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Chapter 8

Less governance capacity and more inequality: the effects of the assault on collective bargaining in the EU

Maarten Keune

1. Introduction

For many years, the EU was a major promoter of a strong role for employers' organisations and trade unions in the EU member states. It incessantly underlined the importance of social dialogue and autonomous collective bargaining as a core element of the European Social Model, stressing their contribution to democracy, good governance, economic efficiency, innovation and social cohesion (for example, European Commission 2002, 2004). It did so, among other things, to lessen the dominance of economic integration and to strengthen the social face of the EU. The commitment of the EU to social dialogue and collective bargaining was demonstrated by the development and financing of social dialogue structures –both inter-sectoral and sectoral– at the EU level, by the creation of European Works Councils as workers' participation bodies in European multinationals and by the frequent consultation of EU level trade unions and employers' organisations in the making of EU economic and social policy over the past 20 years. Also, the right of workers and employers, or their respective organisations, to negotiate and conclude collective agreements is included in the Charter of Fundamental Rights of the European Union.¹ Indeed, the freedom to bargain collectively, at the levels chosen by the bargaining actors themselves, was considered a basic right within the EU. Strengthening social dialogue and collective bargaining was also a key demand from the Commission towards the Central and Eastern European countries in the process of preparation for their accession to the EU. The then candidate countries were urged to develop this core element of the social *acquis* (European Commission

1. See: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:EN:PDF>

2002) and specific attention was paid to bargaining at levels higher than the enterprise. For example, Hungary was criticised by the Commission for the weakness of sector-level social dialogue and collective bargaining and received financial and professional assistance from the EU to strengthen sector-level industrial relations (Hajdú 2011: 77–78). Through all these measures, the Commission played a leading role in establishing a system of multi-level industrial relations in Europe (Keune and Marginson 2013) in which unions and employers have influential voices and bargain autonomously on wages and working conditions.

Since the start of the crisis, however, the position of the EU has changed dramatically. Its traditional discourse is increasingly being trumped by a counter-discourse originating largely in DG Economic and Financial Affairs, as well as in the European Central Bank (ECB). It pictures collective labour relations, and in particular trade unions, as obstacles to market coordination and hence to economic and employment growth. As argued in, for example, DG Economic and Financial Affairs's 2012 Labour Market Developments Report (European Commission 2012: 104), the coverage of collective agreements should be decreased, collective bargaining should be decentralised, minimum wages should be reduced and the wage-setting power of trade unions should be diminished.

Far from being only a discursive shift, this view has also found its way into the policy-making process. For example, the 2011 Euro Plus Pact, signed by the heads of state of the euro countries and six other EU member states, proposes a series of measures to strengthen competitiveness, increase employment and foster financial stability. These include, among other things, abandoning wage indexation mechanisms, decentralisation of collective bargaining, and wage moderation in the public sector, all areas in which the EU did not meddle previously and in which it has no formal competencies under the EU Treaty. What is more, the EU countries that are in deep financial trouble and requesting assistance from the so-called Troika (the EU, the ECB and the International Monetary Fund) are confronted with stringent demands in the area of industrial relations. In exchange for financial support, countries such as Greece, Portugal, Ireland and Spain have had to introduce harsh reforms. These include drastic reductions of the minimum wage, public sector wages and pensions, and legislative changes aimed at decentralisation and lower coverage of collective bargaining. They allow company-level agreements to deviate downwards from multi-employer (often sectoral) agreements and have already resulted in a dramatic de-

cline in the number of workers falling under collective agreements in these countries.

Clearly, through its shift in vision and in policy the EU is further strengthening the role of the ‘market’ and putting economic goals before social ones. It is also undermining the position of employers’ organisations and trade unions and fostering a move towards labour markets in which collective labour relations play only a minor role, contradicting the traditional EU position on their key importance. In this chapter we will look in more detail at the issue of collective bargaining and in particular the role of multi-employer bargaining. By calling for limits to and decentralisation of collective bargaining, the EU is actively undermining collective bargaining in general and multi-employer bargaining in particular. We will argue that by doing so it fosters increasing inequality and the destruction of governance mechanisms that have proven their worth both before and during the crisis. Below we will outline the developments in collective bargaining systems in recent years (Section 2). In Section 3 we will discuss the implications of these changes in terms of inequality and governance capacity. Section 4 concludes.

