

# More Negotiation or More Litigation? The Role of Workplace Institutions

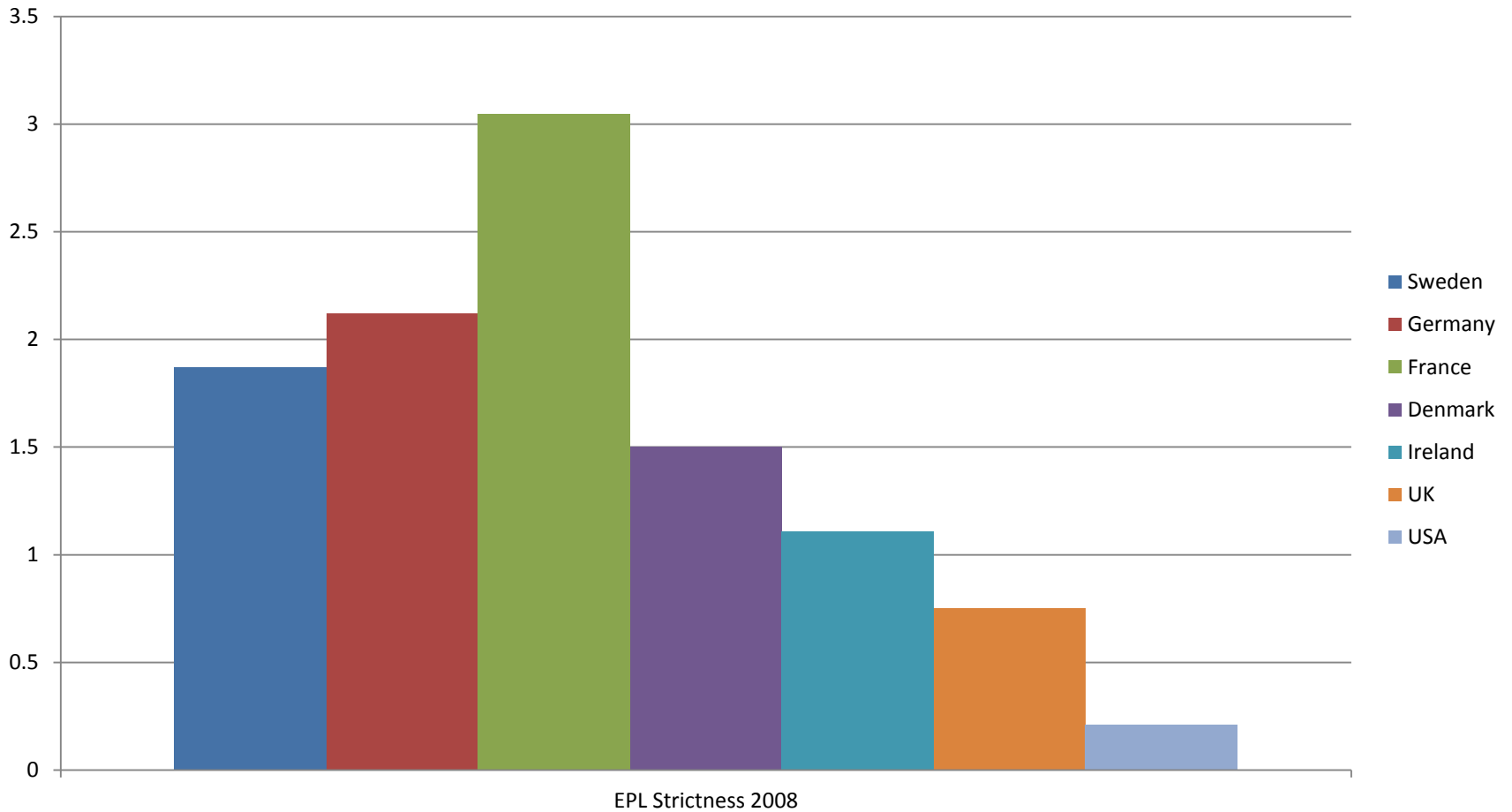
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Consulting

