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Comparing Institutional Change and Company Practices in Europe

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1. Decentralisation of Collective Bargaining: Comparing Institutional Change and Company Practices in Europe

Frank Tros

Abstract

This chapter addresses different types of institutional change in collective bargaining regimes and the underlying mechanisms. In recent decades, collective bargaining coverage has decreased in liberal market economies like Ireland and Poland. But also in coordinated economies, such as Germany, sectoral bargaining has eroded as a result of employers' strategies. Governments in southern European countries have established opportunities for company bargaining in (complex) *layering* structures. This chapter further addresses beneficial factors for balancing power relations between collective bargaining parties at the decentralised level, based on company case studies. Best cases of "organised decentralisation" are found in manufacturing. Decentralisation in retail is problematic. The chapter concludes with the challenges for trade unions in Europe.

Keywords: institutional change, collective bargaining, decentralisation, social partners

A common approach to studying decentralisation

Introduction to the problem

One of the main trends in labour relations across Europe – started already in the 1980s – is "decentralisation" in collective bargaining at the company level. This involves a shift from multi-employer bargaining to single-employer bargaining with trade unions or other workers representatives (Marginson,

2015; OECD, 2018; Traxler, 1995; Visser, 2016). This development continued in the last decade, following the Great Recession, sometimes supported by governments in European Union member states, to deregulate wages and enhance labour market flexibility in the 2010s. At that time, there were voices, also within the European Commission, that aimed to (further) decentralisation as an instrument to reduce rigidities in labour regulations and the wage-setting power of trade unions (Müller & Platzer, 2020; European Commission, 2012).

In the field of industrial relations, “decentralisation” is a buzzword that has a plethora of definitions and meanings at several levels. It can refer to less state intervention in the regulation of terms and conditions of employment and less state support in collective bargaining in sectors and companies. It can also refer to less social dialogue and less coordination by peak-level employers’ associations and trade unions at the national level. This book focuses on the decentralisation of collective bargaining from the national/cross-sectoral and/or sectoral level to the individual company level (although, as we will show, the state and national social dialogue also play a role in this process). Recent literature lends nuance to the trend of decentralisation by showing variations in national developments regarding the initiating actors and the intensity and patterns of decentralisation processes and the different factors that account for national differences (Leonardi & Pedersini, 2018; Müller, Vandaele & Waddington, 2019). In some countries, decentralisation is initiated by governments or by employers seeking to make trade union negotiations and collective agreements more responsive to the needs and conditions of individual companies. This can be done through *deregulation* or by breaking down traditional structures in collective bargaining. Or this can be done by setting new rules for “tailor-made” dialogue, negotiations, and agreements at decentralised levels. Besides this divide between disorganised and organised decentralisation (Traxler, 1995), there is a third development going on. In the last few years, a great deal of bottom-up social dialogue has been initiated on issues like human resource management, social security, and the impacts of the “green transition” and COVID-19 on companies and labour. Types and degrees of decentralisation processes are the results of the organisational power resources and strategies of the collective bargaining parties at several levels in the context of sometimes eroded or renewed institutions in collective bargaining regimes.

Why is it relevant to study decentralisation in labour relations, and, more specifically, in collective bargaining? Firstly, it is relevant for assessing the (future) position and roles of trade unions and employers’ associations at the cross-sectoral and national sectoral levels in European Union member

states: do they still have representative voices and collective influence in social dialogue and labour market regulations in societies that often are more diverse and governments that are more neoliberal than in earlier historical periods? Do social partners adapt to new, often more differentiated, realities? Secondly, centralised and more coordinated collective bargaining regimes seem to perform better than decentralised and less organised regimes, in terms of wage equality and employment levels (OECD, 2018; Carnero, 2020). Thirdly, unorganised decentralisation risks a “race to the bottom” if wage levels and other employment terms and conditions are no longer protected by collective agreements. Labour relations are power relations where individual workers are, by definition, weaker than the employer; collective bargaining by independent trade unions can (partly) compensate for this imbalance.

Recently, collective bargaining has received increased and, indeed, more positive attention from European political institutions. In 2022, the European Council and European Parliament reached a political agreement to promote the adequacy of statutory minimum wages and thus help to achieve decent working and living conditions for European employees. Interestingly, as collective bargaining on wage-setting is seen as an important tool to ensure that workers can benefit from adequate minimum wages, the related directive aims to extend the coverage of workers through collective bargaining and to strengthen the capacity of social partners to engage in collective bargaining (including the protection of worker representatives). In some countries, such as Italy and Sweden, this is even more important because there is no national statutory minimum wage: here, the minimum wage levels are defined by the lowest wage groups of the collective bargaining agreements. Decentralisation of collective bargaining, however, might be at odds with the aims of this political agreement. Firstly, decentralisation might lower the overall bargaining coverage in European countries. Secondly, trade unions in European countries might have less capacity to bargain at the company level compared to negotiating at more centralised levels.

Despite its risks, there are also good reasons for organised decentralisation. For example, it provides the opportunity for trade unions to be more connected to the reality of workers’ needs in specific companies and to deepen or widen their memberships. It can also facilitate local trade-offs with the needs of individual employers regarding a company’s performance.

The approach

This book adopts an interdisciplinary and multi-level governance perspective to address different types of institutional change in collective bargaining regimes and the underlying aims of companies, governments, and

subsequent responses of social partners to downward pressures on the locus of collective bargaining. Through literature and document research, and around 30 in-depth case studies of company-level bargaining in the manufacturing industry, retail sectors, and some other economic sectors, the book chapters analyse the backgrounds, practices, stakeholder experiences, and effects of decentralisation and decentralised bargaining at the company level in eight EU member states: France; Germany; Ireland; Italy; the Netherlands; Poland; Spain; and Sweden.

This book is innovative in the field for several reasons. Firstly, many European studies on collective bargaining follow a more national approach, publishing monographs that feature separate chapters on individual countries (see for example Leonardi & Pedersini, 2018; Müller, Vandaele, & Waddington, 2019). By contrast, international studies follow a very global approach that lacks in-depth analysis about the functioning of institutions or practices in collective bargaining (e.g., OECD 2018; Visser, 2016). This book adopts a thematic and sectoral approach from a cross-country perspective, leading to better understanding of the functioning of institutions and variations in actors' strategies and collective bargaining practices. Secondly, the book is based on investigations of around 30 case studies at the company level aimed at enhancing understanding of the power resources and strategies of collective bargaining parties and their effects on decentralisation processes at the *micro level*.

The following questions will be answered in this chapter:

1. What are the backgrounds and aims of decentralisation in collective bargaining at the company level and what are the institutional pathways of decentralisation in the countries examined?
2. What are the institutional and organisational power resources and strategies of employers and trade unions that shape decentralisation and company-level bargaining?
3. What impact has decentralisation had on the balance and scope of company-level negotiations and the quality of agreements made? Do partnerships or conflicts emerge between individual employers and trade unions and, if relevant, between different representative workers' bodies within companies (such as trade unions and works councils)?

I will start by describing the basic institutional characteristics of collective bargaining regimes in the eight selected countries. This will make the points that there is considerable variation in collective bargaining regimes within Europe and that decentralisation can be only understood in national contexts. I will then provide an overview of decentralisation processes in the eight countries in a theoretical framework of institutional change in

collective bargaining. In a more explorative way, I will discuss the qualitative findings from company case studies in the eight European countries. Although not representative, the case studies shed qualitative light and lead to better understanding of the interplay between social dialogue and collective bargaining institutions on the one hand, and actors' strategies and practices in decentralised bargaining at the company level, on the other hand. I will focus on sectoral variations within national systems (manufacturing and retail) and I will discuss beneficial and limiting factors for decentralised bargaining with similar power relations and balanced outcomes, based on the qualitative findings in the case studies. I will answer the question of whether decentralisation leads to new relationships between trade unions and works councils (or other employee representation) in dual-channel systems of worker representation. In the last section, the main conclusions are presented, together with some theoretical and stakeholders' challenges related to (further) decentralisation.

Variations in national collective bargaining regimes

The countries that feature in this book represent a variety of production regimes (Hall & Soskice, 2001) and industrial relations traditions (Crouch, 2005). This means that social partners in the European Union member states have quite different power resources in collective bargaining and in coordinating and regulating decentralisation. I will cluster the eight countries that are the subject of this study in the following four groups.

First, Ireland and Poland – despite having different political histories and being based, respectively, in Western and Eastern Europe – both countries today represent a *liberal market economy*, and both also share a *pluralist and fragmented industrial relations regime*. Related to the low numbers of employees under sector bargaining in these both countries, Ireland and Poland are examples of low collective bargaining coverage: 34% in Ireland and around 13–20% in Poland. Employers and trade unions in Ireland voluntarily engage in collective bargaining, so trade unions have no fundamental right to negotiation, and their agreed employment terms and conditions are not legally binding (Paolucci, Roche, & Gormley, 2022). Both countries have weak or no sector bargaining and relatively more company bargaining. In Ireland, the financial crisis in 2008 was the death knell for the long period of centralised tripartite collective bargaining that spanned the period from 1987. As an effect, collective bargaining primarily takes place at the company and the workplace levels. Sectoral bargaining

still occurs in a number of low-paid and weakly unionised sectors, in construction and allied sectors, and in public services (Paolucci, Roche, & Gormley, 2022). The collective bargaining regime in Poland is even more fragmented than in Ireland, and even faced a “near-death experience” when the Polish legislator did not promote collective bargaining at all (Czarzasty, 2022). The fragmentation in Poland can be explained in the pre-1989 era of authoritarian state socialism, combined with the bottom-up activities of trade union movements, representing a contrasting concept of union movement (Solidarity and OPZZ). The political reform towards liberalism led to a vacuum in the industrial relations system with a lack of employers’ commitments to national and sectoral collective bargaining institutions and a lack of union activities at the sectoral level (Solidarity and OPZZ). Ireland and de facto Poland do not have legal rights for non-unionised employee representative bodies at the company or establishment levels: both countries are characterised as having a *single-channel system* of worker representation, where, as far as management is concerned, unions are the only worker representatives, albeit they are far less established and developed than in, for example, Sweden’s single channel system.