2. Collective bargaining developments during the crisis

The crisis period has resulted in numerous changes in the EU’s collective bargaining landscape and wage-setting mechanisms. Here we will briefly review three main changes: (i) the various ways in which decentralisation of collective bargaining has occurred; (ii) the declining coverage of bargaining systems; and (iii) the one-sided imposition of wages in the public sector (Glassner and Keune 2012; Marginson *et al.* 2014; Marginson and Weltz 2014).

Where decentralisation is concerned, in particular in the private sector, many countries with collective bargaining systems in which national or multi-employer bargaining are traditionally the dominant forms of collective bargaining, have experienced decentralisation. Marginson and Weltz (2014: 4–5) show that such decentralisation has taken place in at least 10 EU countries: Austria, Bulgaria, Cyprus, France, Greece, Ireland, Italy, Romania, Slovenia and Spain (with recentralisation in Belgium and Finland). Germany could also be added to this list. Here we will not discuss the specifics of different national cases (see elsewhere in this volume for more detailed country analyses) but in-

stead focus on the various shapes decentralisation has taken and give some examples.

A first, longer-term trend in western Europe has been organised decentralisation, in which increasing space has been opened up for company-level negotiations within the framework of higher-level agreements that define the scope of such decentralised bargaining (Marginson and Sisson 2004; Traxler 1995). Through such organised decentralisation companies can shape collective agreements more to their specific needs while they are still embedded in a wider framework that provides procedural certainty to both parties and sets out what can and cannot be agreed upon at company level. A specific form of such decentralisation, which has been strengthened in a number of countries but has become commonplace especially in Germany, are ‘opening’ or hardship clauses which allow companies to undercut sectorally agreed standards to safeguard jobs. While such clauses were initially meant for companies in dire economic circumstances, they have become part and parcel of most sectoral agreements in Germany and have resulted in the widespread use of company-level employment pacts in which temporary job security is traded off against, among other things, the postponement of sectorally agreed wage increases, the reduction of special company payments above the collectively agreed rate, the reduction of collectively agreed bonus payments or the reduction of collectively agreed basic pay (Bispinck and Schulten 2011; Hassel 2014).

A second form of decentralisation is unorganised decentralisation, in which national or multi-employer agreements lose their role as a framework for decentralised bargaining. In Germany this happens as companies terminate their membership of employers’ organisations to avoid coverage by sectoral agreements, possibly, but not necessarily followed by company bargaining. In Bulgaria, Greece and Cyprus, in a large number of sectors no agreements are made anymore and are in some cases – but not all– replaced by company bargaining (Marginson and Weltz 2014). In Ireland, in 2009, the practice of national, cross-sectoral agreements was abandoned as a result of the crisis, also to be replaced by company-level bargaining. Disorganised decentralisation has been further strengthened by the reduction of legal possibilities for extending sectoral agreements to companies not falling under the original agreement, or the reduced use in practice of such possibilities. As Marginson and Weltz (2014) show, there have been such changes in eight countries: Greece, Ireland, Portugal, Romania, Slovakia, Bulgaria, Germany and Italy.

A third form of decentralisation has been the legal inversion of the favourability principle, which traditionally holds that agreements concluded at lower levels may only improve on the standards established by higher level agreements. Such inversion has taken place since 2008 in Greece, Spain and Portugal, largely as a result of pressure exerted by the EU, the ECB and the IMF (Marginson and Weltz 2014). France had already introduced a similar inversion before the crisis, but in the French case wages are largely excluded from this measure. The inversion of the favourability principle undermines the role of sectoral agreements and puts the emphasis on company agreements.

