

# Strikes and Lockouts in Europe

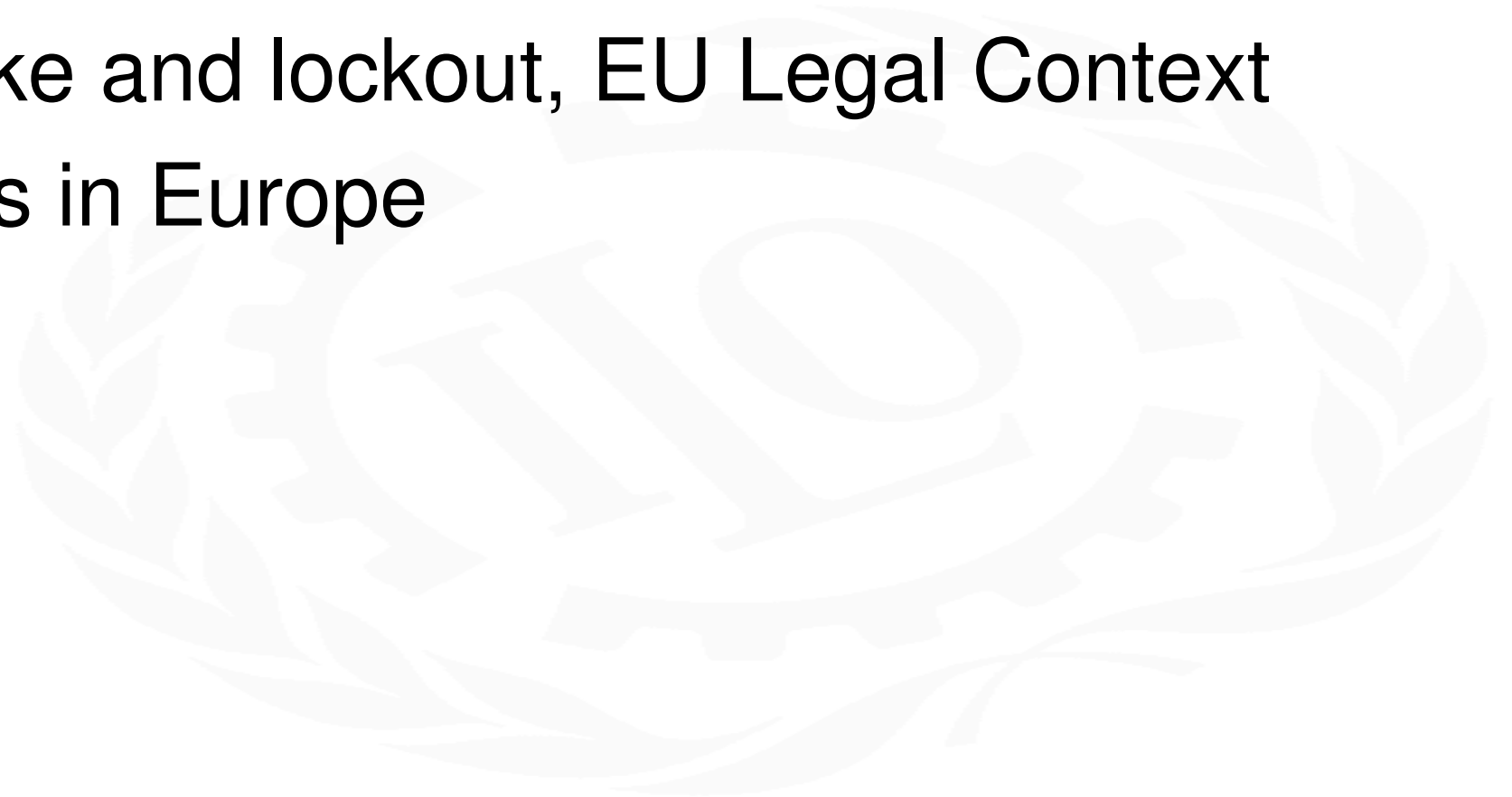
**Kyiv, 8<sup>th</sup> April 2015**

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# Presentation

- Right to strike and lockout, EU Legal Context
- Strike trends in Europe
- Lockouts



