

Multi-employer bargaining under pressure Decentralisation trends in five European countries

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Edited by

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Chapter 9

Conclusions and outlook

More challenges and some opportunities for industrial relations in the European Union

Roberto Pedersini

1. Decentralisation and industrial relations

This book clearly shows that industrial relations in the European Union are experiencing important changes. The economic and financial crisis, which hit the countries covered by our analysis with quite different consequences in terms of growth and employment, had a significant impact on collective bargaining. Particularly important in this respect was the role of governments, which increasingly and more incisively intervened to constrain the social partners' autonomy. According to the classification proposed by Bordogna and Cella (1999), this corresponds to the growing importance of 'corrective' initiatives, whereby governments steer industrial relations towards arrangements that they believe are more consistent with their policy objectives. Wage moderation and freezes imposed at cross-industry level in Belgium and the emphasis on decentralised bargaining in Spain, France and Italy are clear examples of this new attitude. The implications of the latter governments' initiatives are that industrial relations and collective bargaining should renounce at least some of their concern with solidarity among all workers, as well as comprehensive standards of protection, and rather embrace more flexible regulatory arrangements, which allow for variation across firms, according to their specific organisational features, market position, competitiveness issues, and economic and financial situation.

However, if the contribution of multi-employer collective agreements to defining the terms of employment is scaled down significantly, the general legitimisation of industrial relations may be eroded, since it also – perhaps mainly – derives from the capacity to extend inclusive protection and realise tangible improvements in economic and working conditions on a broad front. Indeed, following Hyman and Gumbrell-McCormick (2013), this inclusiveness is the really distinctive feature of trade union action and the original hallmark of industrial relations. Trade unions – and usually employers' associations, too – need more solidarity rather than less to develop their role and relevance in the regulation of the employment relationship. Otherwise, decentralisation and segmentation of protection may be accompanied by decreasing bargaining coverage and possibly the emergence of particularistic representation, which would contradict the essence of much of the European trade union tradition.

The German experience of opening clauses provides an example of the capacity of the social partners to accommodate increasing demands for broader leeway at decentralised level to adapt to local conditions, while keeping the overall system under close scrutiny and supervision. The flip side of this is that such a system could not halt

the ongoing decline in union density and collective bargaining coverage, even in the traditional strongholds of industrial relations. More generally, our country case studies provide clear evidence that trade unions and employers alike are seeking new ways to express their autonomy in regulating employment, despite the restrictions imposed by governments. And they often do it together, thereby confirming the viability and mutual benefits of joint regulation and in particular of collective bargaining.

2. The role of employers in institutional change

The ‘varieties of capitalism’ approach (Hall and Soskice 2001) assumes that industrial relations institutions constitute an asset in coordinated market economies, so that employers will try to protect and even strengthen them. In this view, the main benefits that industrial relations bring to employers are wage moderation and coordination at national level, which help to avoid inflationary pressures, as well as labour–management cooperation and mutual trust at the workplace level. This fosters adaptation and internal flexibility, commitment, incremental organisational improvements and quality enhancement. Moreover, strong collective representation of employers can promote inter-firm cooperation and the production of collective goods, such as higher investments in worker skills, and facilitate partnerships and collaboration in developing and implementing innovation.

This analysis has been challenged on many grounds, including for the dichotomous nature of the typology of capitalism – which excessively constrains the variety of institutional arrangements – and the emphasis on complementarity, which privileges ‘pure’ systems and somehow disregards ‘mixed’ configurations (Amable 2003; Hancké, Rhodes and Thatcher 2007; Burroni 2016). Importantly, mainstream analysis of the varieties of capitalism has been criticised for providing a unitary picture of national production systems, whereas a broad variety of competitive strategies can be found in any country (Berger 2006). Moreover, the focus on the national level fails to detect internal differences and the emergence of significant forms of dualisation or segmentation of protection levels, including in the field of industrial relations (Palier and Thelen 2010; Thelen 2014). Additionally, the emphasis on institutions and their stability downplays agency and the possibility that economic actors may transform the role of certain institutional tools to better serve their interests, for example, by exploiting the changing balance of bargaining power (Baccaro and Howell 2017). In this way, institutions that were created to represent and protect workers may be turned to the benefit of company interests and to re-establish managerial prerogatives.

