressure. The growing private market has consequences for local employment policies and organisation of work. For example, the municipality has recently negotiated new (and lower) wages for one group of employees (the permanent temps) with the union, using the argument that the municipality would otherwise lose the temp work (concession bargaining)” (Hohnen, 2011a).

It should be reminded that on top of the pressure on wages there is the overriding problem of increasing stress at work due to ever tightening time schedules, as discussed in chapter 3.2.4. Keeping this in mind, it is interesting to learn about the differences between municipal and private care providers in a country which still has a high level of trade union density:

“Employment conditions in PRIVATE CARE DISTRICT is regulated by collective agreement with FOA (Professions and Work) and DSR (Danish Nurses Council), and ought to ensure permanent contracts are offered to employees after 3 months trial time. In practice it seems that permanent contracts are difficult to achieve as management arrange continual probation employment. Out of 15 employees at the company 10 are paid by the hour and employed on 3 months contracts. (...) More generally, however, industrial representation is diminishing with the introduction of private care providers, who do not all have a CLA. At the same time many workers are unaware of what union membership actually means and how they can use their union” (Hohnen, 2011b).

Thus, some of the problems typical for this sector in other countries, and in outsourced care activities in particular, are finding their way, step by step, into the realm of former “union strongholds”. Once the—rather exceptional—conditions fade, the only way to re-establish the link between procurement and collectively agreed labour standards is the statutory extension of collective agreements. The latter is becoming an increasingly important option not just for reasons of safeguarding of minimum standards but also for reasons of maintaining a floor for collective bargaining, as discussed in chapter 3.2.1.

Transfer of undertakings

The third example is the use of statutory regulations of “*transfers of undertakings*” for collective bargaining. Several reports highlight the direct or indirect importance of EU Council Directive 98/50/EC of 29 June 1998 on safeguarding employees' rights in the event of transfers of undertakings, businesses or parts of businesses.²⁰ The Council

²⁰ The core provisions are stipulated in Article 3 of the Directive:

“1. The transferor's [=previous employer's, K.J./S.L.] rights and obligations arising from a contract of employment or from an employment relationship existing on the date of a transfer shall, by reason of such transfer, be transferred to the transferee [=new employer, K.J./S.L.]. (...)”

Directive has been transferred into national law in various ways. Given the increasing importance of competitive tendering it is obvious that these principles are becoming ever more relevant. For equally obvious reasons they are becoming contested by national court rulings and simply neglected at local level. By way of example, the basic story told by the Lithuanian case studies on catering is that,

“Public Procurement law provides that a service contract is concluded for a period of three years. (...) After winning a catering service contract, the company employs new cooks and kitchen staff. Workers are employed under a fixed-term contract of three years, i.e., to the same period of time the contract is concluded with the customer” (Kuznecovienė/Čiubrinskas 2012a).

In other countries, including Hungary and Spain, case studies do not report of this kind of undercutting or circumventing EU law at company level. In fact, if employer no. 1 hires workers on a temporary basis employer no. 2 may do the same without violating the law. To put it bluntly, what is reported here is undercutting the rationale of EU law by imposing bad jobs on workers in the first place.

In contrast, the Hungarian report highlights the importance of the collective agreement in catering which, as mentioned earlier, has been declared generally binding for the establishment of sectoral rules for transfer of undertakings at the end of a tendered period of service for the winner of the new tender. In Spain, the collective agreement on contract catering (which is generally binding) goes even further by providing “certain guarantees for workers in cases of transfer. The agreement stipulates that the staff in a workplace must be maintained if the contracted company changes, thus ensuring employment stability in the sector” (Kirov, 2011, p. 96). Similar provisions have been agreed for the Belgian cleaning sector.

Similar references to the so-called subrogation clause are reported in the Spanish case studies on cleaning. That is, the statutory regulation has been made an explicit reference point in collective agreements. Law enforcement is generally regarded as an obligation of public authorities, which it definitely is. It should be noted, however, that in addition to this, it is useful to engage larger shares of those parts of the civil society who actually benefit from these statutory standards in order to influence both employers and their clients. When it comes to mobilising societal competencies collective bargaining may serve as a valuable institutional anchor.

3. Following the transfer, the transferee shall continue to observe the terms and conditions agreed in any collective agreement on the same terms applicable to the transferor under that agreement, until the date of termination or expiry of the collective agreement or the entry into force or application of another collective agreement. Member States may limit the period for observing such terms and conditions with the provision that it shall not be less than one year.”

3.3 Welfare regime: 'active ageing' in new and growing jobs

While the employment regime covers regulations and practices that directly address the contractual relations between labour and capital (labour regulation, collective bargaining), mostly through regulatory policies, the welfare regime primarily encompasses cultural norms and policies that shape the labour supply, through (re)distributive policies (de)commodifying the labour supply (e.g. taxes, unemployment benefits) or through the provision of infrastructure and services that have an impact on the quantity, quality and flexibility of the labour supply (e.g. child care, elderly care). They thereby contribute to shape the employment related aspects of job quality (less so the work related aspects, according to the distinction introduced above) by impacting on the preferences and available options and resources of individual employees when offering their labour. Moreover, policies relating to the welfare regime also comprise services and benefits providing social protection in case of reduced ability to work (disability, sickness, old age).

To give an example, the impact of the tax system and the level and structure of external child care services on the female labour supply and on work-life balance of parents is a well explored issue in comparative welfare research. The **walqing** case studies broadly reconfirm the persistence of cross-national differences with regard to gendered work trajectories, as expressed for instance in the different shares of part-time work in the female dominated sectors under study (cleaning, catering, elderly care). However, the findings of the case studies also indicate that the institutions impacting on the labour supply - in this case on the working time preferences of female employees - have lost some of their vigour, since the economic downturn has further fuelled employer's strategies to cut costs via a reduction of working hours and the imposition of involuntary (shorter) part-time jobs, particularly in the cleaning sector (see e.g. Holtgrewe/Sardadvar, 2011) and the catering sector (see e.g. Antentas, 2011). Hence employer's strategies in the low-skilled service sectors have begun to converge on a part-time work organisation, regardless of the individual preferences of the employees (which are by themselves shaped by the different national institutions and gender norms).

The subject singled out for a more detailed analysis in this chapter are policies related to old-age, health and occupational disability, and more specifically policies suitable to ensure a decent income at retirement age or in case of disability before retirement age. We consider this issue to be of particular importance because, firstly, many European countries have introduced reforms in their pensions systems which according to estimations of the OECD will contribute to decrease pension levels in the statutory pension systems in the future (see Whiteford/Whitehouse 2006: 88ff; ISG 2009: 14ff). While this trend is not restricted to the selection of new or growing jobs we investigated in the **walqing** research project, our empirical evidence leads us to the assumption that they are among the segments of the labour market most strongly affected by this trend, albeit with important differences between the countries and sectors. This is basically due to two reasons:

- Firstly, and most obviously, the low income levels due to low hourly wages and, in the case of the female dominated occupations, additionally due to the proliferation of part-time work, can translate into very low pension entitlements from statutory

pension schemes – although this can be partly compensated for by different mechanisms and provisions in the national pension systems.