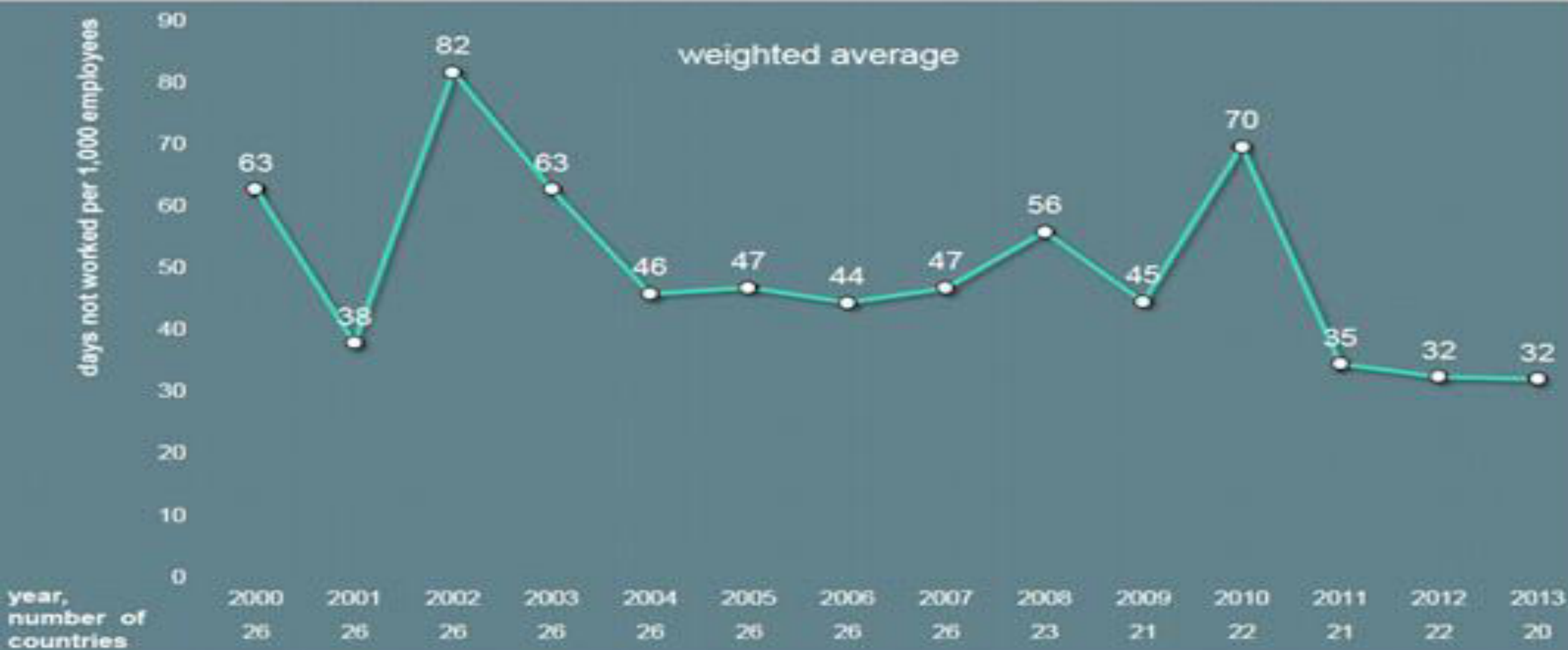
## Definition

- A strike is a temporary work stoppage effected by one or more groups of workers with a view to enforcing or resisting demands or expressing grievances, or supporting other workers in their demands or grievances.
- Unions 3 key ingredients for existence and success:
  - ◆ Freedom of Association
  - ◆ Collective Bargaining
  - ◆ Right to strike
- Unions tend to say “without the right to strike, collective bargaining will be collective begging”

## European Legal Context

- Art. 6(4) of the European Social Charter (ESC)– recognize a right to strike (AND lockout), even if with some limitations “...the right of workers **and employers to collective action** in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.”
- Art. 28 of the Charter of Fundamental rights of the European Union: “...Workers **and employers**, or their respective organisations, have, in accordance with Community law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, **to take collective action to defend their interests**, including strike action.”
- In addition, a right to collective action is also recognized by most of the EU Member States, often at Constitutional level: this can be made expressly (e.g. France, Greece, Italy, Spain, Sweden) or indirectly (e.g. Germany, Finland). In other countries, a right to strike is established by the law (e.g. Ireland) or case law (Belgium).

# Days not worked due to industrial action in Europe, 2000-2013



No data available for Bulgaria, Croatia, Czech Republic, France (2013), Greece, Hungary (2011 and 2013), Italy (2009-13), Luxembourg (2008-13), Portugal (2008-09), Romania (2009-13) and Slovenia (2008-13).

