

Chapter 1

Breaking through the crisis with decentralisation? Collective bargaining in the EU after the great recession

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1. Setting the scene

The debate about industrial relations developments in Europe in recent years has focused on the multiple impact of the crisis (financial, economic and fiscal) and of policy and regulatory reforms promoted by European economic governance, the so-called Troika, and national governments (Marginson 2014; Marginson and Welz 2014; Papadakis and Ghellab 2014; Schulten and Müller 2015; Koukiadaki *et al.* 2016; Guardiancich and Molina 2017). Against this background, the different developments that have characterised national industrial relations systems entail a number of tasks, not only at the academic level, but also at the operational or practical level. First of all, it is important to improve our knowledge of the different national trajectories and analyse evidence in a comparative perspective. There is remarkable potential here for cross-national fertilisation and strategic learning; these are key components of both scholarship and social partner initiatives in labour relations. Secondly, such knowledge and analyses can contribute to strengthen forms and tools of cooperation and coordination at European level, which trade unions at both national and European level have been promoting for many years.

In order to pursue these objectives, a number of trade union–related research institutes and academic departments initiated the DECOBA project, funded by the European Commission. The DECOBA project, in particular, aims to:

- analyse the ongoing shift from centrally coordinated multi-employer collective bargaining to decentralised negotiations in a number of EU Member States where the former has traditionally been strong (Belgium, Germany, France, Italy, Spain);
- tackle the issue of how company-level bargaining can, in a changing environment, play a new, useful role in establishing working conditions, without paving the way for social dumping and wider inequalities;
- promote greater expertise and awareness, especially among the social partners, about such crucial developments and issues.

In previous studies, some of the DECOBA partners have stigmatised the negative implications of mainstream economic theory that regards wages as merely a cost factor and its policy implications in terms of adjustment and internal devaluation, which are part of ‘the strange triumph of failed ideas’, as Paul Krugman puts it (2010; see also Lehndorff 2012, 2015). In a number of other European studies (CAWIE, GOCOBA), a different view and narrative was put forward, arguing that the competitiveness crisis

in countries such as the southern European Member States was not due to high wage levels and labour market 'rigidities', but to elements of non-price competitiveness (firm size, infrastructure, shadow economy, financial speculation). Alternative strategies were identified, aiming at inclusive and wage-driven growth, based on the assumption that 'Europe needs an inclusive growth strategy that focuses on reducing inequality and enhancing real income growth ... Restoring and supporting collective bargaining on wages is defined as a key factor in this strategy' (Van Gyes and Schulten 2015: 409). Wage increases should be welcomed in order to support private demand and wage-led growth, which is still by far the most important macroeconomic factor in most euro-zone countries (Onaran and Obst 2016).

The DECOBA project was launched to update these analyses with new facts and developments in the early post-crisis phase and it goes beyond a merely descriptive approach. From this point of view, our key issue is to verify the conditions under which European industrial relations are entering the post-austerity phase, now that European and international institutions have given signals of a new era by recognising the shortcomings and failures of the austerity approach. The OECD and the IMF have reconsidered the effectiveness of austerity policies and have redefined their analyses with much more attention to (in)equality, the growth potential of wages and the benefits of coordinated bargaining (OECD 2012; IMF 2016). In a similar vein, the Juncker Commission has proposed the 'European Pillar of Social Rights', while ECB President Draghi admitted the importance of countering underemployment and increasing wages for boosting consumption and GDP, echoing some of the main points of the ETUC campaign for a 'pay rise' all over Europe.

What is the current state of industrial relations in the European Union, after what has been described as a 'frontal assault on multi-employer bargaining' (Marginson 2014)? Were multi-employer collective bargaining institutions indeed compromised or are they still solid? Which processes were initiated during the crisis and the adjustment phase and which trajectories can we identify for the future? Can the new policy climate find fertile ground for confirming industrial relations as a key component of the European model?

In order to respond to these questions, we focus on the transformations of recent years, notably in 2012–2017. But we broaden our perspective to include, on one side, the trajectories that the countries under review were following before the crisis and to assess, on the other, the effects of institutional change on industrial relations processes and outcomes. In this sense, we consider not only the revision of rules, but also the impact of reforms on practice, which crucially depends on the responses and strategies developed by social partners, in a changing economic and institutional environment. Domestic elements and especially the agency of national actors have in fact remained relatively unexplored. Here, we want to analyse both the external and internal drivers of adjustments in industrial relations and highlight the role played by the different actors, namely national governments, trade unions and employers' associations.

By taking advantage of the longer span of time, we can obtain new insights about current developments in collective bargaining and industrial relations. Of course,

we are analysing an ongoing process and it is difficult to extrapolate future trends. However, we can better focus on the state of play and emerging patterns. Moreover, we believe that the inclusion of agency adds substantially to the explanatory power of the analytical framework and provides a better understanding of what might be influencing the prospects of national industrial relations systems, in a combination of continuity and change.

In this general picture, economic and institutional (regulatory) factors are strictly intertwined and it is often difficult to identify their respective roles. The financial crisis led to pervasive liquidity problems, a credit crunch and increased bankruptcies; the economic crisis involved declining demand, widespread reorganisation and restructuring processes, as well as rising unemployment; and the fiscal crisis hardened public budget constraints and, besides inducing a retrenchment of public expenditure, often led to public sector job and wage cuts.

Policy and regulatory reforms were often intended to respond to the challenges posed by the manifold crisis, which clearly did not hit all EU countries in the same way. External pressures exerted by European Economic Governance and the Troika had quite different degrees of force and involved distinct tools and implications for the target countries, basically depending on the presence and severity of imbalances and their contingent situations. Indeed, if the incisiveness of external intervention has sometimes been very important, this was basically in response to internal problems. Whereas the specific recipes and recommendations can be criticised for their social impacts and ineffectiveness, and possibly better measures could be adopted, the relevance of the problems they wanted to address – public debt crisis or bailouts in the financial sector – must be acknowledged.

In sum, the basic descriptive question we want to address is whether, during the period under analysis, there was a change in collective bargaining structures. More precisely, we want to assess whether the crisis can be regarded as a turning or a break point, whereby national industrial relations systems have been diverted from their previous trajectory to follow a new path, or at least existing trends have been accelerated to the extent that the fundamental features of collective bargaining structures have effectively changed. From the analytical point of view, we want to identify the main drivers that can explain the pattern we observe, be it continuity or change. In this respect, as mentioned above, the main variables we use are economic conditions, public finances, external policy pressures and domestic agency in the political, economic and industrial relations domains – that is, what governments, enterprises and social partners did to tackle the crisis itself or the growing external pressures.

Our analysis is based on five in-depth cases presented in the following chapters. They cover a fairly diverse set of industrial relations systems, as well as different situations, as far as the other variables under consideration are concerned. The case studies provide up-to-date and extensive information on industrial relations developments in the economy as a whole and in two distinct sectors: metalworking and retail trade. Examining this large evidence base allows us to respond to the first descriptive question, whereas for the explanation of the differences across countries, we propose an interpretative

framework. The use of a case-study analysis provides some important insights into the processes shaping change in collective bargaining and industrial relations, but the complex web of causation and correlation needs to be further explored. However, it would be difficult to study transformations of a mostly qualitative nature by using other methods, considering that proper quantitative data on these phenomena (that is consisting of 'measures' rather than 'scores') are often missing.

Despite important differences, all the national industrial systems covered by this study share two basic features, which make them particularly relevant for our investigation of the transformation of the collective bargaining structure:

- (i) the traditional pivotal role of sectoral bargaining;
- (ii) the multi-tier bargaining system, which includes second-level negotiations, mostly at company level (with the peculiarities of the German case concerning the role of works councils, see below), but to a certain extent at territorial level too. More variation exists in terms of the extent and relevance of inter-sectoral bargaining, but, with the exception of Germany, this level plays a significant role everywhere.

By looking at changes in these characteristics, we can see whether the balance point of collective bargaining is moving downward and whether multi-employer bargaining remains the most important steering factor in the system overall.

2. Definition of variables

Analysing bargaining structures is a complex exercise, especially in multi-tier systems. While it can be relatively simple to identify the most important bargaining level, assessing the relative importance of other levels may not be so straightforward. This implies not only the consideration of rules on prerogatives, priorities and coordination across different levels, but also of the effective relevance of the provisions defined at the various levels. This involves both a qualitative assessment of the importance of the different levels (by looking, for instance, at the scope of the various agreements) and a quantitative analysis, which can focus on the relative coverage of the distinct levels. The latter consideration points to a more fundamental issue: if we concentrate on collective bargaining institutions, we may overlook the shrinking of collective bargaining coverage overall. If 'disorganised decentralisation' brings the collective bargaining system closer to market regulation, the reduction in the coverage of collective bargaining – which we may call 'decollectivisation' – goes even more clearly in the same direction.