Second, Sweden represents the Nordic model of a *coordinated market economy* and *organised corporatism* with high collective bargaining coverage, based on strong autonomous bargaining between social partners without state interventions. This is reflected in the situation that there is no national legal minimum wage and no public extension mechanisms of sector agreements with respect to unorganised employers. Although sector bargaining is dominant, one can characterise the Swedish collective bargaining regime as being “multi-level.” There is elaborate company-level dialogue and bargaining, involving trade unions at sector and company levels, with a key role for sector agreements. Moreover, it takes place in a stable and coordinated industrial relations system (Rönmar & Iossa, 2022). In Sweden, strong participation and co-determination rights are carried out within a single-channel system of worker representation where trade unions participate in information, consultation and co-determination processes at the workplace level (Pietrogianni & Iossa, 2017; Rönmar & Iossa, 2022).

Third, Germany and the Netherlands both represent a model of a *coordinated market economy* and *social partnerships*. The dominant level in collective bargaining is at the sector level. A key difference with countries like Ireland, Poland, and Sweden is that Germany and the Netherlands have a *dual-channel system* of worker representation. Trade unions are the legally recognised workers representatives in collective bargaining,

but at the company level works councils are also legally established workers representatives involved in the implementation of collective agreements and dealing with issues that are not regulated by trade unions. Trade unions and works councils each have their own legal positions and rights, namely, collective bargaining versus co-determination. Collective bargaining coverage has become more differentiated between the two countries: 54% in Germany and 76% in the Netherlands. The role of the state in labour relations in Germany is slightly less intertwined than in the Netherlands. The statutory minimum wage is relatively new in Germany, having been introduced in 2015, and the instrument of extending sector agreements towards unorganised businesses is used less in Germany (Haipeter & Rosenbohm, 2022). The stability of the Dutch collective bargaining regime and its scope is supported by the high use of the public extension mechanism in sectors where employers' associations represent 60% or more of the employment in the sector (Jansen & Tros, 2022). In the Netherlands, once collective bargaining takes place at the sector level, then trade unions do not, generally, exploit activities at the company level (legally they can, and in some company cases, they do). Meanwhile, in Germany, trade unions have bargaining rights at the company level if derogation clauses in sectoral agreements foresee such rights. In Germany, works councils in larger companies (at least in some sectors, like manufacturing) are involved in negotiating workplace-related working conditions or "employment pacts," including pay above the wage norms of collective bargaining. In the Netherlands, works councils have strong legal consultation rights in internal organisational areas, but do not have negotiation rights on topics like wages and other issues already covered by collective agreements. Although the basic institutions in both countries are roughly similar, we see substantially different degrees and patterns of decentralisation, and also different relationships between trade unions and works councils.

Finally, we can cluster the Southern European countries – France, Italy, and Spain – which are characterised as having *statist market economies* and *polarised/state centred* industrial relations. All three countries have high collective bargaining coverage, multi-layered collective bargaining systems, and the state still maintains relatively high involvement in collective bargaining. This includes extension mechanisms towards unorganised businesses, but also state regulation in decentralisation. It is important to note here that France has a longer tradition of state intervention in stimulating and even obliging company-level bargaining (already in the 1980s), in addition to dominant sector-level bargaining practices (Kahmann

Table 1.1. Characteristics of collective bargaining regimes in eight European countries

Country <i>industrial relations traditions</i>	Collective bargaining coverage (1) (2000–2020)	Dominant level in bargaining regime (2)	Status works council or other structure for employee representation within firms (3)	Involve-ment councils in wage negotiations	Trade union density (2000–2020)
Ireland <i>pluralist/fragmented</i>	44%–34%	Company	Voluntary	Rare	36%–26%
Poland <i>pluralist/fragmented</i>	25%–13%	Company	Voluntary (some legal base from 2006)	Very rare	24%–13%
Sweden <i>organised corporatism</i>	88%–88%	Sector	Not existing (Only channel of unions)	–	81%–65%
Germany <i>social partnership</i>	68%–54%	Sector	Embedded by law/ social partners (obligation when workers want)	Informally (wages above the general pay scale)	25%–17%
Netherlands <i>social partnership</i>	82%–76%	Sector	Embedded by law/ social partners (obligation when workers want)	Rare	22%–15%
France <i>polarised/state centred</i>	98%–98%	Sector	Embedded by law/social partners	Yes; if no, union is present	11%–11%
Italy <i>polarised/state centred</i>	100%–100%	Sector	Embedded by law/social partners, but no obligation	Yes	35%–33%
Spain <i>polarised/state centred</i>	85%–80%	Sector	Embedded by law/social partners	Yes	18%–13%

(1) Years 2000–2002 – years 2017–2020. Proportion of employees covered by collective (wage) agreements in force among employees with the right to bargain (based on combined administrative and/or survey data sources).

(2) Years 2018–2020. The dominant level at which wage bargaining takes place in terms of coverage of employees.

(3) Years 2018–2020.

(4) Years 2000–2002 – years 2017–2020

Source: OECD/AIAS ICTWSS database (March 2023). <https://www.oecd.org/employment/ictwss-database.html> + literature references in the text.

& Vincent, 2022). Furthermore, all three countries have a more complex and mixed type of dual-channel system for worker representation. In Italy and Spain, more or less unionised works councils or mandated representatives can formally negotiate collective agreements alongside, or instead of, trade unions. In France, collective bargaining rights for non-unionised employee representatives are legally embedded if no union is present. In Southern European countries, trade unions can also have seats on consultation and co-determination bodies.

Table 1.1. provides an overview of the characteristics of the main collective bargaining regimes in the eight selected European countries.

Pathways in decentralisation

Theoretical framework for institutional change

This book shows different forms of institutional change in collective bargaining regimes after the economic and financial crisis of 2008/2009 and their different results. We see a breakdown of collective bargaining structures in Ireland and no resurrection of previously broken-down institutions in Poland. Specifically, we see mechanisms aimed at regulating collective bargaining set aside in favour of arrangements that re-impose the discipline of the market (see Chapter 4; Paolucci et al., 2023). In other European countries, we see a tendency towards gradual and incremental decentralisation. However, as Streeck & Thelen (2005) have argued, incremental institutional change can lead to real, in-depth changes over time. Streeck & Thelen (2005) distinguish the following types of gradual institutional change associated with the issue of collective bargaining and its assumed transformation towards decentralisation:

(1) *displacement*, in which dominant institutions gradually lose ground to increasingly important “subordinate” institutions. In the context of the decentralisation of collective bargaining, this occurs when (cross-)sector bargaining structures are replaced by company bargaining structures. Or, in its disorganised form, when sector- or company-level bargaining with trade unions is replaced by single-company arrangements that involve established trade unions being replaced by “yellow unions” or non-unionised workers representatives within the company (e.g., works councils in dual-channel systems of worker representation).

(2) *layering*, in which new elements are added to existing institutions. In relation to our topic, this occurs if the state adds more formal opportunities for company-level bargaining by changing national legislation on collective bargaining (Rehveldt & Vincent, 2018; Vincent, 2019). In addition, social partners in sector agreements can add more competences to individual employers and trade unions or other workers representatives in company bargaining (Marginson, 2015). Chapter 3 of this book distinguishes several types of layering or “articulation” between sector- and company-level bargaining, such as additional wage bargaining, negotiations on additional topics at the company level, and opening clauses and derogation options at the company level within higher-level frameworks (see Chapter 3; Haipeter et al., 2023). Increased intensity of or widening social dialogue and collective bargaining at the company level as a result of autonomous, bottom-up initiatives by local actors with continuing institutional involvement at the centralised levels can also be interpreted as “layering,” albeit less centrally coordinated.

(3) *drift*, in which existing institutions are not maintained and not adapted to changing environments, leading to less scope, meaning, and function of the institution. In a context of decreasing membership of trade unions and employer associations, and more neoliberal and individualistic ideas in politics and society, it is theoretically possible that traditions such as collective bargaining may gradually fade away. National and sector bargaining can lose a grip on local realities when it fails to respond to the involvement and needs of (new) companies and (new generations of) workers. “drift, may also occur when collective bargaining institutions remain in place only for a core of employees (or certain sectors) but are not available beyond this core (or to other sectors), as in trajectories of “dualising liberalisation” (see Chapter 4; Paolucci et al., 2023). The development of less compliance to collective agreements can also be put into this.

(4) *conversion*, in which institutions formally remain unchanged but actors interpret and use them to to achieve different results. For example, if employers become more powerful in industrial relations and use collective agreements as management instruments for efficient HRM and to further company interests, instead using collective agreements as social contracts to balance workers and employers interests (see e.g., Keune, Been, & Tros, 2020). This shifting of focus towards the needs and conditions of individual companies can lead to decentralisation in the setting of employment terms and conditions. Already more than a decade ago, Baccaro and Howell (2011) showed that, in some European countries, centralised bargaining has been

converted to “fit the common imperative of liberalisation” (i.e., in Ireland, Italy, and Sweden) through giving more employer discretion in the period 1974–2005.¹

Evidence of types of decentralisation in eight countries

In this section, I will give an overview of the most evident trends and pathways of decentralisation in the eight case-study countries with respect to the theoretical categorisation of institutional change.

