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**Flexicurity & State Traditions:
The Europeanisation of Employment Policies before and after the
Economic Crisis**

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Abstract

The article presents a theoretical and empirical discussion of the effects of the Europeanisation of employment policies, arguing that the interaction with state traditions in industrial relations is a complex one, which may mediate or even distort EU policies. State tradition do not imply strong path-dependence, nor coherence and immutability of national 'models', as theorised by dominant institutionalist approaches, but, as described by Crouch (1993), influence the interactions between actors, who then mediate internationalisation pressures. A quantitative and qualitative analysis of the European Employment Strategy in 1997-2007 confirms the precedence of national politics over European ones, which tend to be political and rhetorical tools for national actors. However, the period since the beginning of the economic crisis (2007-2011) indicates very strong effects of European institutions on peripheral European countries, but in a different, and not converging way. The resulting divergence, at first sight in line with the predictions of the 'Varieties of Capitalism' theory, relates rather to shifting power balances between and within countries. The empirical focus is on Germany, Italy and Spain: the three Western EU countries with the strongest improvement in employment performance in 1997-2007, but also countries strongly affected by the economic crisis.

Keywords: industrial relations; labour market reforms; state traditions; European Employment Strategy; crisis; Germany; Italy; Spain

1. INTRODUCTION

The Europeanisation of employment policies since the Treaty of Amsterdam and the launch of the European Employment Strategy (EES) have given rise to doubts about the enduring relevance of state traditions at a time of increased intra-governmental co-operation and international economic integration. Since the beginning of the economic crisis in 2007, further threats to state specificities have come from international financial institutions, such as the International Monetary Fund and, in Europe, the European Central Bank. Even though a degree of European convergence may be detected in policies as well as in their conceptual framing, this article will argue that state traditions in industrial relations do still matter. State traditions do not imply strong path-dependence, nor coherence and immutability of national 'models', as theorised by dominant institutionalist approaches. By contrast, European countries are all characterised by a degree of incoherence, contestation and change in

industrial relations, which are only partially and temporarily stabilised and accommodated by institutional arrangements.

The European convergence pressure contrast with national state traditions, which, as theorised by Crouch,¹ have produced different national industrial relations patterns. These traditions affect the way internationalisation pressures are dealt with, for instance in the case of foreign direct investment or labour migration. However, when Crouch wrote his book on state traditions, he dismissed the hypothesis that the European Community could force them to convergence:

Will the 1992 project for a single internal market within the European Community have a more profound effect? It reaches deeper into the political process, and the EC tends to prefer neo-corporatist patterns since these give it a range of *interlocuteurs* who help remedy its popular deficit. But to date there is little sign that systematic differences of approach to the occupancy of political space are even perceived by policy-makers, let alone have become an object of harmonization.²

The period of economic crisis that started in 2007 makes the issue even more topical, given that periods of crisis are often periods of profound change in industrial relations³. In relation to the debate on convergence of industrial relations, crisis could lead to a ‘model’ acquiring dominance and hegemony. This does not seem to be immediately likely in the current crisis, which has actually seriously questioned the model that previously looked as the strongest, i.e. the neo-liberal one. However, some have argued that neo-liberalism, far from dying, has actually been simply revamped by the crisis.⁴ The crisis can even be seen as a step in the intensification of financial globalisation, especially because of the transfer of private debt to national states, that makes the latter more vulnerable financially, but also because of calls for more international financial governance, especially within the EU.

On the other side, following the ‘Varieties of Capitalisms’ approach⁵ it is possible to argue that the crisis, by increasing economic competitiveness pressures, forces countries to focus more on their comparative advantage, leading to divergence rather than convergence. There is an important corollary of this theory, though: the countries which do *not* have a clear comparative advantage such as that of co-ordinated market economies (e.g. Germany), liberal market economies (e.g. UK, USA) or labour intensive economies (e.g. China), would be forced to change and to adopt one of the existing models. This is notably the case of ‘mixed’ economies such as those of Southern Europe, which have been facing particularly strong competition pressure from ‘new entries’ of the capitalist economies.