Therefore, in order to analyse the state and transformations of collective bargaining, we will look at the following features:

- the coordination of collective bargaining by assessing the degree of vertical coordination (organised/disorganised bargaining) and horizontal coordination (unitary/segmented bargaining) and by establishing whether coordination is the result of internal processes governed by the bargaining parties or of external intervention by the state and government (autonomous/dependent coordination);

- the coverage of collective bargaining (high/low) provides an indication of the effectiveness of collective regulation of employment relations at various levels;
- the quality of collective bargaining (core/framework/implementation provisions) is related to its incisiveness in determining actual employment and working conditions by both central/sectoral and decentralised agreements.

To some extent, these dimensions may be considered a selection of the classic variables proposed by Hugh Clegg in *Trade Unionism under Collective Bargaining* (1976). Clegg spoke of the extent of collective bargaining, as the proportion of employees covered by agreements, and of the degree of control and the scope of bargaining, as the capacity, respectively, to set and enforce obligatory standards and to regulate a broad range of aspects (Clegg 1976: 8–9). As we are focusing on multi-tier bargaining systems, some adaptations are needed, because the issues of vertical coordination and of the quantitative and qualitative relevance of the different negotiation levels become particularly important.

2.1 Bargaining structure and coordination

Coordination is often regarded as the key feature of the collective bargaining structure. It has replaced the role that centralisation formerly played in the analysis of neocorporatism in the 1970s and 1980s, in order to take into consideration both the reality of multi-tier bargaining systems and the growing importance of decentralised bargaining (Traxler 1995; Traxler *et al.* 1997). For our purposes, it is important to distinguish between different kinds of coordination mechanism, which impinge on different characteristics of the bargaining system. First, we can identify vertical coordination between bargaining levels, so that the relative prerogatives and competencies of the various points of negotiation are clearly established in order to reduce the scope for overlap and replications. Second, horizontal coordination across bargaining units ensures an even development in the main elements of negotiation, such as wages or the bargaining structure itself, and can promote the diffusion of the results achieved in certain areas to other segments of the economy. Third, we can distinguish between internal and external coordination, since coordination can be the result of rules or practices autonomously produced by the social partners or it can derive from constraints imposed and provisions enacted by the political authorities. These different forms of coordination can be linked to three important features of collective bargaining systems: whether it involves organised or disorganised decentralisation within a multi-employer bargaining framework; whether the bargaining system is unitary (inclusive) or segmented; and whether it is autonomous or dependent on state intervention.

Due to the variety of market situations and organisational patterns across different sectors, it is essential to limit the focus of horizontal coordination to wage developments, on one side, and the rules governing bargaining itself, on the other. Although traditionally only wage-setting is considered in this kind of analysis (Visser 2013), the inclusion of this second element allows us to check for the existence of multiple bargaining structures within a single economy, instead of assuming that each country embraces a unitary system. A further element of horizontal segmentation may be linked

to the proliferation of first-level (typically sectoral) bargaining units, usually due to the establishment of new employer associations for existing or emerging sectors. If the new bargaining units adopt the prevalent bargaining structure and are covered by the existing peak-level organisations, the impact on horizontal coordination may be trivial. By contrast, if they create separate bargaining systems, then horizontal coordination may be jeopardised. Turning to vertical coordination, it is useful to broaden our attention to include at least the main conditions of employment, such as wages, working time and work organisation, in order to better grasp the relations between and relative scope of the various bargaining levels. In fact, in many cases, the scope of wage flexibility at lower bargaining levels can be limited, especially downwards, whereas other important elements of employment can be broadly determined through decentralised agreements.

There are a number of connections between types of coordination and the means and processes by which it can be achieved (Traxler *et al.* 2001; Traxler 2003; Traxler and Brandl 2012; Visser 2013: 54–61). For instance, the introduction of binding statutory wage ceilings and floors promotes horizontal coordination and imply a lower level of autonomy on the part of the bargaining system; the presence of pattern bargaining essentially promotes horizontal coordination between bargaining units. However, the introduction of statutory or collectively agreed rules can ensure both horizontal and vertical coordination: a national wage norm steers pay rises across sectors, whereas the favourability principle affects relations between bargaining levels. Similarly, organisational action by the unions and/or the employers can contribute to coordination across bargaining units and between bargaining levels.

Table 1 presents the main coordination patterns, reflecting horizontal and vertical coordination. Centralised bargaining systems, by definition, involve high scores on both dimensions, essentially because the exclusivity or even merely the prevalence of one encompassing central bargaining level resolves the issue of coordination. Where sectoral bargaining prevails and company or local agreements are possible, as in the national cases under investigation here, it is no longer possible to disregard the coordination problem.

Table 1 Main coordination patterns

		Horizontal coordination	
		High	Low
Vertical coordination	High	Organised bargaining	Segmented bargaining
	Low	Decentralised bargaining	Disorganised bargaining

Source: Authors' design.

In such a situation, the bargaining structure can replicate the 'coherence' automatically enforced by centralised systems only if it can ensure high horizontal and vertical coordination. This is the case of organised bargaining, with regard to which centralisation is only one possibility. The opposite condition of symmetrically low coordination on

both dimensions identifies disorganised bargaining, thereby reproducing the basic distinction between organised and disorganised decentralisation introduced by Traxler (1995). However, our scheme takes into consideration two intermediate positions: segmented bargaining between vertically organised separate bargaining units and decentralised bargaining, which enhances the autonomy of second-level agreements, but maintains overall horizontal coordination across the whole economy. Although, at first sight, this may seem an implausible combination, it could depict a radical shift to company-level bargaining, coupled with the implementation of a legally enforced wage norm. Moreover, it is important to recall that we are now looking only at the institutional features of the bargaining system; we will discuss its effectiveness in the section on coverage. This means that decentralised bargaining without significant coverage of decentralised agreements could well amount to the demise of the bargaining system altogether.

The factors that can influence horizontal coordination include the presence of an intersectoral bargaining level, the force and role of peak organisations on both sides of industry; the practice of pattern bargaining; and legal provisions that enforce wage floors and wage ceilings or wage norms. Similarly, vertical coordination can be promoted by prerogatives and priorities established in both collective agreements (as in the opening-clause system in Germany) and legislation (for instance, by defining a favourability principle, which ensures that decentralised deals can only improve on conditions established in higher levels, as in the case of Belgium). Typically, legal provisions influencing the degree of horizontal coordination help to enhance it by implementing general standards in terms of wage developments or other working conditions. On the contrary, the effect on vertical coordination critically depends on the content of the norms, which may support both organised and disorganised bargaining systems.

We now turn to our national cases and identify their specific features as regards bargaining coordination. Despite their common features – that is, the pivotal role of sectoral bargaining and the presence of different bargaining levels – their collective bargaining institutions differ substantially and the changes introduced in recent years point to different trajectories. Detailed descriptions of national bargaining systems and their recent reforms can be found in the individual chapters in this volume. Here, we provide a brief overview and interpretation, in accordance with the analytical framework presented in this chapter.

Belgium is usually described as a highly institutionalised and centralised system. Some of its basic features are confirmed by the current analysis. However, the emerging picture is slightly more diversified. Horizontal coordination is ensured by both legislative provisions, notably the introduction of a statutory ceiling for wage increases in order to maintain competitiveness (already in 1996), and by the indexation mechanisms, which are universally present in collective agreements, although they operate according to two distinct mechanisms in the different sectors (see the chapter on Belgium for details). A further element of coordination derives from intersectoral bargaining, which determines the norm of wage increases across the economy, which is supposed to be added to the indexation factor. In terms of vertical coordination, a strict favourability principle

applies, so that decentralised bargaining can only enhance economic and normative provisions, as well as protections. Some limited variation in the structure of collective bargaining can be found across sectors, essentially concerning the relative importance of sectoral agreements as opposed to company bargaining. In certain industries, sectoral bargaining tends to determine only a general framework, whereas the most important provisions are set at company level. This happens for instance in the chemical and banking sectors, while in steel and paper company agreements are prevalent, due to the presence of a small number of very large enterprises. Such variance, however, remains in the collective bargaining system, legally regulated at central level since 1968.

A number of changes have affected the Belgian collective bargaining structure in recent years – including an increase in the importance of regional social dialogue – especially with regard to policymaking. However, focusing on the bargaining system in the private sector, the most important changes concern the government's renewed activism, imposing wage moderation by enacting strict statutory wage norms. Such interventions in 2011–2016 did not affect the established bargaining structure, which remained organised, but have reduced bargaining autonomy. This state of affairs was institutionalised with a reform of the wage-setting system in March 2017, which reduces social partners' autonomy and increases government influence (see the chapter on Belgium). Interestingly, the autonomy that the social partners have lost at the intersectoral level has been reinstated at the decentralised level. In order to recover at least partly the leeway they lost at central level, the social partners have enhanced the role of decentralised negotiations, thereby stressing the potential of decentralisation in a system that remains protected by a fairly strict favourability principle. Referring to the distinction between opening clauses, which empower decentralised bargaining, and opt-out clauses, which enable derogations (Marginson and Welz 2014: 8), we can say that the Belgian example seems to point to a proactive response by social partners. They were able to preserve their autonomy in ways that correspond to the government objective of promoting the diffusion of gain-sharing at company level. In sum, we can say that nowadays Belgium has a system of organised bargaining with less social partner autonomy in wage setting at central level, but potentially more scope for supplementary decentralised bargaining.