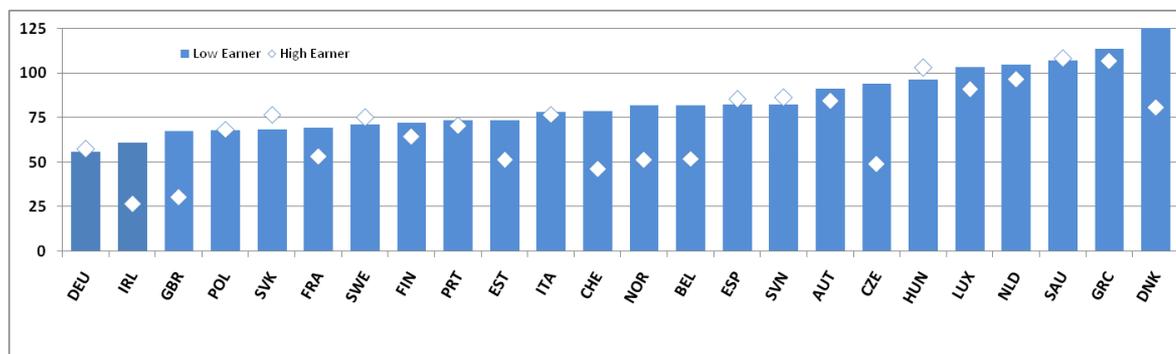
- Secondly, the company case studies in general and those in the care sector in particular provide ample evidence for forms of work organization and job design in growing sectors with limited sustainability in terms of health and safety. Apart from the immediate consequences for the physical and psychological well-being of employees this decreases their employment prospects in later stages of their working life. This risk is exacerbated by the fact that often work in cleaning, elderly care, catering and private-sector waste collection is done by workers in the middle of their working lives following careers of discontinuous employment. In consequence, many of these workers may be forced to exit the workforce or at least reduce working hours long before regular retirement age. The increase in workloads documented by many case study reports across all countries and sectors under study is likely to increase the number of health-related early exits of the labour market. With retirement age being increased in OECD countries (OECD 2011b: 22ff.) this contributes to widen the gap between the actual employment records and employment records required for full entitlement.

The following analysis will explore both reasons more in detail and discuss policy gaps and options. The policies and practices discussed will encompass measures at the level of the individual firms / corporate social responsibility, at the level of collective agreements as well as at the level of national and supranational legislation. According to our own distinction between welfare and employment regime, some of the measures presented rather qualify for the policies constituting an employment regime, but we chose to discuss them in this section as they are closely related to the issue of old age, disability and pensions. To summarise the challenges discussed in what follows, it is understood that problems arising from the labour market primarily call for action in the labour market, rather than simply dumping their outcomes on the social security system. However, as long as these problems do exist, and given their rise in importance, they must be taken into account when discussing urgent reforms in the social security systems.

3.3.1 Low income jobs and pensions systems

Given the low income levels discussed in the previous section, it is easily conceivable, at least at first sight, that many employees will finish their working life without having acquired enough savings or pension entitlements which allows them to meet their basic needs. However, this conclusion needs some refinement, since the national pension systems differ strongly with regard to the extent to which low individual wages during working life translate into low post-retirement household income. This is illustrated by the figure below. It shows model calculations of the pension level for a single person after a full career, and differentiates between high and low pre-retirement earnings (defined as 50% and 150% of the economy-wide average earnings respectively).

Figure 3.3: Net pension replacement rates of low and high earner after full career (as % of individual net pre-retirement earnings), single person, 2008



Notes: The results of the OECD pension models calculations presented here include all mandatory pension schemes for private-sector workers, regardless of whether the schemes are public or private. 'Quasi-Mandatory' schemes with near-universal coverage are also included, provided that they cover at least 85% of employees. For each country, the main national scheme for private-sector employees is modelled.

A full career is defined here as entering the labour market at age 20 and working until the standard pension-eligibility age, which varies between countries. Hence the length of career varies with the statutory retirement age: 40 years for retirement at 60, 45 with retirement age at 65 etc.

For further information on the methodology and assumptions used in the OECD pension models see OECD 2011b, p. 116.

Source: OECD 2011b, p. 119, own layout

As the figure shows, the countries differ strongly with regard to both the levels of pensions guaranteed by mandatory pension schemes, as well as with regard to their redistributive character. At the top of the range, Denmark provides low earners with pensions higher than their pre-retirement earnings (121%). At the other end of the scale, Germany offer replacement rates of just 56%, the same rate as the high earner. By contrast, most European countries provide higher replacement rates for low wage earners than for high wage earners. For example, in Norway and Belgium, workers earning only half the average wage receive replacement rates of more than 81% or their pre-retirement net wage, compared with 51 % for high earners.

But the replacement rates of mandatory pension systems in most European Union countries are set to decline in the future, due to a number of pension reforms aimed at increasing financial sustainability of the pension system – e.g. the introduction of a demographic adjustment factor in Germany, Austria, France, Italy and Sweden, among others) or the increase the retirement age (see Whiteford/Whitehouse 2006 for an overview). These reforms are projected to translate into a decline of pension levels (see ISG 2009; European Commission 2010b). In most countries, this also holds true for low-wage earners (see Figure A 1 in the Annex), however with the exception of a number of countries, where replacement rates are projected to rise for low-wage earners (Belgium, Bulgaria, Cyprus, Estonia, UK) or remain relatively stable (Austria, Spain and Italy). Hence, while some countries have strengthened the redistributive element in their retirement system, others have cut benefits across the board. This is of particular relevance in countries with an already low replacement rate, most notably in Germany.

Still, the fact that relative poverty rates of elderly people in Germany are currently lower than in countries with much higher replacement rates (e.g. Denmark, Belgium and Norway; cf. OECD 2011b: 149) indicates that—apart from statistical effects—there are other factors to be considered when assessing the adequacy of pension levels. The calculations presented so far only provide an incomplete picture and might either overestimate or underestimate the risk of material deprivation during old age. This is because, firstly, they do not take into account additional incomes (from other household members or from other sources like supplementary pension schemes), and secondly they rest on assumptions about employment records which are not necessarily representative for the occupations studied here. The two factors can have opposing effects on real pension levels.

