

Precarious Work in Times of Crisis: Regulatory Discourses, Labour Inspection and Soft Law in the new EU

Charles Woolfson

Institute for Research on Migration,
Ethnicity and Society
Linköping University, Sweden

From ‘command and control’ ‘ to voluntary compliance

- Global agency reform of Labour Inspection
- Concentrating on achieving a shift in focus of activities from “punishment” for violations, to “compliance-based activities aimed at meaningful observance of health and safety rules”
- Labour inspectors take on the role of “advisor” to business “clients”, who should be “encouraged and helped to comply with requirements”

Regulatory discourses

- Soft law, smart regulation, reflexive regulation, better regulation, responsive regulation, cost-effective regulation, self-regulation, regulatory simplification
- A complex mixture of de-regulation and re-regulation in favour of managing risk for capital's competitiveness
- As against regulation seen as protecting the unprotected from excessive 'risk-burdening'

European Conference Towards effective Intervention
and Sector Dialogue in Occupational Safety and Health



An invitational conference during the Dutch presidency in 2004
15-17 september 2004 ORUA Hotel Amsterdam



Three days about
**soft law
and voluntary
initiatives**

A new Era of Health and Work Regulations

Europe moves towards Soft Law”



Hans-Horst Konkolewsky plays a key role in promoting health and safety at work throughout the European Union. He is currently hard at work in Spain to implement the new EU health and safety at work strategy. “We are entering a new era in terms of health and safety at work regulations.”



European Health and Safety Strategy 2002-2006

New Hazards at Work, new Policy Instruments

“If people can agree about something then they are more likely to actually do it than when it is imposed on them”

The European Commission is specifically looking for instruments to supplement legislation to improve workplace health and safety. Getting both employers and employees involved is essential to bridge the gap between legislation and workplace practices, says Bernhard Jansen, Director of Adaptability, Social Dialogue, and Social Rights, at the Directorate-General for Employment and Social Affairs.



Towards Effective Intervention and Sector Dialogue in Occupational Safety and Health

A European conference held during the Dutch presidency in 2004
15-17 September in Amsterdam



A three-day conference on
soft law and voluntary initiatives

Proceedings



Ten minutes to improve the business environment in the EU

- The European Commission is committed to **improving the regulatory environment within which our businesses operate** and in so doing help them compete successfully in global markets.
- Major efforts have already been launched to improve the regulatory environment as part of the so-called Lisbon Strategy for growth and jobs. Consultation procedures have been strengthened, **major new proposals for legislation are now subject to impact assessment, and existing legislation is being evaluated on its effectiveness.**
- In mid-March, the Commission announced further steps in its Communication on “Better Regulation for Growth and Jobs”. **This includes the launch of a major new simplification programme by October, 2005.** In order to ensure that the programme responds to real concerns, the European Commission is **keen to hear from businesses ...which rules need to be simplified because they stand in the way of sustainable growth, deter business investment or hinder job creation.**
- Your views are important to us. They will be compiled and examined in the Commission’s “**Red Tape Observatory**” and will also be examined by the responsible Commission services.

Thank you in advance for your time.

José Manuel Barroso, President of the European Commission

<http://europa.eu.int/yourvoice/forms/dispatch?form=418&lang=EN>



Please indicate which policy area is causing you problems:(Compulsory)

- | | | |
|---|---|---|
| <input type="radio"/> Retail/Distribution trade | <input type="radio"/> Production & marketing of goods | <input checked="" type="radio"/> Health & safety in the workplace |
| <input type="radio"/> Employment | <input type="radio"/> Taxation & Customs | <input type="radio"/> Financial Services |
| <input type="radio"/> Company law | <input type="radio"/> Public procurement | <input type="radio"/> Environment |
| <input type="radio"/> Consumer protection | <input type="radio"/> Provision of services | <input type="radio"/> Social security |
| <input type="radio"/> Energy | <input type="radio"/> Research and Innovation | <input type="radio"/> Transport |
| <input type="radio"/> Agriculture | <input type="radio"/> Fisheries | <input type="radio"/> Other, please specify |

