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# Collective bargaining in a time of crisis: developments in the private sector in Europe

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## Summary

This article discusses crisis-related developments in collective bargaining in the private sector across the EU since the onset of the crisis during 2008. It analyses developments in the incidence, procedures and content of collective bargaining during the crisis and is cross-nationally and cross-sectorally comparative. It also examines how economic developments, industrial relations institutions and public policy might explain these developments. The article shows that collective bargaining responses to the crisis have been much more frequent in multi-employer bargaining systems than in single-employer bargaining systems, both at sectoral and company level. Major differences also exist between manufacturing and services, with bargaining being more prevalent in the former. In procedural terms, with some exceptions, the crisis has accelerated the longer-term trend towards organized decentralization. Substantively, restoring competitiveness and maintaining employment are central to the agenda of crisis-response agreements. The trade-offs are more integrative under multi-employer bargaining systems and where public policy offers support in negotiating short-time working schemes, and more distributive under single-employer bargaining.

## Résumé

Cet article examine, s'agissant de la négociation collective du secteur privé, les développements liés à la crise, et cela dans l'ensemble de l'Union européenne, depuis le début de la crise au cours de l'année 2008. Il analyse les développements en termes d'incidence, de procédure et du contenu de la négociation collective, dans une perspective comparative transnationale et intersectorielle. Il examine aussi comment les évolutions économiques, les institutions des relations professionnelles et les politiques publiques peuvent expliquer de tels développements.

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L'article montre que les réponses de la négociation collective à la crise ont été bien plus fréquentes dans les systèmes de négociation à employeurs multiples que dans les systèmes négociation à employeur unique, tant au niveau sectoriel qu'au niveau de l'entreprise. Des différences majeures existent également entre l'industrie et les services, où la négociation collective est moins présente. En termes procéduraux, et malgré quelques exceptions, la crise a accéléré la tendance à plus long terme vers une décentralisation organisée. Sur le plan du contenu, la restauration de la compétitivité et le maintien de l'emploi sont les principaux éléments des accords de réponse à la crise. Les arbitrages présentent un aspect plus intégratif dans les systèmes de négociation à employeurs multiples et lorsque les politiques publiques offrent un soutien dans la négociation de formules de chômage partiel; ils sont plus distributifs dans le cas de négociation à employeur unique.

### **Zusammenfassung**

Dieser Artikel befasst sich mit krisenbedingten Entwicklungen der Kollektivverhandlungen in der Privatwirtschaft in der EU seit Ausbruch der Krise im Jahr 2008. Die Entwicklungen der Häufigkeit, der Verfahren und des Inhalts von Kollektivverhandlungen während der Krise werden analysiert und einem sowohl länder- als auch branchenübergreifenden Vergleich unterzogen. Es wird auch untersucht, inwieweit diese Entwicklungen sich durch die wirtschaftlichen Entwicklungen, die Institutionen der Arbeitsbeziehungen und die öffentliche Politik erklären lassen. Aus dem Artikel geht hervor, dass in Verhandlungssystemen mit mehreren Arbeitgebern wesentlich häufiger in Kollektivverhandlungen Antworten auf die Krise gefunden wurden, als in Verhandlungen mit nur einem Arbeitgeber, und zwar sowohl auf Branchen- als auch auf Unternehmensebene. Auch bestehen große Unterschiede zwischen dem produzierenden Gewerbe und dem Dienstleistungssektor, wobei in ersterem häufiger verhandelt wird. Im Hinblick auf die Verfahren hat die Krise, bis auf wenige Ausnahmen, den längerfristigen Trend der organisierten Dezentralisierung beschleunigt. Inhaltlich stehen die Wiederherstellung der Wettbewerbsfähigkeit und die Sicherung der Beschäftigung ganz oben auf der Tagesordnung der Vereinbarungen in Reaktion auf die Krise. In Verhandlungen mit mehreren Arbeitgebern und dort, wo es staatliche Unterstützung für Kurzarbeitsmodelle gibt, werden mehr integrative Kompromisse geschlossen, Verhandlungen mit einem einzelnen Arbeitgeber weisen mehr distributive Elemente auf.

### **Keywords**

Collective bargaining, economic crisis, social partner responses to the economic crisis, industrial relations systems, disorganized decentralization, organized decentralization

### **Introduction**

The magnitude of the deterioration in economic conditions since mid-2008, and the consequences for employment and employment conditions, are unprecedented in the post-war era in western Europe. Likewise, they are unknown in central and south-east Europe since the economic upheaval that accompanied the post-communist transition 20 years ago. In this article we consider the capacity of collective negotiators across the EU to frame and agree measures which respond to the challenges thrown up by the financial and economic crisis. Three main questions arise. First, what has been the incidence and character of negotiated responses at different – inter-sector, sector and company – levels? The prominence or otherwise of collectively agreed measures provides a

critical indication of the continued robustness of collective bargaining as a central mode of labour market governance in (most of) Europe's social models. The character of agreements refers to the substantive measures, in the form of collective goods, provided as protection against uncertainty, but also to the (re)distribution of uncertainty involved and to procedural innovations. Second, what factors influence the cross-country and cross-sector pattern in terms of the incidence and the nature of crisis-response agreements? Four types of factors will be posited as potentially relevant: economic conditions; public policy; industrial relations institutions; and employer and trade union strategies. Third, what might be the medium-term implications of the crisis, both substantively and procedurally, for collective bargaining? The impact of the crisis may have served to reinforce existing trajectories, towards greater prominence of employment as a focus of substantive trade-offs (Léonard, 2001) and, procedurally, towards greater decentralization of collective bargaining (Marginson and Sisson, 2004; Visser, 2005), or it may have prompted developments in new directions.

In addressing these questions, the article focuses on crisis-related developments in collective bargaining in the private sector across the EU since the onset of the crisis during 2008. The agreements, and unsuccessful negotiations, that it considers take one of two forms: specific agreements, or negotiations, aimed at tackling the effects of the economic downturn; and crisis-response measures adopted as part of 'regular' collective agreements, or negotiations on pay and/or other matters. The analysis is cross-nationally and cross-sectorally comparative. Whilst being alert to innovations in the substance of agreements and in procedural arrangements, the data available preclude a systematic comparison over time. Empirically, the article draws on two reviews and an analysis of secondary sources already undertaken by, respectively, two of the authors and the third working jointly with another colleague<sup>1</sup> (Glassner and Keune, 2010; Carley and Marginson, 2011; Marginson and Carley, 2011). A detailed empirical account of crisis-induced developments in private sector collective bargaining across the EU will not be presented here. Instead, readers are referred to these sources. Examples of particular agreements will be used to illustrate the article's arguments.