- On the one hand, current average employment trajectories deviate from the so called- ‘normal’ or ‘standard’ full career assumed for the calculations presented above in most countries: Contribution periods and effective retirement age are much lower, particularly in the case of women (see OECD 2011b: 43 and ISG 2009-Annex). While this is already true for the average employee, it is all the more true for those with ‘atypical’ employment records due to long career breaks for raising children or caring for relatives, short part-time work, frequent and/or long unemployment spells or periods of seasonal labour associated with many low-skilled occupations. As was discussed earlier these are characteristics which also apply to part of the workforce in the new and growing jobs under study.
- On the other hand, there are different sources of supplementary income. In addition to mandatory pension schemes, one important element of pension reforms in the last decades was to support the enrolment in supplementary voluntary pension schemes, either in the form of occupational or personal schemes. While in the Nordic countries like Sweden and Denmark, quasi-mandatory schemes (with a high coverage) play an important role, but are also important in several East European Countries (Hungary, Slovakia), voluntary schemes have become an important pillar of the pension systems in the United Kingdom in particular, as well as in Germany and Belgium, among others (see OECD 2012 : 172). But where evidence is available for contributions to voluntary pensions they indicate a much lower coverage for low-wage earners (see Figure A 2 in the Annex). The coverage in the low earnings decile is highest in Germany, which will certainly contribute to decrease the pension gap of low-wage earners. But whether the pension levels will be adequate also depends on the amount of savings, and in this respect as well available data indicate that the contributions made for voluntary pension plans are too low to close the pension gap particular in the case of low wage earners (Antolin/Whitehouse, 2009, p. 19). Moreover, whereas voluntary schemes have gained importance in some countries, there are also political reforms and processes which contribute to a decline in the coverage rates. In the UK, for instance, where similar to other Anglo-American countries workplace pension schemes are an important component in many people’s retirement incomes, the number of active members of private sector occupational pension schemes has been roughly halved

between 1970 and 2008²¹. This is explained, among other things, by a decline of the manufacturing industries with their traditionally strong union foothold (Clark, 2006, 2011). Moreover, as some of our company case studies illustrate, the trend of outsourcing has a converse effect on coverage by occupational pension plans, since outsourcing often implies the exclusion of employees from the company pension plans of their previous employer (see e.g. Jaehrling/Mesaros 2012).

Policy options addressing these factors are, on the one hand, related to the *wage levels*: As spelled out in section 3.1.x, the collectively agreed wage levels as well as minimum wage policies are of crucial importance, not only in order to provide for a decent living standard during the working life, but also after retirement.

A second set of policies relates to the *employment records*. A policy goal underlying many political reforms throughout Europe is to increase the retirement age and support the employment of older employees. While financial instruments, like positive incentives (subsidies) or cutting back early retirement schemes, are at the focus of recent labour market policies, there is also important leeway for initiatives of individual firms and stakeholders in this regard. One important field of activity is the creation of sustainable work environments that reduce the risks for employees of being forced to stop working for health reasons much ahead of retirement age. Special arrangements which facilitate the employment of older workers are another issue which can be taken care for both by individual companies and by the social partners. Some examples for both types of company strategies or collective agreements will be presented further below. Thirdly, particularly in female dominated industries, like the catering and cleaning industry, who resort on a large share of part-time jobs in order to match customer preferences and peaks in the workload as closely as possible, the company case studies indicate a need for initiatives who support the creation of jobs with longer working hours, as the initiatives for day-time cleaning, for instance (cf. chapter 3.2.3).

Finally, of course, innovations in the pension system itself can be another important element of policies suitable to provide adequate pension levels. The support of private occupational or personal pensions schemes has become one of the key policies followed in many European Countries. A wide consensus among policy makers across European countries to strengthen the second (occupational) and third (personal) pillars of the pension systems however conceals quite important differences with regard to coverage rates. Moreover, apart from coverage rates, it is also the contribution rates and the question who contributes (employers and /or employees) which are of key importance in order to ensure decent living standards in old age. While in some countries, the increase of coverage rates is accompanied by a shift of burden from employers to employees, like

²¹ According to data provided by the UK Statistical Office, see <http://www.ons.gov.uk/ons/rel/pensions/occupational-pension-scheme-survey-annual-report/no--16--2008-edition/f2-21-no--active-members-priv-sec-occ-pen-sch-normal-pension-ages-60-65-years-1971-2008.xls>.

in Germany²², other countries have introduced reforms which involve employers' contributions as well. Against the background of partly very limited saving possibilities of low-wage occupations, it seems fair to assume that schemes solely financed by employees are likely to remain limited in their capacity to close the pension gap – and they are probably one of the reasons for the rather low contribution rates of low income earners (see above). Three examples illustrate the broad range and large differences of national reforms with regard to occupational pensions in our country sample.

One way of ensuring a high coverage rate in *voluntary* schemes is automatic enrolment, as practiced in Italy. Since 2007, the severance pay provision (so called *Trattamento di Fine Rapporto* – TFR) is automatically paid into an occupational pension plan if the employee does not make an explicit choice to remain in the TFR. The TFR is a fixed fraction of the annual salary (around 7%) retained by the employer and paid to the employee upon job termination or retirement. So far, only around 1/3 of private sector employees have switched their TFR entitlements to a private pension fund. This is explained by the instability of financial markets, even before the current crises, and the fondness of workers for the old TFR (Cesarotto, 2011). But even without opting in a private pension plan, it is worth noting that the TFR provides employees with substantial savings once they reach retirement age.

In Germany, the pension reform in 2001 introduced a so-called 'demographic factor' and thereby contributed to lower replacement rates; at the same time it contributed to increase the coverage of employees by supplementary occupational or company pension plans. In the hotel and restaurant industry, for instance, the pension reform spurred the conclusion of a collective agreement in 2002 introducing a national occupational pension scheme for the HORECA industry (the 'HoGa pension'). Employers contribution is 150 € / year for each full-time employee (and between 50 and 125 for part-time employees, depending on volume of working hours)²³, and employees can convert up to 4 % of their yearly wage into tax-free employees contributions. This collective agreement was and still is regarded as a major improvement for the hotel and restaurant sector, and it has indeed contributed to increase the coverage by an occupational pension plan in the industry. However, at 28% of the employees (2007) coverage rates remain rather low compared to other sectors (Bundesregierung 2008: 73). This is most probably a result of the low coverage rate of the collective agreement but may also be due to a low enforcement of this provision. Moreover, minimum contribution rates are not set by the collective agreement, and there is no evidence to what extent employees actually make use of the option to top up the minimal contribution by employers.

²² A company survey shows that the share of companies offering occupational pension schemes has increased since the pension reform in 2001 (from 31% to 51 % in 2007). This increase is based on a growth of occupational pension schemes solely financed by employees contributions (now accounting for around a third of all occupational pension schemes) or schemes co-financed by both employers and employees, while occupational pension schemes solely financed by employers have strongly decreased (from more than 50% down to 38% of the occupational pension schemes) (Bundesregierung, 2008, p. 74).

²³ The employers contribution was refinanced by collectively agreed cuts in the holiday pay.