Do you know the source/origin of the rules/procedures?(Compulsory)

- ☒ Yes ☐ No

Please identify the source of the rules/procedures:

- ☒ European legislation ☐ National rules/procedures implementing EU legislation ☐ Other National/regional rules/procedures

Please identify where you experience problems with the rules/procedures:(Compulsory)

- | | | |
|---|---|--|
| <input type="checkbox"/> AT - Austria | <input type="checkbox"/> BE - Belgium | <input type="checkbox"/> CY - Cyprus |
| <input checked="" type="checkbox"/> CZ - Czech Republic | <input type="checkbox"/> DE - Germany | <input type="checkbox"/> DK - Denmark |
| <input checked="" type="checkbox"/> EE - Estonia | <input type="checkbox"/> EL - Greece | <input type="checkbox"/> ES - Spain |
| <input type="checkbox"/> FI - Finland | <input type="checkbox"/> FR - France | <input checked="" type="checkbox"/> HU - Hungary |
| <input type="checkbox"/> IE - Ireland | <input type="checkbox"/> IT - Italy | <input checked="" type="checkbox"/> LT - Lithuania |
| <input type="checkbox"/> LU - Luxembourg | <input checked="" type="checkbox"/> LV - Latvia | <input type="checkbox"/> MT - Malta |
| <input type="checkbox"/> NL - Netherlands | <input checked="" type="checkbox"/> PL - Poland | <input type="checkbox"/> PT - Portugal |
| <input type="checkbox"/> SE - Sweden | <input checked="" type="checkbox"/> SI - Slovenia | <input type="checkbox"/> SK - Slovak Republic |
| <input type="checkbox"/> UK - United Kingdom | <input type="checkbox"/> IS - Iceland | <input type="checkbox"/> LI - Liechtenstein |
| <input type="checkbox"/> NO - Norway | <input type="checkbox"/> Other: | |

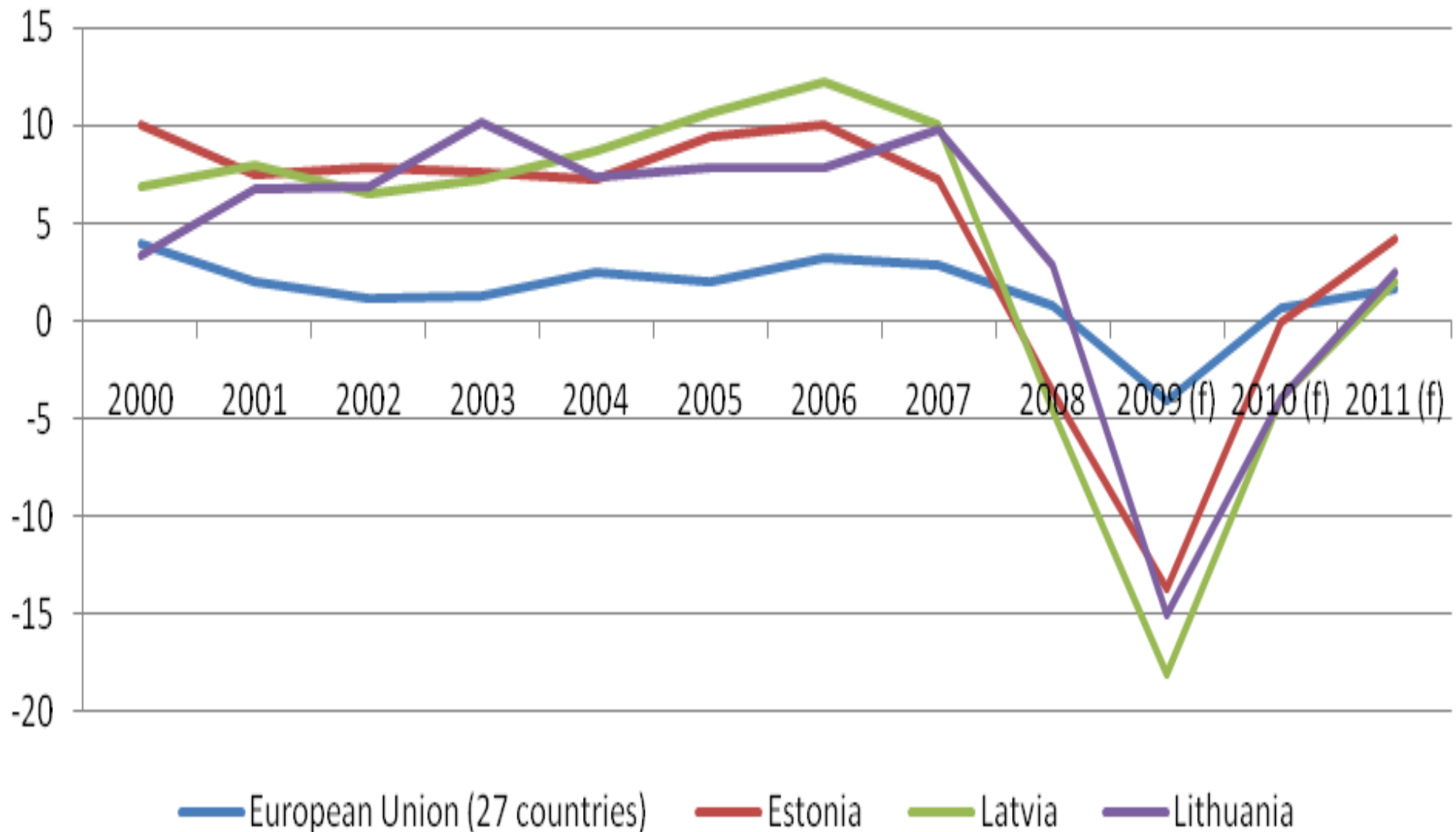
If you can, please provide us with specific reference to the legislation which is causing problems