A third, and intermediate, hypothesis on the effects of the crisis is that of simple confirmation of the existing paths, because countries’ elites, in a situation of economic and political risk, would recur to ‘experimented’ solutions. This would prevent convergence, and would maintain national diversity including in countries with no clear institutional comparative advantage.

These different hypotheses on the extent of European convergence in labour market policies are tested in two separate ways for the periods before and after the economic crisis. For the period between 1997 and 2007, I examine the direction of change in the EU27 countries, and more closely the effect of the EES in the countries where this is deemed to have had the strongest impact in terms of unemployment reduction (Germany, Italy and Spain). Some contradictory and distorted effects will be highlighted, especially with regard to the

¹ C. Crouch, *Industrial Relations and European State Traditions*, Oxford, Oxford University Press, 1993.

² *Op. cit.*, p.350.

³ B. Brandl and F. Traxler, ‘Labour Relations, Economic Governance and the Crisis: Turning the Tide Again?’, *Labor History*, 52, 1, 2011.

⁴ C. Crouch, *The Strange Non-Death of Neoliberalism*, Oxford, Polity, 2011.

⁵ M. Hall and D. Soskice (eds), *Varieties of Capitalism. The Institutional Foundations of Comparative Advantage*, Oxford, Oxford University Press, 2001.

promotion of 'flexicurity'. For the period of 2007-2011, I present an initial analysis of developments in labour market policy and collective bargaining in the same three countries, which have all been affected by the crisis strongly, but have reacted in very different ways. The analysis is based on secondary literature, press reports, trade union documents, and interviews with experts and officers of trade unions, employer confederations and the governments.⁶

2. STATE TRADITIONS, INDUSTRIAL RELATIONS AND EMPLOYMENT POLICIES

In her account of employment relations research traditions, Frege has highlighted how national approaches differ, according to different state traditions.⁷ In particular, she has pointed out the different forms of politicisation of industrial relations, which is deemed to have been stronger in Germany than in English-speaking countries. Frege focuses on the difference between Germany on the one hand and English-speaking countries on the other, but her point can be brought forward to highlight the differences between continental European states.

If the state is placed at the centre of the analysis, then the issue is not exactly between situations where the state has little relevance (the English-speaking countries and especially the US) and those where it is central. Indeed, welfare state coverage and labour market regulations differ between continental Europe and English-speaking countries. Yet it may be more a matter of different forms of state relevance, rather than a dichotomy between state or non-state, or even a one-dimensional continuum between more and less state. Economic sociology has shown that the role of government in shaping economic and social relations in the US is, for instance, as crucial as elsewhere.⁸ More recently, the size of the 'economic stimulus' packages and the nationalization of banks in the US and the UK following the financial crisis of 2007-08, and the return of industrial policy suggests that what matters is not simply the actual role of the state at a given moment, but rather its potential role. Once needed, British and American governments intervened massively in the economy, to compensate for the lack of planned intervention that characterises continental European countries. The size of the stimulus packages of 2008-09 was equal to 81% of GDP in the US, 82% in the UK and as much as 267% in Ireland – as against 22% in Germany and 19% in 'statist' France (IMF data). Rather than an alternative between intervention and non-intervention, we witness an alternative between different forms of intervention.

If we focus on the form of the state, rather than its 'dominance', it emerges that state traditions, if all relevant across Europe, can be very different from each other. For instance, the Franco-German contrasts in constitutional traditions explain the scepticism of the French state towards any particularism or group right, whether cultural or social, and its strong rejection of corporatism – which instead characterises much of the Germanic world. The political traditions are so different between the two countries that, according to Lipset's model, French and German labour movements occupy opposite cases.⁹ Also, the role of

⁶ The article is based on ongoing research funded by an ESRC Research Fellowship (2010-12). Six expert interviews were carried out in Germany (with representatives of the CDU political party; of the DGB, IG Metall and IG BAU union organisations; of the BDA employer federation; of the American Chamber of Commerce). Seven interviews were carried out in Spain (with the CCOO and UGT trade unions; the CEOE, Fomento and PYMEC employer organisations; with central government's and Catalan government officers). One interview was carried out in Italy (with the CISL trade union), where work is still in progress.