By contrast, in Norway, it became mandatory for employers to operate an occupational pension scheme in 2006. Contribution rates are set by government; employers have to contribute a minimum of 2 % of the individual employee's wage. Before 2006, occupational pensions covered about one third of the employees (Trampusch et al., 2010). Norway today belongs to the group of European countries with a mandatory private pension system (similar: Finland, Switzerland). The private pension schemes in these countries cover between 70% and 80% of the working age population (OECD 2011b: 171). Quasi-mandatory schemes like the ones in Denmark, the Netherlands or Sweden are established through industry-wide or nationwide collective bargaining agreements and must be joined by employees. Even though not all sectors may be covered by such agreements the coverage is quite high, with 60% or more of the working age population covered (OECD 2011b: 171).

Hence, decreasing replacement rates may be partly offset by occupational pension schemes, or else personal pension schemes (like the Riester pension in Germany). In the absence of strong unions and high coverage by collective bargaining, however, and given the limited possibilities of most low-wage workers to save for their pensions on a unilateral basis (i.e. without co-funding by their employer), it is fair to assume that delegating the decision on participation and on contribution rates to the individual employer and employee bears the risk of rather low coverage and contribution rates, particularly in the low-wage sectors.

Moreover, in addition to shifting weight from the first to the second or third tier pension systems, some countries have also embarked on a process to improve the payoffs from the statutory pension scheme for low-wage earners.

In the UK, the government announced the introduction of a new flat-rate pension which will see the current basic state pension and a second state pension (S2P, formerly known as Serps) replaced by a single scheme, of initially £140 for those with a 30-year national insurance record, from 2016. Currently the full basic public pension amounts to £107,45 plus the additional pension. According to government estimates the costs will be at the level of the current pension system.

In Germany, the government has presented plans to introduce a non means-tested minimum pension for low earners (*'Zuschussrente'*), lifting low pension entitlements to a level of € 850 under numerous conditions that are still being debated.²⁴

While the provision of minimum pensions and the strengthening of redistributive elements, that is changes in the expenditure structure, might become a more important policy to combat old-age poverty, there are also a range of policies addressing the revenue-side of the pension system – as for instance the inclusion of self-employed or civil servants or the

²⁴ For those newly entering retirement age in West-Germany, the average monthly pension from the statutory pension scheme amounted to EUR 655 in 2010 which is below the social assistance level for a one person household (currently at around EUR 670) (http://www.sozialpolitik-aktuell.de/tl_files/sozialpolitik-aktuell/_Politikfelder/Alter-Rente/Datensammlung/PDF-Dateien/abbVIII91.pdf).

increase of income ceilings (in contribution-based schemes). These are measures which may as well contribute to increase financial sustainability and additionally give more leeway for adequate pensions even above the minimum level. While it would go beyond the scope of the present report to discuss these options in greater detail we deem it important to mention them as they are underexposed in recommendations of respective publications of the OECD or the European Commission.

3.3.2 Sustainable work places and early retirement options

The success of reforms aimed at increasing retirement age depends above all on the opportunities for an aging workforce to stay in the labour market. A range of factors impacts on the ability of employees to do so. Measures to combat age discrimination, for instance, as well as measures to adapt work places and working organization to older employees are important facilitators for long employment careers. In addition to such measures focusing on the group of *older* employees, another decisive factor is a sustainable job design and work organization that preserves the ability to work as long as possible, hence rather preventive measures which also benefit younger and middle-aged employees. A finding that clearly emerges from the **walqing** case studies is that the occupations in the growing sectors are often characterized by work loads, forms of work organization and working conditions which tend to limit sustainability in terms of health and safety at work. This is partly due to the fact that several jobs under study include heavy physical work, such as lifting big heavy pots and cleaning large appliances in the catering industry, lifting waste bins during waste collection, or certain tasks in construction work. Work in the elderly care sector as well is considered as demanding both physically and emotionally, and the risk of accidents (mainly when moving and lifting patients) and musculoskeletal problems is quite high in elderly care (Hohnen, 2011b).

If the fact that certain occupations are physically and psychologically demanding is anything but new, the dimension of the problem as it emerges from the **walqing** case studies as well as from additional surveys deserves more attention in our view, both in political and academic debates on old age employment. When asked about their future perspectives, the interviewed employees repeatedly expressed their worry that they will not be able to manage the demands of their job in the long run. As survey results show, these concerns are quite common among employees in Europe. A new Eurobarometer survey on 'active ageing' published at the beginning of this year produced quite sobering results: only 42% of Europeans believe that they will be capable of doing the work they are currently doing until the age of 65 and beyond, while 17% expect that they will not be able to carry on in their current job until they are 60 (Eurobarometer 2012: 55). The survey does not differentiate between sectors but shows that there is a difference by occupation, with manual workers on average believing they will only be capable of doing their job until the age of 59.9, compared with an average age of 61.8 for white collar employees (except managers). Other sources show that workers in elderly care – which is usually classified as white collar work – also perceive their work as little compatible with old-age employment: For Germany, survey results show that more than 50% of health care workers do not believe that they will be able to work in their job until retirement age,

compared to 22% for clerical workers (Holler/Trischler, 2010: 51). In Denmark, care workers have a 61% higher risk of requiring early pensions compared with the work force as a whole (Sejlbæk et. al, 2010, cited after Hohnen, 2011b).

The straining conditions and characteristics are however not simply ‘in the nature’ of the jobs, i.e. they are not intrinsically tied to the jobs. Instead, they must be considered as a result of precedent company strategies, workplace practices, company and sector level negotiations and, not least, economic pressures. The financial and economic crises, for instance, as well as a more longstanding dominance of the ‘lowest price’ criterion in public and private procurement have translated into an increase of work pace in many occupations (see 3.2.4) and can be considered as one major factor putting health and safety at work at risk. On the other hand, several company case studies conducted for **walqing** provide examples of a reduction of strain and physical demands through the introduction of advanced technological equipment. In principle, therefore, aspects of job quality related to health and the preservation of employability are amenable to modifications, too. Both political regulations as well as stakeholder initiatives can play a role in providing protection and stimulating the creation of more sustainable working environments. The extent to which this is currently done varies strongly between countries and sectors, as we will discuss now based on findings from the **walqing** research project.

As a general rule it would seem that in collective bargaining, the demographic change can still be considered as a rather new and ‘emerging’ issue. This might be due to the predominance of other strategies to cope with the demographic change so far: According to Tullius et al., (2012, p. 121) the consensual institutionalisation of early retirement systems has for a long time provided a legitimation to neglect the development of more sustainable job design and work environments in Germany, and this might also extend to other countries. The issue of health and safety, by contrast, has a longer tradition and there are also important institutional anchors for this issue in national and sector-specific regulations. The Nordic countries in particular seem to have developed a rather favourable institutional infrastructure for the issue of health and safety at work.