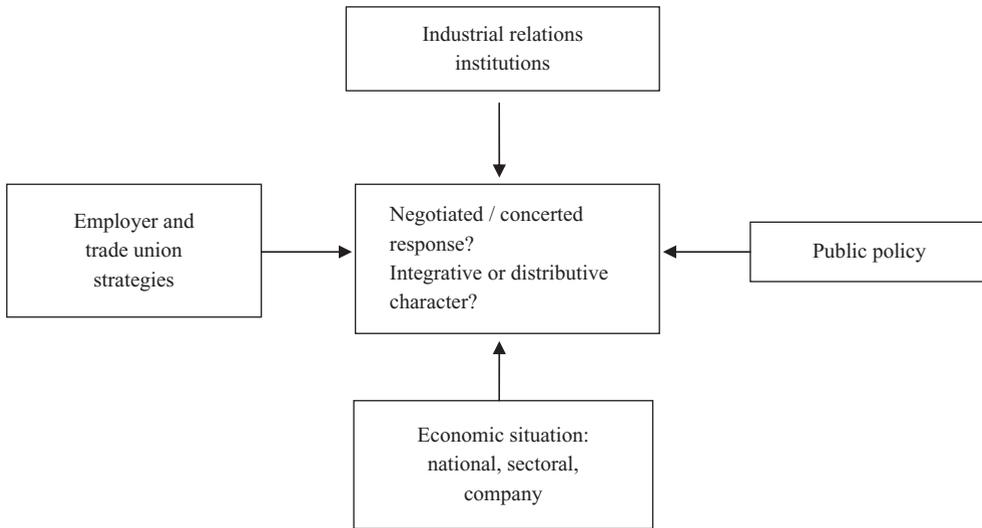
The structure of the article is as follows: section 2 sets out our analytical framework. Section 3 discusses crisis responses at sector and inter-sector levels whereas section 4 examines company-level responses. Section 5 offers an explanatory account for the differences found between countries and sectors and section 6 presents conclusions.

## **A framework and some propositions**

The character of collective agreements concluded in response to the crisis can be considered through three different – though interconnected – aspects. One is to examine the various ways in which they aim to provide protection against economic uncertainty. For workers, uncertainty over employment and/or income is uppermost, whereas for employers key factors are the timing and strength of an upturn in economic activity; retention of trained and experienced labour until such time; securing immediate reductions in costs; and maintaining cooperative relations with the workforce. Collective negotiations can allow both workers and employers to conclude measures which provide a degree of protection against these respective sources of uncertainty, often representing a trade-off. Intervention by the state can modify the terms of these trade-offs.

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1 The authors acknowledge the contribution of Mark Carley to the collection and analysis of collective agreements during the crisis (see also Carley and Marginson, 2011; Marginson and Carley, 2011).



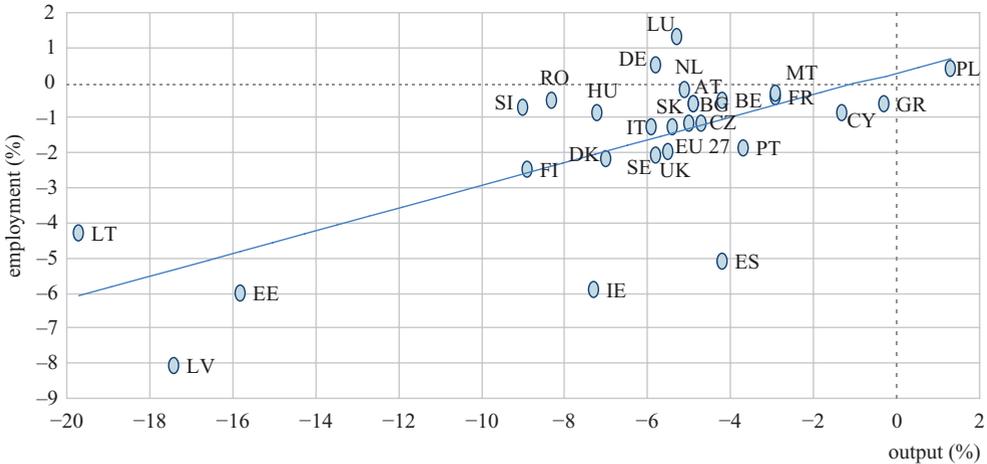
**Figure 1.** Influences shaping social partner responses to the crisis  
Source: Glassner and Keune (2010).

A second, and related, consideration is the balance between protection measures with a longer-term perspective, aiming at the maintenance of employment and high-skilled labour, and those aimed at immediate cost reductions, such as wage freezes or cuts, enhanced flexibility and job cuts. The balance can be usefully framed in terms of the distinction between integrative and distributive elements proposed by Walton and McKersie (1965). To the extent that measures aimed at immediate cost reductions dominate, the distributive element, in which one party's gain is offset by an equivalent loss to the other party, dominates. Put another way, a principal outcome is redistribution of the costs arising from crisis-induced uncertainty. The more there is (also) an emphasis on measures providing protection against uncertainty, the greater the scope for integrative elements to feature in outcomes, from which both parties can gain.

A third line of approach towards the character of crisis-response agreements concerns their procedural provisions. Changes in the substantive agenda of collective bargaining, and in the balance between distributive and integrative elements, are often predicated on – or call forth – procedural innovation (Marginson and Sisson, 2004). At the same time, attempts to grapple with major substantive uncertainties may be facilitated by the (degree of) procedural certainty which existing arrangements for collective bargaining offer. Following the insights of neo-institutional analysis, procedural innovation is likely to be incremental rather than radical in nature, and involves taking things further in directions which are already being travelled (e.g. Streeck and Thelen, 2005). Radical procedural change is only likely to occur in the face of conflicts which precipitate the breakdown of existing arrangements.

It is far from axiomatic that collectively negotiated measures will be prominent as a response to the crisis. Four main types of factors can be identified as influencing the cross-country and cross-sector pattern of incidence and character of crisis-response agreements (Figure 1).

In this article, we will focus on the influence of economic factors, industrial relations institutions and public policy to support collective bargaining. However, we are not advocating economic or institutional determinism. Employers' and trade unions' responses are conditioned but not determined by these three factors. Responses are also the product of their own respective strategies.