Despite the various weaknesses highlighted in the abovementioned literature, a substantial merit of the ‘varieties of capitalism’ approach is to draw the attention of scholars and practitioners to firms and employers, as well as to the benefits that joint regulation can bring them. These include not only the institutionalisation of conflict and the containment of competition based on labour costs within the framework of multi-employer bargaining (Sisson 1987) – both fairly important objectives – but also the provision of specific resources that can support their competitive strategies. Indeed,

industrial relations institutions can represent an asset and contribute to shaping competitiveness. The stability and development of industrial relations practices are, in fact, dependent on the commitment of employers, especially when the strength of trade unions and the support of the public regulators are declining, as at the present juncture.

In these circumstances, it is true that industrial relations institutions may become more prone to 'capture' by employers' interests, as claimed by the 'neoliberal trajectory' hypothesis (Baccaro and Howell 2011, 2017). The procedural justice embodied in collective bargaining processes could provide employers with superior arrangements than unilateralism, because it would also legitimise their interests and therefore strengthen their strategies. However, it must be underlined that institutional continuity also preserves the potential for protecting workers, should the balance of power and interests change again. 'Institutional conversion' may in fact be better than 'institutional demise' and could even be regarded as a possible outcome of the bargaining game. This may not be so different from concession bargaining, which can be reversed, as the conditions for the assertion of workers' interests are re-established. Shifting attention from the institutional framework to its performance certainly helps significantly to properly assess the role of industrial relations in specific situations. But performance can change and awareness of it can help the actors to adjust their strategies and redefine their objectives.

3. Industrial relations trajectories between 'loyalty' and 'exit'

A remarkable piece of evidence provided by our study is the lack of outright examples of employers' defection. Despite the increased possibilities (and even instances) of exit, this strategy has not become a predominant choice. Along the vertical axis of coordination, decentralisation has been promoted in many ways in recent years, but there is no clear evidence of a significant shift in the bargaining structure towards the workplace, especially in terms of an increasing incidence of derogatory deals. In France, until the latest Macron *ordonnances*, the social partners have been fairly keen to maintain the overall coordinating role of sectoral agreements and very few derogations were introduced, even when specific legislation allowed it. Similarly, in Spain, the coverage of decentralised bargaining has remained stable and there are important examples of the social partners reasserting and even strengthening bargaining coordination at industry-wide level, as in the case of the metalworking sector. In Italy, the legislation enacted in the summer of 2011, which introduced the possibility of 'disorganised decentralisation', has been used rarely and with great caution. In particular, the major national social partners soon thereafter completed a formal framework for firmly coordinating second-level agreements. In Belgium, the possible enhancement of the role of decentralised bargaining seems a response to the constraints introduced by the government, with a view to regaining the room for manoeuvre that legislative reforms reduced. Therefore, it is more a result of the dynamism of industrial relations than a sign of their weakening. In Germany, in the core manufacturing sectors, opening clauses now seem to be an established norm, embedded in a strong and well-functioning coordinating framework, in which sectoral social partners have a key role.

Interestingly, our cases show that the attachment to sectoral bargaining is particularly widespread among SMEs, probably because of the benefits of standardisation, such as transaction cost savings, combined with reduced distributional conflict at the workplace level. In addition, SMEs often need less formal work flexibility and 'customised rules' than larger enterprises, thanks to more direct and intensive personal relations. Therefore, strengthening decentralised bargaining may be less important for SMEs. Indeed, this may help to explain why, in countries where the role of SMEs is particularly important – such as Italy and Spain – efforts to expand the coverage of second-level bargaining often achieve little.