# Summary

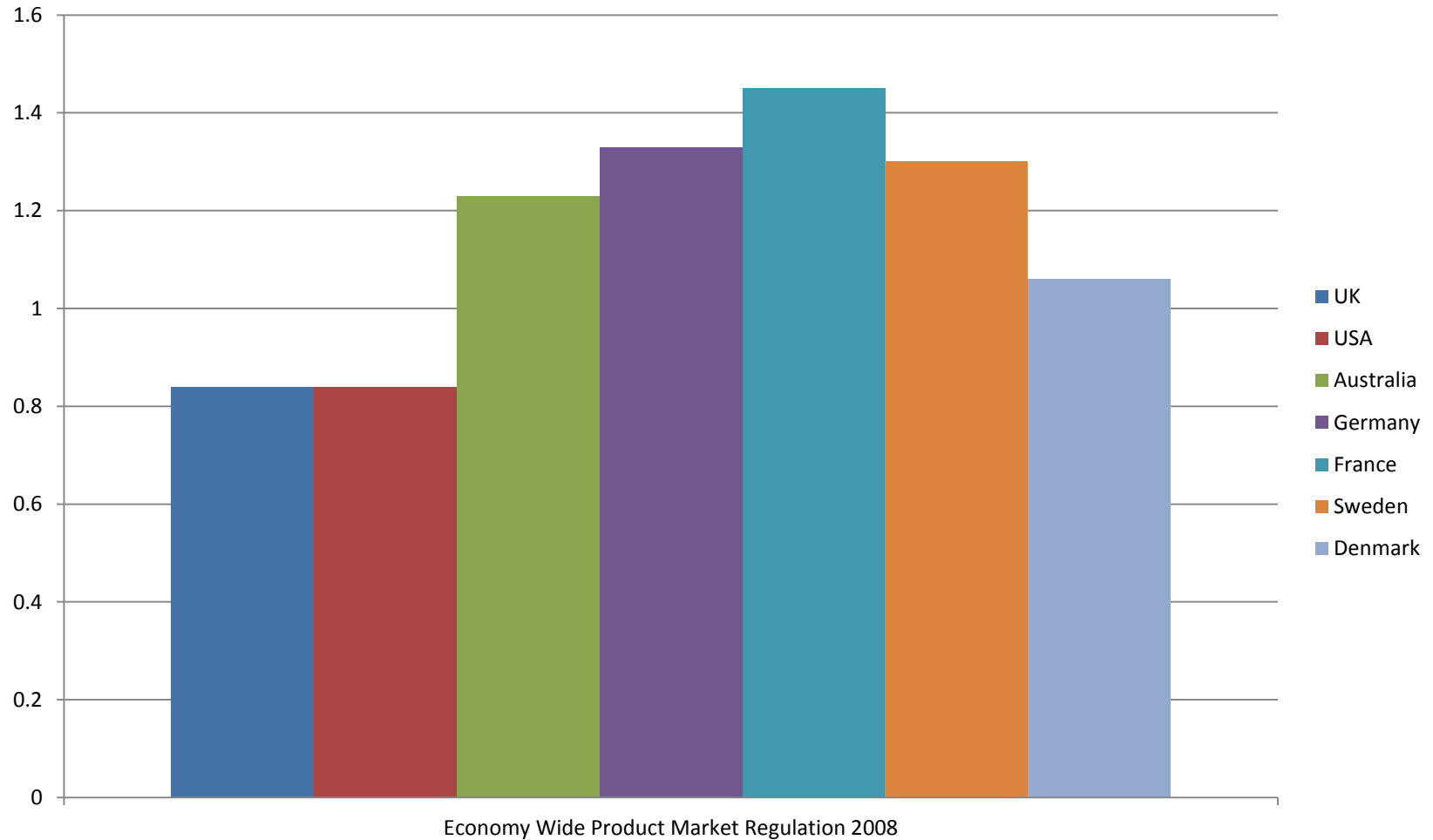
- Regulation and “red tape”
- The decline of collectivism and the erosion of workplace institutions
- Juridification of the employment relationship?
- Perceived unfairness, voice, job quality
- Is it possible to construct new institutions?
- A revival of voluntarism?