France has a similarly highly institutionalised system, whose main governing factor is national legislation. The presence of extensive regulations on mandatory negotiations at national and decentralised level since the 1982 Auroux laws; widespread use of the extension of multi-employer agreements; regulation of representativeness; provisions on workplace representation structures; and the presence of a legal minimum wage contribute to define a framework strongly influenced by government action. Such characterisation is further strengthened by the provisions on mandatory social dialogue at national level, enacted in 2007 under Jacques Chirac and reinforced later under both Sarkozy and Hollande, as well as by the traditional role played by a statutory favourability principle. The lack of intersectoral wage bargaining and of an economy-wide wage norm indicate that horizontal coordination may be less effectively ensured in France than in Belgium. However, the role played by the minimum legal wage (SMIC) can be regarded as similar. We therefore consider France to be a second example of organised bargaining.

Recent reforms have not affected horizontal coordination nor the general institutionalisation of industrial relations. Rather, they have focused on vertical coordination and have tried to increase decentralised bargaining autonomy by loosening the favourability principle in certain areas. The most recent *ordonnances* signed by President Macron on 22 September 2017 continued along these lines by identifying a limited set of issues – for instance, minimum wage rates, job classification systems, equality between women and men, training – which are reserved for sectoral agreements and to which the favourability principle will continue to apply, and a second group of topics which sectoral agreements may decide to exclude from possible derogations at decentralised level. On all other issues, decentralised agreements can now introduce provisions that are independent and potentially derogate from existing sectoral rules. Certainly, to achieve this result a majority company-level agreement is needed, because with no agreement the sectoral deal remains in force. However, especially if a company runs into economic difficulties or is under threat of delocalisation, the new institutional setting seems to provide grounds for more concession bargaining. In SMEs, in particular, where no trade union is present, the agreement may now be concluded by elected employees who are not mandated/appointed by unions and in micro firms the employer initiatives may be sanctioned by an employer-initiated employee referendum. In larger enterprises, the employer continues to need the unions' agreement and this may provide some leverage for their demands, too. The general trend in rules seems therefore to be moving France towards decentralised bargaining, in which horizontal coordination will remain mostly dependent on the SMIC. Beyond the new rules, vertical coordination will rest mainly upon trade union strength at decentralised level, based on the broad entitlements assigned by legislation, the mandatory nature of negotiations and the presence of a now unitary employee representation structure in which they are predominant. However, it is worth mentioning that such developments may weaken the overall relevance of multi-employer bargaining, which would critically depend on the continuity of the extension of sectoral bargaining. Otherwise, the risk of moving to single-employer bargaining may soon emerge.

Germany has long been regarded as the exemplary case of coordinated bargaining. In this traditional picture, on one hand, horizontal coordination is ensured by pattern bargaining, often led by the strong metalworking union IG Metall. On the other hand, vertical coordination is supported by granting exclusive bargaining rights to trade unions, which operate mainly at sectoral level. In workplaces, the codetermination rights entrusted to works councils represent an important balance for management prerogatives in employment-relevant issues. Works councils and management can conclude so-called works agreements, which de facto represent a second bargaining level, although they are not seen as collective agreements in the strict sense, as they can only supplement sectoral collective agreements and have to comply with the favourability principle. Trade unions are not formally involved, although they effectively play a substantial part in works councils, since many councillors are in fact trade unionists, especially in larger companies. Legislation on employee representation in the supervisory boards of large companies contributes to define an overall picture of worker participation and provides further leverage for coordination in a broader sense. The inclusion of opening clauses in sectoral agreements, which started as early as the 1960s, confirms the capacity of the industrial relations system to combine some

degree of decentralisation with continued control by industry-wide agreements. In fact, the opening-clause system gained momentum in the 1980s–1990s and soon became a reference for organised decentralisation.

The analysis presented in this volume points to a significantly different state of industrial relations in 2017. In terms of horizontal coordination, pattern bargaining probably plays a less prominent role than in the past. In fact, it may well have lost its pivotal position in the German industrial relations system. A possible new candidate for horizontal coordination might be the legal minimum wage introduced as recently as January 2015. However, it remains to be seen to what extent the development of the minimum wage will influence collective bargaining. So far, it only has influence on a few collective agreements in low pay sectors. By contrast, minimum wage adjustment largely follows the development of collectively agreed wages. In fact, the Minimum Wage Commission, which is made up of employers and trade union representatives, in preparing its biennial recommendations on adjustment to the minimum wage level, is also supposed to consider developments in collectively agreed wages (Amlinger *et al.* 2016). But if coordination now rests at least partly on the legal minimum wage, the nature of coordination has somehow changed. While pattern bargaining could play a progressive role in specific bargaining rounds, the legal minimum wage essentially provides for rather modest protection and ensures – by definition – minimum pay development.

Turning to vertical coordination, the expansion and reconfiguration of the opening-clause system in recent years has, on one side, reduced its original exceptional nature and, on the other side, confirmed a fairly developed management procedure that ensures trade union influence on the process overall. For instance, in the case of the metalworking sector, the Pforzheim Agreement of 2004 introduced a general opening clause, but, at the same time, it enabled the institutionalisation and regulation of the derogation procedure, thereby resolving the problem of earlier disorganised decentralisation. As a consequence of such a regulatory setting, with some sectoral specificities (see the German chapter for a comparison between the metalworking, chemicals and retail sectors), the once quite separate roles of trade unions and works councils have somehow become closer, since the implementation of opening clauses involves the two actors in the same processes with shared responsibilities. Overall, it is possible to confirm the institutional framework as supporting bargaining coordination, at least in manufacturing. However, there is a growing role of legal intervention due to the decline of collective bargaining coverage, which was not the case in the past. Indeed, the reinforced possibility to extend sectoral collective agreements introduced by legislation (Schulten 2018), as well as the legal minimum wage signal somewhat less autonomy on the part of the industrial relations system, while promoting a re-strengthening of the bargaining system and its coordination capacities, as traditional supportive measures used to do.

Until the 1990s, *Italy* was, alongside the United Kingdom and the Nordic countries, a typical case of voluntarism, with a minor role for statutory regulations, apart from a number of important provisions promoting trade union action established by the Workers' Statute of May 1970. Similarly to the German case, horizontal coordination

was promoted by the leading role played by the metalworking sector through pattern bargaining and, at certain junctures, by public employers in the large segment of state-owned enterprises, which was also important in the French case. The relevance of the major trade union confederations (CGIL, CISL and UIL) and employers' peak association (Confindustria) provided an encompassing framework for industrial relations, which helped diffuse practices across sectors. Moreover, the presence of an indexation mechanism, designed in a way that had a strong equalising impact on wage differentials in the high-inflation years of the early 1980s, represented an important factor in economy-wide wage coordination. There were no strong or legal rules for vertical coordination, but the clear predominant role played by the industry-wide agreements, as well as the union capacity to extend their action to workplaces significantly reduced the autonomy of decentralised bargaining, whereas it allowed forms of micro-concertation (Regini 1995).

The institutional picture changed in the early 1990s as new rules for horizontal and vertical coordination were enacted. In the first direction, the monetary policy tool of planned inflation was the key income-policy indicator and provided the yardstick for wage increases in all sectors, with the objective of preserving the purchasing power of pay. In the other direction, the second level of negotiation specialised in gain sharing, so that duplication of norms was ruled out and a specific prerogative on performance-related pay was recognised with regard to decentralised deals. Consequently, Italy entered the 1990s with an organised bargaining system, which put it alongside Germany and other continental European countries (Pedersini 2014).

A series of intersectoral agreements after 2009 introduced some adjustments, but did not modify the basic features of the system. Forecast inflation has become the main reference for periodic wage increases at the sectoral level (in some cases, the reference is ex-post inflation, see the chapter on Italy for details), thereby confirming the specialisation of industry-wide agreements in preserving the purchasing power of pay. The scope for decentralised bargaining has increased somewhat, and the opening-clause system has been introduced, with the definition of specific rules on the effectiveness of agreements, in order to take into account the presence of a plurality of unions within workplaces, which may not sign all deals jointly. In particular, since 2011 a number of intersectoral agreements signed by CGIL, CISL and UIL, together with Confindustria have introduced a minimum representativeness threshold of 5 per cent for participating in sectoral negotiations and have endorsed a majority principle for the validity of agreements at all levels. Through these provisions, coordinated bargaining has been preserved.