Better Regulation for Growth and Jobs in the European Union
COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT (SEC(2005) 175) Brussels, 16.3.2005



The impact of the crisis

Real GDP growth rate compared to previous year



The 'Hard Landing' scenario

Sunday Jul 8 2007
All times are London time

Home UK
US | Europe | Asia
World
Companies
Markets
Market data
Managed funds
Lex
FT Alphaville
Comment & Analysis
Technology
Video & Audio
Business Life
Business education
Your Money
Arts & Weekend
Most read
In depth
Terror
Subprime
Conrad Black
Special Reports
Corporate Citizenship and Philanthropy
Republic of Macedonia
Jobs & classified
Services & tools
News feeds and alerts
Get FT RSS feeds
Add FT news feeds to your blog or website
Email news summaries
Email news alerts
Get FT news on your mobile

Video
Chris Giles on the Bank of England's decision to raise interest rates

Al-Qaeda regrouping
How a fanatical vision become a reality

SEARCH **Go** **QUOTES**

Economist.com
Sunday July 8th 2007
PRINT EDITION

Baltic boom states face hard landing
By Robert Anderson
Published: July 5 2007 03:00 | Last updated: July 5 2007

The Galerija Centrs shopping arcade in down Latvia's transformation from a former Soviet re state in the European Union.

Baltic Boom: The adjustment is likely to be painful and to start soon

Economist.com
Friday October 26th 2007
PRINT EDITION

Click here to read how high performers use innovation to drive future value.
hosted by Economist.com

Europe Get article background

Eastern Europe's economies
Worrying about a crash
Jul 5th 2007 | RIGA
From The Economist print edition

East European economies are still powering along—but the region is ill-prepared if the weather turns nasty

Peter Schrank

IMAGINE some souped-up old bangers driven confidently but not expertly on a smooth road in fine weather. That is the economic picture of the ten east European countries that are now in the European Union. If the road gets wet or slippery, bad brakes and bald tyres make a crash, even a pile-up, horribly likely.

Finance & Economics Get article background

Eastern Europe
Baltic blues
Oct 18th 2007 | TALLINN
From The Economist print edition

Europe's fastest-growing economies hit choppy waters

Latvia dolorosa
Current-account deficit as % of GDP

Source: National statistics

Saturday, October 13, 2007
Inflation soars in all three Baltic states, triggering renewed fears of contagion

overheating economies and fixed exchange rates: a risky mix. Some fear the region could be eastern Europe's Achilles heel.