It is true that we are not able to observe the full picture. We do not know whether, outside the perimeter covered by the major social partners, collective relations are losing ground. We have no indications, for instance, about the use of reinforced managerial prerogatives by Spanish employers, or of the impact of the increased scope for derogatory deals in France, Italy and Spain on the bargaining power at workplace level, and therefore on the content of actual deals. Concession bargaining may be increasing or is the 'gatekeeper' role assigned to trade unions instead fostering the conclusion of mutual-benefit agreements? The erosion of collective bargaining coverage that we observe in Germany may suggest that, in fact, the main challenges do not come from decentralisation, but rather from de-collectivisation. The shift to second-level bargaining, including with broader room for derogations, may not threaten the role of multi-employer agreements, but it may not be enough to stop the erosion of the relevance of collective bargaining overall.

There are indeed some signs that the real threats to the current European collective bargaining systems may come from the weakening of horizontal coordination rather than from 'disorganised' vertical decentralisation. Taking inspiration from Hirschman's work (Hirschman 1970), if 'loyalty' seems the prevalent response on the part of the core employers of established sectoral industrial relations, 'exit' may emerge as an appealing option for more peripheral industry actors. Moreover, in the case of low unionised sectors, the real challenge is how to extend collective employment relations and collective bargaining to new areas.

4. The challenge of dualisation: is collective autonomy self-sufficient?

Dualisation and segmentation are found in many economic and employment systems and they represent a current trend that could be reinforced in the near future (Emmenegger et al. 2012). Although this was not the focus of our analysis, we encountered some significant instances of this emergent feature. Even the highly regulated and coordinated Belgian system shows some elements of regime shopping between different joint committees, where the shift between them can represent an answer to growing competitive pressures. Similarly, in Italy the increase in the number of sectoral agreements registered at the National Council of the Economy and Labour (CNEL) is perceived by the social partners as a source of potential 'contractual dumping', which can endanger worker protections, as well as fair competition. Indeed,

the number of registered industry-wide agreements more than doubled between 2008 and 2017 from around 400 to 868 in September 2017. Germany is often regarded as an example of dualisation, including in the field of industrial relations, as shown by the data on sectoral collective bargaining coverage. The point here is whether and how it is possible to address segmentation and extend the reach of industrial relations and collective bargaining and strengthen horizontal coordination.

The traditional solutions from within the industrial relations systems essentially rely on organisational resources, such as the monopoly of representation and the leadership of certain sectors in pattern bargaining. But these are scarcely available nowadays, in open and diversified economies. Indeed, the autonomous regulatory capacity of social partners may not be sufficient to avoid defections and the fragmentation of the bargaining system. The social partners seem to be aware of such limitations and are open to accepting – or even asking for – legislative interventions on matters with regard to which they were previously keen to maintain autonomy.

This is the case, for instance, of Italy, where employers have started to recognise the importance of introducing formal representativeness criteria for employers' associations, as a means to stop the proliferation of sectoral agreements and avoid 'contractual dumping' by alternative sectoral deals signed by organisations expressly established to undercut collectively agreed economic and working conditions (so-called 'pirate agreements'). Given the problem of enforcement in this field, the social partners are increasingly open to letting the area of representation be regulated by legislation, something they have traditionally opposed. Such developments may even lead to the implementation of the *erga omnes* clause included in the Italian Constitution, which has remained unimplemented for 70 years, because the social partners did not support it. A similar shift in the social partners' orientation away from the rejection of legislative intervention can be found in the introduction of a statutory minimum wage in Germany. Clearly, the social partners may be in favour of legal regulation in the field of representation and collective bargaining if these are supportive of their role and autonomy. The Italian social partners may thus welcome legislation embodying the representativeness rules they jointly agreed and German employer associations and trade unions are happy with a system that recognises their role in defining the statutory minimum wage and takes into consideration developments in collectively agreed pay.