However, a new provision was introduced in the Italian legal system in the summer of 2011, which enables decentralised agreements to derogate extensively from sectoral collective agreements and, to a certain extent, even from legislation. According to Article 8 of Decree Law 138/2001, derogatory agreements can be linked to a large number of objectives: increasing employment, enhancing the quality of employment contracts, promoting employee participation, fighting undeclared work, improving competitiveness and wages, managing industrial reorganisation and restructuring, supporting investment and the start of new economic initiatives. Derogations can

similarly cover a wide range of topics, including working time, the introduction of new technologies, work organisation, job classification and tasks, non-standard contracts, hiring procedures and the consequences of terminating the employment relationship. Moreover, horizontal coordination has been threatened by the emergence of new bargaining units, which may be either inside or outside the traditional perimeter of intersectoral relations between the major industrial relations actors. Notably, this happened with the exit of the Fiat Group from Federmeccanica, Confindustria's affiliated metalworking employer association, and the creation of a new, separate collective bargaining system. The increasing number of industry-wide agreements in recent years, with new signatory employer associations, and the splits opening up in some employer associations are going in the same direction. In general, the overall regulatory framework remains attached to the model of coordinated bargaining, but it now includes some elements of both decentralised bargaining and segmented bargaining, which may erode and disorganise the system.

Spain, like the other countries examined here, entered the financial and economic crisis with a substantially coordinated bargaining system, anchored to centralised agreements setting guidelines and wage norms, widespread use of indexation mechanisms in collective agreements, as well as a predominant role for sectoral bargaining, usually at provincial level. Measures unilaterally enacted by the government during the crisis introduced some significant changes, in three instances between 2010 and 2012. Major changes were enacted with the 2011 and 2012 reforms.

In June 2011 the socialist government introduced measures aimed at favouring decentralised bargaining. The new legislation suppressed the possibility to establish by agreement the complementarity of the various bargaining levels, whereby higher levels can restrict the scope of decentralised deals by stating that lower levels cannot regulate what is already regulated at higher levels. In addition, it provided for the priority of decentralised agreements on a number of key issues, such as basic wages and supplements, overtime and shift bonuses, working time and job classification systems. However, this legal priority was balanced by the possibility of sectoral agreements to establish coordination rules and exclude certain topics from the negotiation entitlements of decentralised bargaining.

The conservative government's reform of 2012 proceeded further along the path of strengthening decentralisation. First, temporary derogations from sectoral agreements became easier, as the reasons allowing them were broadened and the number of items that could be derogated expanded. Second, the effectiveness of collective agreements was limited to only one year after their deadlines. Previously, expired agreements continued to be valid indefinitely, until they were renegotiated. With the 2012 reform, expired agreements remain effective for only one year after expiry, which puts pressure on unions. In fact, unions now have to negotiate under the threat of losing collective bargaining coverage if the negotiations for renewal last more than one year. Third and most importantly, the clause allowing sectoral agreements to regulate the bargaining structure and exclude some issues from decentralised agreements was suppressed, thereby making decentralised bargaining a general and non-suppressible regulatory tool with regard to the key topics of collective bargaining mentioned above. Finally,

employer prerogatives for unilateral internal flexibility were reinforced. Employers can now introduce substantial changes in working conditions if they are not regulated by mandatory collective bargaining agreements, concerning the following issues: (i) working day; (ii) working time and distribution of working time; (iii) shift work regimes; (iv) system of remuneration and wage levels; (v) work performance; and (vi) tasks.

In terms of the vertical relationship between the various negotiation levels, such changes have clearly shifted the institutional balance of the bargaining system to an overly decentralised bargaining setting, with fairly broad scope, which does not include for instance the reservation of some basic elements to sectoral agreements, as in the French case. Moreover, the new rules undermine the effectiveness of horizontal coordination in wage bargaining allowed by indexation mechanisms and guidelines set in higher-level agreements. Therefore, the Spanish bargaining system appears to represent a case of decentralised bargaining, potentially prone to a shift to disorganised bargaining.

2.2 Bargaining coverage

Having analysed the changes in bargaining institutions, we can now turn to consider the relative coverage rates of both sectoral/central agreements and decentralised ones. Because we are studying multi-tier bargaining systems, which were traditionally centred around industry-wide agreements, the impact of the possible shift to lower-level agreements must be assessed against their effective diffusion.

As we have seen, in *Belgium* the bargaining structure has not undergone radical changes in recent years and is still characterised by high horizontal and vertical coordination. Unilateral intervention by the government in wage-setting, however, has decreased the autonomy of the bargaining system. The lower scope for wage bargaining at sectoral level has triggered some readjustment in the balance between bargaining levels, so that the relevance of decentralised agreements increased somewhat, but still in a closely coordinated setting. In terms of coverage, sectoral agreements continue to cover almost the whole workforce (90 per cent or more), thanks to the joint committee system and extensions, although no data are available on the coverage of decentralised agreements. However, there are indications of increased use of second-level deals. This rise is related mainly to the use of company settlements on variable pay as complementary or alternative to the (imposed) wage moderation or freezes at central level. Between 2009 and 2015 the percentage of the total wages coming from this bonus system rose to almost 1 per cent (based, among other things, on 1,917 company agreements).

In contrast to Belgium, in *France* changes in bargaining structure have been important, amounting to an institutional drift to decentralised bargaining. Concerning coverage, sectoral agreements still influence the employment terms and conditions of almost the whole workforce (90 per cent or more), as in Belgium. Decentralised company agreements have become progressively more important since the early 1980s, not only because of their entitlements, as indicated above, but also in numerical terms. In fact, coordination ensured by the favourability principle was soon coupled with competition in rule setting between the sectoral and company levels (Morin 1996). This was also

because employers could exploit their increased bargaining power at company level (see the chapter on France). The number of company deals progressively increased from relatively low levels in the early 1980s (3,900 in 1984) until the end of the 1990s, when they peaked in connection with the implementation of the Aubry laws on the 35-hour week. After falling again until 2003, their number started to grow and reached almost 40,000 in 2013, above the peak of the year 2000. In 2014 and 2015, the number of company deals was stable at around 37,000.

In France, company level collective bargaining follows a cycle influenced by mandatory negotiations on different topics, which do not take place at the same time, but in periodic rounds. Nevertheless, they have involved a fairly stable share of the workforce in recent years. In 2015, for instance, agreements were reached in 15 per cent of workplaces with more than 10 employees and covered 61.5 per cent of the respective workforce. Existing data do not allow us to identify any impact of the measures which provided more scope for derogations at company level, also due to the short time passed since the introduction of the latest measures. However, previous interventions in the same direction did not show a very high take-up rate. An early reform in 2004 allowed company agreements to derogate sectoral standards on all matters except basic wage rates, job classification, vocational training and supplementary social protection. At the same time, legislation allowed sectoral agreements to regulate or even rule out this option and indeed most industry-wide deals used this possibility and enforced a strict hierarchy between levels, with sectoral provisions prevailing. Similarly, a temporary derogation of sectoral standards agreed in the national inter-sectoral agreement (ANI) on competitiveness and job security signed in 2013 during the Hollande presidency was used in only ten agreements. Despite this current state of affairs, it must be recognised that the formal and real importance of company bargaining certainly provides a solid basis for making the institutional shift to decentralisation without strong vertical coordination effective, as allowed by the latest Macron *ordonnances*.

Table 2 Collective bargaining coverage: sectoral and decentralised agreements, 2015–2016 (% of employees)

	Sectoral coverage	Decentralised coverage
Belgium	≥90%	(No data)
France	≥90%	61.5%*
Germany	48%	30%**–17%***
Italy	90%	34%
Spain	65–70%	5%

Note: * Percentage share of the workforce in enterprises with at least 10 employees. ** Workers covered by collective agreements and a works council. *** This corresponds to 35 per cent of all workers covered by collective agreements. Source: DECOBA.

In *Germany*, the erosion of the overall bargaining coverage rate is a key feature of recent developments, although it represents a medium- to long-term trend, which started at least in the mid-1990s. When we analyse trends in coverage rates in Germany, besides looking at the role of industry-wide agreements, it is possible to consider, on one side,

single-employer bargaining as an alternative to industry-wide agreements and, on the other, the diffusion of second-level deals within the framework set by industry-wide accords. In practice, the decentralisation of the bargaining structure may take place both with a shift to single-employer bargaining and by growing utilisation of opening clauses through the conclusion of derogation agreements.

The general trend shows that the coverage of sectoral agreements has progressively decreased in the past 20 years. In 1998, coverage was 68 per cent in western Germany and 52 per cent in the east. By 2016, it had decreased to 51 per cent and 36 per cent, respectively, amounting to overall coverage of 48 per cent. As for company agreements, they remained stable over this period. In 1998 and 2016 alike, they covered 8 per cent of workers in western Germany and 11 per cent of workers in the east, and 8 per cent altogether.

Companies covered by sectoral agreements may also conclude works agreements between the works council and the management, which can be considered a form of second-level bargaining. However, in the German context these works agreements are not seen as collective agreements in the strict sense, as they could only cover issues in addition to collective agreements and have to adhere to the favourability principle. All in all, around 30 per cent of all workers in Germany are covered by both a collective agreement and a works council.

