

Coordinated bargaining in Europe: From incremental corrosion to frontal assault?

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ABSTRACT

The continued viability of articulated, multi-employer bargaining arrangements as a cornerstone of labour market regulation across western Europe has come under further threat since the onset of the crisis. Already, ongoing pressure for decentralization had corroded the capacity of sector agreements to specify universal standards applicable at company level. Procedural mechanisms articulating the two levels had become looser and more open-ended. Under the crisis, this process has been taken further in northern European countries, whilst in southern Europe - under pressure from the European institutions - a frontal assault on multi-employer bargaining arrangements is now underway. Crisis-induced measures to strengthen European economic governance intensify the pressures for coordination of bargaining across borders, but the conditions for successfully realising this have significantly worsened given the undermining of existing capacities for effective articulation within national bargaining systems.

Keywords: collective bargaining; employers; Europe; industrial relations; trade unions

Word count: 9100

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Introduction

The systems of multi-employer bargaining which have formed a cornerstone of labour market regulation in most of western Europe are, in the current period of economic crisis, being targeted by national and international public and financial authorities as standing for rigidity and impeding flexibility in the labour market. This is particularly so in the southern countries of the EU where labour market reforms are a central plank of the internal devaluation policies intended to effect economic adjustment within the fixed currency Euro zone, imposed directly by or under considerable pressure from international institutions including the European Commission, the ECB and the IMF. One thrust of these reforms has been to undermine the governance capacity of sector (and multi-sector) agreements in favour of those concluded at company level. More generally, and despite wage determination and collective bargaining remaining outwith the competence of the EU under Article 153 of its Treaty, the so-called 'Six Pack' of regulations on economic governance adopted by the European Council in October 2011 and which took effect in January 2012 provides for surveillance of wages policy and wage setting across the EU, and refers to reform of wage-setting arrangements amongst possible measures to correct macro-economic imbalances between Eurozone countries (Erne 2012; Meardi 2012).

In the face of this onslaught on a central institution of labour market regulation it is useful to recall that multi-employer bargaining arrangements bring benefits for the state, as well as advantages for the private actors – employers' associations and trade unions – involved (Sisson 1987). These include the delegation of comprehensive regulation of the labour market in respect of key terms and conditions to private actors and the maintenance of social peace. As Crouch (1993) observed twenty years ago, amongst the group of nine western European countries which he regarded as neo-corporatist, 'In exchange for having certain of their private arrangements virtually acquire the status of public authority these groups [employers' associations and trade unions] help bear the burdens of the state' (p7). Conversely, states have given support to multi-employer bargaining arrangements including through extension mechanisms which legally extend the coverage of agreements to all firms (and workers) in a sector or territory and through giving legal underpinning to the 'favourability' principle under which agreements concluded at lower levels can only improve on the standards set by those concluded at higher levels.

A key feature of multi-employer bargaining arrangements is the extent to, and ways in, which they are articulated (Crouch 1993) or coordinated (Traxler et al 2001) vertically across levels and horizontally between bargaining units (e.g. sectors and territories). On the vertical plane, effective articulation gives the peak organizations of employers and trade unions the capacity to act strategically, and commit their memberships to a course of action. Articulation differs from centralization which, according to Crouch, is an insufficient calibration since effective union movements – such as those in the Nordic countries - usually have strength at both the central (national) and de-central (workplace or company) levels. Similarly in sectors dominated by large firms, employers' strength lies both at associational and company levels. Crouch (1993), focusing on the union side, stresses the two-way nature of the interdependency involved: scope for autonomous action at local level is recognized, but it is bounded by rules of delegation established by the centre. The state has exercised influence too: legal underpinning for the favourability principle and for the extension of collective agreements has reinforced vertical articulation.

Articulation on the horizontal plane is particularly relevant in those countries, including Germany and nowadays Sweden, where multi-employer bargaining arrangements are sector based. Traxler et al (2001) establish the effectiveness of pattern bargaining, led by a well-organized exposed sector such as metalworking, as a horizontal articulation mechanism in sector-based bargaining regimes. Traxler et al (2001) further demonstrate that the different nature of articulation arrangements across countries has implications for economic outcomes, and hence potential benefits or costs of macro-economic relevance to the state. In particular they find that labour cost and wage outcomes consistent with a competitiveness-induced policy of wage moderation are more likely to arise in the presence of effective vertical arrangements articulating different levels, or under pattern bargaining across sectors, than where mechanisms for vertical articulation across levels are weak (see also Traxler and Brandl 2012). In this respect, there is an important difference between central western and Nordic Europe, and also Italy, where vertical and/or horizontal articulation mechanisms are well specified, and the Mediterranean countries (excepting Italy) and central eastern European countries such as Slovakia and Romania with multi-employer bargaining arrangements, where they are not.

The predominant trend over the past quarter century towards greater decentralization in bargaining arrangements, reflecting sustained pressure from employers, poses major challenges for articulation between levels. Scope for negotiation at company and workplace level has been increasingly opened up and sector and multi-sector agreements have become less prescriptive and

more framework in character (Marginson and Sisson 2004). As the weight of the company level increases relative to that of the sector, then effective articulation between the two levels becomes an increasingly pressing issue for the continued viability of multi-employer bargaining systems.