Latvia is in the worst situation. Year-on-year inflation in September was a whopping 11.4%; the current-account deficit over a fifth of GDP. Bank lending, much of it in foreign currencies, has soared, creating a property bubble in the capital, Riga. Overheating has hurt competitiveness. To some the national currency, the lat, looks like the likeliest casualty.

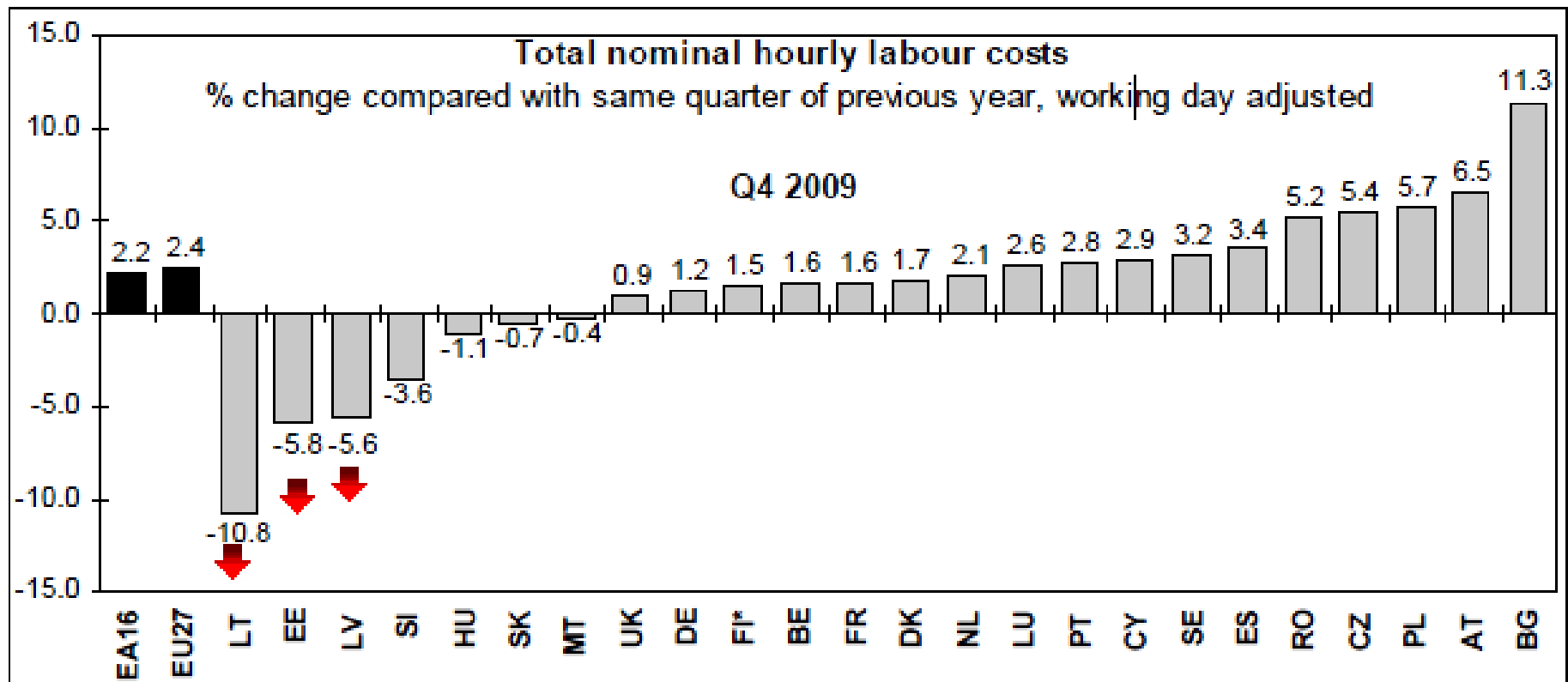
IMF *Global Economic Outlook*

April 2010

- Economies that faced the crisis with **unsustainable domestic booms** that had fueled excessively large current account deficits (Bulgaria, **Latvia, Lithuania**) and those with vulnerable private or public sector balance sheets (Hungary, Romania, **Baltics**) are **expected to recover more slowly**.