In other words, addressing the challenge of dualisation and dwindling horizontal coordination would require a significant change in the nature of recent government initiatives in industrial relations: more supportive measures in place of corrective actions (more a case of 'admission' instead of correction, if we follow the analytical framework proposed by Bordogna and Cella 1999).

5. Policymaking and social dialogue in a multi-level system: finally establishing a link?

Our analysis suggests that, in the countries under investigation, employers and trade unions are willing and able to enforce the vertical coordination of collective bargaining,

even when legislative reforms weaken formal constraints, for instance and notably by abolishing or reverting the favourability principle. While it is not a general conclusion, it is reasonable to assume that this situation holds in countries in which industrial relations are similarly well established and the role of sectoral agreements is traditionally strong. This would apply to most continental western European countries.

Indeed, recent research on Ireland shows that sectoral coordination is viable also in the case of decentralised bargaining, if supportive institutions and industrial relations traditions are present, with the active backing of employers (Roche and Gormley 2017). Employers, in fact, are not keen to dismantle the collective bargaining machinery, which allows them to obtain flexibility and wage concessions and to maintain a collaborative relationship with trade unions. Although this seems to be an instance of institutional conversion and plasticity, collective bargaining institutions have remained in place and could be exploited in the workers' interests 'when unions regained enough confidence and power to push for pay rises' (Roche and Gormley 2017: 19).

Conversely, horizontal coordination seems more problematic because of the possible segmentation of the representational landscape, especially on the employers' side and even within industries, and because of the broadening gap in protection levels across the different segments of domestic economies. In this case, organisational resources and voluntarism may fall short. A statutory framework is probably needed and the main supportive tools in this field would probably be extension mechanisms and income policies. However, they belong mainly to the past and have been weakened by recent reforms, except in the form of wage freezes and restraint. Governments have rather gone in the other direction, promoting broader differences within sectors and across industries. In fact, the decentralisation of collective bargaining and the reduced scope for extensions, which emerged during the crisis, are two means of achieving these goals (Marginson and Welz 2014; Marginson 2015).

The prospects of a renewed political initiative in support of inclusive industrial relations institutions are not very strong at present. But, as in the case of 'plastic institutions', a new cycle may emerge. Growing inequalities, compressed wages and fragile recovery suggest that some, at least moderate but generalised, income increases can meet the demands of a significant share of the workforce in low-paid jobs, as well as support economic growth, through the expansionary impact on domestic demand. Industrial relations and collective bargaining could provide an appropriate framework for implementing such wage policies (OECD 2012), as they incorporate a structural link with competitiveness requirements by operating through labour–management agreements. Moreover, they can ensure broader protection of workers' rights, which goes beyond their simple economic interests. However, pursuing collective goals requires social partners who are committed to representing broad interests and implementing inclusive deals. In this sense, preserving their constituencies and extending their reach to new areas of employment and the economy appear key components of any 'new start for social dialogue' at national level.

What is the role of the European Union in all this? Our study shows that the EU can and does play a fairly important role. The national level probably remains decisive for

actual developments and the key strategic interactions still take place in the domestic context. However, the constraints imposed by the Stability and Growth Pact, as well as the economic policies promoted by the European Union have a substantial impact on the content and framing of national-level developments. Of course, this is a two-sided relationship, between the supranational and national levels, and it is affected by EU and national developments alike.

In its early years after 2010, the European Semester had a role in the diffusion of initiatives aimed at increasing decentralisation and reducing the coordination capacity of national industrial relations systems, as illustrated by our country cases. This was part of the blueprint for structural reforms and was meant to strengthen the scope of market mechanisms, on the assumption that it would help speed up and reinforce recovery. This strategy achieved limited results and new tensions emerged. They included, on one hand, problems in ensuring effective coordination between the EU and national levels of policymaking and, on the other hand, defining the balance between economic and social goals and policies at EU level.