**Figure 2.** Change in GDP and employment, 2008Q2–2009Q2

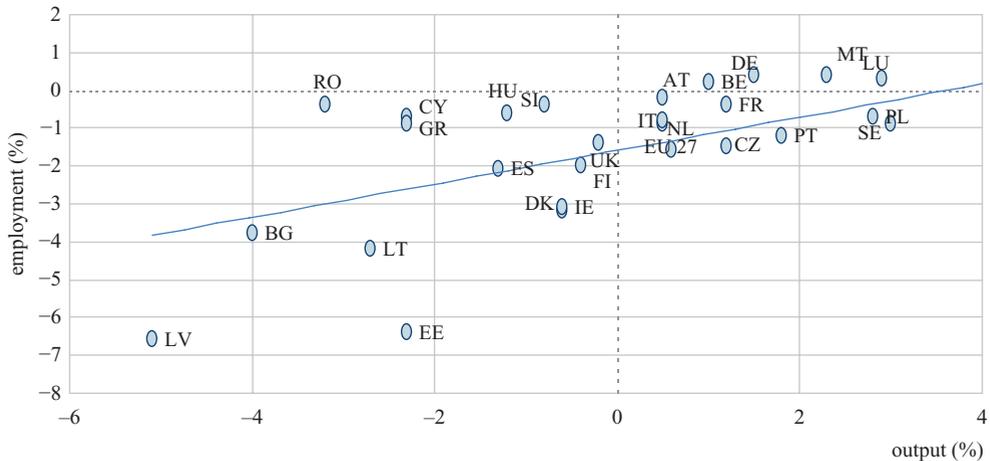
An assessment of these strategies cannot be presented here, however, since it requires in-depth data of a kind which are not available on a comprehensive basis across the countries of the EU.

### *Economic situation: GDP and employment*

The economic situation during the course of the crisis has varied considerably between countries and sectors (Marginson and Carley, 2011). The onset of the crisis occurred relatively early in Ireland and the Baltic States, and relatively late in Greece, Bulgaria, Poland, Romania and Slovakia. The steepest falls in GDP have been in the Baltic States, and considerably exceeded those in the next group of countries, Finland, Ireland, Romania and Slovenia. GDP has barely declined at all in Poland, whilst the decline in GDP has also been relatively modest in France. By the end of 2009, most countries had experienced an upturn in GDP, with six remaining in recession: Greece, Ireland, Sweden, Cyprus, Latvia and Romania. Sectorally, the output decline in manufacturing and construction has been much sharper than in private services. In manufacturing, the steepest decline has occurred in textiles and clothing, and in metalworking, including the automotive sub-sector, whereas food manufacturing and pharmaceuticals have been least affected. In services, the retail, transport and communication sectors have been hardest hit, whilst computing services has continued to register output growth.

The employment consequences of the crisis have not (yet) been as severe as might have been expected given the depth of the downturn in output and experience of previous recessions (Marginson and Carley, 2011). The decline in output has not, in the majority of countries, been mirrored by an equivalent fall in employment, or rise in unemployment in the first year of the crisis (Figure 2). Only in Spain and Ireland did employment decline follow the decline in GDP closely. This contrasts with the situation of countries such as Luxembourg, Germany and the Netherlands that fared much better in terms of maintaining employment compared to GDP.

Employment effects are well-known to lag those in output during a recession, and by mid-2010 the employment situation was continuing to deteriorate in most countries even though in the majority output had begun to rise (Figure 3). Nonetheless, job loss has – to a significant extent – been mitigated by a decline in average hours worked. The role of the statutory short-time working schemes implemented in many countries (see below and elsewhere in this issue), and



**Figure 3.** Change in GDP and employment, 2009Q1–2010Q1

of collectively negotiated adjustments to working time, which are reviewed in later sections, appears to have been significant.

This cross-national and cross-sectoral variation both conditions the need for and the magnitude of public policy measures, and also the pressures on employers and trade unions to respond through collective negotiations. Accordingly, the incidence of crisis-response agreements might be expected to be higher in countries and sectors which have been more severely affected by the crisis, than those where the impact has been comparatively less sharp. The relationship between economic situation and the (substantive) character of crisis-response agreements is, however, likely to be more complex, as the scope for measures which provide protection against uncertainty will be narrowed the more severe and protracted the downturn. Also, the changing economic situation may affect the power balance between workers and employers, which may then lead to changes in both the incidence and character of agreements.

### *Industrial relations institutions*

Where industrial relations institutions are concerned, three aspects are central to present concerns. First, whether structures for collective bargaining are multi- or single-employer in nature (see Annex). Under multi-employer bargaining, the alternative of unilateral employer regulation is greatly reduced as compared with single-employer arrangements, where unilateral employer regulation is an ever present substitute for the joint regulation that collective bargaining entails (Traxler, 2003). Moreover, with multi-employer bargaining arrangements, the possibility exists of higher levels – sector and inter-sector – establishing frameworks which can facilitate and govern further negotiation at company level. Second, a crucial second-order distinction is whether under multi-employer bargaining arrangements there are provisions which closely articulate negotiations at the higher and company levels. Higher-level agreements can only frame and constrain company negotiations in the presence of effective multi-level governance arrangements (Nergaard et al., 2009).

Third, collective bargaining coverage has a crucial bearing on the capacity of collective bargaining to assume a prominent role in developing crisis-response measures. Coverage is strongly associated with bargaining arrangements: collective bargaining coverage under multi-employer bargaining is markedly higher than under single-employer bargaining (Traxler et al.,

2001). Under single-employer bargaining, limited bargaining coverage means that unilateral, management responses will be widespread. In terms of the (substantive) character of agreements, because under multi-employer bargaining, sector and inter-sector agreements can provide a central steer to company-level negotiators, the range and variety of measures which provide some protection against employment uncertainty is likely to be greater than under single-employer bargaining. These higher-level agreements can provide company-level negotiators with a number of pre-conceived instruments and trade-offs which facilitate reaching agreements at the company level. Moreover, the institutional protection that multi-employer bargaining provides against possible management exit from joint regulation will result in a more favourable balance between uncertainty protection measures and those which essentially (re)distribute its costs than under single-employer bargaining.