⁷ C. Frege, *Employment Research and State Traditions: A Comparative History of Britain, Germany, and the United States*, Oxford, Oxford University Press, 2007.

⁸ N. Fligstein, *The Architecture of Markets: An Economic Sociology of Twenty-First-Century Capitalist Societies*, Princeton, Princeton University Press, 2002.

⁹ M. Lipset, 'Radicalism or Reformism: The Sources of Working-Class Politics', *American Political Science Review*, 77, 1983.

agriculture and of the Catholic Church explains the importance of anarchosyndicalist traditions in countries such as France, Spain and Italy, but not the UK, the Netherlands or Germany.

The effects of national state traditions on industrial relations have been described with most historical detail by Colin Crouch, revealing roots of national diversity dating as back as to the Middle Ages¹⁰. Institution-centred comparative studies have kept stressing the enduring relevance of national differences, despite international economic competition pressures.¹¹ If countries are so different, can they implement the same employment policies? And will the economic crisis cause radical changes in the national traditions?

3. THE EUROPEAN EMPLOYMENT STRATEGY

The relevance of the national state, which was so evident to Crouch in 1993, is directly questioned by the internationalisation of capital, labour and governance. In particular, the emergence of supranational regulations and institutions is nowhere more visible than in the EU, where an emerging ‘multi-level governance’ system has been detected.¹² There are notorious limits, however, to supranational institutions in industrial relations. EU integration has been mostly ‘negative’ and ‘market-making’ than ‘positive’ and ‘market-correcting’.¹³

An important test of the capacity of the EU to affect employment relations is provided by the European Employment Strategy, initiated in 1997, and especially its focus on ‘flexicurity’ as a strategy for solving the European employment problems. Although the European Commission has lately accepted that there may be different ‘pathways’ to flexicurity, fitting to different national cases,¹⁴ the overall aim of its promotion relies on just one objective for all European countries, i.e. a combination of employment flexibility, active labour market policies and generous, but conditional, unemployment insurance, all inspired to the Danish experience. The flexicurity idea has been the object of criticism¹⁵ and after 2008, given its evident inappropriateness to deal with a recession, it has been side-lined and in part redefined as working-time flexibility.¹⁶ Yet it has been consistently promoted over a period of several years, in particular through the European Council guidelines and recommendations for the National Action Plans, and then National Reform Plans required by the European Employment Strategy. It therefore constitutes an interesting test for the capacity of supranational institutions to achieve convergence between national traditions.

The policy mechanism of the European Employment Strategy, the Open Method of Co-ordination, has the potential to overcome some limits of EU-level policy-making,¹⁷ and some early quantitative studies indicated that it was leading to some European convergence.¹⁸ However, qualitative studies have pointed at major barriers to the EES implementation and

¹⁰ C. Crouch, 1993, *op.cit.*

¹¹ F. Traxler, S. Blaschke and B. Kittel, *National Labor Relations in Internationalised Markets*, Oxford, Oxford University Press, 2001.

¹² P. Marginson and K. Sisson, *European Integration and Industrial Relations*. London, Palgrave, 2004.

¹³ W. Streeck, ‘Neo-voluntarism: A New European Policy Regime’, *European Law Journal*, 1, 1, 1995.

¹⁴ European Expert Group on Flexicurity, *Flexicurity Pathways: Turning Hurdles into Stepping Stones*, Brussels, European Commission, 2007.

¹⁵ E.g. M. Keune and M. Jepsen, *Not Balanced and Hardly New: The European Commission’s Quest for Flexicurity*, Brussels, ETUI Working Paper 1/2007, 2007; L. Funk, ‘European Flexicurity Policies: A Critical Assessment’, *International Journal of Comparative Labour Law and Industrial Relations*, 24, 2008; L. Burroni and M. Keune, ‘Flexicurity: A conceptual critique’, *European Journal of Industrial Relations*, 17, 1, 2011.

¹⁶ European Council, *Council Conclusions on Flexicurity in Times of Crisis*, Luxembourg, 2009.

¹⁷ J. Zeitlin and M. Heidenreich (eds), *Changing European Employment and Welfare Regimes: The Influence of the Open Method of Coordination on National Reforms*, London, Routledge, 2009.