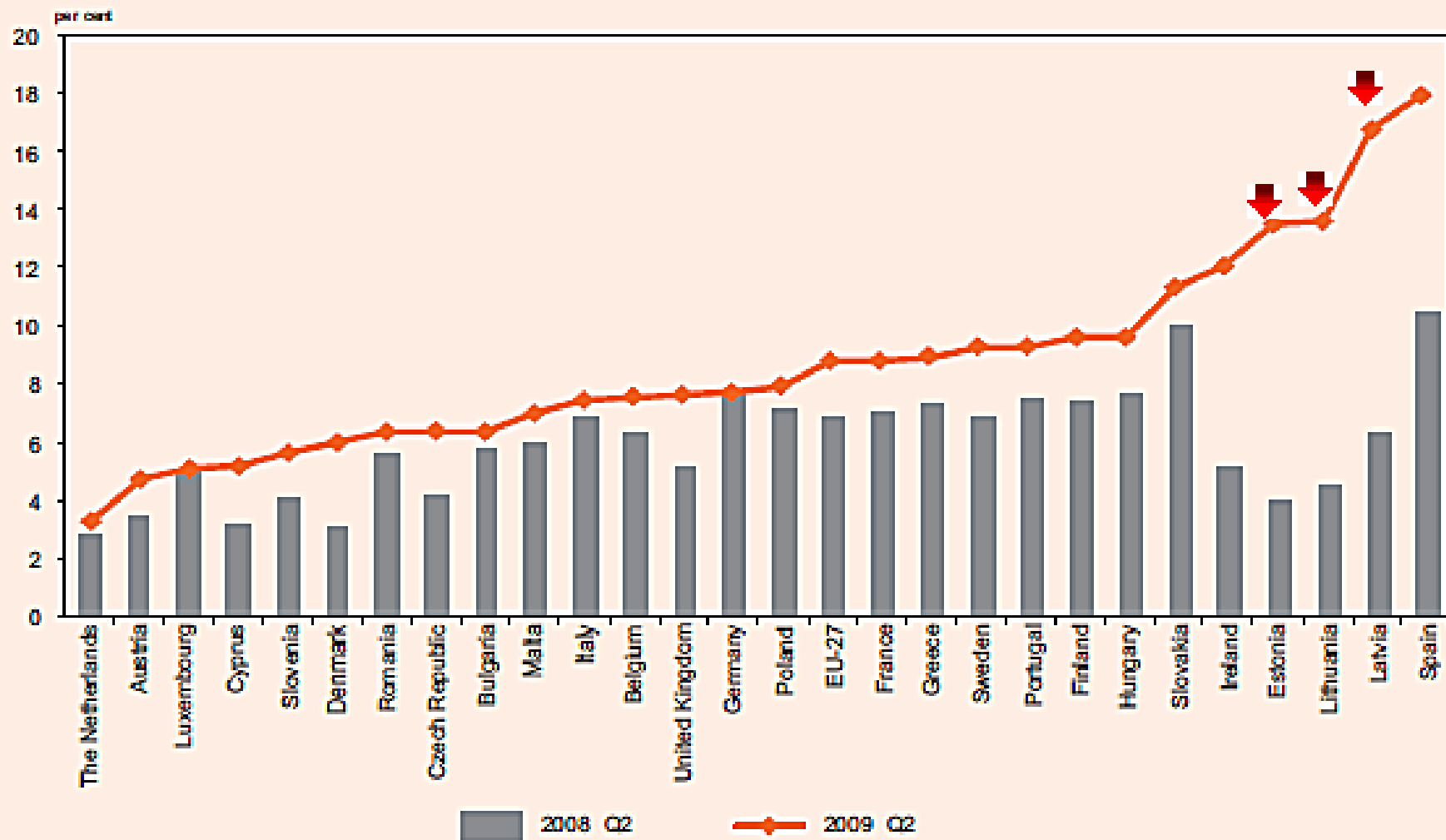
Total hourly labour costs Q4 2009 compared to same quarter of 2008