Where the medium-term implications of the crisis for collective bargaining are concerned the question is whether it reinforces or undermines the predominant trajectories of the past 20 years. Substantively, since the 1980s the parameters framing wage bargaining have progressively shifted their orientation from productivity to competition (Schulten, 2002). Under the former, the emphasis was on an exchange between more productive working, and thereby growth, and real wage improvements, whilst under the latter the emphasis is on lower costs and more flexible working, thereby maintaining competitiveness, and real wage restraint.

Procedurally, the dominant trajectory has been towards greater decentralization, with increasing space being opened up for company-level negotiation in particular (Marginson and Sisson, 2004: Ch. 7). In many of the countries of western Europe, this has come about through an 'organized' process (Traxler, 1995) whereby the scope for negotiation at lower levels is specified by agreements at higher levels. In contrast, developments in the UK since the 1970s followed a 'dis-organized' process of evolution, in which multi-employer agreements in most parts of the private sector have been swept away in favour of company-based arrangements, i.e. either company collective agreements or unilateral employer regulation. Amongst the EU's post-2004 Member States multi-employer arrangements form the cornerstone of collective bargaining only in Slovenia. Here too, recent developments have been in the direction of organized decentralization.

### *Public support measures*

Public support measures can also help shape the extent and character of crisis-response agreements. In particular, existing or newly introduced short-time working or partial unemployment schemes (hereafter short-time work schemes) aimed at maintaining employment that have been mobilized in most EU countries are of importance. These schemes establish a context within which employers and trade unions can negotiate further measures responding to the effects of the crisis in particular sectors and companies and directly require negotiations to implement them. Accordingly, the incidence of negotiated responses can be expected to be enhanced by the presence of a short-time work scheme. As to their character, these responses are likely to be more integrative, as the short-time work schemes facilitate protection against uncertainty for workers as well as cost reduction and retention of employees and skills for employers.

## **Responses to the crisis through collective bargaining at sector and inter-sector levels**

In those countries where collective bargaining takes place at inter-sector level, the outcome of negotiations aimed at addressing the crisis has varied (Carley and Marginson, 2011; Glassner and

Keune, 2010). In Belgium and the Netherlands, two-year agreements responding to the crisis were concluded in December 2008 and March 2009, respectively. In Spain, employers and trade unions were unable to reach a cross-sector framework agreement laying down recommendations for lower-level bargaining for 2009 (such agreements had been negotiated annually since 2002), but in 2010 the practice was resumed with an unprecedented three-year agreement. The inter-sector agreement concluded in Ireland in September 2008, due to run for up to three years, was the subject of unsuccessful negotiations to revise it. The agreement formally collapsed at the end of 2009 when the employers withdrew from it. Yet, the employers and trade unions subsequently adopted joint guidelines for the company-level negotiations that would ensue in its place. In Finland, where up until 2007 inter-sector agreements were a principal feature, talks in late 2009 between employers and trade unions over a possible inter-sector framework for lower-level negotiations were, however, unsuccessful. Also, in Slovenia, the crisis accelerated longer-term processes that led to the termination of a tradition of national social pacts that had prevailed since 1993 (Stanojevic, 2010).

Although wage developments are central to these inter-sector agreements, the agenda also extends to non-wage elements. Outcomes typically involve some trade-off involving wage moderation and employment and/or competitiveness objectives. The Belgian agreement sought to achieve a balance between companies' competitiveness, workers' purchasing power and employment levels, and included measures for a modest increase in purchasing power without increasing employers' wage costs, increases in benefits for those on short-time work, some improvement in social benefits and incentives for employers to recruit among the long-term unemployed. The Dutch agreement also entailed wage moderation, alongside measures to promote employment and training, and provided assistance for redundant workers. The central aims of the Spanish agreement are an improvement in purchasing power consistent with the protection and creation of employment. The agreement recommends moderate increases in wages, the inclusion in collective agreements of measures to mitigate job loss, promotion of open-ended rather than temporary employment, and enhanced workforce training and flexibility.

The principal procedural role of these inter-sector agreements has been maintained. This is to frame negotiations at sector and/or company levels – rather more tightly in Belgium than in the Netherlands or Spain. With the collapse of the national pay agreement, the rules of the game have changed more radically in Ireland. The adoption of the guidelines for negotiations at company level suggests, however, a shared concern on the part of the central employer and trade union organizations to try to steer the new, decentralized process.

At sector level, crisis-response measures have been the subject of specific agreements, in some instances, and included as additional elements in regular, periodic agreements, in others. Carley and Marginson (2011), reviewing a range of European-wide secondary sources<sup>2</sup>, find crisis-response measures in one form or the other to be a feature of agreements in one or more sectors in eight countries: Belgium, Denmark, Finland, France, Germany, Italy, the Netherlands and Sweden. As the authors note, although the inventory is not exhaustive, available evidence strongly indicates that further sector agreements elaborating crisis-response measures are also confined to these countries.

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2 The sources included Eurofound's European Industrial Relations Observatory and European Restructuring Monitor; the ETUI's Collective Bargaining Newsletter; two private-subscription based online services, European Employment Review and Planet Labor; and, in some cases, the websites of the companies or trade unions involved.

There seems to be an absence of agreements in Spain, Portugal and Greece, and in those central and eastern European countries where negotiations take place at sector level. The eight countries are all ones whose arrangements for multi-employer bargaining contain procedural provisions which govern the relationship between bargaining at the sector (and, where relevant, inter-sector) and company levels.

The bulk of the agreements identified are in manufacturing; there are fewer in private services. Within manufacturing, metalworking is the most strongly represented sector (in Denmark and Sweden as part of agreements covering other manufacturing sectors as well), followed – at some distance – by chemicals. In private services, amongst the agreements identified banking was the only sector which featured in more than one country.

These agreements represent the outcome of negotiations which will have involved disagreements, tensions and, in some cases, conflicts before their conclusion: ‘disagreement and conflict are in many cases key elements of the process that leads to negotiated responses’ (Glassner and Keune, 2010: 19). For example, deadlock in Austria’s metalworking negotiations in 2009 over the contentious point of a further flexibilization of working time was accompanied by threats of industrial action.