# Strictness of Employment Protection Legislation 2008 (Scale of 0-5)

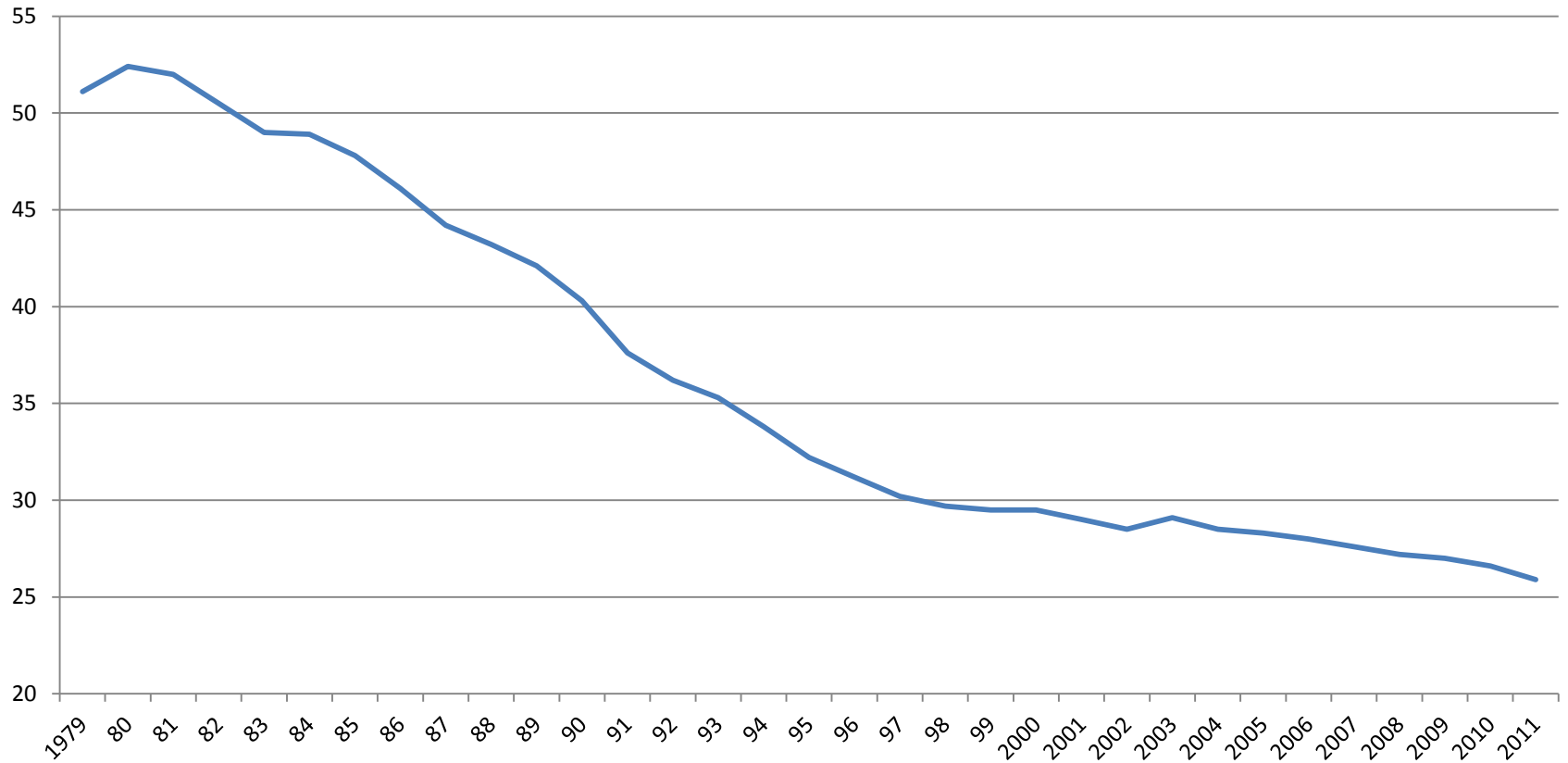
(Source: OECDStat)