The paper reviews medium-term and recent developments to develop three main arguments. First, even before the onset of the crisis the pressure for decentralization had led to corrosion and/or reconfiguration of articulation mechanisms in ways which potentially confound the capacity of higher-level, sector and cross-sector, employer and trade union organizations to act strategically and deliver comprehensive regulation of wages and conditions. There are important differences between countries in the nature and extent of the changes which have occurred. Second, the crisis is emerging as a critical moment in the evolution of articulation between levels, and in multi-employer arrangements more generally. Here there are distinctions between countries where recent changes have resulted from concerted action between employers and trade unions, and those where changes have been more contested and/or imposed by governments, frequently at the behest of international institutions. It is amongst the latter, which include several countries where articulation mechanisms were historically weak, where there is now evidence of a frontal assault on multi-employer bargaining. Third, European economic and market integration creates pressure for new forms of articulation across national borders: these have intensified as a consequence of the crisis. Yet, far from adopting policies supportive of cross-border coordination, European and national public authorities have embraced prescriptions which are driving developments in the opposite direction. The next three sections respectively elaborate these three arguments, drawing on secondary data to illustrate each. The final section concludes.

Corrosion and reconfiguration

The relationship between levels within multi-employer bargaining has been underpinned, either legally in continental western Europe or by the basic agreements found in the Nordic countries, by the favourability principle. This holds that collective bargaining can only improve on legally-provided standards, and that agreements concluded at lower levels, such as the company, can only improve on the standards established by higher, sector and inter-sector, agreements. Up until the onset of the crisis, formal change in the hierarchy of agreements implied by the favourability principle was the exception rather than the rule. The exception was France, where the 2004 Fillon law inverted the favourability principle to give precedence to standards set in agreements negotiated at company level over those specified in sector agreements on a range of issues, with the important exceptions

of minimum wages and job classifications. In practice, however, according to an officially commissioned evaluation study, the take-up of the possibilities created under the Fillon law has been minimal (Saglio and Jobert 2005). Elsewhere German employers pressed for changes in the favourability principle for cases where negotiations focus on a trade-off between maintenance of employment and concessions on terms and/or working conditions (Ilsøe et al. 2007), but without securing a change in the law. In practice, however, in Germany and other countries the favourability principle has been blurred de facto as employment becomes more and more prominent on the bargaining agenda. In an era where competitiveness has displaced productivity as the primary calculus framing the bargaining agenda (Schulten 2002), employment has assumed the role of a new general equivalent – as Léonard (2001) contended - against which other issues are traded off, including concessions on pay and working time as well as changes in working practices. As a prominent example, the watershed Pforzheim agreement concluded in Germany's metalworking sector in 2004 introduces a fundamental ambiguity in the application of the favourability principle. This permits company agreements under which a proportion of the workforce can work longer hours, so long as this maintains or promotes employment by employer commitments to sustaining production levels at continuing operations or undertaking fresh investment (Bispinck and Dribbusch 2011).

The broad trend through the 1990s and 2000s in the relationship between negotiations at sector (and multi-sector) and company levels has been the scaling back of the substantive content of sector agreements, which have increasingly become confined to establishing standards – frequently minimum ones - or parameters for core terms and conditions. Actual standards (where only minimum ones are set), variation within prescribed parameters and the details and modalities of implementation are then negotiated at company level (Marginson and Sisson 2004; Keune 2011a). Recalling that articulation involves a two-way interdependency between higher (sector and multi-sector) and lower (company and workplace) levels, decentralization has involved 'pull down' as well as 'push down' dynamics, in which unauthorized developments at company level are subsequently accommodated by changes to the sector agreement as well as the sector agreement opening up new issues for company negotiation. Examples of 'pull-down' developments include Italy's 1993 cross-sector agreement adopting the 2-tier bargaining structure, where the competence allocated to the company level to determine that part of wage increase which related to performance consolidated already existing practice. Also the provisions on employment-maintaining concessions in the 2004 Pforzheim agreement codified a practice that was already widespread amongst larger firms.

The procedural mechanisms according to which this process of decentralization has been articulated, or 'organized', are various and differ in the extent to which they are consistent with the principle of universally applicable standards that sector agreements have traditionally promulgated and in the extent to which the regulation provided is 'complete', in that it fully prescribes the parameters of subsequent company negotiations. At one end of the spectrum are, first, sector-level framework agreements which specify the main substantive parameters but which provide scope for variation in their implementation in further company-based negotiations, such as those on working time in sectors in several countries which specify normal working hours on a weekly, monthly or annual basis, holidays and maximum overtime hours with actual working time arrangements delegated to negotiation at local company level. Variation between companies is according to the principle of equivalence. Second, opening clauses which provide for variation on the basis of equivalence, for example in the implementation of variable payments schemes, occupy a similar position on the spectrum. Third, the principle of universal applicability is partially breached under two-tier bargaining arrangements which entail a demarcation of competence of the sector and company levels according to issue, as in Italy. Although company-level bargaining is governed by the procedures of the 1993 inter-sector agreement, and its 2011 successor, it is not subordinate to the sector level, in that matters dealt with in company-level negotiations are not subject to a substantive framework concluded at sector level. Fourth, the principle is breached in a different way by clauses variously termed 'opt-out', 'hardship' and 'discount' which expressly provide for derogation by individual companies from the universal standard established by the sector agreement. The proliferation of these in some countries, Germany and the Netherlands in particular, over the 2000s (Bispinck and Dribbusch 2011; Keune 2011b; van Klaveren and Tjeldens 2011) has rendered sectoral standards increasingly perforated. Fifth, at the other end of this spectrum, incomplete framework agreements effectively mean a departure from universal standards in as much as they are predicated on substantive variation between companies. The parameters of key substantive issues, such as pay or working time, are no longer fully specified and neither is the scope for variation in company negotiations. For example, only an increase in minimum wages is specified rather than a general increase, as in many French sector agreements, or a maximum limit to working hours, as in Belgium's banking sector.