In Denmark, for instance, there is a bipartite industrial committee (Sectoral health and safety council) in the health sector (SWEC) which has been established by legislation (for the following see Hohnen, 2011b). The council is among other things preparing guidance and best practice material in the area of working environment. Examples include initiatives to prevent bullying at the workplace, good practices for the prevention of work related stress and further policies to promote better health among care workers. The council has “widespread legitimacy because of the participation of both partners, and therefore the material and guidance principles that they provide are being widely used – even by labour inspectors from the Work Environment Authority (WEA) when assessing risks and working environment in the sector.” (Hohnen, 2011b) Furthermore, the sector specific SWEC committees are involved in the legislation on work and labour and the implementation of it. Finally, the Danish working Environment act and Danish legislation requires that all work places of a certain size have work environment representatives, which are elected and protected along the same rules as shop stewards. In addition to this, the larger

work places are required to establish a work environment committee. Here employees' representatives work together with local line management in controlling and securing the working environment.

In Norway, collective agreements have created a tool for covering smaller companies (for the following see Torvatn, 2011). Similar to Denmark, legislation only requires enterprises with more than 10 employees to have safety representatives elected. Studies show that the coverage in companies with less than 10 employees is almost non-existent, while these companies employ around 80% of the overall workforce. In order to solve the problem, in the cleaning and in the construction industry, among others, social partners have agreed on hiring regional safety representatives for those enterprises where no such exist. The regional safety representative have the same rights as company safety representatives, i.e. they are entitled to inspect working conditions alongside the Labour Inspectorate, they have the right to halt dangerous work, they are to be included in various planning activities concerning working conditions (including discussions on overtime benefits, work schedules, physical working conditions) (see also Andersen/Torvatn, 2009).

The institutional infrastructure in the two Nordic countries appears to stimulate workplace initiatives addressing health and safety issues, as a number of case studies illustrates. Examples include the switch to methods of dry cleaning in Norway or the use of containers on wheels (container carts) instead of garbage bags in waste collection in Denmark (Sørensen/Hasle, 2011). Workplace initiatives and collective agreements to enhance the adaptation of working organisation and jobs to an ageing workforce are certainly not restricted to the Nordic countries with their well-established institutional infrastructure both at national, sectoral and company level. Other improvements result also from European legislation in the realm of health and safety, as in the case of the waste collection: As the report on waste collection in Austria notes, there are now regulations limiting the weight of bags to 25 kilograms (while they could be as heavy as 110 litres before) as a consequence of EU regulations (Holtgrewe/Sardadvar, 2011). Similar strategies can of course also be pursued by individual companies, e.g. due to a commitment to principles of corporate social responsibility. One example in the catering industry is cited in the **walqing** report on stakeholder strategies: After internal research (survey among older employees) Sodexo and all the representative trade union organisations have signed an agreement in favour of the employment of older workers (Kirov, 2011, p. 100).

Some companies in our sample provide opportunities for older employees to shift to less physically demanding jobs – which is of course limited by the number of suitable jobs within the company. Other restrictions or even ambiguities can be illustrated by the example of a municipal waste company in Italy, where unlike in other waste-collection companies visited for the **walqing** project, an important share of workers is 'old-aged' and or disabled. In this company, people with inabilities are usually employed in the internal warehouse or in administrative office. The company accepts what they perceive as overstaffing because they will not hire younger staff before older workers retire (Bizotto et al. 2012a). A probable explanation for this approach (which is not made explicit) could be

not only a company strategy inspired by the principle of corporate social responsibility, but also the rather high level of dismissal protection which frequently places Italy (together with Spain and other Mediterranean countries) at the top of country rankings with regard to 'labour market rigidities'. Since older workers in this company are retained even despite over-staffing the case study might not qualify as an example that can give guidance to other firms how to reconcile market pressures and an ageing workforce. But it might be a case that challenges conventional economic thinking on 'labour market rigidities' and invites policy makers to rethink the possible benefits of certain rigidities for old-age employment.

Whereas managers in some companies actively engage in the improvement of working conditions in terms of health and age-related issues, it is not uncommon either that employees are rather left alone to sort out how to cope with high work pace and work related stress.

In one Spanish company in the catering sector, the cleaning assistants have organised the weekly alternation of tasks on their own initiative. This was not least done in order to rotate the tasks that are most physically demanding or else very repetitive. The **walqing** report expounds the problem of a the lack of initiatives by management to address the health and safety risks: "Minor ailments resulting from repetitive tasks are common in the sector. In fact, they are so normalized that the only measures taken to avoid them stem from the initiative of the workers. A good example is the rotation system for alternating the toughest and most arduous tasks. This is a clear example of how corporate policy transfers responsibility to the workers under the pretext of freedom to organize" (Moreno, 2011).

In one of the catering companies in Lithuania, several cooks mentioned the problems associated with the employment of older and/or disabled employees. One of the cooks stated that in addition to the two disabled persons (out of more than 100 overall employees) currently employed by the company more people with disabilities should not be recruited as the work is physically demanding and the workload very big. Employees with disabilities are unable to perform all the duties (e.g., lift heavy pots or similar); besides, they often are sick and do not come to work. In this case, the tasks are redistributed and the ones who work that day have a bigger workload and thus must work faster. Two younger cooks as well raised the issue of an existing inequality in the company between cooks of younger and older age. They particularly complained that despite being paid considerably higher (because of their longer seniority in the company) older cooks adopted a slower work pace and nourished an attitude like "*we already have worked enough, now you go ahead and work*". Management, according to them, was not monitoring this 'faking' behaviour of older colleagues close enough, "*So we just pour out this to each other and that's it*" (Kuznecovienė/Čiubrinskas, 2012b).

The latter examples illustrates that in a context of physically and otherwise demanding work, the employment of older workers generates challenges for the work organisation. If

these challenges are not addressed by management, conflicts and tensions among employees may arise, particularly if combined with high work pace.

It is necessary to mention that the slow progress with regard to sustainable working environments not only results from a lack of management initiatives but appears to be also due, in part, to a reluctance in employees' attitude towards health and safety issues. Several case studies cite managers and union representatives who report low compliance with health-related provisions (e.g. wearing or using protective equipment) and who anticipate or have already experienced resistance on the part of the employees towards health-related initiatives – e.g. initiatives to overcome overly long working hours (more than 10h per day in some Spanish catering establishment, see Moreno, 2011) or to reduce the work pace (in the Danish waste collection sector, see Sørensen/Hasle 2011). These experiences indicate that finding suitable solutions for improving sustainability at the workplace is not a mere 'technical' task but needs to be accompanied by communication and negotiation processes at the establishment level, but probably also needs support from public campaigns and joint initiatives by social partners.

The overall picture emerging from the analysis so far is that there are opposing trends and factors affecting the working environment. Work pace and work related stress has often increased due to cost-cutting strategies of municipalities and companies, while at the same time targeted health-related initiatives at the workplace or at sectoral level can offset some of the long-term health risks, and technological changes can contribute to alleviate strain in physically demanding jobs.