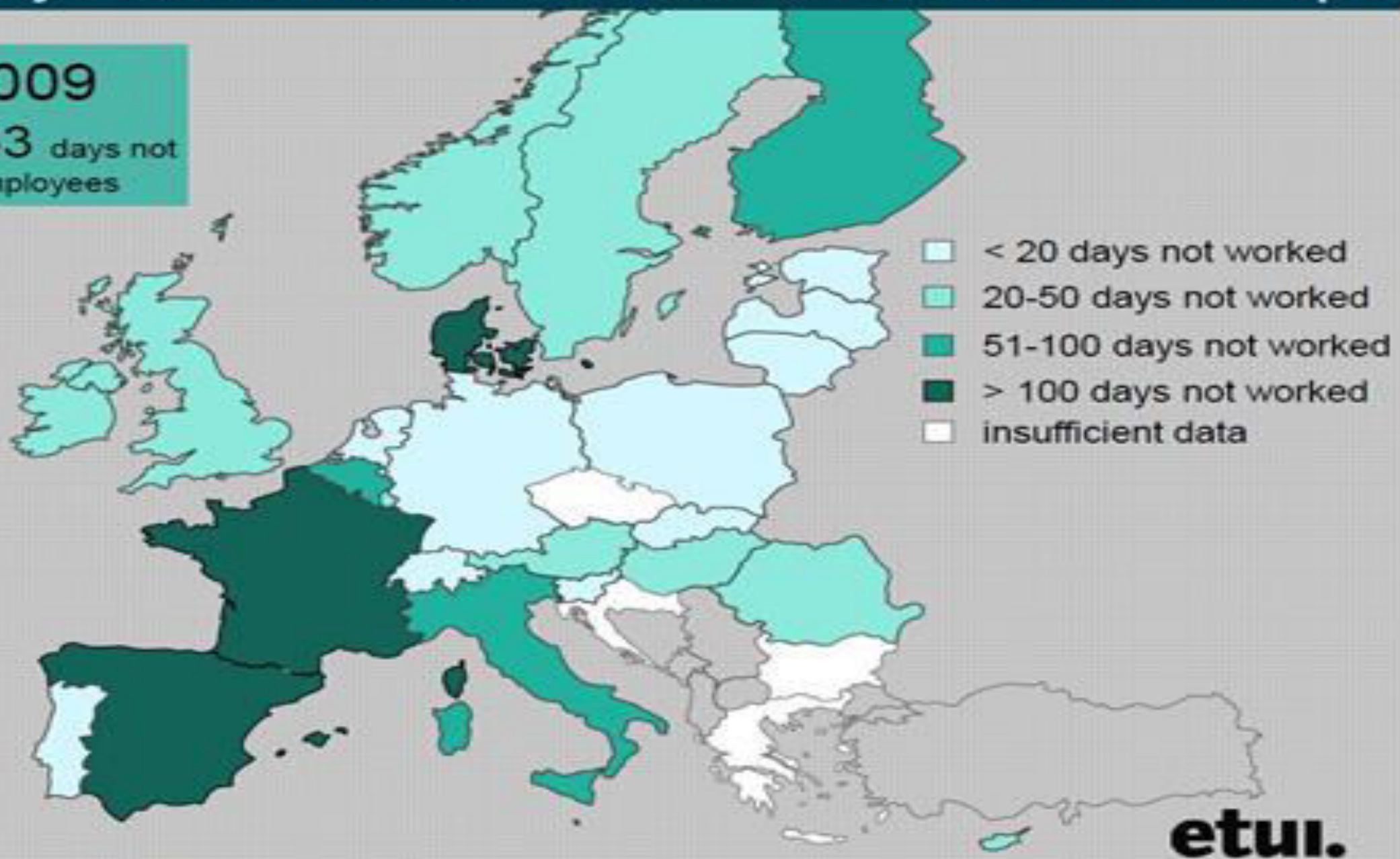
Data source: ETUI, own calculation.