Not all countries with multi-employer bargaining arrangements have, however, embarked along this trajectory of organized decentralization. In this respect, the Mediterranean countries of Spain, Greece and Portugal stand out. Spain has seen growth in the incidence and scope of company

level bargaining, but in the absence of effective articulation mechanisms on a basis which is rather autonomous of, and not governed by, the provisions of sector agreements. Effective articulation mechanisms are also lacking in Greece and Portugal, but here the result has been that bargaining has until very recently largely remained an inter-sector and/or sector affair, with relatively little negotiation occurring at company level.

Recent comparative studies of collective bargaining over, respectively, variable payments systems and wage setting and flexible working hours illustrate the extent of cross-country variation in prevailing articulation mechanisms, where such exist, and position along this spectrum (Nergaard et al. 2009; Ilsøe et al. 2007). The rise of variable payments systems poses a critical test for the effectiveness of articulation mechanisms between sector and company levels. This is because they simultaneously challenge the deeply-entrenched convention of the common rule, or the 'going rate' of wages for workers doing similar jobs, which is integral to trade union notions of economic solidarity. Further, since these systems usually operate at company and workplace level, they require sector agreements to be opened up for company negotiation over an aspect of pay. Nergaard et al's (2009) study focused on three countries with multi-employer bargaining arrangements, and also the UK, and identifies two types of difference: between countries with effective articulation mechanisms and those lacking them; and amongst countries with effective articulation mechanisms. In Austria and Norway, works councils' and local trade union organizations' respective capacity to regulate the implementation and operation of variable payments schemes was found to be greater and more widespread than amongst local trade union organizations in Spain. In the first two countries, the operation of schemes is underpinned by substantive and/or procedural parameters in the metalworking sector agreement, whereas in Spain the provisions in provincial agreements for the sector are unspecific on the issue. As a consequence, in Spain the capacity to exercise influence over schemes rested largely on local union strength, a situation which resembled that under single-employer bargaining in the UK.

As between Austria and Norway, the distinction between dual- and single-channel representation schemes mattered in terms of the extent of influence exercised over the modalities of schemes at company level. In Austria, the union was determined to frame a sector-wide scheme based on organizational performance, reflecting the fact that it is not the main employee-side interlocutor at company level. It succeeded in doing so in the 2005 sector agreement. However, works councils were unable to prevent the spread of other, individually-based, performance pay schemes which were outwith the scope of the sector agreement. In Norway, the sector agreement

leaves scope for negotiation over the parameters of variable pay schemes – providing these are consistent with the wage principles in the sector agreement – as well as implementation to local, company actors. Trade unions are able to articulate the process through the strong ties which exist between company representatives and sector officials. The relevance of the distinction between dual- and single-channel representation systems is underlined by the findings of Ilsøe’s study of wage setting and flexible working time arrangements in Denmark and Germany (Ilsøe et al. 2007; Ilsøe 2010). In Denmark, wage setting in the bulk of the private sector occurs through coordinated company-level negotiations, with sector agreements only establishing minimum pay rates, whereas in Germany, company-level negotiation is confined to specific wage payments. And whilst sector agreements contain opening clauses providing for company-level negotiation over flexible working time, the available scope is considerably greater in Danish than German agreements. Ilsøe and her colleagues attribute the difference to the two-way relationship between sectoral and local trade union organizations in Denmark, which promotes effective articulation between the two levels, as compared to the reluctance of sector-level trade unions in Germany to delegate responsibility to formally independent works councils over which they can exercise only indirect influence.

Over time, the general direction of movement on the above spectrum has been from agreements that are consistent with universally applicable standards and complete towards those that permit deviation from standards and are incomplete. For example, in Germany decentralization initially took the first form but the weight of the fourth has progressively grown over the years. Until recently, Italy was an instance of the third but crisis-induced changes (see below) have introduced the fourth. Whilst since 2000 many sector agreements in France have been transformed from the first to the fifth type.

Crisis-induced changes: concerted, contested and imposed

As in earlier periods of economic crisis (Brandl and Traxler 2011), the present crisis stands as a critical moment in the evolution of multi-employer bargaining arrangements, including the articulation mechanisms under which recent decentralization has been organized. Looking across countries, two differing patterns of change are evident. In one group of countries, including Germany, the Netherlands, the Nordic countries and also France, changes have been concerted between employers and trade unions. Whereas in a second group, including the southern European countries (and also Ireland) which have either been subjected to financial bail outs by the ‘troika’ of international institutions, or come under pressure from the two European institutions because of

the scale of their public deficits, changes have been contested – between employers and unions, and also amongst different employer interests and union confederations - and/or imposed by governments. With the important exception of Italy, these two groups also differentiate between those countries where multi-employer bargaining entails well-specified and effective mechanisms which articulate the sector and company levels (the first group plus Italy), and those where such articulation mechanisms are weak or non-existent (the second group minus Italy).