Breakdown

Collective bargaining institutions in Poland and Ireland have faced the most structural and disruptive changes in recent decades. In Poland, the number of collective agreements is low and falling, and collective bargaining is almost dead, with less than 50 new collective agreements in both 2020 and 2021 (just 14,000 and 20,000 workers, respectively, are covered by these new agreements). Despite the ratification of the ILO Convention 98 and the European Social Charter, the Polish state neither promotes nor supports collective bargaining (Czarzasty, 2022). Employers fear obligations that can hinder their competitive powers. The Polish Trade Union Act promotes a fragmented and establishment-centred trade union movement that cannot overcome liberal and flexible business strategies. In Ireland, following the financial crisis, employers withdrew from the social partnership in 2009, which led to a further drop in collective bargaining coverage from 41% to 34% in the period 2009–2017 (OECD/AIAS database). The breakdown of collective bargaining structures in Ireland had already started before the 2010s but in 1985, collective bargaining coverage was at the far higher level of 70%.

These finding mirrors the literature, which characterises both Poland and Ireland as countries with a liberal market economy and with a pluralist and fragmented industrial relations regime.

Displacement

There is little evidence in the eight countries of the direct replacement of sector bargaining with company bargaining. This type of decentralisation assumes unidirectional changes in a hierarchy of collective bargaining levels, which is mostly not the case. In the countries where sector bargaining is

¹ Streeck & Thelen (2005: 29) distinguish a fifth form of institutional change, “exhaustion,” in which institutions gradually fade away. But as the authors themselves already acknowledge, this is not about institutional change but rather about institutional breakdown.

dominant, we see more multi-level bargaining practices where decentralised parties might be given more bargaining rights or might be more involved in company policies, but with a continuation of sectoral structures. This is clearly illustrated in Chapter 5 in the context of France and Spain (Muñoz Ruiz, Ramos Martín, & Vincent, 2023). However, some displacement does happen when more collective agreements are signed by non-representative (“yellow”) unions or works councils instead of established and independent trade unions, e.g., in the retail sector in Italy and the Netherlands (Armaroli & Tomassetti, 2022; Jansen & Tros, 2022). A final, albeit indirect example of displacement is found in Ireland, in the 2010s, where, in response to and as compensation for their lost power in national social dialogue, trade unions transformed their strategies towards company-level bargaining with horizontal coordination through “pattern bargaining.”

Layering

Institutional layering in collective bargaining regimes is a common state of affairs or trend in all countries where (cross-)sectoral bargaining is dominant. This holds true for the Nordic model, the social partnership model of Germany and the Netherlands, and the Southern European model. Decentralised elements have been added to existing institutions, but the effects of this in terms of the erosion of the importance of centralised institutions varies between the countries.

Sweden has a long tradition of a multi-layered collective-bargaining regime, tightly coordinated by social partners (Rönmar & Iossa, 2022). Swedish companies negotiate with trade unions over extra wages or other remuneration elements. There is no hard evidence of growing decentralisation in Sweden, so layering is more a state of affairs. More emphatically, Rönmar & Iossa (2022) observe greater focus on the *limits* of decentralisation in current debates. For example in the public sector, social partners express a need for a more normative and binding collective bargaining regulation at national, sectoral, and/or regional levels. Interestingly, we see variations between workers groups in Sweden: centralised patterns are implemented for blue-collar workers in production and decentralised patterns are seen as more appropriate for professional, white-collar workers (Rönmar & Iossa, 2022).

Although Germany and the Netherlands are categorised together in the group of coordinated market economies and social partnerships, we see a divergence between the two countries regarding decentralisation. Collective bargaining parties in Germany have initiated many forms of institutional layering, such as additional wage bargaining by works councils, additional

topics in company bargaining agendas, opening clauses for works councils, and derogations from sector agreements in company-level bargaining with trade unions (Haipeter & Rosenbohm, 2022). It is estimated that around 20% of all companies in Germany have used some kind of opening clause in consultations with their works councils. This can be seen as part of an established process of *verbetrieblichung* in German labour relations, where works councils now play a bigger role than in the past (Haipeter & Rosenbohm, 2022). In the Netherlands, however, we see far less layering and far fewer trends of organised decentralisation. Trade unions are rarely given (wage or other) bargaining rights at the company level when these companies are covered by sector agreements (Jansen & Tros, 2022). Since the 1980s, in some sectors, works councils have been given extra co-determination in the field of working hours (Tros, 2000) and these rights still exist. Furthermore, there are stable numbers of company agreements in the Netherlands, but these are not part of sector bargaining; in other words, negotiations occur on one level or the other. Unions are quite weak at company level and employers do not want to “double” negotiations. Works councils in the Netherlands have no bargaining tradition in the area of employment terms and conditions, and have no opportunity to consult (and, consequently, have no “burden” in this regard) on opening clauses in collective agreements, because no such clauses exist (see further Chapter 6; Rosenbohm & Tros, 2023).

The decentralisation developments in the Southern European countries reflect a tradition of state intervention in industrial relations. To start, we see the most broadly regulated form of articulation between the levels in France, as a result of earlier reforms in the 1980s and the Macron laws from 2017. Also in 2017, the government added new decentralised topics to the company bargaining list. In this new collective bargaining architecture, coordination between levels is no longer based on the “favourability principle,” but rather on the complementarities of bargained topics (Kahmann & Vincent, 2022: 13–16). Since the 1980s, the topics for compulsory negotiation at the company level have increased over time. Following the last reform, this list now includes: (i) remuneration, working times, and the sharing of added value (e.g., profit-sharing); (ii) professional equality between men and women and the quality of working life; and (iii) strategic workforce planning, subcontracting, or temporary employment. All remuneration rules are now solely governed by a company agreement, with the exception of agreed minimum wages, classifications, and overtime premiums. It is now also possible to adapt the methods and frequency of these compulsory negotiations by company agreement. A second addition is that the government extended the possibilities for non-union representatives to negotiate with an employer

in non-unionised workplaces. This broad reform in 2017 has undoubtedly led to increased social dialogue and negotiations at the company level in France. The number of agreements in companies grew from around 31,000 in 2017 to around 50,000 in 2019 (these figures include SMEs). Nevertheless, sector bargaining continues to be important and companies' derogations from sectoral agreements remains limited to cases of "economic survival" (Kahmann & Vincent, 2022). In addition to new topics in decentralised bargaining, sectoral agreements in France still leave room for additional wage bargaining at the company level (mostly used among bigger companies regarding variable forms of pay like profit-sharing schemes (Kahmann & Vincent, 2022).

In Spain, large firms negotiate additional wages with trade unions. After the financial crisis, the Spanish government unilaterally stimulated collective bargaining at the company level, especially on issues of flexibility in wages and working hours (Ramos Martín & Muñoz Ruiz, 2022). This is in the context of aiming for deregulation and supporting employers' interests in difficult economic times. Such company agreements could deviate from the labour standards set at sector level, and, indeed, this has been the case since 2012, when a number of companies traded off lower wages/hours for fewer layoffs. Trade unions saw this state-imposed decentralisation as an undermining of their position, which also led to strikes and unrest in social dialogue at national and sectoral levels. Spanish unions have a weak position at the decentralised level, especially in smaller firms, and (therefore) want to keep their relatively strong positions at the sector level. Similar to other Southern European countries, the newly created possibilities for derogation have had little impact on the structure of bargaining. Or, to frame it in our theoretical model: this *layering* –by adding decentralised elements – has not led to *breakdown* or *displacement*. Interestingly, in 2021, the Spanish government restored the primacy of sectoral collective bargaining by preventing company bargaining aimed at avoiding sectoral collective agreements, for example with non-representative employee representation at the local level.

Italy is characterised by widespread bargaining at the company level on additional wage components over and above the wage levels set at national and sectoral levels (Armaroli & Tomassetti, 2022). Such secondary bargaining takes place in about 20% of Italian workplaces, mostly in bigger companies. Furthermore, it is not just the state, as in France and Spain, but also the social partners themselves that have initiated processes of organised decentralisation. Since the 2009 economic crisis, opening clauses have increased the scope for company bargaining to derogate from standards

set under sectoral agreements. Cross-sectoral collective agreements have opened up a process of organised decentralisation: the scope of decentralised bargaining continues to be defined by national collective labour agreements, yet opening clauses entitle decentralised bargaining to deviate from standards set by these national agreements, provided that the derogatory agreement is approved by sectoral trade unions (Armaroli & Tomassetti, 2022: 10–11). Moreover, the Italian government has sought to stimulate so-called productivity agreements at the company level, enhancing flexibility in payments and working hours and direct employee participation. However, these new articulation regulations in the Italian collective bargaining regime have resulted in little change in practices. In the last five years, decentralised bargaining practices in Italy seem to have grown as a result of an intensification of (bottom-up) autonomous dialogue in large companies with respect to health, supplementary pensions, social benefits, skills, and smart (mobile or tele-) working during COVID-19 (Armaroli & Tomassetti, 2022).