¹⁸ C. Perugini and M. Signorelli, ‘Employment Performance and Convergence in the European Countries and Regions’, *The European Journal of Comparative Economics*, 1, 2, 2004.

convergence among member states, arguing that there are limits to how much countries can learn from each other.¹⁹

The evolution of the indicators adopted by the EU for measuring flexicurity offer some insight into the extent of convergence among EU countries. In particular, the indicators of the three summits of the Danish 'Golden Triangle' are interesting: employment flexibility, active labour market policies, and unemployment benefit replacement rates (Table 1). Although very rough and often distorting when used for international comparisons, and not necessarily faithful to actual employment conditions, these indicators are useful in the analysis of the direction of change across time.

The OECD Employment Protection Legislation (EPL) index (OECD employment database, our elaboration) shows a clear converging downward trend towards more flexibility across the 14 EU countries affected by the European Employment Strategy since 1997 (excluding Luxembourg because of size, and the new member states that only joined in 2004 or 2007). In these countries, the average EPL indicator (which ranges from 0 to 5) declined from 2.25 to 2.05 between 1997 and 2008, and the variance among them declined from 0.79 to 0.53. The most flexible countries such as UK and Ireland experienced a slight increase in rigidity, and the rigid ones such as Italy, Greece and Belgium a significant increase in flexibility. However, this cannot be easily interpreted as a direct effect of EU policies: in fact, the trend started much earlier than the EES, at least from 1985 (when the EPL average was 2.78 and variance was 1.07), that is well before the EU started proselytising flexicurity. It is probably related more to the overall political climate and trade union weakening that started in the 1980s than to what happens in Brussels.

The EU effect on convergence since 1997 seems clearer in relation to the security axis of flexicurity. With regard to expenditure on Active Labour Market Programs as a share of the GDP (OECD employment database, our elaboration), variance amongst the EU14 (the EU15 minus Luxembourg) declined sharply from 0.32 to 0.11 between 1997 and 2007, while it had been increasing in the previous decade (from 0.23 in 1987). The importance of this convergence is ambiguous, though. In absolute terms, average ALMP expenditure actually declined from 0.95% to 0.76% between 1997 and 2007, rather than increasing as it should have done according to the EES, and as it had done before the EES (the average was 0.80% in 1987). But expenditure on labour market programmes is obviously closely related to unemployment levels, which were increasing before 1997 and declining afterwards. After controlling for unemployment, the intensity of ALMP expenditure (calculated as a share of GDP spent/unemployment rate) actually increased between 1997 and 2007 (from 11.46 to 13.69), while it had declined in the previous decade (13.57 in 1987).²⁰ This suggests that there has been an effect of Brussels policies on convergence as well as on the direction of change, but not to the point of radical change, given that expenditure intensity in 2007 was the same as in 1987.

Data are not equally updated with regard to the third, and crucial, dimension of the flexicurity triangle, i.e. the replacement rate of unemployment benefits, as the OECD database provides

¹⁹ B. Casey and M. Gold, 'Peer Review of Labour Market Policies in the European Union: What Can Countries Really Learn from One Another?', *Journal of European Public Policy*, 12, 1, 2005; C. De la Porte and P. Nanz, 'OMC – A Deliberative-Democratic Mode of Governance? The Cases of Employment and Pensions', *Journal of European Public Policy*, 11, 2, 2004; K. Jacobsson, 'Soft Regulation and the Subtle Transformation of States: The Case of EU Employment Policy', *Journal of European Social Policy*, 14, 4, 2004; M. Heidenreich and G. Bischoff, 'The Open Method of Coordination: A Way to the Europeanization of Social and Employment Policies?', *Journal of Common Market Studies*, 46, 3, 2007; O. Van Vliet, 'Divergence within Convergence: Europeanization of Social and Labour Market Policies', *Journal of European Integration*, 32, 3, 2010.