Amongst the first group of countries, two crisis-induced developments are notable – both negotiated on a concerted basis between employers and trade unions. The first is further movement along the spectrum of different procedural mechanisms articulating the sector and company levels, identified above, with the (further) opening-up of the scope for company-level negotiation over the crucial issue of wages (Glassner et al. 2011). For example, 2009 sector agreements in Germany manufacturing, including metalworking, chemicals and textiles, introduced new opening clauses providing for flexibility in the timing and amounts of payments due which require a company agreement to trigger their implementation. The conclusion of a path-breaking agreement in Swedish manufacturing introducing a compensated short-time working scheme, in response to Germany's successful *Kurzarbeit* scheme, requires local company negotiations to trigger implementation of its provisions. More radically, multi-annual agreements in Finland's technology sector and for professional staff in Swedish engineering, concluded in 2009/10, moved pay bargaining down to company level with no general, sector-wide, increase being set beyond the first year. Finland, however, has also seen movement in the opposite direction with the conclusion in late 2011 of a 2-year central (inter-sector) wage agreement providing a framework for sector and company negotiations; the previous central agreement was replaced by sector-level ones in 2007 (EIRO 2011 – FI1111011i). In France, the influence of the state in promoting further decentralization is apparent. Responding to a government initiative, employers and three of the five union confederations concluded a wide-ranging agreement on labour market reform in January 2013, including the possibility of company-level agreements derogating from wage and working time provisions in order to preserve employment (EIRO 2013 – FR1302011i). Employers and unions have also increasingly drawn on the possibilities opened up by reforms introduced during the 2000s (the 2004 Fillon law partially inverting the hierarchy of agreements and the 2005 law providing scope for more flexible procedural agreements to handle restructuring ('*accorde de methodes*') which override statutory requirements) to extend the agenda of company-level negotiations in response to the exigencies of the crisis¹.

The second is extending or reinforcing the reach of multi-employer bargaining arrangements. In Germany, competitive pressures from companies not covered by collective agreements in sectors where such do not exist and, frequently, on the basis of employing low-paid migrant workers has led to the negotiation of legally-binding sector-specific minimum wage standards in a few sectors, including social care services and temporary agency work (EIRO 2012 – DE1202029i). Although state support is crucial to their implementation, a pre-requisite was the ability of employers’ organization and trade unions to contemplate and negotiate an agreement. In Denmark, unions successfully pressed for measures to combat social dumping – i.e. employment of, usually migrant, workers on terms and conditions which breached those of the sector agreement – through improvements to enforcement and wage inspection in the 2010 agreements in manufacturing and transport (Ibsen et al. 2011). In Norway, union pressure has led to the activation of the previously dormant extension mechanism in sectors with high concentrations of posted and/or migrant workers such as construction, shipyards and cleaning (EIRO 2011 – NO1107019i).

Turning to the second group of countries, stark changes to multi-employer bargaining arrangements have been imposed in Greece, Portugal and Romania as a result of the direct intervention of international institutions and the conditions accompanying the financial rescue packages made available. In addition, external pressures on Italy and Spain from the European authorities, in particular the ECB, have exercised noticeable influence over recent developments. Three main types of change have occurred, as summarized in Table 1: reducing the coverage of collective bargaining, including restricting extension mechanisms and time-limiting the period for which agreements remain valid after expiry (first and second rows of the table); decentralization of collective bargaining (third, fourth and fifth rows), including abolition of national, cross-sector agreements, according precedence to agreements concluded at company level and/or suspension of the favourability principle, and introducing new possibilities for company agreements to derogate from higher level agreements or legislation; and weakening trade unions’ prerogative to act as sole bargaining agent for workers (sixth row).

Table 1: Changes to coordinated collective bargaining imposed in southern Europe

<i>Change imposed</i>	GR	PT	RO	ES	IT
Extension mechanisms (severely) restricted	X severe	X	X severe		[X]
Continuation of agreements after	X	X		X	

expiry time-limited					
Abolition of national, cross-sector agreement	X min wages		X		
Precedence to company level / suspension of favourability	X	X temporary		X	
New company level derogations from higher level agreements / legislation	X			X	X
Facilitating company level agreements signed with non-TU workforce agents	X	X	X	X	

Source: Adapted and updated from ETUI (2013: Fig 3.3); Note: [X] under Italy indicates that previous de facto extension practice undermined by court ruling

In Greece, the ‘troika’ of international institutions has required radical changes to collective bargaining arrangements as a mandatory condition of the international financial assistance made available to the government. Accordingly, legislation passed in 2010 introduced scope for company agreements which could derogate from the wage and working time provisions of higher agreements in cases of financial hardship. Further legislation enacted in 2011, in the face of fierce union opposition, inverted the existing hierarchy of agreements to give precedence to those concluded at company level at the expense of sector agreements, even if the terms and conditions concluded are inferior. It also introduced the possibility for companies to negotiate with their workforce where unions are not present, a measure of particular relevance to small enterprises hitherto covered by sector agreements via extension provisions and which has been rapidly taken up. Further legislation in 2012 introduced a three-month limit on the time that collective agreements remain in force following their expiry, after which pay rates fall to the basic minima until a new agreement is concluded, removed negotiation of the minimum wage from the competence of the cross-sector agreement in favour of legislative determination and drastically curtailed possibilities for extension of collective agreements by exempting companies which are not members of an employers’ organization from any obligation to implement them. As well as attracting continuing opposition from trade unions, differences have emerged amongst employers’ organization with those representing small companies increasingly concerned at the disruptive effects of the undermining of multi-employer bargaining (Koukiadaki and Kretsos 2012, EIRO 2012 - GR1206019i, EIRO 2013 – GR1302029i).