Drift

A kind of “institutional drift” has developed in Germany. Although employer associations continue sector bargaining, it is no longer automatic and self-evident that their members follow the sector agreement co-signed by their association. This is a societal change leading to less employer support in the meaning and functioning of sector bargaining and making agreements with trade unions. Companies’ needs for increased price competition and more flexible business strategies are also visible in other countries, but the German case is noteworthy insofar as some employer associations have created “opt-out” opportunities in which companies can remain members but without being covered by sector bargaining. Between 2000 and 2019, collective bargaining coverage fell from 68% to 52% as a consequence. This, in turn, has big consequences in Germany because of the limited use of public extension mechanisms in Germany. Non-membership of German employers easily can lead to no binding to any collective agreement at all. In most sectors in the Netherlands and in Southern European countries however, non-membership among companies has less effects on collective bargaining coverage because of the continued use of the public extension mechanism where sectoral agreements become binding for all employers in the sectors (including non-members). The exception in the Dutch case is the IT sector, where the same kind of opt-out option is visible for the employers’ association (but it is important to note that employment relations in software companies in the Netherlands were never centralised in the past).

Another example of institutional drift is found in Poland, where collective bargaining practices are “ritualistic,” with no substantive outcomes for the fragmented, workplace-centred practices (Czarzasty, 2022). In many more countries – including the coordinated market economies of Germany and the Netherlands and statist market economies in Southern Europe – we see that unions in the retail sector have been unable to retain control over the decentralisation process and to play an important role at the company level, leading to high fragmentation in scope and meaning of collective bargaining (see Chapter 4; Paolucci et al., 2023).

Conversion

By definition, decentralisation leads to more trade union consultations and involvement in the economic, business, and HR strategies of individual companies. In Italy, France, and Spain, governments aimed at decentralised bargaining as an instrument to enhance companies’ productivity and competitiveness. Nevertheless, close involvement in company policies might relegate the basic function of trade unions, i.e. representing and defending workers interests, to second place, as can be seen in large French firms (Kahmann & Vincent, 2022). Here, company-level bargaining has proven to be ambivalent for trade unions. On the one hand, they get better information and are more involved, and the employees have increased opportunities to participate in career planning. On the other hand, however, company bargaining offers the opportunity for a company to use it as a cost-cutting instrument and to reduce the workforce (Kahmann & Vincent, 2022). Another example can be found in Germany where employers ask for derogations from sector agreements and unions play the role of the employer, demanding productivity increases so that the company can return to the collective bargaining norm (Haipeter & Rosenbohm, 2022).

Another form of institutional conversion occurs when trade unions are replaced by employer-friendly “yellow unions,” as we see in Italy (*pirate contracts*), or that large trade unions are excluded from collective bargaining and replaced by a small non-representative one (Armaroli & Tomassetti, 2022; Jansen & Tros, 2022).

Table 1.2. provides an overview of the types of institutional change in collective bargaining towards decentralisation, as evidenced in our eight European countries.

Table 1.2. Types of decentralisation and institutional change in eight European countries

	Uncontrolled decentralisation (breakdown)	Replacement: From sector to company level (displacement)	Adding decentralised elements (layering)	Losing grip (drift)	Other use of collective bargaining (conversion)
Ireland	Collapse social dialogue central levels + bottom-up union mobilisation				
Poland	Low and falling collective bargaining			Fragmentised, workplace-centred practices	
Sweden			Decentralisation options in multi-layered frameworks		
Germany	Decline collective bargaining coverage <i>Opted-out employers' associations</i>	Shifts to works councils	<i>Opening clauses</i> Derogations	Circumvent collective agreements informally	Productivity bargaining
Netherlands			Decentralisation provisions in sector agreements		Non-representative unions
France	-	less topics for sectors More topics for companies	More topics in company bargaining Opportunities non-union representation		Instrument for HRM
Italy			Derogations <i>Productivity agreements</i> Autonomous bargaining in large companies		Productivity bargaining <i>Pirate contracts</i>
Spain			Derogation options at company level		

Similarities and differences in decentralisation pathways

From a theoretical point of view, we can distinguish disruptive and structural changes in collective bargaining institutions from incremental changes that can change the meaning, scope, and impact of collective bargaining institutions. The dominant trend in most of the European countries that have been studied can be labelled as gradual “layering”: more company bargaining “on top of” and within national and sectoral structures. Nevertheless, the liberal market economies of Ireland and Poland lack social dialogue at the national and sectoral levels. Pathways in initiating and shaping decentralisation and flexibility at the company level are dependent on legislation on collective bargaining, governmental policies, and the strategies and power of trade unions and employers’ associations. Across some countries there are some similarities in the way decentralisation is organised through articulation in multi-layered bargaining systems based on the “favourability” and “complementarity” principles. Degrees of layering and the use of decentralised opportunities are dependent on legislation, initiatives by social partners, and the power of trade unions to maintain (cross-) sectoral guarantees and to shape (new) regulations and practices in decentralised bargaining.

Sectoral variations in decentralised bargaining

Decentralisation of collective bargaining has different impacts in industry sectors depending on company characteristics, labour markets, workers’ characteristics, and the different power resources and strategies of collective bargaining parties in these sectors. Sectors show their own developments in business structures, technological developments, working populations, and labour relations. In other words, national institutional contexts might be less significant than is often assumed (Bechter et al., 2012; Keune & Pedaci, 2020). It is, therefore, important to look to sectors, as I will do here below for manufacturing and retailing.

Case studies in manufacturing

There are many reasons why we would expect more organised forms of decentralisation in manufacturing sectors. One reason is simply because there *is* more to deregulate and to decentralise, compared to service sectors. Trade unionism and collective bargaining in Europe grew over decades of industrialisation, and the manufacturing sector played a leading role in the

development of labour relations in the 20th century in Europe. In the 21st century, the manufacturing sector is also an important arena for change in collective bargaining. Export-exposed manufacturing companies in Europe face increased global competition, increased diversification in the digital technology that they use, and the continuing need to restructure jobs and workplaces. All this increases the need for more “tailor-made” responses in labour strategies and related demands for flexibility in labour costs, working hours, and worker qualifications. It is commonly assumed and, indeed, it has been confirmed that the shift to post-Fordist production, with an emphasis on flexibility, has unleashed pressures for bargaining decentralisation (Traxler & Brandl, 2012). Lower numbers of blue-collar workers and higher numbers of white-collar workers tend towards less unionisation and more individualisation. Furthermore, manufacturing firms in Europe need to adapt to the consequences of the global COVID-19 pandemic and must also accelerate their “green transitions,” both of which are having a great impact on employment, job quality, and the organisation of work. In the global competition on prices and quality, employers might ask for (temporary) derogations from national and sector regulation. For sure, continuing innovations in technology and organisation demand continuing social dialogue with employee representatives in HR issues as well. Compared to other sectors, the relatively high membership levels among trade unions and more established bodies of employee representation in manufacturing companies could lead to more willingness among trade unions to decentralise, and could lead to intensified interactions between unions and individual employers.

Collective bargaining patterns in Europe’s manufacturing sector reflect the Polish variations in national industrial relations traditions and production regimes. From company bargaining in Ireland and Poland, to advanced multi-level bargaining in Sweden and Southern European countries, to coordinated decentralisation in Germany. In sector-level dominated countries, employers are trying to make sectoral standards less strict and to leave companies more elbow room to deviate or to opt out. Another common trend is the growth of autonomous social dialogue at the company level, in addition to national and sectoral agreements. Whereas, in Fordist times, social partners in manufacturing were innovators in collective labour relations, today, they seem to be the initiators of organised decentralisation (Chapter 3; Haipeter, Armaroli, & Iossa, 2023).

Integrated bargaining

Case studies in manufacturing show collective bargaining and social dialogue on a wide range of topics, with higher quality in the processes and

outcomes of negotiations than in retailing. Interests of individual employers and trade unions might overlap in “integrated bargaining” practices to produce “win-win” results in issues like labour productivity, sustainable worker employability, and job protection.² It is important to note that the “best cases” in company bargaining, with higher levels of pay and other employment terms and conditions, are to be found in “high-end” chemical, pharmaceutical, and electronic companies that demonstrate high labour productivity. Nevertheless, local trade unions in many countries sometimes lack innovation capacity, competence, independence, or early involvement in the case of restructuring. Promising practices in company bargaining have been adopted recently in manufacturing, related to issues of the COVID-19 pandemic and its impact on organisations, such as teleworking, mobile work, or other “smart working” practices (even in liberal market economies). Cooperation and negotiation at the local level led to the finalisation of thousands of local collective agreements on handling the effects of the pandemic at the workplace level in Sweden. Also in the Polish manufacturing case, trade unions participated in various COVID-19 task forces and crisis teams; remedial measures were mutually agreed and jobs guaranteed until 2023. Sometimes, the pandemic context strengthened social dialogue at company level or the connections between trade unions and the participation of employee bodies within companies. In the Dutch manufacturing case, the trade unions found a place in tripartite dialogue with the employer and works council to make new regulations in the organisation and to compensate for teleworking during the crisis, but also for the near future, with the aim of achieving a better work-life balance for the employees.