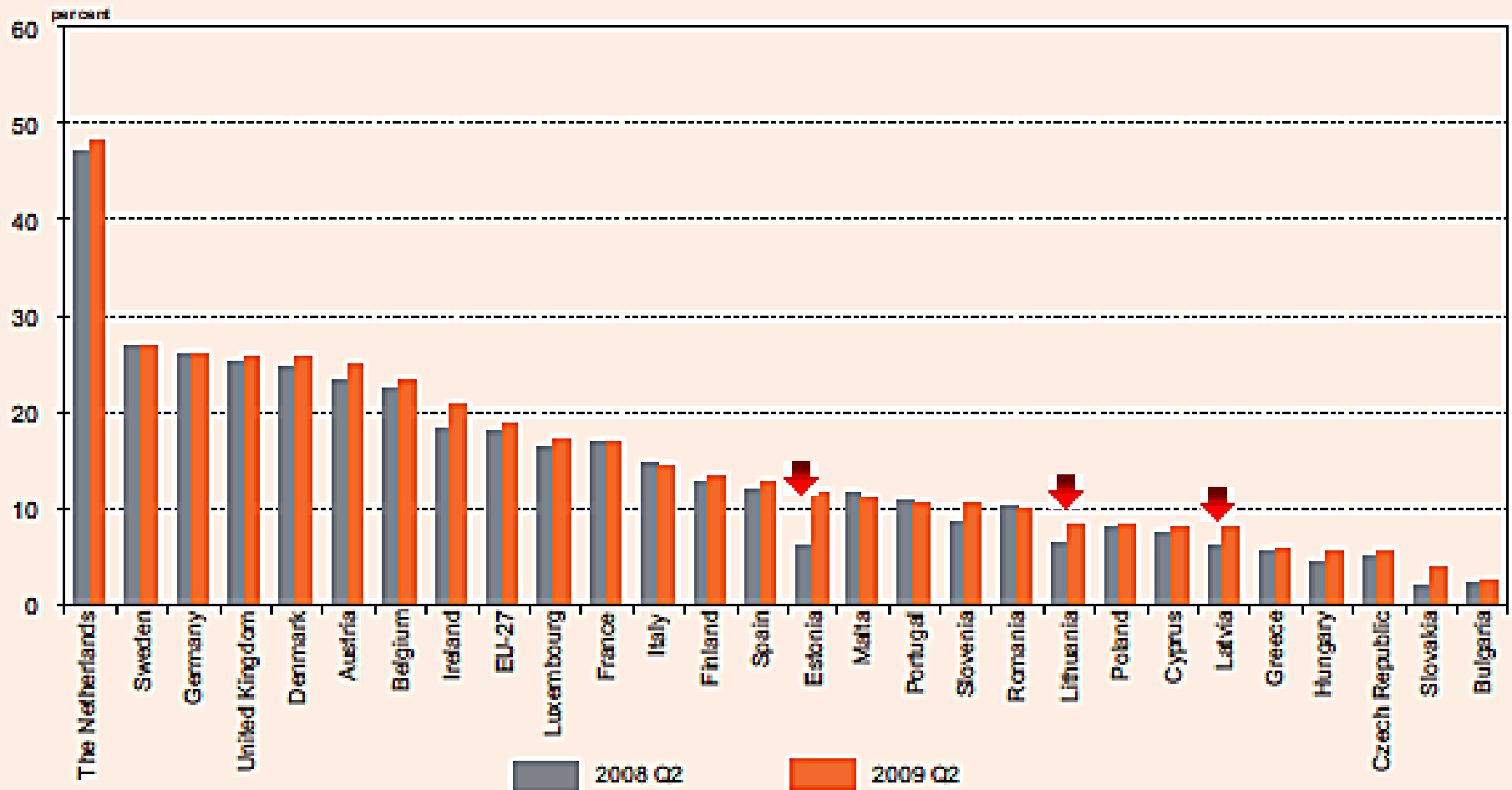
* Not working day adjusted

Source: Eurostat PEEIs http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/3-17032010-AP/EN/3-17032010-AP-EN.PDF