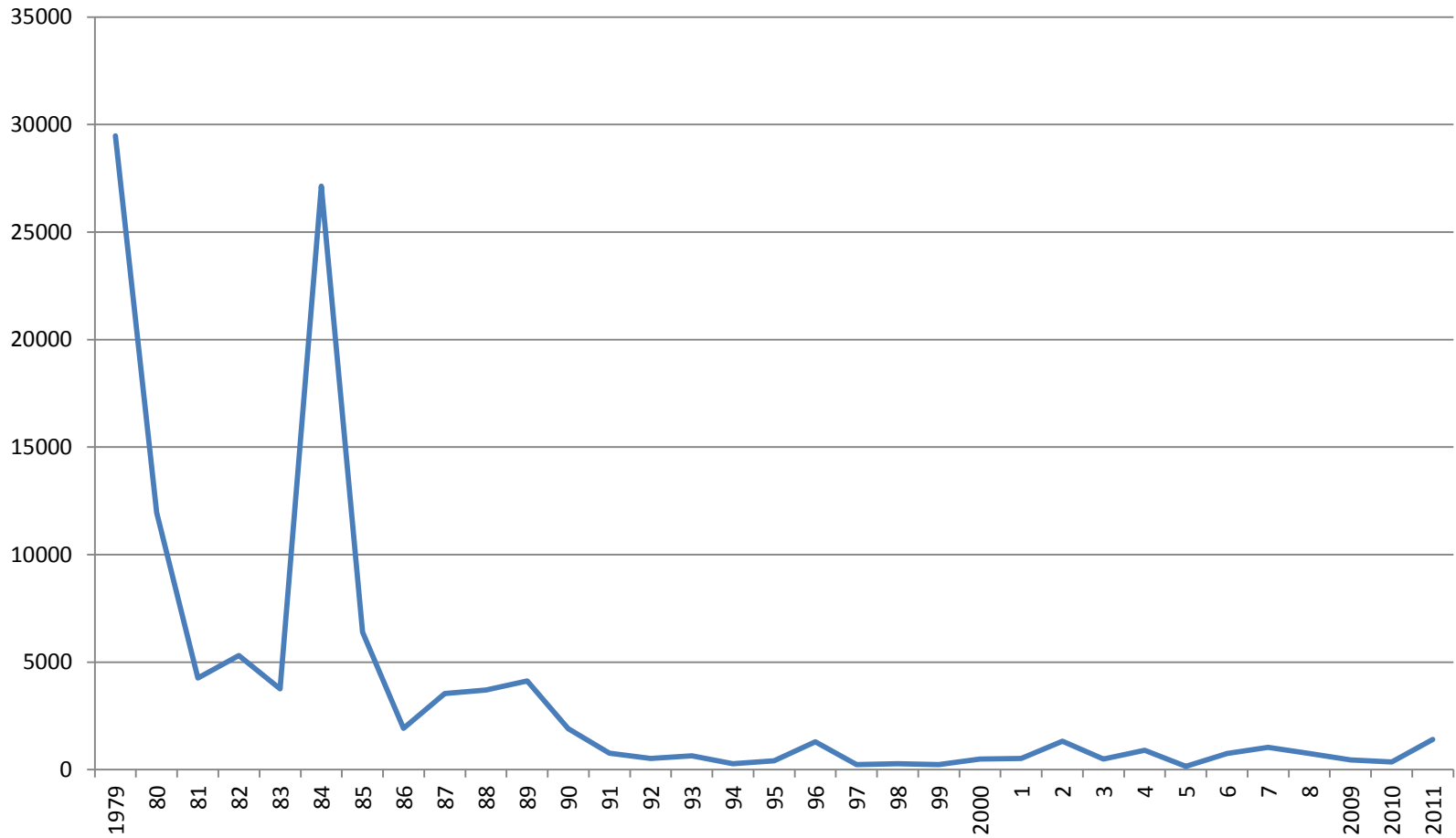
# Product Market Regulation (Index of 0-6) (Source: OECDStat)