The rather mixed picture and slow progress suggests that in the medium term a relevant share of workers in the occupations studied is at risk of losing their ability to work in their current occupation considerably ahead of the official retirement age, which will be at 65 years or more for both men and women in most European countries by 2030 (OECD 2011b, p. 25f.). Of course, within the limits of available jobs in their company, managers can support what was recommended by the recently issued 'White paper' on pensions by the European Commission: "Workers in particularly arduous or hazardous jobs can be offered alternatives to early retirement, such as job mobility" (European Commission, 2011, p. 11). This is certainly also an issue of labour market policies supporting job mobility among older employees and helping older unemployed people find suitable jobs. Although a detailed analysis of national labour market policies with regard to old-age employment was not part of this research project, the findings of the sector analyses and company case studies presented so far raise doubts whether the mix of strategies will suffice to compensate for the considerable gaps in sustainable work environments in the short run.

We therefore assume that in the medium term at least there is a need for pension policies to move beyond restricting access to early retirement schemes, disability or other early exit pathways benefits across the board, such as suggested among others by the following quote: "The ongoing jobs crisis should not be used as an excuse to revert to failed past policies of pushing older workers off the unemployment rolls and into *de facto* early retirement, especially through long-term sickness or disability benefits" (OECD

2011b, p. 10). If early retirement schemes might have been used in the past as a tool for employment and social policy (reducing labour supply, offering companies a low-cost instrument for socially acceptable lay-offs) and thereby also benefitted employees without important health or age related disabilities, it would be a case of 'throwing out the baby with the bath water' to simply reverse this policy without differentiating according to the individual employees' risks and needs. This is also recognized by the European Commission when stating that pension policies need to account for "the fact that the ability to work – and to find employment – differs widely between individuals, and that life expectancy and health status at age 60 or age 65 tends to be lower for manual workers who started working at a young age" (European Commission, 2011, p. 11).

This report is not the place to provide a detailed analysis of policies on early retirement schemes and disability benefits. However, we would like to emphasize the need to provide adequate protection for persisting risks of full or partial disability associated to certain employment profiles and to draw attention to problematic policy trends and emerging policy gaps in this regard. One traditional instrument of differentiating retirement age according to employment profiles is to take into account contributory periods, which "allows pension systems to offer fairness to people who started their careers early (usually unskilled workers who will often have a lower life expectancy and worse health)." (European Commission, 2011c, p. 11). European Countries differ strongly with regard to this principle, with minimum contributory periods required for unreduced pension benefits currently ranging between 35 years (in Belgium) and 45 years (in Germany) (see OECD 2011b: 21). Hence the national statutory pension systems do offer the possibility for early exit to a very different extent. There are of course also other, more targeted ways of offering employees with full or partial disability socially acceptable options to reduce working time or exit the workforce before official retirement age. One instrument with a long tradition as well is special pension schemes for workers in hazardous or arduous jobs. While OECD-affiliated authors have called into question these systems and recommended governments "to revisit the pension privileges assigned to 'special' sectors or professions, and bring about legislations to phase out the advantages that may no longer be considered fair" (Zaidi/Whitehouse, 2009, p. 28), other authors have pointed to the benefits and the possibilities to adapt similar schemes to changing occupational profiles (Brussig et al. 2011). This option obviously requires to be explored more in depth instead of equating it with an outdated 'privilege' similar to overly generous early retirement schemes.

This is also necessary with regard to a second targeted instrument, namely separate incapacity or disability benefits. In line with the aim to restrict access to generous early retirement schemes, the disability schemes as well have come under pressure, as the case of Germany illustrates: "Given that old-age pensions are reduced in case of claiming the pension benefit before the 'standard' retirement age, it was often expected that it could become more attractive to claim a disability pension (in particular after a period of unemployment) if there is no deduction from the full amount of this benefit. Therefore, a gradual deduction was introduced in 2001, and from December 2003 a maximum of 10.8% (0.3% per month) was introduced when claiming disability pension before the age

of 63. In case of claiming the benefit before the age of 60, ‘only’ the 10.8% deduction is made.” (Augurzky et al., 2011). This reform was implemented even though the eligibility criteria in the present disability benefit system in Germany are already very restrictive by international standards and indeed offer an ‘early exit path’ for only a very limited share of the working age population.

This case in our view illustrates a problematic development, since the discourse on ‘active ageing’ and a necessary increase of the retirement age following higher life expectancy has obviously contributed to delegitimize and sanction the receipt of the disability benefit and thereby stimulated a sort of ‘collateral damage’ to a targeted instrument providing social protection against occupational health and safety risks.

The findings from the **walqing** research project provide ample evidence for the persistence of jobs with high and partly increasing exposure to health-related risks. Against this background it is all the more important that the discourse and policies on ‘active ageing’ do not lose sight of the real world risks in ‘new and growing’ jobs.

4 Summary and conclusions

It is definitely not realistic to assume there could be easy ways to combat, let alone avoid, developments on the labour market which entail low wage or physically and psychologically particularly demanding jobs. Competition on prices will always trigger pressure on employment and working conditions. The question, however, is to what extent public policy and collective actors give leeway to these developments. Moreover, what becomes increasingly important given current economic governance trends in Europe, is the extent to which public policy itself becomes a driving force towards the growth of risk-prone segments in European labour markets. That is, if we talk about policy gaps we must take into consideration that major policy gaps may also be *policy-driven*.

This problematic will become ever more pertinent as those segments of the labour markets that are particularly exposed to risks may also *accumulate* risks. Accumulation may take place, firstly, with respect to the nature of risks, for example by a combination of low pay with high levels of stress. Accumulation may also take place, secondly, over the life-course of the respective individuals, for example by low wages or discontinuous employment failing to provide for sufficient pension entitlements, or by working conditions producing levels of physical or mental exhaustion which make it virtually impossible to stay in employment until reaching the statutory retirement age.

It is this background which has given rise to debates about the responsibility of collective actors and public policy. The basic challenge, in brief, is how to develop approaches that support workers in risk-prone segments of the labour market. What is more, the arguably most pressing challenge under present economic circumstances is how to avoid policy approaches that give leeway, or even foster or produce, the rise in risk-prone jobs in the first place.

There can be no doubt that there is a wide range of policy areas which are relevant for that matter. In the present report we have focused on a very limited number of aspects and tools which serve as examples for the point we want to make—a point which has been impressively underscored by the empirical work undertaken in the course of the **walqing** project. Our core message is about *public responsibility*. Before 2008, mainstream thinking stressed the key importance of ‘the market’ for the sake of international competitiveness and jobs growth. In fact, it is the period before 2008 which is covered by the **walqing** data analyses, and it is the outcomes of prevailing economic and governance approaches of this period which have been looked at by the **walqing** case studies. While, given the experience of the financial crisis, the validity and implications of free-market approaches have been questioned with respect to financial markets over recent years (whose practical consequences, however, remain to be seen), it should not be forgotten that a new debate on public responsibility is equally pertinent with respect to the labour market.