Unemployment rate in EU Member States in Q2 of 2009 compared to 2008



Percentage of part-time workers in employed population 2008 Q2/ 2009 Q2





Русский

Analytics

Buy / Sell Business

Investments

Transport

Energy

Real Estate

Financial Services

OFFERS



Analytics, Financial Services, Latvia, Socie

International Internet Magazine. Baltic
States news & analytics

Tuesday, 02.06.2009, 08:13

52% of Latvian residents would not mind working under the table

Nina Kolyako, BC, Riga, 01.06.2009.

[Print version](#)

More than a half of Latvia's residents or 52% would not mind working under the table, according to a public opinion survey carried out by SKDS.



SKDS Director **Arnis Kaktins** informs that of these, 23% said that they would definitely accept such jobs, and 29% said that they would rather accept such jobs than not, writes *LETA*.



Русский

Analytics

Buy / Sell Business

Investments

Transport

Energy

Real Estate

Financial Services



NP
Properties

15-year
educational
leader

Analytics, Latvia, Markets and Companies

International Internet Magazine. Baltic
States news & analytics

Monday, 23.03.2009, 19:33

Number of workplace fatalities increased in Latvia in 2009

Nina Kolyako, BC, Riga, 23.03.2009.

[Print version](#)

13 workplace fatalities were registered in Latvia between January 1 and March 23 2009; compared to 10 in the same period of time in 2008, according to the State Labor Inspectorate (SLI) data.