In Portugal, the government is also required by the troika to effect a series of reforms to collective bargaining. Legislation enacted during 2012 unilaterally introduced a new Labour Code, and prohibited the conclusion through collective bargaining of more favourable conditions than those it imposed for a period of two years. The legislation was the focus of major protests by the two major union confederations, which despite historic differences have, since 2010, participated in several joint actions including three general strikes. Two further measures echo those in Greece, although less stringently so. The period during which collective agreements remain in force following their expiry (and pending negotiation of a new agreement) became subject to a 12 month time limit, and rules on extension provision were substantially tightened to only apply where the membership of an employers' organization covers a majority of the workforce. At the time of writing not all anticipated legislative proposals have been brought forward, including one extending the negotiating competence of works councils at company level at the expense of sector agreements (and their trade union signatories) (EIRO 2011 - PT1107039i, EIRO 2012 - PT1205019i, EIRO 2013 - PT1302029i). Even in Ireland, where the pressures generated by the financial crisis resulted in the breakdown of the national, cross-sector wage agreement in 2009, conditions specified by the troika under its subsequent rescue package have resulted in government-imposed changes to legally underpinned arrangements for wage setting, including extension, in the minority of sectors characterized by multi-employer bargaining (EIRO 2011 - IE1107019i).

In the case of Romania, its financial assistance package took the form of a Stand-by Arrangement with the IMF which also required far-reaching labour market reforms, including the country's coordinated, multi-employer bargaining arrangement. This resulted in the 2011 Social Dialogue Act, unilaterally introduced by the government, which abolished the national, cross-sector agreement – hitherto the point of reference for collective negotiations at all other levels. It also replaced previous 'branch' agreements applicable to all companies (and workers) in each 'branch' of the economy with newly-defined sector agreement applicable only to those companies which are members of the relevant employers' organization, thereby curbing the use of extension provisions. More stringent representativeness criteria were introduced as preconditions for the negotiation of sector agreements, and for trade unions to negotiate legally valid agreements at the company and sector levels. Where unions do not meet these at company level, agreements can now be negotiated with unspecified elected employee representatives. As well as concerted opposition mounted by trade unions, sustained criticism has come from some employers' organizations (Trif 2013; EIRO 2011 – RO1107029i, EIRO 2012 – RO1202029i, EIRO 2013 – RO1302029i).

Changes to collective bargaining in Italy and Spain have also, in important part, been imposed by governments under pressure from the two European institutions. In particular, the ECB insisted on commitments to certain labour market reforms as a condition for intervening in financial markets to purchase government bonds for the two countries (Meardi 2012). But there has also been relatively more space for changes to be fashioned by, and contested between (and amongst), employers and trade unions. In Italy, the recasting in 2009 of the previous, 1993, inter-sector agreement establishing the respective competence of the sector and company levels under the two-tier bargaining arrangement responded to employer pressure for further decentralization in wage setting and the emerging exigencies of the crisis. However the agreement – which had the support of the Government - was concluded without the largest trade union confederation, CGIL, which opposed this erosion of the sector level’s mandate over wage negotiations. Its contested nature complicated implementation, with separated (‘new’ and ‘old’) agreements in force in several sectors including metalworking. In 2010, Fiat – the leading metalworking employer – unilaterally imposed new, local-level agreements at two of its plants, under threat of relocation unless the workforce agreed to radical changes in working practices and to limit their right to strike. In effect the two plants were withdrawn from the sector agreement. Again union division was apparent, over whether to accede to the exercise of ‘force majeure’ by Fiat (Cella 2011). At the end of 2011, Fiat withdrew all of its remaining plants from the coverage of the sector agreement, having left Confindustria, the employer’s confederation. Meanwhile in June 2011, Confindustria had reached a new agreement with the trade unions, this time including CGIL, reforming the two-tier bargaining system and introducing the possibility of derogation from sector agreements on grounds of economic and employment exigencies. The new agreement was, however, overtaken by emergency reforms introduced by the Government in mid-August under pressure from the European institutions, with the ECB specifically demanding changes to the collective bargaining system to make wages more responsive to firm level conditions as a condition of intervening in bond markets (Meardi 2012). The emergency reforms extended the possibility of company-level derogation to statutory protection against dismissal. A further, September, agreement between Confindustria and the three trade union confederations reaffirmed their June agreement and committed the parties to refrain from utilising the additional dismissal-related derogation, triggering Fiat’s decision to exit Confindustria. These differences on the employer side draw attention to the differing position of medium- and small-sized employers, which continue to prefer the protection of a sector agreement and not to be exposed to company bargaining, as compared to Fiat’s preference to negotiate alone. In November 2012, another inter-sector agreement (not signed by CGIL) opened up further possibilities for company level negotiation, including allocating part of the sector-determined wage increase to local