Closely linked to decentralisation, a major change in the collective bargaining landscape has been the declining coverage of collective bargaining; that is, the fall in the number of companies and workers covered by collective agreements. Following the declining use of sectoral agreements, the reduced possibilities for or use of extension procedures, the inversion of the favourability principle, and, more generally, the reduced power of workers and their organisations to get employers to the bargaining table, the coverage of collective agreements has declined substantially in a number of EU countries. Two particularly dramatic and abrupt cases have been Spain and Portugal. In Portugal, the number of workers covered by any type of collective agreement fell from 1 894 788 to 327 662 in the period 2008–2012 (da Paz Campos Lima and Naumann 2014), hence by over 80 per cent. In Spain, it declined from a coverage rate of around 85 per cent of workers before the crisis to 57.8 percent in 2011.² In both cases, the decline is likely to have continued in recent years. In other countries a more gradual longer term decline has been observed. For example, in Germany, coverage has declined gradually from some 75 per cent in the late 1990s to 58 per cent in 2013 (Ellegut and Kohaut 2014).

A further major change has occurred in the public sector. In most EU countries governments have responded to the crisis by embarking on severe austerity programmes in order to restore their public budgets. These programmes have primarily targeted the public sector, in the form of unilaterally decided cuts or freezes of the wages of public-sector employees (Glassner and Keune 2012). Governments broke the tradition of wage bargaining with the public-sector unions that had previously been

2. See: https://eurofound.europa.eu/sites/default/files/ef_files/eiro/country/spain.pdf

followed in the vast majority of EU member states and minimised the unions' role in public sector governance (Glassner and Keune 2012). This trend has been strengthened by the budgetary 'discipline' demanded by the European economic governance framework, which has depoliticised budgetary decisions and limits the scope for public-sector unions and public authorities to negotiate agreements on wages and employment. It therefore also limits their options to develop responses to the crisis.

3. Implications for governance capacity and inequality

The above-discussed changes in collective bargaining – that is, the decentralisation of collective bargaining that increases the weight of company agreements over higher level agreements, the decline in the coverage of collective agreements and the turn to unilateral decision-making in the public sector– have in some member states come as an internal response to changing conditions, while in others they have been triggered by European-level policies (such as annual country-specific recommendations under the EU's new economic governance regime) or as part of the reform programmes required by the Troika of European and international institutions – the European Commission, European Central Bank (ECB) and International Monetary Fund (IMF)– as a condition of financial assistance packages provided to some countries. It is among this last group of countries – which includes Cyprus, Greece, Ireland, Portugal and Spain– that wage-setting regimes have undergone the most extensive changes. These changes have had a number of profound implications. Here we want to highlight their negative effects on equality and governance capacity. Collective bargaining, and in particular multi-employer collective bargaining, offer a number of unique governance options that allow the effective pursuit of social and economic objectives, as well as the reduction of inequality, as we will discuss below.

Governance capacity

Collective bargaining can be defined as the joint and collective regulation of substantive and procedural elements of the employment relationship by trade unions and employers. It sets the terms and conditions of employment, determines the rights and obligations of employees and employers and outlines joint policies and initiatives in the areas of train-

ing, social security, employment and others. It is a form of social self-determination by collective societal forces that possess unique knowledge of the needs of workers, enterprises, sectors and the economy and society in general, knowledge that is not necessarily available to public policymakers. Collective bargaining as a form of governance constitutes an alternative to market governance with a number of advantages, particularly where encompassing multi-employer bargaining is concerned.

One quality of multi-employer bargaining is that, by setting common (minimum) standards for a particular sector or region, it takes elements of wages and working conditions out of competition. By limiting competition on wages and working conditions, multi-employer bargaining avoids the risks associated with a downward spiral of competition in labour standards: unsafe working conditions, volatile and low earnings, excessive working hours and job insecurity, particularly for vulnerable groups of workers. In this sense, multi-employer bargaining also acts as a 'beneficial constraint' (Streeck 1997), fostering investment in human resources and a focus on quality and innovation-based economic activities, with potential positive effects on competitiveness and growth at both the micro and macro levels. Second, multi-employer bargaining helps to promote industrial peace and to avoid multiple efforts and conflicts at company level related to the setting of wages and working conditions. It allows management and workers at company level to focus on producing goods and services and raising productivity in an environment of social peace and stability.