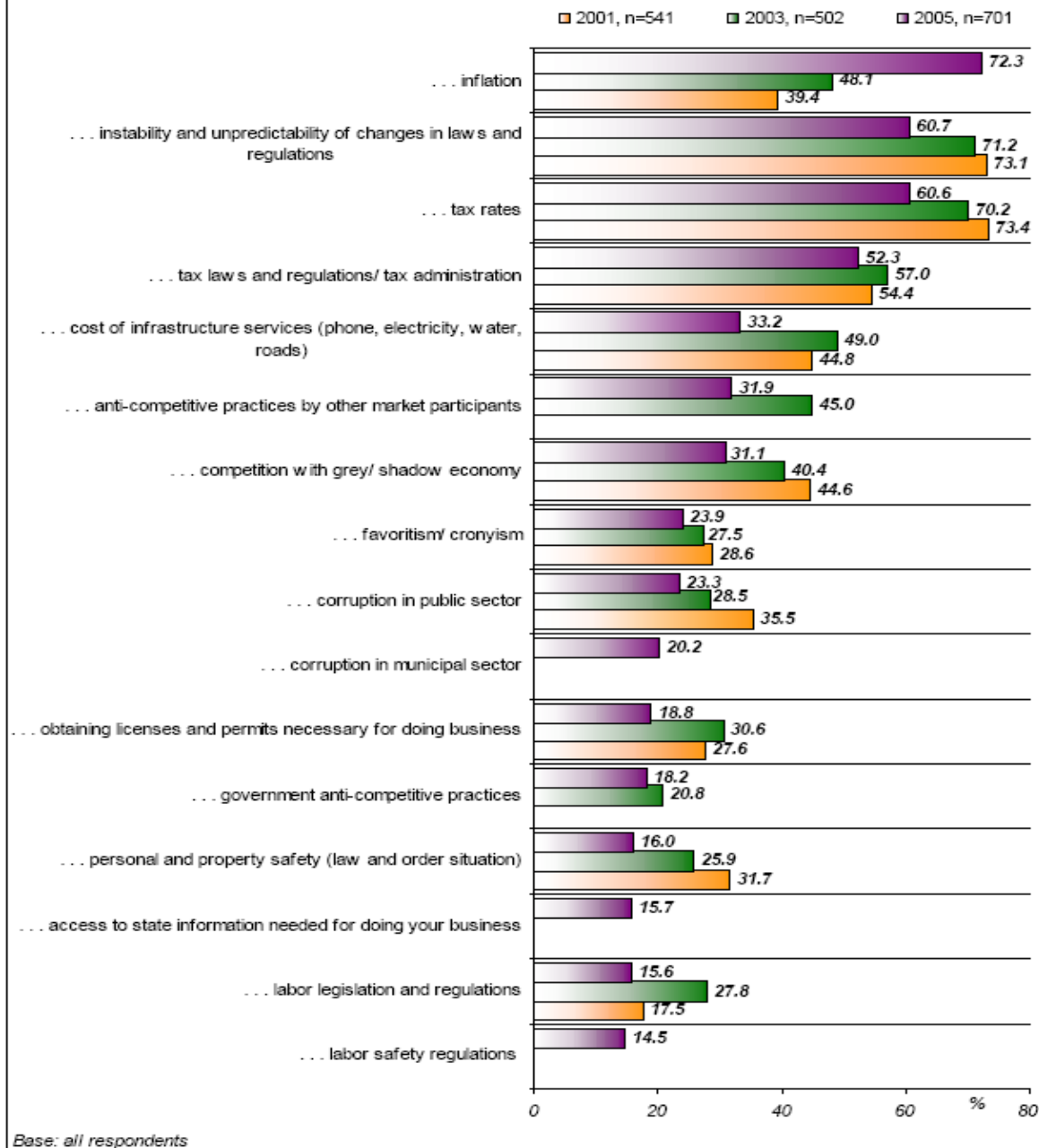


On the other hand, the number of serious injuries has decreased: so far this year 53 persons have sustained serious injuries, which is by four less than a year earlier.

Labour inspection in new EU member states

- Low political priority assigned to health and safety improvement
- Chronic under-funding of Inspectorate activities
- Lack of resources including transportation, communication and IT resources, low wages, unfilled posts and high staff turnover
- Hostile assumptions from employers regarding the legitimacy of activities as enforcement agencies

Respondents to whom the following regulatory area is an obstacle for the operation and growth of business



The EU policy response to crisis

European Commission Action Programme for Reducing Administrative Burdens in the EU Sectoral Reduction Plans and 2009 Actions

- Acceleration of 'Better Regulation' agenda
- Working environment is identified as one of 13 "**priority areas**" for action
- "The importance of **reducing unnecessary administrative burdens** increased with the economic crisis", since small and medium sized enterprises in particular 'need **quick relief**'"

- “The importance of **reducing unnecessary administrative burdens** increased with the economic crisis”, since small and medium sized enterprises in particular ‘need quick relief’”
- Commission proposal to **exempt small firms** from risk assessment requirements
- “facilitate **lighter transpositions** by Member States of the Health and Safety of Workers Framework Directive”

EU recommendations for Labour Inspection

- “While inspections are essential to achieve safety and health at work, they should be **made less time-consuming** for businesses and **compliant employers** (e.g. in low risks enterprises) [and] should be **rewarded by fewer inspection visits**”
- **Diversion of inspectorate activities** from OHS regulation to ‘the fight against undeclared work’ (informal economy) in order to assist cash-strapped governments

The view of ILO on inspection

- The urgency of the crisis has in many respects **limited the labour inspectorates' scope of action**. Inspectors have understandably focused their efforts on certain aspects related to the crisis (e.g. mass redundancies) with the result that **inspection visits have not conducted in the normally comprehensive or balance way**.
- The impact of this **imbalance** should be **evaluated carefully** because it could have a **negative effect on other elements of working conditions** (e.g. the impact of stress at work), **which may be neglected at the expense of crisis-specific issues** (Vega 2009: 16).

Conclusions

- The European Commission is using the crisis to accelerate its overall 'Better Regulation' agenda
- ILO appears to offer a weak counter-position (balanced inspection)
- Does not take account of actual precarity of work in new EU member states
- National regulatory authorities in danger of diversion from primary task of ensuring a decent working environment