### *Issues addressed in sectoral agreements*

Several themes are prominent amongst the measures envisaged in these crisis-response agreements. A first is the introduction or improvement of *short-time work schemes*. An agreement in Sweden’s manufacturing sector introduced a short-time work and temporary lay-off scheme (there is no statutory scheme in Sweden), aimed at preserving jobs, supporting incomes and providing workers with training opportunities during downtime. Elsewhere, as in French chemicals, French and German metalworking and Italian banking, retail and tourism, measures aimed to improve existing statutory schemes, for example by supplementing benefits above statutory minima or through provision of training opportunities; to reduce their costs to employers, for example through modifying compensation arrangements; or to provide an option to extend schemes beyond their statutory term. The most far-reaching provisions on short-time working have been in the German metal sector. The agreement includes an opening clause on the implementation of training measures at the company level for workers in short-time work. As an incentive for employers, no additional short-time work allowances have to be paid during the period of training. The metal sector agreement concluded in February 2010 is a continuation of the social partners’ approach aimed at overcoming the crisis without major job losses. The agreement guarantees a step-wise wage increase that can be suspended in cases of temporary financial strain at a company, a 12-month employment guarantee for workers on short-time working, a new option for the further reduction of working time and costs of short-time work benefits.

A second theme is actions to *prevent or mitigate job loss* with options to maintain employment being created or revised in agreements in metalworking, chemicals and banking in, variously, Belgium, France, Germany and Italy. This included an innovative ‘employee leasing’ measure in French and German metalworking and German chemicals, under which surplus staff can be loaned to companies which have shortages. The leased employees are recalled when activity picks up. Social partners in the Dutch road haulage sector agreed on measures that have to be further specified at company level such as a facilitated access to the pre-pension scheme and working-time flexibilization. Similarly, the agreement concluded in the Italian chemical sector, valid from 1 January 2010 to 31 December 2012, provides for annually increasing wage rates, training measures – in particular for workers that have been dismissed – and an increase of contributions to the sector’s supplementary pension and healthcare funds by employers.

*Support for redundant workers* is a third theme, incorporating a range of measures including advice, retraining and outplacement, as instanced by an agreement in Italian pharmaceuticals, and enhancing redundancy benefits, as in Denmark's 2010 manufacturing agreement. Similarly, in Belgium – in addition to other crisis measures on the temporary reduction of working time that provide for a partial compensation of income losses – an additional redundancy benefit is granted to workers who were made redundant due to economic reasons in the period of January to September 2010. The agreement concluded in the Swedish manufacturing sectors in spring 2010 ensures that the re-employment of former workers who have been made redundant has priority over the use of temporary agency workers.

In general, a fourth theme – *wage moderation* – was a feature of sector agreements concluded during 2009, with the increases specified being lower – although not drastically so – than those in the previous year. This development appears to have become more marked in agreements concluded during the early months of 2010, as evidenced by the German collective agreements concluded in the first months of 2010 (Bispinck, 2010). Agreements in other sectors concluded as part of Denmark's recent round of multi-annual sector negotiations, tend to follow the pattern established in the manufacturing agreement in which wage moderation is accompanied by improvements to redundancy benefits and pension entitlement (Due and Madsen, 2010). In Belgium, many of the sectoral agreements concluded within the framework of the 2009 inter-sector accord respond to its crisis-response guidelines (see above), resulting in modest income increases for workers but even more modest growth of labour costs.

*Greater flexibility in and/or decentralization of wage setting* is a fifth theme. Greater flexibility comes in the form of provisions in agreements in some German manufacturing sectors which enable the timing of the sectorally defined wage increases, or one-off payments paid in lieu of an increase, to vary in companies. The agreement concluded in the German metal sector in November 2008 is an example. It stipulates (besides a lump sum and a special one-off payment) a general pay increase in two steps, which can be suspended if a company's financial situation is particularly strained. Some agreements in Finland and Sweden have gone further, providing for pay bargaining to become decentralized to company level, a development which represents significant procedural innovation. For instance, the 'pilot agreement' reached by the Finnish social partners for blue-collar workers in the technological manufacturing sector (that is, electronics, mechanics, ICT and metalworking) concluded in August 2009 provides for the possibility of 'incremental' wage increases at the company level according to conditions set in the sectoral agreement. At the company level, pay rises set in the sectoral agreement can be delayed or even not implemented when wage increases would result in job losses or endanger the company's survival. In Sweden two collective agreements for employees in the technological sector (that is, engineers, architects and other professional technical staff) secure a general pay increase for a period of one year, which can be undercut, however, if the company faces temporary financial difficulties.

### *Substantive and procedural features of sectoral agreements*

The nature of the evidence available does not permit a thorough assessment of the balance between integrative and distributive elements of these agreements. Two observations can, however, be made. First, the majority of the agreements specified a package of measures, indicative of an agenda of sufficient scope to facilitate the trade-offs in negotiations which result in integrative elements to the outcome. As indicated above, trade-offs are indeed apparent between different aspects of uncertainty. Second, an integrative element is an evident feature of some of the measures adopted, most notably agreements on short-time work and temporary lay-off and those on

employee leasing. The agreements improving and/or extending statutory short-time schemes underline the role that state intervention has played in prompting collective negotiation and in enhancing the scope for integrative elements to the outcome.

The principal form of procedural innovation has been consistent with the trajectory of organized decentralization and involved opening up or enhancing scope for company-level negotiation within parameters specified in sector agreements. The introduction of flexibility over the timing and amount of payments due in agreements in Germany's chemicals, metalworking and textile sectors is effected by additional opening clauses which require company agreements to trigger implementation. The multi-annual agreements in Finnish technology and for professional staff in Swedish engineering move pay bargaining down to the company level, with no general sector-wide increase being set beyond the first year. The Swedish manufacturing sector's short-time working scheme requires local, company negotiations to implement the provisions specified in the sector agreement. A different kind of procedural innovation was evident in three Italian agreements, metalworking, pharmaceuticals and retail, which established joint monitoring arrangements to anticipate economic and labour market developments in the sector and/or oversee the take-up of the employment-related measures specified.

Procedural innovation is also the result of social partner negotiations on lifelong vocational training in France. The interprofessional agreement concluded by the five main union confederations and the most important employers' associations in January 2009 was transposed by law in November of the same year. The law guarantees the right to individual vocational training for low-skilled workers and job-seekers, simplifies procedures to apply training programmes and better addresses companies' skill requirements. The implementation of the law involves collective bargaining actors at the sectoral and company level. In the metal sector, for instance, social partners concluded an agreement on the anticipation of skill needs and the safeguarding of workers' professional careers in May 2010.