Third, multi-employer bargaining has the capacity to address negative externalities generated by the market (Marginson *et al.* 2014). Externalities are effects generated by market processes but which are not incorporated within the resulting market transactions, such as environmental damage (Crouch 2014). In the labour market externalities include insecurity in the lives of workers and their families arising from actual or prospective job loss and/or income reduction (Marginson *et al.* 2014). A core example is incorporating the unemployment effects of wage developments and the creation of labour market outsiders in collective bargaining. Where bargaining arrangements are extensive in their coverage and well-coordinated at national level, union negotiators are likely to take account of the effects of wage settlements on employment because unemployment will weaken union bargaining power (Crouch 2012; Traxler *et al.* 2001).

Also, in the initial years of the crisis, collective bargaining demonstrated its capacity to deal with similar externalities particularly in manufacturing, through agreements concluded at both the sectoral and company levels aimed at maintaining employment through a combination of measures, including short-time working, freezes in basic pay, suspension of pay premia and alternatives to redundancy, such as redeployment (Glassner *et al.* 2011). These agreements

‘served to mitigate the negative effects of a rapid deterioration in market conditions for workers, by sustaining employment, and also employers, by facilitating retention of skills and experience in anticipation of subsequent recovery. Moreover, by generating negotiated responses to the impact of the crisis, collective bargaining also helped maintain cooperative relations and therefore trust between employers and their workforces, thereby avoiding further negative externalities on workforce morale and commitment associated with unilateral management decisions.’ (Margison *et al.* 2014: 38)

The mitigating effects of collective bargaining were much stronger in countries with multi-employer bargaining systems than in those in which company bargaining dominates, in particular because of the much higher coverage rates of multi-employer bargaining systems.

Finally, multi-employer bargaining is also of interest from a public policy perspective. It allows for coordination between social and economic policy, on one hand, and collective bargaining on the other and can hence be instrumental in achieving national policy objectives concerning income, employment and social security. The government and the two sides of industry can agree on certain income, social security and labour market policies, and multi-employer agreements can be used to implement part of these policies. For example, multi-employer agreements have been key for the implementation of social pacts across the EU by incorporating centrally-agreed wage increases and other measures defined in such pacts (Pochet *et al.* 2010; Avdagic *et al.* 2011). They can play a key role in labour market management and in the coordination of economic and social policy.

Hence, collective bargaining – and in particular multi-employer collective bargaining – offer a series of governance alternatives that are not available in labour markets where the ‘market’ is the sole governance

mechanism. The earlier-discussed decentralisation of collective bargaining, its declining coverage and its suspension in the public sector threaten to eliminate these governance alternatives and therefore has reduced the capacity of EU countries to respond to the crisis in an effective and organised way.

Inequality

Collective bargaining also has a major effect on developments in inequality (Berg 2015; Keune and Vandaele 2013). Inequality has been increasing in most EU countries in recent years (Berg 2015; Salverda *et al.* 2014). This is problematic because rising inequality is more and more being identified as one of the key factors weakening countries' social and economic performance (Wilkinson and Pickett 2009; Ostry *et al.* 2014). Collective bargaining can first have an equality effect in terms of the power relations between workers and employers. It can, to some extent, balance the power relations between individual workers and their employers by collectivising the power of workers. Second, it can foster greater equality between workers across companies and sectors. In this way, collective bargaining can be an instrument for social justice and ensure that the rights and needs of both sides are respected and the fruits of progress are shared in a socially just way. This also means that the equality effect of collective bargaining is greater where the coverage of collective agreements is higher, which is in the countries where multi-employer bargaining dominates. Multi-employer collective agreements, possibly supported by extension mechanisms, can foster inclusion and equality by extending bargaining coverage to the weaker groups in the labour market that have little bargaining power. They can also, possibly in the context of social pacts, moderate wages in favour of employment growth, again with the objective of including weaker groups affected by unemployment.