²⁰ If we remove the outlier Sweden (which in 1987 had near-full employment and therefore extremely high intensity of labour market expenditure), the trend is linear and the turning point of 1997 disappears. Without Sweden, the average intensity of expenditure on ALMP was 8.36 in 1987, 10.71 in 1997 and 13.3 in 2007.

data only up to 2003. Using the OECD summary measure of replacement levels as an indicator (OECD Database of Benefits and Wages), replacement rates remained virtually constant between 1997 and 2003 (the average for the EU15 minus Luxembourg having moved from 33.2 to 34.5). Four particularly significant countries (Spain, the UK, Greece and above all Denmark²¹) went in the opposite direction, moving away from flexicurity by reducing their replacement rates. This all but interrupted the historic trend towards improvement of social security, since the EU-14 average replacement level was 30.8 in 1987. If anything, the improvement has slowed down. As with EPL, variance declined between 1997 (153) and 2007 (119), but it also declined between 1987 (206) and 1997, in a longer-term converging trend.

Table 1 – Trends on the three ‘flexicurity’ axes (EU15 minus Luxembourg; OECD data)

	Average			Variance		
	1987	1997	2007	1987	1997	2007
Flexibility (EPL Index)	2.78*	2.25	2.05	1.07	0.79	0.53
Active Labour Market Policy (expenditure intensity)	13.57	11.46	13.69	19.37	8.16	8.94
Security (Replacement Rate)	30.8	33.2	34.5**	206	153	119

*1985; **2003.

For a more in-depth investigation of the causal links between the EES and national policies, it is worth looking at the countries that have apparently been most successful in the aim of employment creation. In the 1997-2007 period, that is before the global economic crisis, employment in the EU27 increased from 60.7 to 65.4%, which was seen at the time as a success for the EES: growth was more employment-intensive than in the US. The EU15 countries with the largest increases in employment in 2000-2007 were Spain (+9.3%) Italy (+5%) and Germany (+3.8%), alongside Greece (+4.9%) and Ireland (+3.9%). The question that needs to be addressed is whether these countries following EU-promoted employment policies.

In this paper, we focus on the three larger countries, i.e. Germany, Italy and Spain. With regard to state traditions and industrial relations, according to Crouch’s²² classification in 1990 Germany was a case of corporatism with weak labour, Spain a case of pluralistic bargaining and contestation with weak labour, and Italy a particularly mixed case, with stronger labour than Spain and elements of corporatism in some regions. The role of state traditions was visible in the catholic factor in Spain and Italy, but only marginally in Germany, and in the legacy of guilds in much of Germany and parts of Italy; none of these countries had had strong liberal influences except Italy limitedly to some periods. Italy and Spain had some legacies of authoritarian corporatism, much fresher in the Spanish case, which however included only weak interest associations. The predictions for employment governance would be, therefore, continuously accommodating corporatism in Germany, and contestation in Spain and Italy, with the state being a more important actor in the former and trade unions in the latter. I will now discuss whether these national paths are visible in the adoption of the EES.

²¹ The strains on flexicurity in its very ‘country of origin’, especially following the economic crisis, are particularly significant and are attracting debate and research, see e.g. A. Tangian *Not for bad weather: flexicurity challenged by the crisis*, ETUI Policy Brief, Issue 3, Brussels, 2010; C. Ibsen, ‘Strained Compromises? Danish Flexicurity During Crisis’, *Nordic Journal of Working Life Studies*, 1, 1, 2011.

²² *Op. cit.*

4. THE GERMAN CASE

Germany witnessed an impressive fall in unemployment starting from the introduction of an intense promotion of flexicurity, a fall which has been slowed down, but not stopped, by the global financial crisis. Between 2005 and 2010 the number of unemployed fell from over five million to under three million (data from *Statistisches Bundesamt Deutschland*). The turning point for the German labour market was the enactment of the reforms of 2004, often incorrectly called Hartz reforms, from the name of the president of the Commission for modern labour market services, set up by the government in 2002 (just as the Italian reforms are often referred to as the Biagi reforms).

The 2004 reforms present strong affinities with the idea of flexicurity. They include new, flexible forms of labour contracts, modernisation of Job Centres in the direction of Active Labour Market Policies, and, most controversially, a reform of unemployment benefits that makes them more dependent on the fulfilment of certain conditions. Its apparent success in creating jobs has been criticised for creating a low-wage sector in Germany, for disciplining employees by means of threats, and for jeopardising the traditional strengths of the German employment regime, i.e. skills development and internal flexibility.²³ Yet regardless of the debate on the social effects, these reforms may be said to have only an indirect and ambiguous link to EU policies.