Employee representation

Co-determination and consultation through non- or partly unionised employee participation have grown in at least the manufacturing sector in the coordinated market economies of Germany and the Netherlands. In Germany, works councils are actively involved in additional bargaining on wages, other topics, and opening clauses in collective agreements. In the Dutch manufacturing case, too, we see significant and strong performances with respect to works councils’ consultation practices in HR and organisational issues (including restructuring, acquisitions, and transfers), but their involvement does not yet extend to those areas where trade unions are active in collective bargaining on employment terms and conditions (see

² *Integrated bargaining with positive sum results can be disentangled from distributive bargaining with zero-sum results (such as on wages).*

Chapter 6; Rosenbohm & Tros, 2023). The manufacturing case in Sweden presents a (traditionally) stronger mutually reinforcing and synergetic relationship between collective bargaining, on the one hand, and information, consultation, and co-determination, on the other hand (Rönmar & Iossa, 2022). This can be explained by the Swedish single-channel system of trade union representation where no or fewer tensions exist between the systems of collective bargaining, on the one hand, and employee representation, information, consultation, and co-determination, on the other hand. The findings with respect to employee representation are more mixed in the Southern European countries.

Case studies in retail

Although, formally, collective bargaining parties in the retail sector have the same national institutional power resources as collective actors in manufacturing, the organisational power of trade unions is far lower. The weak collective and individual positions of workers relates to the many low-paid jobs, atypical employment contracts, and short-term commitments. In cases of earlier established sectoral structures, we might assume less need among trade unions to organise decentralisation in order to prevent fragmentation in a context of low membership. However, any attempt by employers to break down sector institutions would meet trade unions with little power to resist. In the case of company-level bargaining, we might assume an employer-driven bargaining agenda.

Fragmentation

This book shows fragmented and unstable collective bargaining structures in the retail sectors. In many countries, retailers miss the pressure of trade unions as a reason to coordinate, leading to a fragmented structure of employers' associations and non-organised retailers (with the exception of Sweden). The relatively low "threat" of trade unions combined with the "low productivity road" are reasons for retailers not to organise. More than manufacturing companies, retailers go their own way, as we see with *pirate contracts* in Italy or exclusion of the largest trade union FNV in collective bargaining in the Dutch retail sector. In the German retail sector, the major trend is "wild" and uncontrolled decentralisation to a greater extent than in the German manufacturing sector (Haipeter & Rosenbohm, 2022).

Nevertheless, national institutions can limit fragmentation in collective bargaining in the retail sector. Sector agreements, also in retail, can be supported by public law that extends to retailers who are not members of

employer associations. In Sweden, the retail sector shows quite centralised wage-setting mechanisms compared to other sectors in the country (Rönnmar & Iossa, 2022). There might be a structural reason for centralisation in retail, namely, the high number of SMEs. In general, many small companies in the sector might explain business preferences for centralisation (Bulfone & Afonso, 2020). In the Netherlands, sectoral collective agreements in retail are used by SME companies as an “HR manual,” because retail companies are mostly too small to produce their own HR policies (Jansen & Tros, 2022). Retailers and trade unions might have a common interest in setting a level playing field in the sector regarding wages and other labour costs (albeit at a low level) in order to prevent the real risk of a “race to the bottom” with respect to employment terms and conditions.

Employee representation

Lower levels of union representation in the retail sector do not mean that alternative bodies of non-unionised employee representation fill the gap. On the contrary, works councils in, e.g., Germany, the Netherlands, and France, are much less established in retail than in manufacturing, and are generally weaker than their manufacturing counterparts as well. In Italy, too, we see a combination of factors that lead to lower representation of workers in retail companies by (non-unionised) employee representation: lower union density; smaller company sizes; geographically dislocated shops belonging to large retail companies; and greater presence of “atypical” workers groups, such as migrants, young workers, and flexible contracts (Armaroli & Tomassetti, 2022).

Nevertheless, revitalising experiences have emerged in retail companies in Ireland and Germany. A fashion discounter in Germany successfully carried out the consecutive steps to establish a works council, the unionisation of its staff, recognition of the trade unions in collective bargaining, and, finally, strategic cooperation between unions and the works council (Haipeter & Rosenbohm, 2022: 68–70). Although not representative, this case shows the potential to organise workers in the context of bad working conditions – and bringing individual companies (back) into collective bargaining regimes – which can then be replicated in other companies.

Union power resources

The unions’ power resources are low in the retail sector due to the earlier mentioned fragility in collective bargaining structures, low degrees of consultation and co-determination activities in the workplace, and because of low trade union membership (with the exception of Sweden).

Low membership is related to workers' characteristics. In all European countries, many employees in retail are young, female, low skilled, and have small part-time and other flexible labour contracts (see Chapter 4; Paolucci et al., 2023). The trade unions' lack of a fundamental social base has effects, firstly, on low acceptance or sometimes even hostility among employers towards unions. This factor has strong implications in Ireland and, in particular, Poland, where the majority of retail employers do not recognise unions for collective bargaining within its highly voluntarist system. The two Polish retail cases show that even if trade unions are recognised, in practice, there are barriers to them developing activities, which limits their affective influence in improving employment terms and conditions (Czarzasty, 2022). All retail cases across the countries suggest an imbalance in bargaining processes and quite limited outcomes in negotiations. The lack of power of the established trade unions in the retail sector in the Netherlands, for example, led to agreements signed only with smaller or "yellow" unions (Jansen & Tros, 2022). The Dutch retail case points to deteriorating labour standards as evidenced by, for example, trade unions no longer being welcome at the bargaining table in negotiations with the distribution centres of a large supermarket. A positive exception is Sweden, where institutional and organisational power resources compensate for low structural power among retail workers (Chapter 7; Rönmar et al., 2023).

Case-study conclusions

Comparing the case studies in the two sectors leads to the conclusion that there is more organised decentralisation in manufacturing and more wild decentralisation in retail, linked to the different structural characteristic of companies and workers, and different institutional and organisational power resources of trade unions in the sector. Sectoral analyses in this book confirm the statement that "sectoral differentiations in industrial relations do not replace national differentiations in industrial relations" (Bechter, Brandl, & Meardi, 2012), because national institutions matter insofar as they can prevent collective bargaining in the retail sector from falling "too deep" and in order to maintain sector institutions. But we see cross-country variation in Europe. In Sweden, national characteristics in terms of high trade union memberships and multi-layered collective bargaining produce less sector differentiation than other countries. In Germany, however, the difference in unionisation between the two sectors has led to the erosion of sector bargaining in retail. In the Netherlands and Italy, it leads to agreements with fewer representative unions and

lower labour standards in collective agreements in retail. In both countries there is also an employer strategy to bypass the legal extension of sector agreements that are made with larger and stronger trade unions. In the context of generally bad working conditions in the retail sector, trade unions across Europe are seeking to organise and activate workers in large retail companies to build up company level bargaining (Ireland, Germany) or to fight for the continuation of their position at company level (Netherlands, Poland). In manufacturing, trade unions have more established positions from which to bargain on “higher end” topics like productivity, restructuring, and competitiveness.

Nevertheless, our research makes clear that there are more “divisions” than sectors. Especially in Italy, sector differentiation seems to play a less dominant role than company size and position in the value chain. The Italian report concludes that the two-tier model of organised decentralisation no longer fits the large companies at the top-end of the value chain or small companies at the lower positions of the value chain. The first group prefers fully decentralised bargaining at the company level, and the preferences of the second group leads to a centralised – though highly “perforated” – bargaining model, for example using loopholes within traditional collective bargaining and signing *pirate contracts* with non-representative unions (Armaroli & Tomassetti, 2022: 60–62).

Beneficial factors and barriers in balanced decentralised bargaining

Company-level bargaining is not something that is by definition good or to be preferred above multi-employer bargaining. It has to be balanced and fair in its intention, its dialogue and negotiation processes, and its outcomes.

Indicators for *balanced* company bargaining are:

- embeddedness in a legal framework and broader collective bargaining regime with employers’ commitments
- access of established, representative, and independent trade unions to the bargaining table at company level
- relatively equal power positions between individual employer and worker representation in professional negotiation processes
- scope of bargaining agendas that is broader than wages and working hours (and includes job protection, education, co-determination, consultation in HR and business strategies), or to frame it using game theory: not only distributive bargaining (trade-offs, zero-sum game) but

- also integrated bargaining with win-win outcomes (Walton & McKersie, 1965)
- bargaining outcomes that are not only beneficial for the employer and the company, but also beneficial to employees

Labour relations and collective bargaining are based on power relations between employers and employees and between collective bargaining parties. Trade unions are central in organising and representing the less powerful stakeholders: the workers. In this study, we also focus on the power vested in the position and strategies of trade unions in collective bargaining, specifically in their responses to state- and employer-initiated decentralisation, but also to their own initiatives to represent employees at the company or workplace level.³ Literature distinguishes four different dimensions of trade union power resources (see e.g., Müller & Platzer, 2018; Müller et al., 2019).⁴ The first dimension is *institutional power dimensions* relating to the trade unions' legal recognition in collective bargaining at several levels and the rights and obligations of the bargaining parties, again at several levels. Institutional factors also relate to legal and regulative support for employers in multi-employer bargaining and its (legal) extension to unorganised employers. Chapter 7 elaborates on institutional and legal factors at the national and supra-national levels (Rönnmar et al., 2023). The second dimension concerns *organisational power resources*, sometimes also called “associational power.” This is the capacity of trade unions to organise and participate in social dialogue and collective bargaining, and, more specifically, also in controlling decentralisation and influencing company-level bargaining. Chapter 7 distinguishes the numerical strength of membership together with other factors like coordination, social partnerships, and activism (Rönnmar et al., 2023). Here, it is important to note that workers' organisational power depends not only on union factors, but also on the support provided by employers and the state for allowing and facilitating union organising and union activities to increase their membership (Müller et al., 2019: 634–635). The third dimension concerns *societal power resources* or “communicative power resources,” such as the ability of unions to take part in public discourses, to shape public opinion, and to forge alliances with other civil society actors, such as NGOs, political parties, and social

3 Employers' associations also have the distinguished power resources dimensions but they are beyond the focus of this study.