level productivity-related negotiation. In sum, the balance between the sector and company levels has shifted, with significant new possibilities being opened up for company-level negotiations – and attendant challenges for articulation between levels - within the new inter-sector framework. Moreover, Italy's system of multi-employer bargaining has been undermined by the exit of its largest industrial employer. This includes potentially far-reaching repercussions for the long-established practice, based on court decisions, of the de facto, 'quasi-legal' extension of the wage and working time provisions of sector agreements. This widely upheld convention has now been thrown into question by legal rulings endorsing the substantive validity of Fiat's new plant-level agreements. Although a further, May 2013, inter-sector agreement (signed by all three union confederations) establishes new representativeness criteria to underpin and stabilize sector negotiations and agreements, uncertainty still surrounds the future of coordinated, multi-employer bargaining in Italy (Carrieri and Leonardi 2013).

In Spain, echoing the European Central Bank's agenda, the Bank of Spain has been prominent in pressing for decentralization of collective bargaining to company level as part of a series of labour market reforms deemed necessary in response to the crisis (Meardi 2012). In addition, a condition of the international financial assistance made available by the European authorities to its banking sector required the government to implement country-specific recommendations for reforms in labour market regulation, including collective bargaining, issued under the EU's new economic governance arrangements (see below). Responding to these pressures, the government introduced a measure widening the conditions under which wage clauses in sector agreements could be derogated from at company level, in the face of union opposition and with employer support, in June 2010. Employers and trade unions entered into protracted negotiations on a package of labour market reform measures, including augmenting the scope for company-level bargaining, during the first half of 2011 but were ultimately unable to agree. The government responded by imposing a second set of reforms, in July 2011, which further opened up the possibility for derogation and weakened the hierarchy of agreements in favour of the company level (EIRO 2011 – ES1107011i). Following elections in November 2011, and despite an inter-sector agreement between employers and trade unions on wages policy and reforms to collective bargaining within the existing framework of sector and/or provincial agreements (including temporary suspension of wage revision provisions in such agreements), the incoming government brought forward fresh legislative measures to further reform the labour market. These include fully inverting the hierarchy of agreements to privilege company over sector and provincial agreements, making this obligatory even if the parties should desire otherwise (EIRO 2012 – ES1206011i),

enlarging the scope for derogations from higher-level agreements, time-limiting the period over which collective agreements continue to be valid following expiry in the absence of a new agreement (as required by the troika in Portugal) and introducing the possibility for company agreements to be signed by non-union representatives where there is no trade union presence (Vincent 2013). As in Italy, tensions have emerged amongst employers: in contrast to large companies, medium- and small-sized employers remain reluctant to become exposed to company negotiations, preferring instead the protection afforded by sector and/or provincial agreements. Unlike Italy, division between the two main union confederations has not surfaced. In sum, against a situation in which articulation mechanisms across levels were already poorly specified, a series of largely imposed changes have progressively detached the company level from multi-employer bargaining arrangements at sector and provincial levels, and most recently cemented the priority status of agreements concluded at company level thereby overturning the favourability principle.

The contrast in the trajectory of multi-employer bargaining arrangements between the two groups of countries is sharp. Amongst the first, the crisis has prompted further movement towards the latter in the balance between the sector and company levels, and further diminution in the capacity of sector agreements to set universally applicable standards extending the previous trajectory of corrosion. But these changes have stemmed from concerted action involving solutions negotiated between employers' organizations and trade unions with no direct intervention from, although in France actively facilitated by, governments. They have also been accompanied by some strengthening of the reach of multi-employer bargaining arrangements, which in Germany have entailed supportive public policy measures. Amongst the second group, pressures emanating from the heightened scale of the financial and economic crisis in southern Europe (and Ireland), have resulted in reforms being imposed by governments in the face of trade union opposition and/or sharply contested between employers and trade unions, as well as between trade unions and between different, small / medium – and large-sized, firm interests. These pressures, coupled with demands – more and less explicit – from the troika of international institutions for reforms to collective bargaining which greatly enhance the weight of the company level, have led government to impose measures which undermine the governance capacity of multi-employer agreements at different, cross-sector and sector, levels and tilt, if not invert altogether, articulation mechanisms which previously underpinned the favourability principle. It is in these countries, where with the important exception of Italy the mechanisms for articulating the different levels of bargaining were historically rather weak, that a frontal assault on multi-employer bargaining is apparent.