The person who lent his name to the reforms, Peter Hartz, in his own account never even mentions EU policies as a source of pressure, constraint or inspiration for the work of his Commission.²⁴ Indeed, the reforms responded to endogenous pressures rather than European ones. The immediate opportunity for the reform was provided by a scandal in the Federal Employment Services, rather than external pressure, but more importantly, an in-depth analysis defined it as ‘a typically German reform’.²⁵ The pressure for reform came from the fiscal crisis in the social security budgets of cities and regions, especially those administered by the ruling social democratic party such as Nord-Rhein-Westfalen. The management of reforms through a commission and the involvement of all the main actors (employers, the majority of the trade unions, *Länder* and all political parties in Parliament, whether in government or opposition) corresponded to a triumph of the ‘balanced’ and negotiated form of policy-making that characterises post-war Germany. That triumph might have marked the beginning of the decline, though, because discontent was channelled outside the main actors, with demonstrations and the emergence of a political party, *die Linke*, attracting important sections of the trade unions and destabilising both unions and the political scene. In contrast, EU pressures were marginal: ‘European and international debates in no way had an initiating function for the discussion in Germany, but worked, at most, as additional legitimation’.²⁶ Even in the one case on which international contamination seems most visible, that is the introduction of low-wage, subsidised jobs (*Kombi-Lohn, 1€ Jobs*) imitating the ‘Tax Credits’ of the US and the UK, there is a degree of path-dependency at the level of implementation.²⁷ Moreover, the same mechanisms can also be read as a perpetuation of a segmented German

²³ G. Bosch and C. Weinkopf, *Low-Wage Work in Germany*, New York, Russell Sage Foundation, 2009; K. Dörre, ‘Hartz-Kapitalismus. Vom erfolgreichen Scheitern der jüngsten Arbeitsmarktreformen’, in W. Heitmeyer (ed), *Deutsche Zustände, Band 9*, Frankfurt/M., Suhrkamp, 2011; H. Seifert and O. Struck, ‘Arbeitsmarkt und Sozialpolitik. – Flexibilität benötigt Sicherheiten’, in H. Seifert and O. Struck (eds), *Arbeitsmarkt und Sozialpolitik*, Wiesbaden, VS Verlag, 2009.

²⁴ P. Hartz, *Macht und Ohnmacht*, Pößneck, Hoffmann und Campe, 2007.

²⁵ A. Hassel and C. Schiller, *Der Fall Hartz IV. Wie es zur Agenda 2010 kam und wie es weiter geht*, Frankfurt, Campus, 2010.

²⁶ *Ibid.*, p.296.

²⁷ S. Börner, ‘Systembruch oder Pfadabhängigkeit? Das Beispiel Kombilohn’, in H. Seifert and O. Struck (eds), *Arbeitsmarkt und Sozialpolitik*, Wiesbaden, VS Verlag, 2009.

labour market, where ‘minor jobs’ have always existed, in response to the declining propensity of German women to accept them.

This does not mean that change in Germany occurred in isolation. In fact, the reform process was strongly influenced by a perceived decline in international economic competitiveness. The social democratic government had started preparing reform plans in 1998-99 through the creation of a ‘Benchmarking Working Group’, which in 1998-99 analysed German employment and economic performance in a comparative framework. The government’s ‘Agenda 2010’ reform plan referred extensively to the EU Lisbon Strategy and the EES Guidelines. However, the German National Action Plans were subject to little debate and little attention, and hardly any in the election year 2005. A network analysis of the promoters and the opponents of the reforms reveals a lack of engagement with the European level.²⁸ If Schröder used the EES, as well as OECD recommendations, as a source of legitimation, the most relevant document in framing the political debate was the joint Blair-Schröder Paper on activation and flexibility of 1999. There was therefore, rather than a top-down effect from Brussels, a two-way relation between the German and the EU level. Lahusen and Baumgarten conclude that ‘the EU strengthens the power of the national state, in the measure that this can coordinate different governance levels and arenas.’²⁹