4 While trade unions are central to this study, as previously stated, these dimensions of power resources might, theoretically, be broadened to employers and their associations.

movements (Müller & Platzer, 2018: 305). Countries where trade unions are involved in tripartite social dialogue with the government and business associations or are in networks with employers' organisations do give trade unions social support and recognition, also at the level of individual companies. Dialogue with unions can be part of a company's socially responsible strategy, in the same way as dialogue with NGOs in environmental issues can bolster a company's social image. Academic literature also presents a fourth dimension, namely, *structural power resources* (Schmalz, Ludwig, & Webster, 2018). Structural power refers to the position of wage earners in the economic system, in the production process, and in the labour market. It is a primary power resource as it is available to workers and employees even without collective-interest representation. In Chapter 7, Rönmar et al. (2023) find (potentially) interchangeable relationships between these forms of power resources.

In this chapter, in addition to examining the first and second dimensions of power resources, I will use evidence from the case studies in our research to produce a more in-depth picture of the influences on decentralisation and the quality of company-level bargaining.

Institutional factors

Many authors have concluded that it is necessary to maintain multi-employer agreements in order to shore up bargaining coverage and to set safety nets and norms for company-level bargaining (see also Visser, 2016; Ibsen & Keune, 2018). The positive effects of national and sectoral institutions on coordinating decentralisation can be clearly seen in France, Italy, the Netherlands, Spain, and Sweden. Furthermore, individual employers need to recognise unions as a representative bargaining party for workers. In more elaborate multi-layered models – such as those found in Sweden, Italy, and France – trade unions have greater access to (additional) collective bargaining at the company level. Clear and supportive regulations about the conditions for company-level bargaining and its relationship to national and sectoral collective bargaining is needed. From a legal perspective, France regulates the most details in this regard, including topics to be regulated at the company level and the conditions set for unions and non-unionised worker representation when representing employees. Italy and Spain also have elaborated institutional frameworks by law and national and sectoral agreements for regulating the articulation between the levels. In Sweden, only social partners regulate centralisation and decentralisation in employment relations.

Within multi-layered frameworks, vertical coordination practices among employers (associations) and among trade union representation are relevant on several levels. Most country reports point to the need for national or sectorial union representatives to assess (proposals for) local agreements, combined with fallback clauses of minimum standards set at national and/or sectorial level. This is to prevent the inclusion of non-beneficial ingredients in local agreements for trade union members and other employees that may result from potential inequalities in bargaining power at the local level. The exceptions are Ireland and Poland, where sectoral and national bodies have almost disappeared and decentralised bargaining is not conditioned by national or sectoral regulation. Filling the gap left by a lack of vertical coordination, trade unions in Ireland have initiated new forms of informal horizontal coordination.

A major advantage of single-channel systems is that the labour counterpart to management at company level has a broader mandate that is anchored in collective bargaining, and in multi-level structures there are also better means of communication and articulation with higher-level actors (Nergaard et al., 2009). The Swedish cases illustrate that clear national and sector regulations on employee representation and information, consultation, and co-determination at the local level is enhancing successful negotiation and the implementation of local collective bargaining. Dual-channel systems are extra challenged by the need for clear demarcations in jurisdictions for trade unions and for works councillors or other representatives in employee participation.

Institutional barriers

Poland and Ireland show the most institutional barriers in decentralised bargaining. Irish and Polish unions lack the support of social dialogue and collective bargaining at the national and sectoral levels. Trade unions here are also confronted with low bargaining rights, making them extra vulnerable to an employer's unwillingness to accept them as a worker representative party. Especially the Polish report – and to a lesser extent – the Irish report – show highly fragmented and highly workplace-centred employment relations despite the existence of cross-sectoral confederations of trade unions. As earlier stated, the fragmentation in Poland can be explained by the long-existing vacuum between the state and workplaces and a lack of employers' unions' activities at the sectoral level. Furthermore, in Poland, collective agreements are concluded for unlimited duration, which discourages employers from entering into collective bargaining if there are no possibilities to adjust or renegotiate

agreements. The Irish cases show more success in company-level bargaining, but also in a context of eroded institutions at the national and sector levels. Polish trade unions seem to enjoy less success in terms of establishing “compensating” practices at the company level compared to Irish unions.

Established trade unions can also meet closed doors in less voluntarist models of employment relations, for example when “yellow unions” take such a position in Italy or in the Netherlands. Sector bargaining can also be a strategic instrument for companies seeking to avoid talking to or negotiating with trade unions: essentially, they have “outsourced” this to an external party (read: employers’ association) and use this to legitimise their refusal to interact with trade unions at the company level.

In Germany, the lack of legal extension of sector agreements to unorganised employers is a barrier for German trade unions to control decentralisation processes and to establish alternative positions at the company level. The unorganised company is free to choose whether it bargains with unions or not and trade unions can partly compensate for the holes that have been made in collective bargaining coverage.

Organisational factors

It is clear that a company’s trade union membership rate is crucial in decentralised bargaining. This relates to *access* to the bargaining table as a representative party, relatively equal power relations between employer and trade unions in *negotiation processes*, and bargaining *outcomes* that are beneficial for employees. Let us not forget that memberships are the biggest source of financial resources for trade unions. Decentralisation is expensive because of the high number of negotiation tables at the decentralised level and the related effort required to collect local information, to build up a broad range of skilled local negotiators, and to maintain internal coordination.

Where trade unions at company level are relatively weak in terms of membership (such as in Spain and the Netherlands), they have little to gain from diffusing their activities at the company level. In other words, they need to focus their limited resources at higher collective levels. But where trade unions have high membership in companies – within or without the framework of sector agreements – they can profit from a robust social base in their negotiations with management (see also Toubøl & Strøby Jensen, 2014). The case studies in Sweden confirm the importance and benefit of high trade union membership and long traditions in bargaining and social

dialogue structures, also when new challenges emerge, such as the corona pandemic or teleworking.

Another beneficial factor is the competence of trade unions in social dialogue and collective bargaining at the company level. This is partly related to the earlier-mentioned factors, but these factors are not enough; bargaining rights and trade union membership do not guarantee a high degree of competence. The Italian cases show that high unionised levels among employees do not automatically lead to strong capabilities in defining positions and organising effectiveness in decentralised bargaining. The trade unions' competence in decentralised bargaining is linked to company specific knowledge, bargaining and dialogue skills and experience, as well as the capacity to translate individual workers' needs into a coherent collective approach. The case study in the manufacturing sector in Poland makes clear that, despite the country's minimally supportive institutional structure, the strong position of trade unionists in companies is the result of proactive and decisive trade union practices.

Interestingly, some case studies consist of innovative actions by trade unions to (re-) engage with workers and workplaces through decentralised bargaining. The Irish cases reveal proactive unions re-engaging their union base through company bargaining with management (Paolucci et al., 2022). At the same time, they mobilise their members, develop shop stewards' negotiating skills, and try to follow a strategy of pattern bargaining towards other individual companies in the sector. The best cases have inspired other Irish unions to see decentralised bargaining as an opportunity to reconnect with members and to demonstrate the unions' effectiveness in gaining pay rises (Paolucci et al., 2022; Rönmar et al., 2023) Also in Germany, union strategies of (re-)connecting with the rank and file and workplaces, for example, by starting new cooperations with works councils to recruit new members, strengthens existing union involvement and creates new opportunities in company bargaining (Haipeter & Rosenbohm, 2022). The success of German unions in establishing and continuing decentralised bargaining is largely dependent on whether works councils are able and willing to collaborate with unions, for example in concession bargaining when companies in manufacturing are in crisis. Local derogations from sector agreements in the German metalworking industry and concessions from trade unions in wages and working hours go hand in hand with improvements in employment protection, investment promises, and the extension of co-determination responsibilities. The case of the German fashion retail company can be read as a success story in local organising: after the union helped the employees to install a

works council, the council helped the union gain recognition from the employer as a negotiating party. From another point of view, the Dutch case of an e-commerce firm is also innovative, in the sense that the trade union started an experiment with new direct forms of individual worker participation in collective bargaining (referendum, voting) in order to engage with non-unionised individual employees and to increase its representation. Chapter 7 of this book points to the interesting conclusion that countries that have the tradition of a “participative relationship” between union negotiators and members, i.e. that see members as potentially active participants in collective bargaining alongside professional union staff, have been less prominent in redefining trade union strategies in relation to decentralised bargaining (Rönmar et al., 2023). It seems that re-engaging with workers and bottom-up approaches in decentralised bargaining are more common in countries that experience a more serious decline in bargaining coverage.

Less unidimensional are the conclusions about the benefits of cooperation between trade unions at sectoral level and those at company level. In the well-developed multi-layered Swedish regime, there are rather tight vertical communications in trade union organisations that appear to work well. Also in other countries, local trade unionists are supported by sectoral representatives. But the French and Dutch manufacturing cases show that union delegates have quite autonomous positions and functions at company level. Support does not always appear needed and too much sectoral interference can hinder autonomous bargaining at the company level.