## Company-level responses

The incidence of company (and establishment) agreements specifying crisis-response measures varies between countries and across sectors. Ninety percent of the 96 company agreements reviewed by Carley and Marginson (2011) are accounted for by EU-15 countries. In addition to the eight countries in which crisis-response measures feature in sector agreements, Spain and the UK were also prominent. Amongst the central and eastern European Member States agreements were identified in the Czech Republic, Hungary, Poland, Slovakia, Bulgaria and Romania, but not amongst the Baltic States. Almost 80 percent of the 96 agreements concerned companies in the manufacturing sector. Within manufacturing, those in metalworking predominate and particularly the automotive sub-sector. In private services, agreements are most prevalent in civil aviation, and posts and telecommunications.

Carley and Marginson (2011) underline that crisis-response agreements have been much more prevalent than indicated by the 96 cases they review. In particular, in several countries, including Austria, Belgium, Denmark, Germany, Italy and the Netherlands, the introduction of statutory short-time work, or similar, schemes requires company agreements, and has been the focus of widespread negotiating activity. The same applies to the agreement in Sweden's manufacturing sector establishing a scheme: more than 170 local agreements were reported to have been reached within six weeks of the scheme's introduction (Eurofound, 2009). Nonetheless, they conclude that the underlying sector and pattern probably differs little from that evident amongst the 96 agreements. There is little to suggest that there are significant numbers of agreements which have not

been captured by the range of secondary sources<sup>3</sup> used in the post-2004 Member States of the EU or in EU-15 countries such as Greece and Portugal. In the case of private services, statutory short-time work schemes – which have been a major focus of company agreements in manufacturing (see below) – do not cover the service sectors in many of the relevant countries.

Crisis-induced restructuring has frequently been a source of contestation between management and workforce, with conflicts preceding a number of agreements. For example, in manufacturing Glassner and Keune (2010) report that industrial action was taken by the workforce prior to agreements being concluded at Case New Holland and Indesit in Italy, and at Siemens in the Czech Republic, whilst negotiations over restructuring at InBev's operations in Germany and in Belgium were both accompanied by industrial action. In services, there has been considerable conflict around crisis-response negotiations in airlines, including Alitalia, Aer Lingus, British Airways, Finnair, LOT, Olympic Airways and SAS, reflecting the emphasis on employee concessions. Not all of these negotiations resulted in agreement. In the postal sector, negotiations over management plans for restructuring were the focus of industrial action in Austria and the UK before agreements were eventually concluded.

### *Issues addressed in company agreements*

The measures concluded in the 96 agreements fall mainly into six broad categories. The first is the introduction of *short-time work and/or temporary lay-offs*, in many countries based on statutory schemes, and determining the conditions of the workforce affected. Most common are agreements which set out the details of the short-time work arrangements and the pay guarantees involved, and often provide for statutory payments to be supplemented by the company. Other agreements involve issues such as an employment guarantee or part of a package of measures to mitigate job loss. The second category is other *variations in working-time arrangements*, such as time accounts and adjustments to annual leave schemes, to avoid either redundancies or recourse to short-time work. Measures aimed at *mitigating planned job losses*, including avoiding compulsory redundancies through use of alternative options, form a third category. Amongst the more common measures are incentives for voluntary redundancy, promotion of early retirement (full or partial), non-renewal of fixed-term contracts, internal and/or external redeployment, and the non-filling of vacancies. The fourth category is *support and compensation for redundant workers*. Apart from increases in redundancy payments, measures included provision of training, outplacement opportunities, advice in setting up independent businesses, and priority to be re-engaged by the company in the future. Negotiating activity under the third and fourth categories may be prompted by public policy intervention, in the form of the statutory requirement to negotiate over 'social plans' or similar measures to accompany or mitigate planned collective redundancies.

*Employee concessions*, variously on pay, working-time and other working conditions, represent the fifth category. Pay concessions come in various forms, including as a result of reduced hours (in the absence of a short-time working scheme), a freeze or cut in standard pay rates, and the temporary elimination or reduction of bonus payments. Concessions on working time include changes to time accounts and annual leave which enable employers to claw back time at a subsequent date. The sixth type concerns various forms of *employment guarantees*, which comes as a trade-off

3 The sources are the same as those identified for the sector agreements – see footnote 2. In addition, questions aimed at eliciting information on crisis-response agreements at sector and company levels were included in the questionnaire for EIRO's 2009 annual review of industrial relations developments in each EU Member State, which forms the basis of an overview report prepared by Mark Carley.

against other measures, most commonly employee concessions and/or short-time work. Employment guarantees are typically time-limited, and include commitments to maintain current levels of employment or to avoid compulsory redundancy. They can also entail employer commitment to maintain production or undertake investment at a particular location. A further theme, *training*, cuts across these categories, with training measures being specified in agreements dealing with short-time work, mitigating jobs loss (e.g. where redeployment is involved) and support for redundant workers. The pattern differed as between manufacturing and services. In manufacturing, short-time work features in a majority of the agreements, reflecting the impact of statutory schemes in prompting negotiation in many of the countries concerned. An employment guarantee featured in around half of the agreements, whilst employee concessions did so in just under a third and variations in working time in a fifth. Around a fifth also featured measures mitigating job loss, whilst a smaller proportion of agreements contained measures to support, and improve compensation for, redundant workers.

In the service sector, short-time work featured much less prominently in collective agreements (reflecting the fact that in many of the countries concerned statutory schemes do not extend to the service sector). Service sector agreements concerning short-time work can be found especially in transport (airlines) and telecommunications. Employee concessions were the most common theme amongst agreements. Employment guarantees feature in about a third, with a similar proportion featuring measures to mitigate job loss. Few agreements contained measures on supporting redundant workers, and none on varying working time. The nature of the resultant packages differed between manufacturing and services sectors. Crucially, an employment guarantee was part of agreements involving employee concessions in only half of the relevant cases.

### *Substantive and procedural features of company agreements*

With regard to the balance between integrative and distributive elements in these company agreements at best inferences can be drawn. The main one is that there is a considerable range, between outcomes where the distributive element is dominant – as in those agreements which feature employee concessions with no offsetting measures – and those where the presence of an integrative element is signalled by the inclusion of some kind of employment guarantee. The former are primarily confined to the service sectors whereas the latter, although not entirely absent in services, are more widespread in manufacturing.