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# Average days not worked due to industrial action in Europe

2000-2009

weighted average 53 days not worked per 1,000 employees

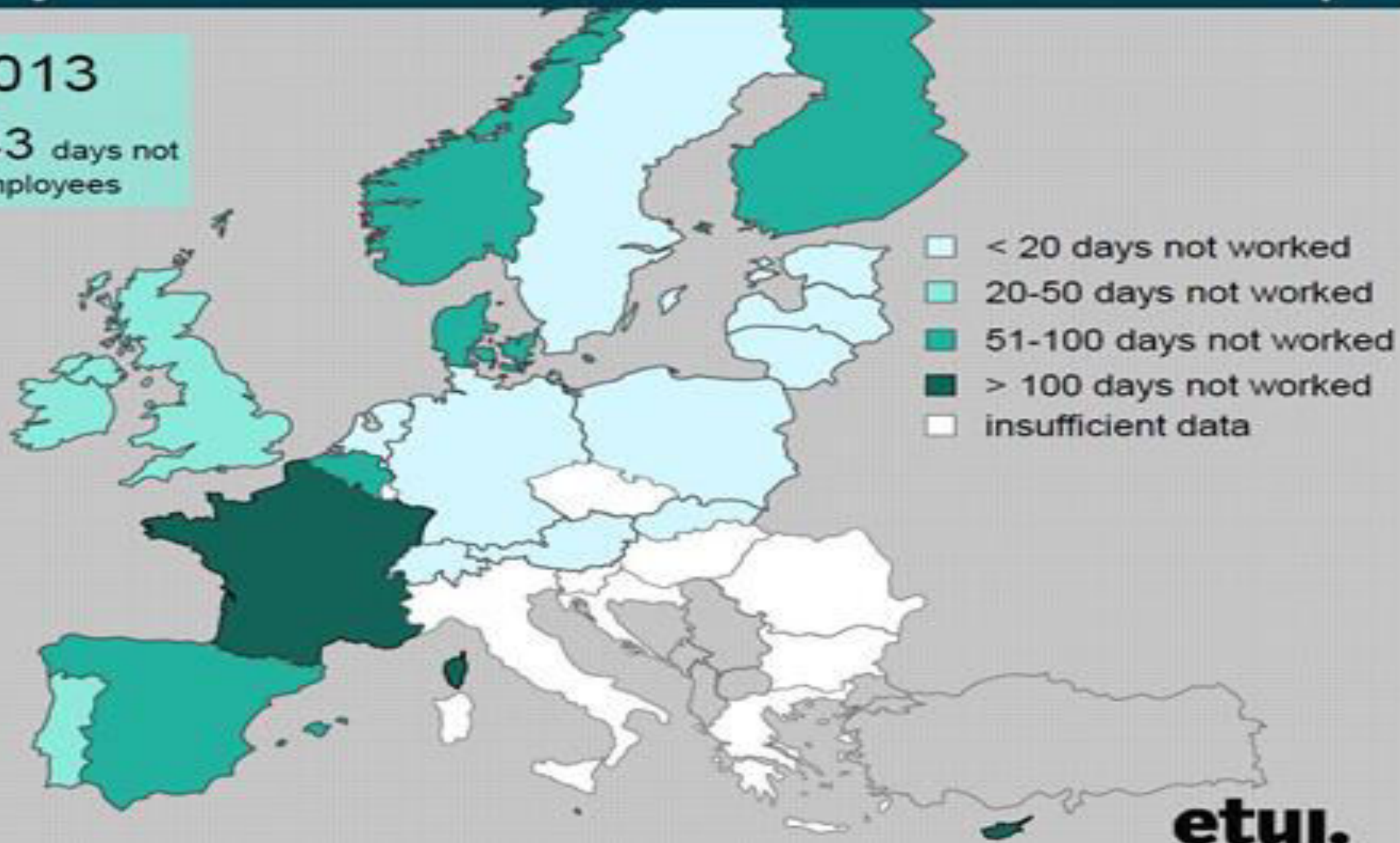


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# Average days not worked due to industrial action in Europe

2009-2013

weighted average 43 days not worked per 1,000 employees



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# Strike trends in Europe

- Cross-country differences in strike levels remain largely intact in the past two decades meaning that, over all, strike activity should be understood in its specific industrial relations system.
- In most countries the relative strike volume declined in the 2000s compared to the previous decade with France and the UK as notable exceptions.
- Mass strikes largely explain the peaks in the strike volume. Since the Great Recession a shift has occurred in the mass strikes towards political mass strikes, often occurring in the public sector, in both single-employer and multi-employer bargaining systems since the crisis with 'Germanic' and Nordic Europe as exceptions.

# Strike trends in Europe

- Industry-wide strikes, either in the private or public sector tend to occur in the North of Europe, all countries with a multi-employer bargaining system (sector-based); political mass strikes – either generalized public sector strikes or general strikes in certain regions or for the whole economy—are associated with the South of Europe but also Belgium and France and Cyprus, Estonia, Ireland and the UK – the latter four are countries with a single-employer bargaining system.
- National authorities seem to have lost interest in collecting data on industrial action. In crisis-hit Greece, Italy and Portugal, data are no longer collected or its collection is 'postponed'. Eurostat, the statistical office of the European Union, provided data on strike activity up to the year 2008 but this is today no longer the case.