Employers' support

The organisational power of trade unions is not only dependent on a union's characteristics, such as memberships and competence, but also on an employers' commitment to collective bargaining structures and a company's support for trade unions' positions and actions in decentralised bargaining. Generally, the well-established and professional relations between individual employers and trade unions in negotiating wages tend to be broadened by trade unions' involvement in other issues, such as working hours, job security, education, etc. In these practices, the scope of “distributive bargaining” with zero-sum results is growing towards “integrated bargaining” in win-win situations with positive sum results (Walton & McKersie, 1965). This is made clear in all cases in Sweden and some manufacturing cases in Italy, Germany, the Netherlands, France, and Ireland. Related to this is that many case studies concern large companies characterised by high labour productivity where quality matters with

respect to both competitiveness and price. The quality of such relationships and bargaining processes is mostly characterised as being mutually trustful, collaborative, professional, and continuing/sustainable. Here, management uses trade unions strategically to gain social support for their policies regarding competitiveness, technology, digitalisation, HR management, and sometimes environmental issues as well. In turn, trade unions gain established positions, broader involvement, and, when smart, they can also reconnect with workers, workplaces, and employee representative bodies. In short, when social dialogue and collective bargaining agendas at the company level go beyond the classical topics of wages and working hours, integrated bargaining with win-win results can strengthen decentralised bargaining. Nevertheless, there is a limit when an employer sees collective bargaining simply as an efficient and effective HRM tool for creating social support and worker motivation (as some of the case studies in Ireland, Italy, and France suggest). There is also a limit when trade unions become (too) dependent on an employer's financial resources, which can hinder a trade union's autonomous agenda-setting and independent power in the long-term.

Case studies in France, Italy, and the Netherlands reveal the development of (re)centralisation within large manufacturing companies, where collective bargaining at the corporation level enhances harmonisation between departments and workplaces with respect to labour contracts and HRM policies and prevents competition on wages between different establishments or departments. (Re)centralisation is also in a large employers' interest in terms of efficiency in bargaining processes and contract formation. In these cases, workers' participation continues to be at the decentralised workplace level, strengthening the observation that collective bargaining by unions and (non-/partly) unionised employee participation are parallel practices within large companies.

Organisational barriers

Low union membership is definitely a barrier in decentralised bargaining. This is illustrated, for example, in the weaker and less balanced bargaining that we see in the retail sector, where "pirate" bargaining with "yellow" unions is more common due to the lack of strong, organised, and established trade unions in the sector. Lower membership also means there are limited financial resources for building up trade union competences in company-level bargaining.

The unions' lack of engagement and knowledge about workplaces, jobs, and employees within companies is another barrier to decentralisation and

decentralised bargaining. Dual-channel systems of worker representation put trade unions at a structural disadvantage in terms of connecting to workplaces, but they might give trade unions a power resource if both unions and works councils are open to partnership constructions. German manufacturing cases demonstrate the opportunities that arise when trade unions' cooperate with works councils. At the same time, one must be cautious about assuming this is the case for all companies and sectors in Germany. The share of companies and employees without representation by a works council is quite high (Haipeter & Rosenbohm, 2022: 16–17). On the one hand, this limits the power of trade unions in structural collaborations with works councils. On the other hand, it also means that when a company is no longer covered by collective bargaining, this decentralisation is “deep” and lacks the “buffer” that a works council provides. In general, across the studied countries, the majority of the cases show low levels of relationships between collective bargaining bodies and employee representation bodies at workplace level.

In all European countries, there is evidence of some hostile, non-committal, or non-supportive employers in decentralised bargaining. We see the most non-committed employers in the case studies from Poland (except for the Polish company that is part of a multinational with a German mother). Sometimes, hostility manifests in the form of not allowing a trade union to be established or refusing to communicate with trade union representatives. Sometimes, it occurs with a minimum level of social dialogue or consultation but without collective bargaining. The Polish cases can be understood in the context of a national model of pluriform industrial relations with traditionally low union activities in collective bargaining. However, there are non-institutional factors in play. In Ireland, also a pluriform model, the cases describe more willing employers that find a link with their company strategies. In the Netherlands, with its overall institutional stability, we see a retail case of an employer that no longer has faith in collective bargaining with the trade unions. Its decision to exclude unions from the bargaining table means it risks new conflicts with established trade unions while breaking a long tradition of decentralised bargaining.

We must not forget that, in addition to trade unions, employers can also “lose” or “risk” something when they introduce decentralised bargaining. Companies that start making collective agreements worry about losing competitiveness in comparison to other companies that are not bound by collective bargaining at all or that are covered by (cheaper) sector agreements.

Towards new relations between unions and other employee representatives?

Single- and dual-channels in workers representation

Patterns of decentralisation are influenced by single or dual channels of worker representation within companies. In single-channel systems, where workplace representatives are elected and/or delegated by trade unions, unions can keep substantial control over decentralisation processes (Ibsen & Keune, 2018). In dual-channel systems, where employees are represented by works councils, the relationships between sector and local negotiators are often weaker and more fragile, reducing the control of unions over decentralisation (Nergaard et al., 2009). This control depends on the extent to which works council members in these dual-channel systems are members of trade unions, and the extent to which works councils and trade unions cooperate at the workplace and company levels. It can therefore be assumed that trade unions in dual-channel systems are more hesitant and cautious about decentralisation, because of the risk of their control and powers being diffused. On the other hand, when works councils are more unionised or have partnership relations with unions, trade unions might be more willing to confer the rights to derogate from sector agreements on works councils. At least in theory, trade unions in dual-channel systems might use works councils as a power resource in collective bargaining at the company level. Trade unions can use the institution of works councils as part of their strategy for better engagement with workers and their needs within companies, to recruit more members, and, indeed, to unionise the councils (Haipeter, 2020). Decentralised bargaining on derogations can give unions and works councils the opportunity for revitalisation and for cooperation between the two bodies of worker participation (Haipeter, 2021).

The Swedish case studies confirm the theory that single-channel systems are characterised by stronger, collaborative relationships between sector and local negotiators in collective bargaining. They lead to higher trust and willingness among trade unions at the national, sectoral, and multi-employer levels to decentralise towards company level (Rönnmar & Iossa, 2022). Workers representatives at several levels are from the same “party” and there is no risk of involvement from competitive, non-unionised worker representatives.

Germany and the Netherlands are examples of countries with an elaborated, legally established dual-channel system of worker representation. In both countries, collective bargaining between employer(s) and trade unions

is legally demarcated from the consultation and co-determination rights of works councils within a company (see further Chapter 6; Rosenbohm & Tros, 2023). These are fundamentally separate legal fields. These fields only partly overlap when collective bargaining parties give jurisdiction to works councils, or if works councils are supported by trade unions.

Italy and France have a more mixed-channel model of worker representation, something in between a pure single-channel and a pure dual-channel system. In Italy, there are two channels for workplace representation. The unionised *Rappresentanze Sindacali Aziendali* (RSA), only for organisations under sectoral and/or company collective agreements, and *Rappresentanze Sindacali Unitarie* (RSU) with both unionised and non-unionised elected representatives (Armaroli & Tomasetti, 2022: 11–12). In practice, both channels are not that different and both have links with sectoral trade unions. Interestingly, the Italian findings suggest processes of decoupling between collective bargaining on the one hand, and shop floor representation on the other. First, among large and geographically dislocated companies that prefer uniform labour conditions across their many establishments, the focal point of decentralised bargaining is shifting from individual workplaces to the group or corporate level. Second, the Italian report points to a weakening role of workplace representation and difficulties for unions in bridging shopfloor workers' organising and collective bargaining when trade unions are passive in organising new elections for the RSU and/or are focusing on collective bargaining procedures at the more centralised company level (Armaroli & Tomasetti, 2022: 62).

The French case is an interesting one. On the one hand, unions can set up a union section and appoint one or more union delegates as soon as they obtain at least 10% of the votes in workplace elections (Kahmann & Vincent, 2022). On the other hand, to offset the fact that non-unionised companies, mainly SMEs, cannot bargain, because of a lack of union delegates, successive legislation has extended the possibilities for non-union representatives to negotiate in non-unionised workplaces. Contrary to Germany and the Netherlands, French legislation is guiding the decisions about unionised and non-unionised bargaining parties and signing bodies – in Germany and the Netherlands these factors are generally in the hands of companies and factual power relations between employers, trade unions, and works councils. Furthermore, in France the scope of decentralised bargaining is guided by legislation relating to “obligatory issues,” be it in negotiation with union delegates or with non-union representatives. Theoretically, this might work as an incentive in the collective bargaining system for trade unions to present themselves as the best representative body for negotiating. However, it is not clear that this has led to higher membership rates in France.

Changing relationships between unions and works councils?

Relationships between the institution of works councils and the institution of trade unions are effected by the trend of decentralisation in collective bargaining. The legal demarcation of “functions” in co-determination versus collective bargaining and rights and powers between channels and stakeholders can be called into question. Indeed, it can be coordinated by social partners themselves. In Germany, trade unions have the formal lead in negotiating sectoral “opening clauses” at the company level and case studies in the German manufacturing sector show the importance of cooperation between trade unions and works councils in these areas. Unions can offer flexibility to individual employers in Germany through joint activities and collaborations with works councils, while at the same time revitalising their rank and file (Haipeter, 2021). In the Netherlands, trade unions maintain more distance from works councils and are very strict in their strategy of regulating minimum levels set at the sector level without any option of derogation (Jansen & Tros, 2022). However, this strategy means that Dutch trade unions miss the opportunity to (re-) connect with workplaces and their rank and file (see further Chapter 6; Rosenbohm & Tros, 2023).