Two kinds of procedural arrangement have played an important role in promoting company negotiations and agreements over crisis-response measures. One is the presence of provisions of sector (and inter-sector) agreements requiring or inciting negotiations at company level. The other is public policy, in the shape of statutory short-time work schemes, which according to country can require, and if not may have the effect of encouraging, company-based negotiation, and statutory requirements to negotiate ‘social plans’ in cases of planned collective redundancies. By providing procedural certainty for company-level negotiators, the effect of sector agreements and public policy may well have facilitated the incidence and character of negotiated responses.

### **Accounting for variation in the incidence and character of negotiated responses**

To what extent does the respective influence of the factors identified in Figure 1 account for the cross-country and cross-sector pattern of variation in the incidence and character of crisis-response agreements at sector, inter-sector and company levels?

### *Incidence of agreements*

In accounting for differences in the incidence of crisis-response agreements across countries, two factors are influential: the nature of industrial relations institutions and the presence of specific public policy measures. In contrast, the economic situation, in terms of the depth of the crisis in different countries, does not appear to have exercised influence on the cross-country incidence of crisis-response agreements. Those countries which have experienced the sharpest declines in GDP – the Baltic States, Finland, Ireland, Romania and Slovenia – are not prominent in terms of the incidence of agreements. This remains the case even when controlling for the nature of industrial relations institutions (see below). Put another way, the economic situation varies considerably amongst those EU-15 countries where crisis-response agreements have been more prominent, such as Belgium, France, Germany, Italy, the Netherlands, Spain, Sweden and the UK.

Turning to industrial relations institutions, the distinction between multi- and single-employer bargaining arrangements, and the related difference in collective bargaining coverage, would seem to exercise an important influence on the incidence of crisis-response agreements. Under multi-employer bargaining, insofar as sector agreements have been concluded, they entail extensive coverage of the workforce concerned. In contrast, under single-employer bargaining, even where company agreements are reasonably prevalent, as in the UK, workforce coverage will be considerably less. In general, therefore, unilateral employer responses will have been substantially more widespread where single-employer bargaining arrangements prevail. Amongst the countries in which multi-employer arrangements prevail, those in which sector and inter-sector bargaining arrangements have been mobilized include most of those where there are procedural provisions which effectively frame and constrain subsequent company-level negotiations. Conversely, where tightly specified articulation provisions are not a feature of multi-employer bargaining, as in Spain, Greece and Portugal and some central and south-eastern Member States, sector-level arrangements seem not to have been mobilized.

The incidence of company-level agreements also seems to have been higher amongst countries with multi-employer than those with single-employer arrangements. These empirical findings indicate that in a multi-employer bargaining setting decentralization continues to follow the ‘organized’ path (Traxler, 1995). One reason is that sector (or inter-sector) agreements may specifically promote, or even require, further negotiation at company level. A second is that by providing a framework for negotiation at company level, the success or otherwise of a negotiation and the nature of the agreement concluded at company level becomes less dependent on specific power balances within the company (Glassner and Keune, 2010). Amongst those countries with single-employer bargaining arrangements it is noticeable that the incidence of agreements is highest in the UK, where collective bargaining coverage is also comparatively higher. In the Baltic States, where coverage is the lowest, they have barely featured.

The role of public policy measures in prompting sector and company agreements is evident in the impact that statutory short-time work schemes have had, either by requiring the conclusion of company agreements for their implementation or by inciting additional negotiations at sector and company levels. Such schemes – and therefore their impact – are, however, time limited. In addition, it is in combination with multi-employer bargaining arrangements that the impact of short-time work schemes seems crucial. Statutory schemes have been newly introduced in several central and eastern European countries, however there is little indication that these schemes have prompted collective negotiation in these predominantly single-employer bargaining countries (with the exception of Slovenia). By contrast, the UK – where no such scheme exists – has seen a number of institutionally ‘uncushioned’ short-time work and temporary lay-off agreements,

further suggesting that the more salient difference amongst countries with single-employer arrangements lies in the realm of the coverage and depth of collective bargaining.

Across sectors, the considerable variations between, and within, manufacturing and private services are attributable to a combination of three sets of factors: the varying extent to which particular sectors have been hit by the crisis; industrial relations institutions; and specific public policy measures. The impact of the crisis on manufacturing has been more severe than on private services. Within manufacturing, metalworking, and the automotive segment of the sector in particular, has been especially hard hit and features the most crisis-response agreements. So too, have the chemicals and textiles sectors, in both of which crisis-response agreements feature, although less commonly than in metalworking. Amongst the service sectors, transport – which accounts for the largest proportion of agreements – is amongst the hardest hit. Given, however, the impact of the crisis on financial services, and banking in particular, more negotiated activity might have been expected here; likewise with retail distribution, which has also been hard hit.

As regards industrial relations institutions, collective bargaining coverage is generally higher, and trade union organization stronger, in manufacturing than in private services. These factors also help account for the variation evident within manufacturing and services, respectively. Metalworking, and the automotive sub-sector in particular, remain centres of trade union strength and collective bargaining coverage is high. In services, transport and communications are sectors where collective bargaining coverage is comparatively high and trade union organization strong.

### *Character of agreements*

Consideration of the main themes or categories which characterize the measures adopted in the sector and company agreements showed that they correspond to a rationale of providing protection against different forms of economic uncertainty confronting workers and employers. Crucially, trade-offs are apparent between different forms of protection for each group, as well as between employers and workers. For workers, the negotiated outcomes suggest that protection against job loss has predominated over deterioration in pay and conditions. Negotiated outcomes featuring measures to support redundant workers are less common. In addition, the effect of negotiated outcomes featuring support for redundant workers together with some of those featuring mitigation of job loss and introducing short-time work, has been to expand the range of available collective goods. For employers, securing immediate cost reductions and retaining trained and experienced labour are uppermost amongst negotiated outcomes, with the balance between these two contending factors varying. To the extent that the balance is towards retaining trained and experienced labour, cooperative relations with the workforce are more likely to have been maintained. The negotiated outcomes suggest that the main trade-off between workers and employers has been between protection against job loss (for workers) and cost reduction (for employers), i.e. at the cost of deterioration in pay and conditions (for workers).