## Different approach in national legislation/practice

- Purely political strikes in most countries are (in theory) prohibited. Exceptions are Denmark, Finland, Ireland, Norway and Italy
- Solidarity strikes not permitted in Latvia, Luxembourg, the Netherlands and UK. Germany and Italy – complex and Spain case by case basis
- Picketing – illegal in France
- Work to rule is illegal in Denmark, France and Norway
- Peace obligation – prohibiting collective action during the life of the collective agreement exist in all EU countries apart from France
- No use of strike breakers - as general rule
- Postponement of collective action by government possible only in few countries :Estonia (30 days) , Finland (14), Norway, Spain and Sweden (14)
- An Illegal strike can lead to dismissal of the workers

# Lockout

- ILO supervisory bodies (CEACR and CFA) do not recognize a right to lockout - the term is hardly ever mentioned.
- Definition in ILO resolution regarding statistics on strikes, lockouts etc: “...*A lockout is a total or partial temporary closure of one or more places of employment, or the hindering of the normal work activities of employees, by one or more employers with a view to enforcing or resisting demands or expressing grievances, or supporting other employers in their demands or grievances*”

# Lockout in practice...

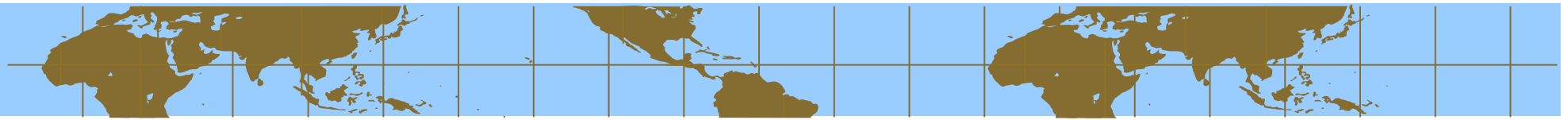
- When employers resort to lockout, the workers are refused to enter the company premises by for example changing locks or installing security guards preventing them from entrance. Other ways of executing a lockout are charging employees a fine for showing up at work and refusing clocking-in on the time clock. It is considered an employers' response to the trade unions' demands and a way of forcing their representatives to withdraw their claims or agree to certain concessions.
- Offensive and defensive lockouts

# Lockout: Legality and occurrence in the EU

Country	Legality	Occurrence
<b>Austria</b>	Permitted	No data – probably rare, as the scale of labour disputes was very small in Austria in recent years
<b>Belgium</b>	Permitted	Rare
<b>Croatia</b>	Permitted	No data
<b>Czech Republic</b>	Permitted	Rare
<b>Denmark</b>	Permitted	No data
<b>Estonia</b>	Permitted	No data

# Lockout: Legality and occurrence in the EU

<b>France</b>	Prohibited	No data
<b>Germany</b>	Permitted	Rather rare
<b>Greece</b>	Prohibited	No data
<b>Hungary</b>	Not regulated	Rare
<b>Iceland</b>	Permitted	No data
<b>Italy</b>	Permitted under certain circumstances	No data



# Lockout: Legality and occurrence in the EU

Latvia	Permitted	Very rare
<b>Lithuania</b>	Prohibited	No data
<b>Netherlands</b>	Permitted	Very rare – traditionally the rate of strikes and lockouts is very low
<b>Poland</b>	Not explicitly prohibited, but not regulated	No data
<b>Portugal</b>	Prohibited	No data
<b>Romania</b>	Permitted under certain circumstances	No data





## Lockout: Legality and occurrence in the EU

<b>Slovakia</b>	<b>Permitted</b>	<b>No data</b>
<b>Slovenia</b>	Prohibited	No data
<b>Spain</b>	Permitted under very strict circumstances	No data
<b>Sweden</b>	Permitted	Very rare
<b>United Kingdom</b>	Permitted	Very rare



## Closer look at some lockout legislation..

**CROATIA:** Lockouts are permitted only as a countermeasure to a strike which has already been in progress, and can be introduced only at least eight days after the beginning of strike. Furthermore, the lockouts cannot include more than a half of workers involved in strike