In the present report we have made our point by choosing examples from each of the three institutional regimes which, in interaction, are fundamental for national employment models and may be regarded as cornerstones of what many people refer to as the European social model. The set of mechanisms, rules and processes that shape the ways how product markets, labour markets and the welfare system work in a given country impacts on job quality. If there are social, economic and political actors who make use of these institutions, and look for ways of improving their inclusive impact, institutions can serve as what we call ‘anchors for job quality’. The subjects addressed are

- (1) the role of public procurement (as a major aspect of country- or sector-specific production regimes)
- (2) the interaction between law and collective bargaining by the examples of statutory extension procedures and statutory minimum wages (as major aspects of national employment regimes), and
- (3) the problematic relationship between low income, ‘active ageing’ and pension entitlements (as major aspects of welfare regimes).

As to the *first* theme, the blunt message is that it is socially irresponsible to organise public tendering procedures for the procurement of outsourced, formerly public services focused solely on price. True, European case law sets rather narrow limits for responsible public procurement. While it should not be forgotten that case law can be reoriented by the strengthening of fundamental social rights in primary EU law, national legislation, industry-wide standards and collective agreements backed by public policy can still restrict the competition focused on prices and workloads (see below). Limited provisions in public procurement legislation directly addressing labour standards are not to be confounded with a lack of influence exerted by public authorities. As **walqing** case studies show, the decisions that public authorities take are effectively contributing, in one way or the other, to the quality of jobs in contracted out services. Public procurement regulations requiring companies to observe certain social standards such as minimum pay rates can certainly attenuate price competition. However, our cases illustrate that regulations relating directly

to the remuneration of employees can be undermined by regulations and practices concerning the price of services. In order to prevent this, socially responsible procurement legislation is an important tool, but it needs to be supported by a revision of EU legislation on public tendering. What is more, socially responsible procurement approaches must be given a more sustainable foundation by increasing or stabilising public revenues. The latter are the most important precondition for giving public authorities the necessary leeway to assume responsibility for the working conditions in the contracted out segments of crucial social services.

Our *second* message is that collective bargaining is crucial, but it needs backing by public policy. True, the interactions between law and collective bargaining are manifold across Europe and depend very much on both national and sectoral customs and practices. And it is equally true that no public policy would ever be in a position, or should even try, to replace collective bargaining. But our case study evidence underscores — and this holds increasingly even for countries with very powerful collective bargaining actors and practices — the importance of public policy support of these actors and practices. The crucial question here is collective bargaining coverage, next to the power resources of major actors involved. High coverage rates are necessary, if not sufficient, for risk-prone jobs to be moved out of the low-wage zone. Some of the industries or activities covered by **walqing** are least likely to develop major prerequisites for effective collective bargaining, such as a reasonable number of flagship companies involved with employers' associations and a high propensity to unionisation amongst workers. Given the latter shortcoming, the main driver for bargaining will be the interest of some employers to attract skilled and motivated staff, and at the same time to prevent competition in the sector being spoiled by 'junk enterprises'. In some cases, high coverage has been attained by agreeing on a range of pertinent issues which makes organisational density attractive for both sides of the industry. The more typical case in various sectors and countries, however, is that high coverage will only be made possible by statutory extension mechanisms. It should also be noted that there is a very close link between statutory extension practices and procurement regimes. The weaker the (collectively bargained) job quality standards in industries where public procurement plays a decisive role, the more important the statutory extension of collective agreements. This close link has been established by ECJ ruling but is far from being taken seriously by public policy in major EU countries, including Germany and the UK.

Next to the importance of the extension of collective agreements, **walqing** evidence points at the pertinence of statutory minimum wages. It should be underscored that these two policy issues are not mutually replaceable, each of them is relevant in its own right. Their commonality, however, lies in their function of filling the gaps left by collective bargaining, and their potential (if not trivial) role in providing reliable floors for collective bargaining, thus backing the endeavours of social actors. The qualification that this role is not trivial must be made because statutory minimum wages are not always at levels which make it possible for workers to make ends meet. Thus, collective bargaining outcomes could be supported by a steady increase in minimum wages at the pace of average pay increases in the economy.

The relevance of statutory minimum wages and of statutory extension procedures for collective bargaining over pay in low wage industries, as underscored by the **walqing** case studies, has become even more pertinent given the risks entailed by present policy approaches in some EU countries. Under the pressure of capital markets and the 'new economic governance' at EU level, statutory minimum wages have been frozen or even cut in some of those countries that suffer most under the present crisis. Arguably, this move entails implications for future wage developments in general, and for the institutional basis for pay bargaining in low wage sectors in particular. There is the imminent danger that public policy tends to exert a downward pressure on wages agreed in collective bargaining and on future pay negotiations. In a nutshell, a mutually supportive interaction between public policy and collective bargaining may turn into a maelstrom of mutually reinforcing downward pressures. What is more, given the interaction between statutory minimum wages and collective bargaining in industries which are particularly exposed to low wage pressures, in the longer run the implications for the industrial relations architecture in these countries and industries may be even more dramatic due to the simultaneous process of breaking up the prevalence of sector-level relative to local bargaining in the same countries. Hence, the insights provided by our case studies may also serve as a warning sign pointing at upcoming dangers in the near future. And again, the emerging policy gap is policy-induced or even more so, policy-driven.

A *third* lesson of the **walqing** case studies addresses the implications of growing risk-prone labour market segments for the effectiveness of welfare state institutions. What is increasingly needed is a new debate on policies suitable to ensure a decent income at retirement age or in case of disability before retirement age. This issue has become even more important by recent or ongoing pension reforms in many EU countries aiming to postpone retirement or to reduce pension levels. Our empirical evidence leads us to the assumption that the growing sectors or activities covered by the **walqing** project are among those segments of the labour market which are most strongly affected by these reforms, albeit with important differences between the countries and sectors. Low income levels due to low hourly wages and, in the case of the female dominated occupations, additionally due to the proliferation of part-time work, can translate into very low pension entitlements from statutory pension schemes – although there are attempts in some countries to at least partly buffer this effect by different mechanisms and provisions in the national pension systems. Moreover, the company case studies in general and those in a sector as crucial as elderly care in particular provide ample evidence for forms of work organization and job design with limited sustainability in terms of health and safety (which in the latter case, as highlighted earlier, are provoked not least by tendering and procurement approaches of public authorities). Increasing physical and mental strain of employees reduces their employment prospects at later stages of their working life. This risk is exacerbated by the fact that often work in cleaning, elderly care, catering and private-sector waste collection is done by workers in the middle of their working lives following careers of discontinuous employment. In consequence, many of these workers may be forced to exit the workforce or at least reduce working hours long before regular retirement age.

The new debate needed should address the structure of the expenditure side of pension systems but should also go beyond and include their revenue base. True, the strengthening of redistributive elements, such as the provision of minimum pensions, will become increasingly important when it comes to combating old-age poverty. However, the range of policy options addressing the revenue-side of the pension system—such as the inclusion of the self-employed or civil servants or the increase of income ceilings in contribution-based schemes— should not be overlooked. Though the discussion of these institutions were not subject to the **walqing** project it is obvious that they are affected massively by what has been encountered in our case studies. This remark is even more necessary as these aspects are underexposed in relevant recommendations including those of the European Commission.