Germany and the Netherlands show similarities in the wider topic of working hours and restructuring. This can be understood by the assumption that trade unions bargain for “hard money” in distributive bargaining processes (say, wages and other payments), while works councils bargain in issues where the interests of the employer and workers are overlapping. The aim of co-determination legislation in both countries is not only to represent worker interests, but also to enhance the working of the company’s organisation (this is the so-called dual aim of the Act on Works Councils in both countries).

Conclusions and future challenges

Decentralisation beyond national institutions

The decentralisation of collective bargaining is not new. Already since the 1980s, collective bargaining institutions have been decentralised in European countries. The main initiators are employers that aim for greater flexibility and deregulation in collective terms and conditions of employment. “Tailor-made” social dialogue at the company level gives employers more opportunities to adapt wages and other labour regulations to their company’s

competitive and strategic needs and their changing (specific) environments. After the financial crisis, in the 2010s, governments in Southern European countries installed new legislation to (further) stimulate company-level bargaining with trade unions, and in other countries employers adopted decentralisation with trade unions and sometimes works councils. Types and patterns of decentralisation in labour relations can be partly explained by the characteristics of national institutions: the strategies of social partners, trade unions' power resources, and company policies all play an important role. National labour law has less uniform power than is often assumed (see further Chapter 2; Jansen, 2023) and theoretical classifications in industrial relations regimes are partly explained by emerging pathways and trade union responses in the field of decentralisation. In the pluralist model of industrial relations, employers' preferences led to a further collapse in social dialogue and collective bargaining in the 2010s. But in parts of the Irish economy, weak institutional power resources have been compensated by the organisational power resources of trade unions, which found innovative ways to (re-) start negotiations with individual employers (see also Chapter 7; Rönmar et al., 2023). Trade unions in Poland were not able to do that. Although categorised in the same model of coordinated market economies and social partnerships, Germany and the Netherlands show divergent patterns in decentralisation. Sectoral bargaining structures in Germany have partly eroded, while in the Netherlands collective bargaining coverage continues to be high. German unions in manufacturing responded by organising strategic partnerships with works councils, while Dutch unions did not. In the southern part of Europe, French legislation goes into far more detail regarding company-level bargaining than the Spanish version (see Chapter 5; Muñoz Ruiz, Ramos Martín, & Vincent, 2023). The Nordic model profited in times of decentralisation from the strong coordination (Sweden) in its already established flexible multi-level system. Furthermore, in many countries, there are multiple decentralisation pathways occurring simultaneously. The decentralisation pathway of "institutional layering" in collective bargaining – by organising opportunities to derogate from national and sectoral regulations or to add topics in company bargaining – is now visible in all countries that are dominated by multi-employer bargaining – in the Nordic model, in the Rhineland model, and in the Southern European model. For a sector like manufacturing, innovations in collective bargaining have led to coordinated decentralisation with a strengthening of unionised or non-unionised employee representation in larger firms. Decentralisation trends in the European retail sector have also led to less clear demarcation of national industrial relations regimes. Collective bargaining in retail is

increasingly fragmented, liberalised, deregulated, and uncoordinated in almost all countries. This leads to declining collective bargaining coverage, and to lower quality of the remaining social dialogue and collective agreements (see further Chapter 4; Paolucci et al., 2023). Within national regimes, uncoordinated decentralisation in retailing and in other low-paid private sectors have led to more dualisation. Also here, the Swedish collective bargaining model showed more robustness across sectors.

Case studies in company bargaining provide several lessons. To reach balance in negotiations at the company level, it appears to be important to have supportive institutions at national and sectoral levels that facilitate bargaining rights for trade unions and safety nets in terms of wages and other labour standards. Other beneficial factors include higher union membership rates in companies, union competence in local negotiations, and innovative actions to re-engage with workplaces and workers within companies. Of course, employers' commitments to regulating decentralisation and company bargaining practices are essential. Institutional and organisational power resources for collective bargaining are more present in sectors like manufacturing than in sectors like retail. But enabling factors are not simply separated by sectors. Highly productive firms and larger companies are more engaged in decentralised bargaining practices and with more powerful trade unions in more balanced negotiations. Low price competitors and small- and medium-sized enterprises experience fewer beneficial conditions in decentralised bargaining.

Challenges for trade unions and other stakeholders

Neoliberal policies of governments and businesses in the 2010s often put trade unions in a defensive position regarding the push towards further deregulation and flexibility in labour. Following the gradual erosion of collective bargaining structures, it is difficult to establish new bargaining practices. Furthermore, union membership levels are in serious decline in almost all European countries (Vandaele, 2019). It is the challenge of the unions to organise and represent new generations of workers and to show that they are competent partners in terms of discussing innovative sectoral and company strategies, as well as defending decent employment terms and conditions and working conditions. Many trade unions worry about membership, social involvement, and "attitudes" among younger generations of workers in trade unions and works councils' activities. Another related challenge is the shift in employment over sectors. Manufacturing is in decline and as are the numbers of blue-collar workers. Service-oriented sectors

are still growing, while they have less established structures in collective bargaining at sector and company level and are usually weaker bodies of employee representation within companies. It is evident that in sectors such as retail, with more vulnerable and low paid workers, it is even more difficult for trade unions to combat fragmentation in collective bargaining and a race to the bottom in employment terms and conditions. The structural power resources of workers cannot always be compensated by institutional and organisational the power resources of trade unions (see further Chapter 7; Rönmar et al., 2023). Maintaining the position of trade unions in sector bargaining and in large firms seems to be challenging enough within the limited capacities evident in many countries. Trade unions face a dilemma in terms of investing more effort in collective bargaining for workers that are harder to reach. It is promising that some positive experiences have emerged in innovative trade union actions to re-engage with workplaces and workers, also in retail companies.

Today, many of the collective bargaining systems in Europe are truly multi-level systems that can no longer be so clearly framed as “vertical hierarchical” regimes, but rather as coordinators of fragmented autonomous levels of social dialogue and regulations. Experiences in some countries illustrate that updating bargaining agendas can help to preserve trade union involvement in social dialogue and collective bargaining at the company level. Several cases report new topics, such as COVID-19, teleworking, organisational developments with respect to more sustainable and “green” production, the digital transformation of work, and job-to-job transitions in cases of unemployment threats. Less mentioned is the topic of flexible work and atypical labour contracting, despite these issues being highly relevant for attracting new generations of workers to trade union activities, at least in countries with high numbers of flexible workers, such as the Netherlands.

Do trade unions have to bridge the gap between collective bargaining and employee representation at lower levels? It is clear that trade unions must always have an eye on the specific working conditions and needs of workers in relation to their jobs and the organisation in which they work in order to provide better representation and to motivate workers to become trade union members. More or less unionised works councils and other employee representation bodies at the workplace level might help unions to provide information agenda-setting in collective bargaining. It is also clear that unions should have a task in strengthening voice options for workers in organisations and bottom-up consultation in collective bargaining processes (see e.g., Mundlak, 2020). It is less clear if that also includes partnerships with works councils or other workplace representatives in bargaining. Is

it realistic in terms of position and skills to ask non-unionised employee representatives to bargain with their own employer about wages? Collective bargaining and workplace consultation and co-determination are different fields and have different legal backgrounds and legal aims. Interesting in this regard are the best practices in cooperation between trade unions and works councils in the German manufacturing sector. But these practices are not easily transplanted to other German sectors or other countries because of the lack of union positions at the decentralised levels or weak or non-existent co-determination bodies.

Employers' commitments to organising decentralisation and decentralised bargaining practices are essential. Fragmentation in the representation of employers might lead to erosion of sectoral collective bargaining and cooperation with less representative unions. Employers' disengagement with collective bargaining suggests that some employers' organisations are becoming more like business associations, which might lead to less social partnerships with trade unions and further individualisation in employment relations.

Time to re-centralise?

In researching and discussing decentralisation, it is important to focus on its opposite. How far can you go with decentralisation? Recent re-centralisation of collective bargaining in European countries is an evident sign of the limits of decentralisation. At the end of 2021, social partners in France's metal industry signed a national sectoral agreement to replace the existing 78 territorial agreements in the country from 2024 (Kahmann & Vincent, 2022: 28). In Spain, earlier reforms aimed at decentralisation were reversed by the national government in 2021 in order to better guarantee the primacy of sector agreements with representative, established trade unions that were never in favour of derogation options (see Chapter 5; Muñoz Ruiz, Ramos Martín, & Vincent, 2023). In Sweden, social partners started discussions about the limits of decentralisation (Rönmar & Iossa, 2022). It is clear that the recent EU call to stimulate collective bargaining coverage in member states to provide for better minimum wages – and to make national action plans for this – will be better met by national and sectoral bargaining than by only company level bargaining. A European target of 80% collective bargaining in member states is a big challenge for many countries and might only be reachable with new sector agreements and legal mechanisms of extension towards non-organised businesses. To achieve this aim, it not only makes sense to maintain (cross-) sectoral collective bargaining structures, but also to organise new forms of centralisation in the countries that are dominated by single-employer

bargaining or by no collective bargaining at all. Although centralisation is important for collective bargaining coverage and for securing decent wages and working conditions for all (independent of specific companies and workplaces), it is also realistic to assume that the call for company bargaining will never end, in order to meet employers' needs with respect to competitiveness, productivity, and flexibility in the field of labour. At the same time, workers will continue to have needs in social dialogue, co-determination, and (added) collective bargaining, tailored to their specific labour market and working environments. This book shows that decentralised bargaining can go hand in hand with collective bargaining at (cross-) sectoral level.

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