**DENMARK:** Lockouts are permitted for interest based disputes only

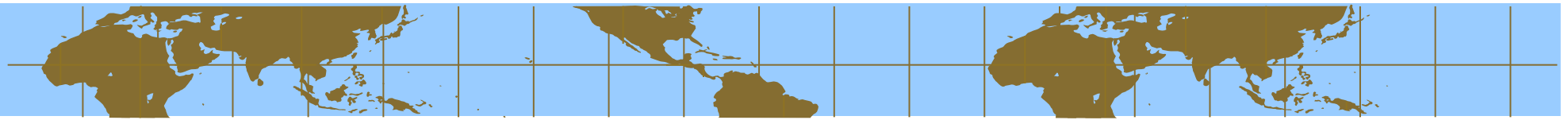
**SLOVAKIA:** According to the Collective Bargaining Act, employer has a right to lockout as an extreme measure during the negotiations of a collective agreement. He is obliged to give a three-day notice and it might be considered illegal if it was not preceded by mediation attempts and if it takes place when the collective agreement is still valid

## What about wages during lockout?

- **Czech Republic:** While the employees are not entitled to wages during the strike, in a case of lockout they shall receive wage reimbursement equivalent to half of their average earnings. Additionally, for the purpose of pension plans, period of lockouts are considered as regular job execution periods.
- **Slovakia:**  $\frac{1}{2}$  of the normal salary during a lockout
- **Austria, Italy, the Netherlands, UK:** Payment of full wage during lockout.
- **Germany, Estonia:** No wages received during lockout
- **Belgium:** Right to unemployment benefits

# Case Study 1: Denmark

- Denmark, April 2013
- Local Authorities Association (Public employer) supported by central left government vs. Danish Teachers' Union
- The issue: Employer proposed changes in collective agreement asking for more preparation time of teachers, more hours of work. Teachers union refused to sign the deal
- Employers locked 69,000 teachers out of school for 25 days. 556.000 kids could not attend a school for a month. It was an offensive lockout (not a response to strike), first time in Danish history
- To resolve the deadlock, Danish parliament under urgent proceedings changed the legislation that determined the terms of work of teachers – no consultation with TUs.
- Danish Teachers' Union lost the battle.



## Case Study 2: Norway

- July, 2012. Collective wage bargaining between several Energy Unions and Oil and Gas EO.
- The unions gave notice of termination of current CBA demanding better pension terms and maintenance of early voluntarily scheme. EOs refused. Following unsuccessful mediation unions took on strike 708 workers ( around 10% of oil offshore workers) for 16 days. EO responded announcing they will lock out all employees on all installations at the Norwegian Shelf (6,500). Such action would have a major implication on global oil prices, it would cut European crude oil output by 12% and it would have a major negative impact on Norway economy overall.
- The Minister of Labour summoned the two parties and sent them for compulsory arbitration. In the meantime the Minister suspended workers ongoing strike and EOs planned lockout.
- The dispute was resolved by the National Wage Board- new CBA signed- with unions demands not being met.

## Case Study 3: Finland

- Finland 2005
- The Finnish Forest Industries Federation vs. the Finnish Paper Workers' Union
- Disagreement during collective bargaining negotiations... Due to falling paper prices and rising real wages an EO wanted to reduce some benefits that workers enjoyed in the collective agreements. TUs argued that Finnish paper industry is one of the most productive in the world and refused to give in, asking for improved conditions. TU organized 3 day strike to put pressure on employers. EO responded with national lock out of 25,000 workers for the period of 6 weeks.
- After national conciliation agreement was reached and TUs received 4.4% wage increased whilst giving in some previously granted benefits.

## Case Study 4: Australia

- Australia, late 2010
- Qantas vs several TUs
- In 2010, Qantas announced new business strategy that involved shifting a focus of business to Asia from its traditional North America market. This meant around 1000 job losses and 35,000 jobs moving overseas in the next 5 years. TUs strongly objected to such strategy and in response the pilots, engineers and baggage handlers went on strike. In response Qantas CEO on 29<sup>th</sup> October imposed a general lockout – the whole Qantas global fleet was grounded – affecting 80,000 passengers including high ranking govt. officials
- Embarrassing for Australia, negative effects on tourism, mining and aviation industry. The PM got involve and “ordered” Fair Work Australia tribunal (FWAT) to solve the dispute and put an end to the deadlock! FWAT ordered Qantas to immediately stop the lockout – hence the lockout ended on 31 October.
- Tribunal ruled mostly in favor of Qantas, many TUs claims were rejected and Qantas management was overall satisfied with the ruling – in particular with the fact that the management maintained its right to run the business the way it sees appropriate



■ Thank you for your attention