While the German system has always been characterised by sectoral collective agreements and (supplementary) works agreements, the debate on decentralisation of collective bargaining has focused almost exclusively on so-called 'derogation agreements'. The latter are based on opening clauses in sectoral collective agreements that allow (temporary) derogation from collectively agreed industry-wide standards at company level. In contrast to regular works agreements, derogation agreements are concluded mainly by the responsible trade union rather than by the works council. According to survey data, in 2011 some 20 per cent of companies covered by collective agreements used opening clauses. These companies employ around 35 per cent of all workers covered by collective agreements, which corresponds to about 17 per cent of all workers in Germany.

Another source confirms the same proportion of companies using opening clauses in 2015 (21 per cent) and signals that a further 13 per cent of companies are implementing 'informal derogations' outside the framework of opening clauses. The fact that use of opening clauses is not linked to economic and financial performance is a further indication of its importance. In fact, opening clauses do not seem to be an exceptional feature of workplace joint regulation, unlike when 'hardship clauses' were originally included in sectoral agreements to face temporary difficulties. They appear to be rather a structural tool. Today, they are still formally temporary, but tend to be regularly renegotiated to accompany firms' business strategies.

A further aspect worth considering in the case of Germany are differentials in the sectoral coverage of industry-wide agreements. They can be observed thanks to recent data provided by the German Statistical Office, based on the German Structure of

Earnings Survey (SES). This survey generally indicates lower coverage rates than the traditional source (see the German chapter for a discussion of the two sources), but the information about the relative sectoral coverage rates provides important insights. While in 2014 coverage was above-average in a number of traditional manufacturing sectors, financial services, energy and public administration, it was significantly lower in certain services and in agriculture and somewhat lower in electronic, food industry and retail trade.

By combining the data on institutional change and on bargaining coverage, we see that some sectors (mainly in manufacturing) seem characterised by organised decentralisation, but others (mainly services) show more evidence of de-collectivisation and erosion. The lack of a link between derogations and the enterprise's economic and financial situation, as well as the non-trivial diffusion of 'informal derogations' suggest some limitations in enforcement of the regulatory framework that lays down the conditions for derogations. This does not necessarily mean that organisational control over the process is weak. In fact, while the procedures involving the various actors and stakeholders in the activation and implementation of opening clauses may be followed strictly, the capacity to influence the final outcome may still be weakened.

In *Italy*, the coverage rates of industry-wide agreements have been high and substantially stable in recent years. It is estimated that some 80 per cent of the overall workforce are covered by sectoral deals (Visser 2016). Recent ISTAT data on the earnings structure even indicate that collectively agreed wage rates are applied to almost all employees. In fact, more than 90 per cent of enterprises with 10 employees or above apply industry-wide deals to their whole workforce consistently across sectors (CNEL-ISTAT 2016: 105–106). Conversely, only a minority of employees are affected by decentralised bargaining. The same ISTAT data show that some 20 per cent of companies with at least 10 employees are covered by decentralised collective agreements, including both company and territorial accords (CNEL-ISTAT 2016: 109).

In particular, company agreements are signed in 12.9 per cent of enterprises with at least 10 employees and the propensity to conclude company deals is strictly related to size. Coverage involves 8.8 per cent of enterprises with between 10 and 49 employees, 31.9 per cent of those with 50–199 employees, 56.6 per cent of those employing between 200 and 499 employees and 65.5 per cent of the larger ones (Fondazione Di Vittorio 2016: 2). The type of economic activity influences the incidence of company agreements. In manufacturing and construction, some 25 per cent of companies with 10 employees or above are covered by decentralised agreements. Due to the particular features of the two sectors, the majority of enterprises in manufacturing are covered by company deals (17.9 per cent), whereas in the construction sector the main decentralised level is the territory (20.4 per cent). Service companies show a second-level collective bargaining coverage below 20 per cent, with a prevalence of company deals (Fondazione Di Vittorio 2016: 4).

If we move from the percentage of companies covered to coverage in terms of employees, it has been estimated that company agreements affect some 27 per cent of the total private sector workforce, including micro-firms below 10 employees and excluding agriculture

and household workers. At sectoral level, this goes from 39 per cent in manufacturing to 25 per cent in business services, 18 per cent in personal services and 5 per cent in construction. In construction, most decentralised deals are concluded at territorial level, which add a further estimated coverage of 20 per cent of employees. In the other sectors, the extra coverage allowed by territorial deals is 5 per cent in manufacturing and business services and 12 per cent in personal services. Overall, it stands at 7 per cent, so that the combined coverage of second-level company and territorial agreements is 34 per cent (Fondazione Di Vittorio 2016: 8–10).

These data indicate a relatively low diffusion of decentralised agreements, with the partial exception of manufacturing. Even more importantly for our analysis, the extension of second-level agreements does not seem to have grown significantly in recent decades. A previous ISTAT study on collective bargaining in the mid-1990s showed that company agreements were concluded at a slightly lower level of 10 per cent of firms with 10 employees or more, with coverage of some 40 per cent of workers in the same subgroups of firms, which roughly corresponds to the present estimation of 27 per cent of the whole workforce.

These two analyses diverge with regard to the distance between the manufacturing and service sectors. Whereas there were no substantial differences in the mid-1990s, now manufacturing industry seems more significantly involved in decentralised bargaining (18 per cent of firms as opposed to around 10 per cent). It is hard to tell whether this is the result of the features of the two surveys or reflects an increase in decentralised bargaining in manufacturing. Without further data and analysis, we cannot say whether there are clear signs of a general expansion of decentralised collective bargaining. Rather, in terms of coverage, sectoral agreements certainly remain the most important reference. Moreover, the use of derogations seems rather limited: 2 per cent of firms used them in 2012–2013, according to the CNEL-ISTAT survey (2016: 115). Similarly, the latest report of the observatory on decentralised bargaining maintained by the union confederation CISL indicates that derogations were included in 4 per cent of the agreements signed in 2015–2016 (OCSEL 2017: 10–11). In sum, the bargaining hierarchy does not seem to be radically challenged for the time being, also because decentralised bargaining has not effectively expanded its reach.

Among the countries included in this study, *Spain's* collective bargaining system has probably been most affected by recent unilateral government initiatives. The substantial changes include the following: the prioritisation of decentralised agreements over sectoral deals, without reserving any topics to the latter; the shortening of the validity of collective agreements after their expiry; the possibility to engage in negotiations with non-union entities; and broader scope for employers to introduce unilateral changes in working conditions not regulated by mandatory collective bargaining agreements (see above). One of the main objectives of the new measures was to promote decentralised bargaining at the company level. Data show that particularly the 2012 reform may have succeeded in this, as the number of agreements rose in 2013, possibly also driven by the new expiration clause and therefore by the necessity to renew deals. Notably, the number of agreements concluded in newly established bargaining units went up significantly in 2013 and this may reflect efforts to take advantage of the new rules on

derogations, among other things. Indeed, accords concluded in new company and group bargaining units almost doubled from 2012 to 2013 and then remained at a similar high level, which slightly decreased by 10 per cent each year until 2016, when they still stood 40 per cent above the 2012 level. However, in terms of newly covered employees, the new agreements involved only some 0.5 per cent of total employees per year from 2012 to 2016, with a 1 per cent peak in 2013.

Indeed, bargaining coverage rates remained relatively stable during the crisis, at around 65 per cent of total employees for agreements above the company level (if we take into consideration the share of total employment which is excluded from collective bargaining, we would get levels around 7–8 per cent higher; see Visser 2016)¹ and about 6 per cent for company agreements. In fact, the substantial loss of coverage from 2008 until 2016 – around 1.5 million workers considering the agreements above the company level – roughly parallels the fall in the number of employees, which decreased by some 1.6 million in the same period. Derogations from company agreements remained fairly stable between 2012 and 2016, covering around 0.3 per cent of total employees, with again a peak of 1 per cent in 2013. In part, the rise in new company-level bargaining units illustrated above and the use of derogations can be linked to the activation of negotiations in SMEs with non-union worker delegations, which led to derogatory deals (agreements ‘in pejus’). This practice remained limited, however, and it has also been challenged in court, due to the controversial legitimisation of the bargaining party on the employee side (see the chapter on Spain for details). According to this evidence, we can say that, overall, the Spanish bargaining system, so far, has not been challenged substantially: sectoral agreements remain at the heart of the system, whereas the reach of company agreements is not expanding and the possibility for derogations is not used widely. One issue that remains underexplored is the utilisation of reinforced employer prerogatives to unilaterally modify the terms of employment, introduced by the 2012 reform. If this kind of unilateral modification expanded, the central role of collective bargaining as a regulatory tool may be threatened, especially in SMEs, where this practice could be a more attractive option than collectively agreed derogations.