Importantly for our argument, in recent years EU initiatives have been reinforcing the emphasis on social partner involvement in policymaking at all levels. The new start for social dialogue launched in March 2015, the proclamation of the European Pillar of Social Rights in 2017 and the rebalancing of economic and social objectives in the European Semester all go in the direction of broadening the scope of social dialogue and industrial relations. They recognise the role of the social partners and provide topics on which bipartite and tripartite relations can develop at EU and – possibly more significantly – at national level. Moreover, with a stronger emphasis compared with the past, the European Semester now requires the involvement of the social partners in policymaking at national level, which may constitute a small but important help in re-establishing social partnership in areas in which lately government unilateralism has usually prevailed.

References

- Amable B. (2003) *The Diversity of Modern Capitalism*, Oxford, Oxford University Press.
- Baccaro L. and Howell C. (2011) A Common Neoliberal Trajectory. *The Transformation of Industrial Relations in Advanced Capitalism, Politics & Society*, 39 (4), 521–63.
- Baccaro L. and Howell C. (2017) *Trajectories of Neoliberal Transformation. European Industrial Relations since the 1970s*, Cambridge, Cambridge University Press.
- Berger S. and the MIT Industrial Performance Center (2006) *How We Compete: What Companies Around the World Are Doing to Make It in the Global Economy*, New York, Doubleday.
- Bordogna L. and Cella G.P. (1999) Admission, exclusion, correction: The changing role of the state in industrial relations, *Transfer: European Review of Labour and Research*, 5 (1–2), 14–33.
- Burroni L. (2016) *Capitalismi a confront. Istituzioni e regolazione dell'economia nei paesi europei*, Bologna, Il Mulino.
- Emmenegger P., Häusermann S., Palier B. and Seeleib-Kaiser M. (eds) (2012) *The Age of Dualization. The Changing Face of Inequality in Deindustrializing Societies*, Oxford, Oxford University Press.

- Gumbrell-McCormick R. and Hyman R. (2013) *Trade Unions in Western Europe. Hard Times, Hard Choices*, Oxford, Oxford University Press.
- Hall P.A. and Soskice D. (eds) (2001) *Varieties of Capitalism. The Institutional Foundations of Comparative Advantage*, Oxford, Oxford University Press.
- Hancké B., Rhodes M. and Thatcher M. (eds) (2007) *Beyond Varieties of Capitalism. Conflict, Contradictions, and Complementarities in the European Economy*, Oxford, Oxford University Press.
- Hirschman A.O. (1970) *Exit, Voice, and Loyalty. Responses to Decline in Firms, Organizations, and States*, Cambridge, MA, Harvard University Press.
- Marginson P. (2015) Coordinated bargaining in Europe: From incremental corrosion to frontal assault?, *European Journal of Industrial Relations*, 21 (2), 97–114.
- Marginson P. and Welz C. (2014) *Changes to Wage-Setting Mechanisms in the Context of the Crisis and the EU's New Economic Governance Regime*, Dublin, European Foundation for the Improvement of Living and Working Conditions.
- OECD (2012) *What Makes Labour Markets Resilient During Recessions?*, in *OECD Employment Outlook 2012*, Paris, OECD Publishing, 53–107.
- Palier B. and Thelen K. (2010) Institutionalizing Dualism: Complementarities and Change in France and Germany, *Politics and Society*, 38 (1), 119–48.
- Roche W.K. and Gormley T. (2017) *The durability of coordinated bargaining: Crisis, recovery and pay fixing in Ireland*, *Economic and Industrial Democracy* (first published on 24 August 2017).
- Sisson K. (1987) *The Management of Collective Bargaining: An International Perspective*, Oxford, Basil Blackwell.
- Thelen K. (2014) *Varieties of Liberalization and the New Politics of Social Solidarity*, Cambridge, Cambridge University Press.