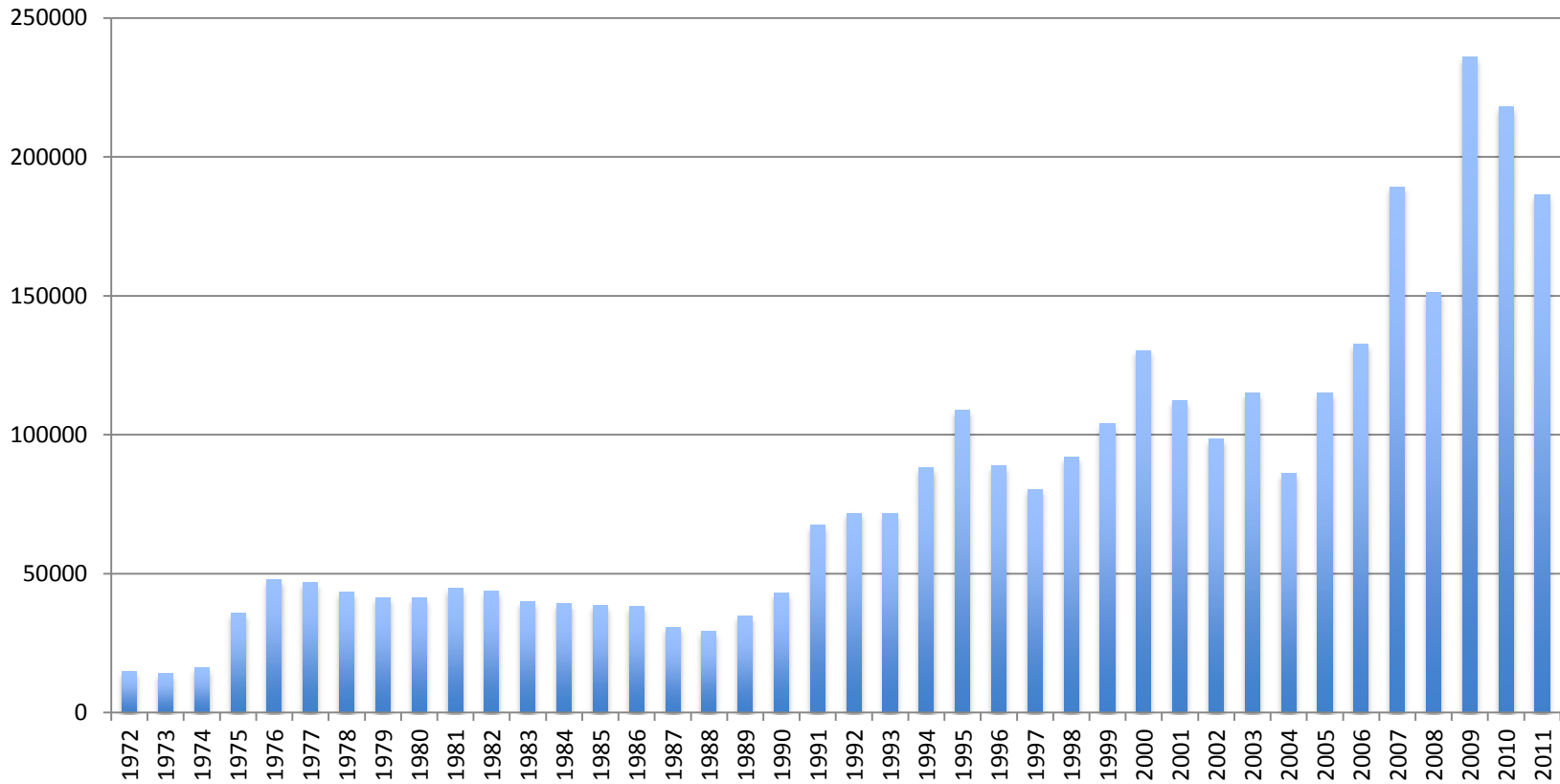
# Trade union membership density 1979-2011 (Source: BIS, LFS)