A similar need of a review of current policy approaches applies to the issue of ‘active ageing’. The overall picture emerging from **walqing** case studies is that health-related initiatives at the workplace or at sectoral level cannot keep pace with the rise in work related stress due to competitive pressures, cost-cutting strategies of municipalities and private-sector clients, and the lack or dismantlement of protective regulations and institutions. This rather mixed picture and slow progress suggests that in the medium term a relevant share of workers in the occupations studied is at risk of losing their ability to work in their current occupation considerably before reaching the official retirement age. We therefore assume that in the medium term at least there is a need for pension policies to review current approaches to reduce access to the various early exit pathways. True, traditional early retirement schemes have been used in the past in many cases as a tool primarily geared to fit the size of workforces with product market changes in a way widely regarded as ‘socially acceptable’. However, current policy approaches geared to simply reverse this policy without differentiating according to the individual employees’ risks and needs must be assessed as ‘throwing out the baby with the bath water’. The **walqing** case study evidence underscores that this is a problematic development as the outcomes of lacking provisions against occupational health and safety risks are neglected by predominant approaches to pension reforms.

The latter aspects point at the need of a new debate on what public policy responsibility actually means. True, problems arising from problematic developments on the labour market cannot be solved by public pension systems or any other social security scheme. They can be eased to some extent, but not be compensated. The greater the problems on the labour market are, the smaller is the revenue base of social security systems, and the bigger is the gap between that revenue base and the social needs that are addressed by these systems. Hence, public policy responsibility is twofold. First, it is to contain problematic trends on the labour market by means of regulation rather than deregulation—addressing both labour and product markets. This approach contributes to the improvement of the revenue base of public policy in general and welfare institutions in particular, thus facilitating the second side of public responsibility, that is, to buffer the negative effects of problematic labour market developments on the life of individuals. Arguably, this is the idea behind the commonly used term ‘sustainability’. So sustainability

should be the benchmark when discussing public policy gaps and potentials regarding job quality.

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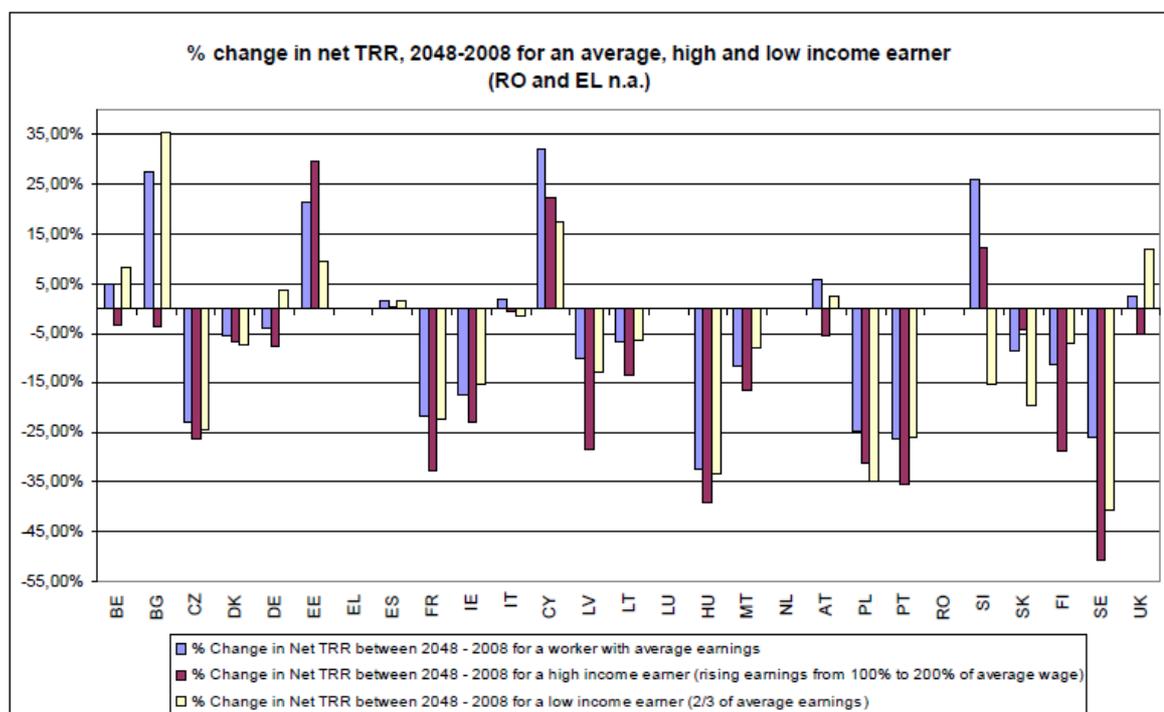
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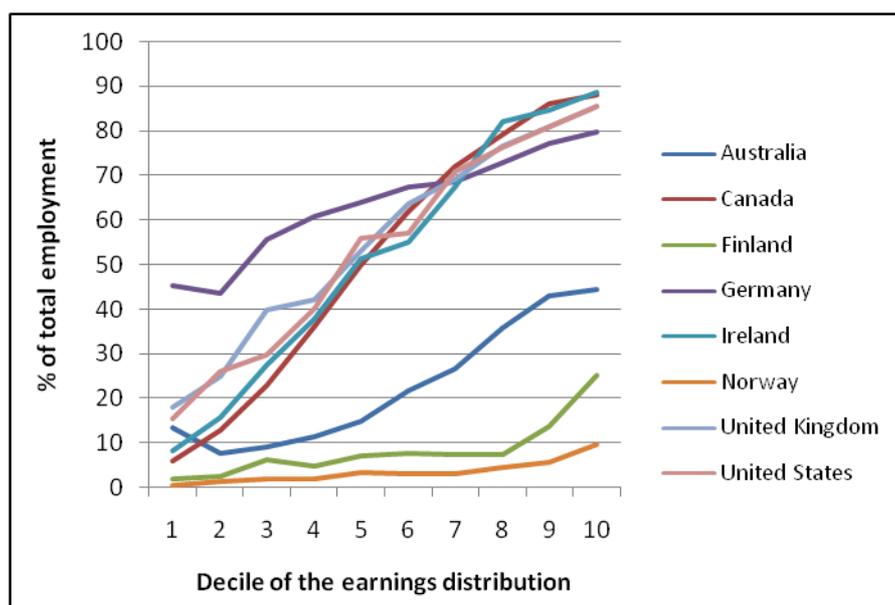
6 Annex

Figure A 1 Percentage change in net theoretical replacement rates between 2008 and 2048 for different earning profiles



Source: European Commission 2010b, Annex 5, Figure 8 (based on calculations with OECD pension models or national models)

Figure A 2 Coverage of voluntary private pension plans by earnings



Source: Antolín / Whitehouse (2009), based on OECD analysis of national datasets (Finland and Norway); national sources