2.3 Bargaining quality across levels: increasing scope for decentralised agreements

A proper assessment of the quality and effectiveness of collective bargaining at the various levels would require a detailed analysis of the content of the different agreements. This is certainly an important element of research on current developments in collective bargaining, but it goes beyond the objectives of this study. Here, we essentially want to consider whether recent changes have involved some degree of ‘hollowing out’ of

1. The identification of the bargaining coverage rate remains a controversial issue in Spain, due to different methods to calculate it and the alleged limits of official statistics. Current estimates vary from 65 per cent up to as much as 90 per cent. Here, we stick to the official statistics provided by the Spanish Ministry of Labour (Ministerio de Empleo y Seguridad Social, *Estadística de convenios colectivos de trabajo*, <http://www.empleo.gob.es/estadisticas/cct/welcome.htm>), for the number of covered workers, and to the Eurostat Labour Force Survey data (<http://ec.europa.eu/eurostat/web/lfs/data/database>), as far as the number of employees is concerned.

sectoral agreements and we can address this issue essentially by combining the two previous dimensions and using summary information on the issues addressed in decentralised agreements as opposed to sectoral deals.

In multi-tier bargaining systems the various levels of negotiations are complementary, but can also be in competition with one another. Vertical coordination is the institutional tool for regulating potential competition and assigning relative importance to the different levels. Organised bargaining systems are often those where lower-level negotiations take place in a framework set by higher-level agreements, which maintain a hierarchical prevalence. However, vertical coordination may also involve a substantial shift of competences from central to decentralised levels. Moreover, decentralised collective bargaining does not necessarily imply lower levels of protection for the workers involved. Against the background of full-employment, in the 1960s and 1970s, important waves of decentralisation of collective bargaining were driven by the strength of union representation in workplaces, leading to important results in terms of pay rises, stronger protections and union prerogatives. As for the legal framework, the bargaining power of unions at decentralised level was often reinforced by the presence of a favourability principle, which ensured that second-level agreements could only enhance protections established at higher levels.

In recent years, the long-term shift of bargaining power in favour of employers driven by the internationalisation of markets and production was, on one hand, exacerbated by the impact of the economic crisis on growth and employment and, on the other, buttressed by a number of measures that eroded the role of sectoral/central collective bargaining. Some of these measures may effectively support a weakening of the regulatory role of sectoral agreements, starting from dismantling the favourability principle. The 2012 reform enacted in Spain, as well as Article 8 of Decree 138 introduced by the Italian government in August 2011 provide for the possibility of extensive derogations by decentralised agreements under certain, broadly defined circumstances. Importantly, the Spanish regulation includes pay among the terms of employment that can be derogated, whereas the Italian rules do not. The recent ordonnances signed by President Macron in France on 22 September 2017 go in the same direction, although they provide that some fundamental topics remain reserved to sectoral deals, including basic wages. However, the very limited impact so far of the former measures in Italy and Spain suggests that there is no direct link between reforms and outcomes. The response of the social partners is fundamental and it can try to reinstate or confirm the role of industry-wide agreements. The conclusion of the first national metalworking agreement in Spain in 2016 goes in this direction. Similarly, the Italian social partners have signed a number of intersectoral agreements aimed at establishing a clear framework for organised decentralisation, whose objective is to preserve the role of sectoral agreements and of the bargaining parties.

In Germany, where the issue of vertical coordination remains fully in the hands of the social partners, the system of opening clauses, as well as the practice of 'informal derogations' seem affect relations between bargaining levels. Indeed, the utilisation of opening clauses appears to be widespread and affects two major issues, working time and wages, often in the form of so-called pacts for employment and competitiveness,

whereby more flexibility is exchanged for job security and sometimes investment. In the case of the metalworking sector, for instance, the above-mentioned Pforzheim Agreement, with its general opening clause, provided solid ground for the diffusion of derogations, which currently involve around one-third of all companies covered by the sectoral agreement (2012–2014, source: IG Metall). In contrast, derogation agreements play only a minor role in the German retail trade, since employers largely favour disorganised decentralisation and have withdrawn from collective bargaining (see the chapter on Germany for more details).

Only Belgium seems to be insulated from this trend towards a possible erosion of the role of central agreements through derogations. There, the stability of the favourability principle remains a formal impediment to such developments. However, as indicated above, the shrinking scope for wage bargaining at central and sectoral level imposed by government intervention and confirmed by the new 2017 law on collective bargaining, has shifted the attention of the social partners to the company level. This emerging trend may encourage the development of company bargaining outside the sectors where it was already the main bargaining level (the petro-chemical, chemical, banking, steel and paper industries).

Table 3 provides an overview of the current state of play concerning the importance of decentralised bargaining in the five countries featured in this study. In Belgium, the role of company agreements has remained close to the traditional ‘distributive’ role. Derogations are possible only in certain very limited and highly regulated cases envisaged by sectoral agreements. Therefore, decentralised deals take place mainly in larger and better performing enterprises and provide for additional benefits and protections compared with sectoral and central deals.

In the other countries, the scope and nature of company agreements is much broader. In Germany, we can find the opening-clause system established and administered by the social partners at the sectoral level to specifically allow derogations. Nowadays, opening clauses are broadly used and cover important topics, so that the provisions of sectoral agreements can be regarded as defining a framework, which allows significant adaptations at company level. Whether this amounts to an overall weakening of the regulatory framework or rather enables participation and union revitalisation at workplace level is still debated, with rather different views in various sectors (see the chapter on Germany). In France, Italy and Spain, the most recent shifts to decentralised agreements were driven by government intervention, which was implemented either unilaterally or without social concertation agreements with the social partners. In some cases, reforms had to face the open opposition of at least parts of the union movement and some criticism also from the employers’ side.

These recent changes in legislation have intervened in pre-existing decentralised bargaining systems, which show some significant differences. In France, decentralised negotiations are well-developed and supported by legislative prerogatives; in Italy, they have a limited, but still relevant extension; in Spain, they seem to cover a fairly limited share of the workforce. In all cases, though, decentralised bargaining covers a wide range of topics and can enable adaptation to local conditions and support mutually

Table 3 Main features of decentralised bargaining, 2016–2017

	Favourability principle	Diffusion of decentralised bargaining	Main topics of decentralised bargaining	Current use of derogations
Belgium	Yes, except very limited cases of opening clauses, strictly regulated by sectoral agreements	No data	Additional bonuses and benefits, working time arrangements, job classification	Exceptional, almost non-existent
France	Thoroughly redefined by recent Macron <i>ordonnances</i> , with limited topics reserved to sectoral agreements (minimum wage rates, job classification systems, equality between women and men, training and so on)	High	Wage supplements, working time, employment, profit sharing and participation	Very low, almost non-existent
Germany	Yes, valid for works agreements. Derogations possible only within procedural framework defined at sectoral level for opening clauses	Medium	Implementation of sectoral agreements and additional social benefits introduced through works agreements. Derogation agreements on basis of opening clauses and informal derogation	Medium, mostly on working time and compensation (wages, allowances, annual bonuses)
Italy	No, broad derogations are possible for a wide range of reasons according to legislation. Basic wage rates cannot be affected. Intersectoral agreements defined regulatory framework for the validity of derogatory accords	Medium	Wage supplements, reorganisation and restructuring, welfare benefits, working time, union prerogatives	Low, mostly on work organisation, working time, wage supplements, job classification
Spain	Broad derogations are possible for a wide range of reasons according to legislation, which also strengthened employer prerogatives for unilateral changes in terms of employment. Decentralised agreements can also derogate sectoral wage rates	Low	Wage supplements, job classification, working time, employment, equal opportunities, training, complementary welfare, industrial relations	Low, mostly on wages and working hours

Source: DECOBA

beneficial exchanges, as in the case of pacts for employment and competitiveness in Germany (Addison *et al.* 2017).

The fact that, to date, utilisation of derogations is rather limited in all countries suggests at least two reflections. First, the balance between sectoral agreements and decentralised deals has not changed yet and the former remain the principal reference for joint regulation of employment and working conditions. Second, the social partners

seems quite cautious about taking up the possibilities offered by the new legislation. Multi-employer bargaining still represents a fundamental reference for unions and workers' protections and employers seem to recognise its merits in terms of providing a level playing field for competition and a common basis for building positive workplace industrial relations. It may only be a question of time, but, if this interpretation is valid, the ways in which decentralisation of bargaining structures has been implemented lately seem ill-conceived. Instead of supporting the renewal of workplace industrial relations, they jeopardise it. Careful monitoring of future developments in this area remains a key task for all industrial relations scholars and practitioners.

3. The driving forces

The mapping of changes in our five countries points to both commonalities and substantial differences. What are the factors that can explain the pattern of transformation that we have observed? As mentioned above, we are looking at a relatively short window of observation between 2012 and 2017, but we want to include a longer time span, with a view to understanding whether we are witnessing short-term or long-term effects. Short-term shocks may have an external origin, such as those entailed by the global financial and economic crisis that broke in the second half of the 2000s. However, they are always mediated by the internal situation and addressed by domestic actors, so that disentangling 'external' and 'internal' factors can be difficult, if not impossible. Here, we identify some variables that have been used to explain developments in industrial relations and, more generally, in the variance of structural reforms implemented in the EU in recent years. From a more qualitative perspective, we will try to identify the processes and agency that have shaped the patterns we have identified.