Pressures from European level

Insofar as it is possible to identify an industrial relations dimension to the (normative) concept of the European social model, this rests on three key features (Visser and Hemerjick 1997; Marginson and Sisson 2004): a high degree of interest organization on the part of employers and workers; regulation of the labour market through comprehensive and coordinated collective bargaining; and universal workforce rights to representation and consultation within the enterprise. Whilst the first and third of these are refracted at the EU level, the second is absent: there are no European-wide structures for collective bargaining over wages, other core terms and conditions between employers' organizations and trade unions. As noted at the outset, the EU's Treaty specifies that competence over wage determination and collective bargaining remains at the national level. At first sight, then, the issue of articulation between the European and national levels would seem not to arise. Yet, it has long been recognized that economic and market integration within the EU, and monetary union within the Eurozone in particular, creates pressure on national labour market actors to deliver collectively agreed wage levels and increases consistent with maintaining, or improving, competitiveness. And within the Eurozone with exchange rates fixed and a uniform monetary policy, the labour market – including wages and employment – has to bear a greater burden of any macro-economic adjustment. Confronted by the prospect of downwards wage competition across borders, the response widely advocated by European- and national-level trade unions has been cross-border coordination – or horizontal articulation - of bargaining objectives and outcomes (Schulten 2003; Glassner and Pochet 2011). At the same time, the ETUC has pushed for a recognized role in the EU's macro-economic dialogue, given the integral role of wages policy in its agenda.

The evidence that the various trade union coordination initiatives have met with success in realising their substantive objectives is limited. According to Erne's (2008) analysis of European-level initiatives in metalworking and construction, national parameters remain uppermost although unions are increasingly aware that their national negotiations take place within a European context. Nonetheless, amongst a sub-group of European countries pattern setting would seem to offer a mechanism of horizontal articulation of wage bargaining agenda and outcomes (Traxler et al. 2008; Traxler and Brandl 2009). In a series of studies of Germany and neighbouring countries (Austria, Netherlands and the Nordic countries) whose economies, and exposed sectors, are closely linked to the German economy, Franz Traxler and colleagues find clear evidence of pattern-setting behaviour by Germany's metalworking employers and trade unions in the outcomes of wage bargaining across these countries over a prolonged period. Given its leading role both as an export sector and as a

focus of employer and trade union organizational strength in collective bargaining, the implication is that metalworking sector could act as pattern setter for other sectors (Brandl and Traxler 2009), and therefore provide the basis for horizontally articulated wage bargaining across a significant group of EU countries.

Recent developments in economic governance in the Euro-zone add to the pressures from economic integration for horizontal articulation of wage bargaining across countries. Successive initiatives through the course of 2011 and 2012 saw the European Council and European Commission intervening to an unprecedented extent in wage developments, and also wage setting mechanisms, thereby bringing coordination of wage policy firmly onto the Eurozone, and wider EU, agenda. In terms of wage developments, the emphasis is on linking wage increases to productivity. For wage-setting mechanisms, stress is placed on decentralized arrangements under which wage setting is sensitive to firms' competitive circumstances. These developments mark a 'paradigm shift' (ETUI 2013) on the part of the European authorities from the previous respect for the Treaty's provisions designating collective bargaining and wage determination as outwith the EU's competence to direct intervention in the procedures and outcomes of collective bargaining in the member states.

The introduction in 2011 of the new 'European semester' macro-economic planning regime, which strengthens European Commission surveillance of member states' macro-economic policy in the interests of better coordination and avoiding economic imbalances, resulted in the Council and the Commission issuing recommendations in July 2011 to eight member states concerning wage developments and/or reform of wage setting mechanisms, including indexation arrangements and sector-level bargaining arrangements by loosening the conditions for firms to temporarily opt out and enhancing the scope for company-level negotiation (Carley 2011). By the 2012 semester, the number of countries receiving such recommendations from the Commission had increased to seventeen (ETUI 2013). In March 2011 the governments of the 17 Eurozone countries agreed a 'Euro-plus pact' which included commitments to ensure that wages only increase in line with productivity and to monitor and benchmark trends in unit labour costs. Whilst formally respecting the autonomy of member states in respect of wage-setting, a commitment was also undertaken to review wage setting mechanisms in particular in respect of the degree to which bargaining is centralized and the effects of wage indexation mechanisms (EIRO 2011 – EU1104011i). The 'Six Pack' of regulations on economic governance adopted by the European Council in October 2011, and which took effect in 2012, further strengthens EU-level economic governance mechanisms, and

amongst Eurozone countries introduces the possibility of sanctions being invoked in the case of countries with persistent macroeconomic imbalances (Erne 2012). The regulations reinforce the powers of the Commission in relation to surveillance of wages policy and unit labour costs amongst other macroeconomic indicators, and refer to reform of wage-setting arrangements amongst possible corrective measures that can be required.

Yet the prospects of these top-down pressures on wage setting arrangements prompting successful, renewed initiatives for cross-border wage coordination have receded, rather than improved, as a consequence of interventions by the European institutions which have negatively affected well-established collective bargaining arrangements at national level. First, the European Court of Justice's decisions on the Laval quartet (Dølvik and Visser 2009) undermine the established capacity of particular national systems to generalize the wages and conditions established in multi-employer agreements through either custom (Sweden) or public purchasing requirements (Germany). Second, as elaborated above, direct intervention or coercive pressure towards governments in southern Europe by the European Central Bank and the European Commission has been predicated on the policy prescriptions emanating from the new arrangements for EU and Eurozone economic governance. Introducing greater scope for company level negotiation has not been accompanied by measures to strengthen articulation across levels. Instead it has been translated into measures weakening or inverting established arrangements articulating collective bargaining at sector (inter-sector) and company levels, and which accord primary weight to the latter. Towards the end of 2012 the Commission commended 'the steps taken [in several member states] to enhance flexibility in wage determination, such as easing the conditions for firms to opt-out of higher level collective bargaining agreements and the review [sic] of sectoral wage agreements' (European Commission 2012: 10). As articulation or coordination capacities within national systems of collective bargaining are undermined, successfully realising cross-border forms of articulation becomes less feasible.