Multi-employer bargaining systems also offer a conducive institutional context for an equality-oriented, solidaristic wage policy, which has two main aims (Schulten 2002: 174): (i) equal pay for work of equal value, implying that wages should not depend on individual company circumstances alone but should be standardised in multi-employer collective agreements, while pay rises should be in line with growth of the overall economy, enabling its benefits to be shared between capital and labour in a manner ensuring that all workers participate equally in economic

progress; and (ii) a more egalitarian wage structure, reducing pay differences between higher and lower wage groups and counteracting market forces that result in increased wage differentiation. They often do so by compressing the overall wage distribution by propping up wages at the bottom of the wage pyramid (Berg 2015). Through the common standards they set, multi-employer bargaining systems can be expected to produce much lower wage inequality than systems in which company bargaining dominates or where bargaining plays no important role at all (Keune and Vandaele 2013). This does not necessarily mean that multi-employer bargaining produces high wage growth. In fact, across Europe, the wage share has decreased in recent decades, marking a gap between productivity improvements and wage growth and a shift in income from labour to capital (Keune and Vandaele 2013). This common trend has occurred, however, as a result of different mechanisms. Within the multi-employer bargaining systems it can be attributed, to a large extent, to wage moderation based on collective agreements and social pacts, which set additional goals in terms of equality, employment or social policy. In the single-employer bargaining systems, with low bargaining coverage, wage moderation stems rather from market mechanisms and the unilateral imposition of wage levels. Another difference is that the organised nature of the multi-employer bargaining systems, in the longer term, are better at limiting the shift of income from labour to capital, which is indeed stronger in single-employer bargaining countries.

Until the crisis, some decentralisation had taken place in most of the EU countries with multi-employer bargaining systems but to a large extent they maintained their high levels of bargaining coverage and a high wage coordination capacity. During the crisis, as discussed earlier, in several countries –and in particular in the countries receiving financial aid from the EU, ECB and IMF– these systems have come under strong pressure and have indeed been overhauled radically in countries such as Spain, Portugal, Greece and Ireland. In others, mainly Germany, the system is being weakened more gradually. This means that in a number of EU countries the institutional architecture for equality-oriented, solidaristic wage policy and policies aimed at the inclusion of weaker groups has disappeared or is disappearing, fostering the growth of inequality and undermining social and economic improvements.

4. Conclusion

In the course of the crisis, the EU has abandoned its traditionally favourable position towards collective bargaining in general and multi-employer bargaining in particular. It has been arguing in the opposite direction and this change has not remained a discursive one but is also being translated into recommendations and the imposed destruction of multi-employer bargaining systems in the countries receiving financial support. Also, the EU criteria for public budgets and debt foster austerity policies and leave little space for governments and public sector unions to bargain on public-sector wages and employment. Within this context, we can observe three main trends in collective bargaining in the EU: an ongoing decentralisation of collective bargaining through organised and disorganised decentralisation and the inversion of the favourability principle; the declining coverage of collective agreements; and the one-sided imposition of wages and working conditions in the public sector, effectively cancelling out public sector bargaining. The first two trends result in a bigger role for the 'market' in the definition of wages and working conditions, while the third increases the weight of the state. All three reduce the role of organised workers and employers. These trends affect the various EU countries in different ways, but few of them are exempt or moving in the opposite direction.

These trends have two major negative consequences. One is that they impoverish the available range of governance mechanisms available in EU countries by reducing the possibilities of governance through collective bargaining and in particular multi-employer bargaining, which has proven itself an effective alternative to market governance. By taking elements of wages and working conditions out of competition it sets a floor in the (sectoral) labour market and promotes a focus on productivity, quality and innovation. It also promotes industrial peace, has the ability to address negative externalities and can play a key role in the implementation of consensus-based public policy. The other major negative consequence is that they undermine the equality-promoting, solidaristic and inclusive capacities of multi-employer collective bargaining and hence foster inequality and undermine social and economic progress.

The new European economic governance, as it has been emerging before and especially since the start of the crisis, is detrimental to social and economic justice and to high quality social and economic development.

There is an increasing awareness that European economic governance is in dire need of a new vision and a new institutional design. Widespread collective bargaining in general and multi-employer bargaining in particular should be part and parcel of this new design as it can play a major role in delivering social and economic justice, as well as higher quality economic and social development.

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