These are the short-term variables that we have considered:

- economic growth, as an indicator of the economic conditions of enterprises;
- exports, as a measure of the external competitive pressure on enterprises;
- employment and unemployment, as indicators of the balance of power between workers and employers;
- public debt and deficit, as a measure of vulnerability and exposure within the EU;
- country-specific recommendations, in order to consider the influence of the EU governance framework;
- agency of governments and social partners, which represents the mediation of the other variables.

Table 4 shows that the five countries under examination have been affected by the financial and economic crisis to quite different degrees.

Spain suffered the largest decline in output, which remained below the pre-crisis period in 2016. During the crisis, employment decreased by almost 3.5 million, more than 15 per cent below the pre-crisis level, and it was still below that level by 11 per cent in 2016. The unemployment rate rose to 26 per cent and in 2016 it was still 11 percentage points higher than the pre-crisis level. Its financial vulnerability increased dramatically: Spain

Table 4 Economic indicators during the crisis, 2007–2016^a

	GDP volumes ^b		Exports ^c	Debt ^e			Deficit ^e		
	Min	2016	2016	Min	Max	2016	Max	Mean	2016
EU28	95.6	105.1	44.1	57.6	86.7	83.5	-6.6	-3.6	-1.7
EA19	95.5	103.0	45.9	65.0	92.0	89.2	-6.3	-3.2	-1.5
Belgium	97.7	106.6	84.5	87.0	106.7	105.9	-5.4	-3.0	-2.6
Germany	94.4	108.7	46.1	63.7	81.0	68.3	-4.2	-0.7	0.8
Spain	91.1	98.6	32.9	35.6	100.4	99.4	-11.0	-6.6	-4.5
France	97.1	105.1	29.3	64.3	96.0	96.0	-7.2	-4.5	-3.4
Italy	91.4	93.2	29.8	99.8	132.6	132.6	-5.3	-3.1	-2.4

	Employment ('000)				Unemployment (%)			
	Max	Reduction	Reduction/ pre-crisis ^d	2016/ pre-crisis ^e	Max	Mean	2016	2016 - pre-crisis ^f
EU28	224,173.2	7,453.7	3.3	0.6	11.0	9.3	8.7	1.6
EA19	146,758.6	6,089.0	4.1	-0.5	12.1	10.2	10.2	2.7
Belgium	4,586.7	25.2	0.6	3.2	8.6	7.9	7.9	0.9
Germany	41,267.3	548.1	1.4	7.1	8.8	6.2	4.2	-3.4
Spain	20,579.9	3,440.9	16.7	-10.9	26.2	19.7	19.7	11.4
France	26,583.8	252.0	1.0	2.5	10.4	9.2	10.1	3.0
Italy	23,090.3	899.8	3.9	-1.4	12.9	9.8	11.9	5.7

Notes: a) best performance among the five countries in italics, worst performance among the five countries in bold; b) 100=2008, 2007 for Italy; c) % of GDP; d) %; e) % change; f) percentage point change.
Source: Eurostat 2017.

entered the crisis with the lowest debt, but indebtedness increased almost threefold during it, while the deficit was higher than in the other four countries and was highest of all in 2016.

At the other end of the spectrum, we have Germany. The recovery was strong: the fall in GDP was not insignificant, but growth resumed rapidly and in 2016 GDP surpassed the pre-crisis level by almost 9 per cent. Employment performance has been particularly strong. The loss of jobs during the crisis was relatively limited, at 1.4 per cent of the pre-crisis level. In 2016, the unemployment rate had almost halved compared with pre-crisis levels and Germany was the only case among our five countries where it was lower than before the crisis. Both debt and deficit increased during the crisis, but the debt has now almost gone back to the initial level, while in 2016 a surplus was achieved.

The other three countries lie between these two extremes, with Belgium closer to Germany in terms of economic and employment performance, but with a higher vulnerability in terms of public finances. Belgium is also the country with the highest ratio of exports to GDP, which makes it particularly sensitive to external competition issues and therefore very attentive to price dynamics, as the laws on competition clearly

indicate. Italy is closer to Spain in many respects, with a poor economic and employment performance. In particular, Italy lags behind most in terms of recovery. It also presents the weakest position in public finance. France has done relatively well in promoting economic recovery, as well as job hoarding and job creation. It has a more vulnerable situation in public finance and relatively high unemployment rates.

It is often asserted that EU economic governance exerts a significant pressure on national industrial relations systems and especially collective bargaining institutions (see Bongelli in this volume). Taking a mainstream economic approach, the link between wages and productivity has been emphasised in EU recommendations as a means to foster price competitiveness. Institutions promoting the establishment of wage floors, such as legal minimum wages, indexation mechanisms and extension procedures have been regarded by mainstream economists with suspicion, as sources of 'rigidity' and potentially detrimental to employment. The five countries under examination have been involved in the review cycle of domestic policies embodied in the so-called 'European Semester' and have received a number of Country-specific Recommendations (CSRs) on wage-setting and labour market institutions. It should be noted, however, that the areas covered by such recommendations are broad, whereas we focus on only a subset. In addressing recommendations, national governments can, to be sure, select strategically and progress in one area may reduce the pressure on others. In the system as a whole, 'the Commission is responsible for the analysis and the monitoring it performs, the Council is accountable for the recommendations issued ... the national governments still are to be considered responsible for the policies implemented in their own country' (Bongelli in this volume, p. 264). Although governments retain final responsibility for their policies, the EU governance framework involves national governments in a monitoring and peer review system, which makes policymakers more accountable for their initiatives.

Suggestions to introduce 'structural reforms' to make the labour market more 'flexible', better align wages and productivity and make wage-setting more adaptable to local conditions have been included in the recommendations addressed to a number of countries, including all those under review here. Germany is a partial exception, because it imposed comprehensive labour market deregulation well before the crisis and its currently good economic and employment performance has reduced monitoring pressure, although, among other things, indications for reducing the tax wedge and, most notably, to instigate wage growth to support domestic demand have been put forward. It should also be noted that many of these recommendations have been reiterated a number of times, which may be regarded as an indication of their low effectiveness, as well as of the room to manoeuvre that national governments retain (Marginson and Welz 2014). This was the case, for instance, with regard to wage indexation mechanisms for Belgium, whose revision was repeatedly suggested in the EU reviews. However, reiteration and vulnerability in terms of budgetary imbalances may lead to adoption, especially if this can help obtain more flexibility in the assessment of public budget developments. The reforms introduced by Italy, France, Spain and Belgium affecting collective bargaining have in fact been acknowledged by EU institutions in their periodic review of national policies, although sometimes with concerns about their effectiveness and implementation (as in the case of Spain).

It is probably not by chance that the major formal interventions in industrial relations and collective bargaining can be found in the countries with the more critical economic and budgetary conditions, and we should not forget that Spain also received European financial support to recapitalise its financial sector between July 2012 and January 2014. However, the changes in institutional frameworks should be seen in terms of the interaction between the national and supra-national levels, with governments as key actors, especially because of the need to handle the impact of the economic and financial crisis on domestic economies and labour markets. Spain and France introduced important provisions affecting industrial relations. Italy, which remains in a fragile economic and budgetary situation, did not fully follow in the same direction. Important and incisive reforms have been imposed on the pension system in late 2011 and the labour market since 2012, accommodating EU policy recommendations. However, industrial relations were not subjected to far-reaching reforms, with the fundamental – if one-off – exception of Article 8 of Decree Law 138/2011, when the Berlusconi government received a letter from the ECB suggesting decentralisation of the bargaining system. This relative preservation of social partner autonomy in regulating key elements of the collective bargaining system can probably be linked to the voluntarist tradition of Italian industrial relations and notably to the efforts of the Italian social partners, who have been intensively negotiating on the issues of representation and collective bargaining structure since 2011. They achieved important results, as the single text on representation of January 2014 shows, but the difficulties faced in implementing their agreements may lead to some form of legislative intervention, which could now receive broad support, especially if it enacted the results of bilateral negotiations.

Belgium also received substantial recommendations within the EU governance system, but it did not change the structure of collective bargaining or, for instance, abandon the wage indexation system adopted in collective agreements. Like Italy, the main reforms arising from interaction with the EU institutions on social policy concerned pensions and the fiscal system, including the tax wedge. True, the government took central wage-setting under stricter control, imposed a wage freeze in 2013–2014 and temporarily abolished the wage indexation mechanism in 2015–2016. However, in this it followed a policy orientation established in the late 1980s, with the first law on competitiveness, which may be linked to the openness of Belgium's domestic economy.