Conclusions

The viability of multi-employer bargaining arrangements as a cornerstone of labour market regulation across much of western Europe has rested on a number of features, including a high degree of employer organization and (less crucially) union organization which have ensured a high level of workforce coverage, supportive state policies including mechanisms to legally extend the

coverage of agreements to all of the relevant workforce, and the capacity to articulate bargaining across different units and at different levels. It is this third feature on which the paper has focused.

Since the 1980s, in the face of growing employer pressure for scope allowing company-level variation within the substantive parameters specified by sector (and inter-sector) agreements, collective bargaining has undergone a process of organized decentralization. A variety of procedural mechanisms have been invoked as organising devices. Reviewing these, two main findings have been established. First, over time there has been movement along a spectrum from procedural mechanisms which whilst opening up scope for variation were nonetheless, through the principle of equivalence, consistent with the maintenance of universal sector-wide standards, to mechanisms which qualify or perforate the standards set, or convert them into a minimum floor or safety net. As a result, there has been an incremental corrosion of the standard-setting capacity of sector agreements: the mechanisms articulating, or coupling, the sector (and multi-sector) and company levels have tended to become looser and more open-ended. As Visser (2005: 24) puts it: 'the sectoral agreement may survive ... but only by denying itself most of the characteristics that have defined [it]'. Second, there is considerable and ongoing variation between countries in which, if any, mechanisms prevail and in other institutional features, such as the distinction between single- and dual- channel representation arrangements, which can facilitate or impede articulation.

The impact of the current crisis has been to accelerate this movement along the spectrum of procedural alternatives, further away from mechanisms which provide for substantive equivalence of sector standards at company level. However, the nature of the changes, and the processes through which they are occurring, differ sharply as between two groups of countries. Amongst the first group, which embraces 'northern' European countries with multi-employer bargaining arrangements, the capacity of sector (and inter-sector) agreements to set universally applicable standards has been steadily eroded over the past two decades. The impact of the crisis has been to prompt employers' organizations and trade unions to extend this trajectory even further, including opening up further scope for company-level variation on the core issue of wage setting. But multi-employer bargaining has also demonstrated some resilience, as in its capacity through 2009 and 2010 to deliver agreements which maintained employment in exchange for compensated short-time working arrangements often with public policy support (Glassner et al. 2011). There are also further indications that public authorities continue to recognize the benefits which states can derive from effectively coordinated multi-employer bargaining arrangements, for example by making minimum standards specified in collective agreements in some low paid sectors in Germany legally binding.

Amongst the southern EU member states, which constitute the second group, movement in the direction of opening up greater scope for bargaining at company level has been sharply accelerated by intervention from governments under pressure from, or imposition by, the European authorities and/or the IMF. Under a concerted push to foster market-based determination of wages and conditions through company-level bargaining, imposed or induced reforms are curtailing the capacity of sector and inter-sector bargaining arrangements to deliver agreements which are comprehensive in their coverage. The hierarchy of agreements has been inverted in favour of the company level, as in Greece, Spain and Romania, and the application of the favourability principle abandoned or, as in Portugal, suspended. Extension practice has been curtailed in all these countries, also in Ireland, and its legal underpinnings are in question in Italy. In Italy too, established articulation mechanisms have been disrupted. The overall effect amounts to a frontal assault on existing multi-employer bargaining arrangements amongst a significant number of the relevant EU member states. Looking ahead, it may only be a matter of time, however, before there is feedback from these drastic developments amongst the EU's southern member states to the seemingly more stable multi-employer bargaining arrangements in northern countries. Employers in northern countries may come to covet the ability to negotiate arrangements entirely at company level now available to their counterparts in southern countries, whilst governments in the north may themselves come to embrace the European authorities' policy mantra promoting market-based determination of wages and conditions.

More generally, growing perforation of the substantive standards established by sector (and inter-sector) agreements, would increasingly seem to render them unable to fulfil their former role of placing pressure on employers, via the universal wage and working time standards that they imposed, to search for improvements in work organization and workforce skills and deployment that enhance productivity. The weakening of this 'beneficial constraint' (Streeck 1992) has potentially profound implications for the relationship between collective bargaining structures and indicators of macro-economic performance (cf. Traxler et al. 2001, Traxler and Brandl 2012). A concerted response from organized industrial relations actors, and the public authorities, aimed at reversing the hollowing out of tried and tested institutional arrangements is needed. Without this, the further challenge of establishing an effective European-level coordination of collective bargaining over wages in the face of the strengthened economic governance capability of the European authorities is rendered all the more daunting. Yet, far from embracing measures which might facilitate European-level, cross-border articulation of collective bargaining arrangements, the European institutions, and

the national governments which have responded to the pressure exerted on them, are actively intervening to undermine existing capacities for effective articulation within national collective bargaining systems. They are doing so in the misguided belief that this will best facilitate the internal devaluation deemed necessary to secure economic adjustment. Conversely, they would seem to wilfully disregard the substantial evidence on the potential macro-economic benefits which flow from well-articulated multi-employer bargaining arrangements.

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[to follow]

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