In accounting for variation in the character of agreements, an assessment is hampered by absence of in-depth data of the kind needed to uncover the balance between integrative and distributive elements in negotiated outcomes. Some tentative observations can nonetheless be made. First, the impact of the economic situation can be discerned in one respect. Arguably, the severity of the crisis in Ireland as compared to Belgium and the Netherlands, served both to reduce the scope for integrative elements to feature in negotiations and to intensify distributive conflict, conditions which contributed to the breakdown of inter-sector negotiations and the collapse of the agreement. Second, and crucially, contrasting tendencies between the nature of company agreements in manufacturing and services strongly suggest that industrial relations institutions, and also

specific public policies, are influential in shaping the balance between integrative and distributive elements. The trade-off of some form of employment guarantee found in all of the manufacturing agreements which entail employee concessions, and some of those on short-time work, is indicative of an integrative dimension to outcomes. The fact that they are particularly prevalent in the automotive sub-sector, where trade union organization is strongest and company negotiation longest established and most developed, is strongly suggestive of the relevance of industrial relations institutions. The role of statutory short-time work schemes has not only been to increase the incidence of agreements in manufacturing as compared to services, but also to open up scope for continuing employment to be traded off against income loss (for workers) and skill retention to be traded off against immediate cost reduction (for employers). In short, such schemes have shifted the balance between distributive and integrative elements in outcomes towards the latter.

### **Conclusions: collective bargaining as a changing mode of labour market governance**

The prominence of the role played by collective bargaining in addressing the impact of the crisis, through agreements elaborating a wide variety of measures at inter-sector, sector and company levels, varies markedly across countries and also sectors. Under the multi-employer bargaining arrangements of some, but not all, countries concerned, sector and inter-sector agreements have provided both a substantive steer to and procedural certainty for the parties at company level. In turn, this has prompted considerable negotiating activity at company level. Public policy, in the form of statutory short-time work schemes, has had a similar, and overlapping, effect amongst this same group of countries. Conversely, unilateral employer responses have been widespread in countries with single-employer bargaining arrangements prevailing and probably also those countries whose multi-employer bargaining arrangements do not specify a clear relationship between sector agreements and what happens at company level, such as Spain, Greece and Portugal. As between sectors, the role of collective bargaining has been more prominent in manufacturing than services, even taking into account the comparatively deeper impact of the crisis on the former. As a corollary, unilateral employer responses have been more widespread in services.

Looking to the implications for the medium term, the crisis has indeed reinforced the predominant substantive and procedural trajectories of the past 20 years. Substantively, restoring competitiveness and maintaining employment are not only central to the agenda of crisis-response agreements, but have been the principal issues subject to trade-off. The wider effect is further to entrench the role of employment as a new 'general equivalent' (Léonard, 2001) against which competitiveness-enhancing, or -restoring, measures to reduce costs and/or increase flexibility are negotiated. On the one hand, this evidences the prevalence of a certain type of integrative agreement. On the other hand, such agreements resemble concession bargaining in which workers make concessions in exchange for some form of employment guarantee. The types of employment guarantee vary widely, going from commitments to maintain current levels of employment to promises to avoid compulsory redundancies should job loss occur. This, combined with the importance of straightforward concession agreements, in particular in the private services, suggests that in a number of countries and sectors the crisis has led to a weakening of the bargaining position of workers and to their bearing an increased burden of uncertainty.

Procedurally, the changes observed involve arrangements under multi-employer bargaining, with the main development being further movement in the process of 'organized decentralization'. Such change appears incremental rather than radical in nature. Nonetheless the cumulative effect of incremental change can be to effect tangible shifts in the functioning and rationale of the

institutions involved – in this case sector agreements, as also contended by Visser (2005) – in ways which reflect those proposed by Streeck and Thelen (2005). The exception is the breakdown of Ireland's inter-sector bargaining framework. The prospect of this breakdown becoming a decisive rupture in which the decentralized, company-based determination of wages which has ensued becomes largely 'disorganized', despite the joint effort of the central employer and trade union organizations to steer it, cannot be dismissed.

Growing focus on the company level resulting from 'organized decentralization, points to the importance of the provisions articulating negotiations between the sector and company levels. It is the absence of these that underlies the suspicion, at the very least, that unilateral employer responses have been widespread at company level in countries such as Spain, Greece and Portugal. The same applies to those central and eastern European countries where sector bargaining arrangements exist, with the exception of Slovenia.

The experience of negotiating crisis-response agreements confirms the interconnectedness of substantive and procedural developments. Frequently, the trade-offs involved are only realizable in specific terms at company level, which increases in significance as an arena for negotiations. For example, implementation of short-time working has entailed negotiation at company level in many countries, either under the terms of a sector agreement or the provisions of statutory schemes. Furthermore, several of the sector agreements specifying other crisis-response measures required implementation through a local agreement. Conversely, the seeming extent of crisis-response company negotiations in countries such as Belgium, Germany, Italy and Sweden reflects the central role of the company level in implementing the provisions agreed in sector and inter-sector agreements.

The prominence of employment and competitiveness, including cost reduction, on the crisis-induced bargaining agenda suggests that the substantive role of employment as a 'general equivalent' has been further underpinned, whilst further organized decentralization under multi-employer bargaining will prove to be the procedural legacy of the crisis.

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**Annex I.** Levels of collective bargaining in the EU

	Inter-sectoral	Sectoral	Company	Predominance of MEB <sup>a</sup> or SEB <sup>b</sup>
Austria		XXX	X	MEB
Belgium	XXX	XX	X	MEB
Bulgaria		X	XXX	SEB
Cyprus		XX	X	MEB
Czech Republic		X	XXX	SEB
Denmark	X	XXX	XX	MEB
Estonia		X	XXX	SEB
France		X	XXX	MEB
Finland	XXX	XX	X	MEB
Germany		XXX	X	MEB
Greece	XX	XX	X	MEB
Hungary	X	X	XXX	SEB
Ireland	XXX		X	MEB
Italy		XXX	X	MEB
Latvia		X	XXX	SEB
Lithuania		X	XXX	SEB
Luxembourg		XX	XX	MEB
Malta		X	XXX	SEB
Netherlands		XXX	X	MEB
Poland		X	XXX	SEB
Portugal		XXX	X	MEB
Romania	X	X	XXX	SEB
Slovakia	X	XX	XX	SEB
Slovenia	XX	XX	X	MEB
Spain		XXX	X	MEB
Sweden		XXX	X	MEB
UK		X	XXX	SEB

Note: XXX = most important level, XX = important level, X = existing but marginal level; 'Blank' = level is non-existing.

<sup>a</sup> 'Multi-employer bargaining'.

<sup>b</sup> 'Single-employer bargaining'.

Sources: Marginson and Traxler, 2005; European Commission, 2004; ETUI, 2010.