Germany, despite its positive short-term performance in growth and employment, as well as the lack of significant pressure on industrial relations from the EU economic governance framework, has undergone a significant transformation with regard to collective bargaining. Indeed, changes in the German bargaining system are no less substantial than in the other countries. In fact, the cuts in the coverage of sectoral agreements and the increasing role of company-level bargaining in derogating sectoral standards may be interpreted as announcing more radical transformations in the future. Policy responses have, indeed, gone in the direction of providing more coordination, especially at horizontal level, through the introduction of the legal minimum wage in January 2015 and the provision of more possibilities to extend collective agreements. In sum, our case studies clearly show that, besides national governments within the EU policy framework, the role of the social partners is of the utmost importance. Not only are national policies set domestically, in which the social partners play an important

role, but the effectiveness of legislative interventions is mediated by the strategies and initiatives implemented by the social partners, both jointly and individually. Germany is probably the example closest to the general picture of long-term changes in collective bargaining driven by developments in bilateral industrial relations, within a changing economic and institutional framework. The differences that we can discern in the structure of collective bargaining in the chemicals, metalworking and service sectors, with the significant exception of retail, are indicative of the importance of specific features of the various sectors. Sectors play an important role everywhere (Bechter *et al.* 2011), but in this case the weakening of horizontal coordination and the lack of an encompassing formal regulatory framework has probably emphasised the role of sectoral social partners. The other countries provide different examples of the role of social partners: the 'enrichment' of decentralised bargaining linked to stricter legal wage norms in Belgium; the importance that Spanish employers, especially SMEs, still attach to sectoral agreements at provincial level; the results obtained by Spanish unions in supporting the role of multi-employer bargaining within the new legislative framework; the limited impact so far of the rules enabling derogations in France; and the similarly low diffusion of derogations and social partner commitment to autonomously defining the rules of collective bargaining in Italy. These examples all indicate the substantial autonomy of industrial relations systems, even when external government interventionism endangers their independence.

4. Concluding remarks: the way forward through troubled waters

In this final section, we can go back to our initial questions: was the recent crisis a turning point for EU industrial relations? What remains after the 'frontal assault' on multi-employer bargaining? What kind of industrial relations are now being advanced by the new EU policy climate, which aims to revitalise social dialogue?

The analysis of our five country cases, summarised in Table 5, suggests some tentative answers. Multi-employer bargaining has been under pressure in recent years through the impact of the financial and economic crisis and government interventions in areas traditionally within the remit of social partner autonomy. Such pressure on collective bargaining systems has impacted both their structure – notably the degree of coordination between different bargaining levels and across bargaining units – and their outcomes, leading especially to wage restraint and internal devaluation, as well as to more concession bargaining, namely at company level.

The space for decentralised bargaining increased almost everywhere, including in Belgium, where the bargaining system remains strongly organised. In France, Italy and Spain, legal reforms have subverted the traditional bargaining hierarchy established by previous legislation or collective agreements, thereby favouring decentralised agreements over sectoral ones. In some countries, such weakening of vertical coordination may, in the future, involve a substantial erosion of multi-employer bargaining and, in certain cases, could lead to disorganised bargaining and even the dismantling of collective bargaining institutions.

Table 5 Breaking through the crisis: current trends in collective bargaining

	Bargaining structure		Coverage		Bargained derogations	
	Coordination	Autonomy	Sectoral	Decentralised	Scope	Use
Belgium	Organised bargaining	Decreasing in horizontal coordination	High (stable)	No data (Increasing)	None, very limited	Not applicable
France	Decentralised bargaining	Decreasing in vertical coordination	High (stable)	Increasing	Broad, with limitations	Low
Germany	Organised bargaining	Decreasing in horizontal coordination	Declining (partial de-collectivisation)	Medium (stable)	Broad, with procedural rules	Medium (increasing)
Italy	Organised bargaining/ decentralised and segmented bargaining?	Threatened in vertical coordination	High (stable)	Medium (stable)	Broad	Low
Spain	Decentralised bargaining/ disorganised bargaining?	Decreasing in vertical coordination	High (stable)	Low (stable)	Broad	Low

Source: DECOBA.

Some national collective bargaining systems have been affected by an increasing variety of bargaining units with different levels of protection (segmentation) and a tendency towards a decline of collective bargaining coverage (de-collectivisation). Germany is a case in point, while Italy and – partly – Belgium show emerging signs of segmentation. It should be underlined that segmentation often results in lower protection and therefore represents a possible alternative to decentralised derogations, especially where the prevalence of sectoral agreements is uncontested, as in Belgium.

The increasing government intervention in industrial relations and collective bargaining issues is reducing bargaining autonomy in the countries under review. In some cases, government intervention aims to directly affect the bargaining structure or outcomes, as in France, Italy and Spain, by supporting the prevalence of decentralised agreements, or in Belgium with stricter wage norms and the imposition of temporary wage freezes. In Germany, by contrast, the introduction of the legal minimum wage in 2015 and the reinforcement of extension mechanisms have gone some way towards counteracting the weakening of the general regulatory capacity of industrial relations.

In sum, the crisis was accompanied by a number of policy-driven changes, especially in the countries most affected by the economic downturn and more exposed in terms of public finance vulnerability, and reinforced the tendency towards segmentation. However, our analysis indicates that no systemic changes in collective bargaining structure have yet taken place.

Indeed, a number of elements signal the resilience of national employment relations, which essentially derives from the autonomous institutions of industrial relations and the actions of the social partners. National social partners on both sides seem to consider joint regulation, including at central and sectoral levels, as an asset which must be preserved.

The scant utilisation of the derogations newly allowed by legislation in France, Italy and Spain suggests that, so far, the local bargaining parties do not consider them a useful tool, despite the support that employers often gave these reforms in national political debates. Possibly this limited implementation may be linked to the disruptive potential that derogations could play, especially on existing workplace industrial relations, which were established in a regulatory framework that was more conducive to mutually beneficial deals. Leaving aside exceptional circumstances, in fact, there is no guarantee that recourse to disadvantageous (to workers) derogations would help company performance, especially in the medium-to-long term, while they can certainly corrode commitment, trust and cooperation in the workplace.

However, it is important to underline that the reforms introduced during the crisis have increased the number of options available to employers, thereby reinforcing their bargaining position vis-à-vis the unions, and have sometimes directly strengthened the employers' unilateral prerogatives to modify employment terms and conditions. These new 'exit strategies' from collective bargaining contribute to weakening the regulatory capacity of industrial relations and may erode the importance of collective bargaining in the future.

Our case studies expose the policy failures that characterise the ways in which the crisis was addressed in the European Union. Austerity measures were particularly severe where the economic downturn and budgetary fragility were most pronounced. Despite the policymakers' expectations, austerity did not lead to fast and strong recovery. Spain and Italy still lagged behind in 2016 in terms of economic and employment performance. Decentralisation 'by decree' was similarly ineffective. There are no signs of lasting growth with regard to decentralised agreements in France, Italy and Spain, nor of significant use of the opportunities for derogations.

Similarly, autonomous action by the social partners is subject to a number of limitations. In Italy, almost 25 years of efforts to support decentralised bargaining as a means of promoting productivity and growth, as well as higher wages and better working conditions, have achieved meagre results. In Germany, the fully autonomous system of opening clauses could not stop either the decline in collective bargaining coverage at sectoral level or the emergence of important segments of the economy with very little union presence and collective bargaining, if any.

The new policy climate at EU level, therefore, finds the national systems of industrial relations somewhat under strain, or in troubled waters. The double weakness of policy initiatives and autonomous action in industrial relations, when taken alone, confirms the importance of a combination of supportive legal institutions and autonomous industrial relations (Bordogna and Cella 1999). If they proceed along diverging paths,

the potential of industrial relations for growth and social cohesion, which is recognised and supported by the EU institutions, can be wasted.

In this perspective, horizontal coordination of collective bargaining is becoming a key issue, if we want to fight inequality and promote decent terms of employment and working conditions across our economies and in the EU. This may entail more policy and legal interventions than in the past to enforce minimum standards and promote the integrative role of collective bargaining.

Decentralisation is a long-term trend in collective bargaining, which pre-dates the crisis and whose prospects depend on its capacity to meet the expectations of both bargaining parties. The policy option of opening up room for derogations does not seem to go in this direction. Instead, decentralisation requires substantial institutional support, of which horizontal and vertical coordination are essential components, in order to avoid the risks of a low-protection/low-productivity trap, with growing disorganisation, segmentation and de-collectivisation. In particular, it is important to frame decentralised bargaining in a regulatory system that fosters workers' protections and productivity, by supporting wages as a key element of growth rather than a cost. Multi-tier bargaining systems may in this way combine the inclusiveness of multi-employer agreements with the responsiveness and adaptability of decentralised deals.

Industrial relations institutions at all levels are valuable assets that promote trust and cooperation in the workplace. Social partners appear to be clearly aware of this and show great caution in handling new legal rules that might endanger established institutions. Policies that fully recognise and support the autonomy of the social partners and their joint regulatory systems are a necessary element of any initiatives which aim to be effective and fully exploit the potential inherent in industrial relations for growth and social cohesion. Balancing a more incisive role for the state with support for social partner autonomy is the challenge that lies ahead.

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