# Days lost to industrial action 1979-2011 (000) (Source: BIS, LFS)



# Applications to Employment Tribunals 1972-2011 (Source: Employment Tribunals Service)



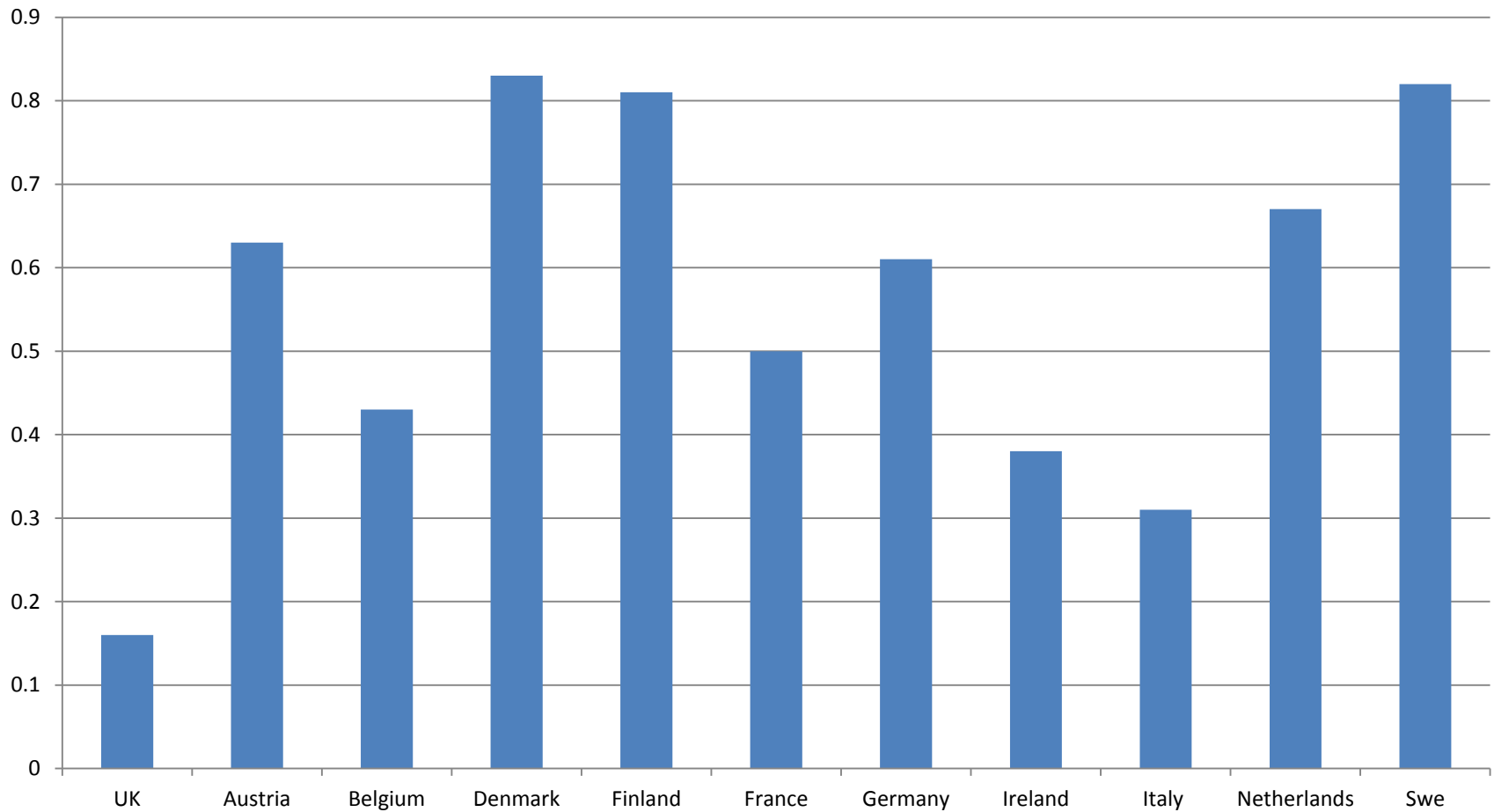
## Fairness, voice, engagement, participation

- One in three employees report some form of unfair treatment in the workplace
- Decline of joint consultation (WERS 2011)
- CIPD Survey: Only one in three employees is “engaged”
- ETUI Participation Index



# EU Worker participation index 2010 (scale of 0-1)

(Source: ETUI)



# New institutions?

- The ICE regulations as the last chance for collectivism?
- Those countries with the highest levels of participation are those with the toughest regulations
- Workplace dispute resolution and tribunal reform?
- Rebuilding workplace representation: Trade unions as indispensable institutions?
- An honest appraisal of the possibilities of a new consensus

# A place for the law and the law in its place?

*My message to the CBI and the government is straightforward – you can either have more negotiation or more litigation*

John Monks, 2003 Warwick Lowry Lecture

*Most workers want nothing more of the law than that it should leave them alone.*

Lord Wedderburn, *The Worker and the Law* (1986)