By way of conclusion, Germany did introduce major changes into its employment regime. The range and depth of the changes supports Streeck’s opinion that there is no such thing as a German model, the idealised version of it having only existed for a few years in the 1970s.³⁰ Yet this does not mean that the national level is replaced by a supranational level and the EU has been successful in introducing ‘flexicurity’ into the largest member state. It was not the European Commission or the Open Method of Coordination that induced the German reforms. If there was a role of the EU, as in Central and Eastern Europe, it was in its ‘market making’ function³¹: increased international competition, including pressure from low-wage new member states, and monetary constraints through the Economic and Monetary Union. By contrast, the German state as a specific political frame for the elaboration of the reforms was very important. States matter, even if models do not exist.

5. THE ITALIAN CASE

The European Commission’s *Employment in Europe Report* of 2006 contained, within a long analysis of flexicurity, a cluster analysis of EU countries that portrayed five clear models along the two flexibility and security axes: an ‘Anglo-Saxon’ system (high flexibility, low security); a continental system (medium flexibility and security); a Mediterranean system (low flexibility, rather low security), an Eastern European system (high flexibility and low security), and a Scandinavian system (flexicurity).³² These clusters appear to be very neat and to confirm industrial relations typologies: they are very close to the already mentioned five industrial relations regimes identified in the *Industrial Relations Report* two years later.³³ However, this is a static picture that does not account for change. The effect of change is particularly relevant for Italy, which is a country considered as particularly affected by the

²⁸ C. Lahusen and B. Baumgarten, *Das Ende des sozialen Friedens? Politik und Protest in Zeiten der Hartz-Reformen*, Frankfurt/M, Campus, 2010.

²⁹ *Ibid.*, p.199.

³⁰ W. Streeck, *Re-Forming Capitalism. Institutional Change in the German Political Economy*, Oxford, Oxford University Press, 2009.

³¹ W. Streeck, ‘Neo-voluntarism...’

³² European Commission, *Employment....*, pp.103-107.

³³ European Commission, *Industrial Relations in Europe Report*, Luxembourg, Office for Official Publications of the European Communities, 2008.

EU in its socio-economic institutions and even ‘rescued by Europe’.³⁴ Italy, in the *Employment in Europe Report* cluster, does not appear in its traditional ‘Mediterranean group’, but in the ‘Eastern European’ one. In fact, it is a clear case of distorted, or selective, effects of EU pressures: while flexibility has increased massively in the last few years (with the labour market reforms of 1997 and 2003), security has clearly declined. As a result, far from catching up with Denmark, Italy has fallen to Eastern European levels.

The role of the EU in the Italian labour market appears to be overestimated. The 1997 labour market reforms were enacted before the first Italian National Action Plan (in 1998), and had been drafted under the Dini government in 1995, well before the launch of the EES. The 1997 reforms followed the policy mechanism of *concertazione* that was rooted in a specific Italian tradition, that of national tripartite agreements, which had started in the 1970s in relation to wage inflation. The later reform of 2003 (Act no.30/2003) also responded to very specific national political developments: the election victory of Berlusconi; the *Libro Bianco sul Mercato del Lavoro in Italia* (White Paper on the Labour Market in Italy) prepared for the Ministry of Labour on the same year; and the assassination of the *Libro Bianco*’s lead author, Marco Biagi, on 19 March 2002. This reform was ratified after a partial tripartite agreement, with the support of only the two moderate unions CISL and UIL, but not the leftwing CGIL, which in a way ‘mimed’ the previous *concertazione*, that was criticized in the *Libro Bianco* as too rigid and out of step with the new economic necessities, but reframed as non-binding ‘social dialogue’. In this sense, there may have been an influence of European concepts, as ‘social dialogue’ is the term favoured by the European Commission, and in Italy it was used against *concertazione* as practised by previous centre-left governments. Yet the implementation in Italy was instrumental to local political objectives, to justify the exclusion of CGIL and to avoid vetoes.³⁵ On its side, CGIL also achieved a success in resisting, through strikes and a large 3-million demonstration in Rome in 2002, the liberalisation of dismissals (the reform of article 18 of the *Satuto dei Lavoratori* of 1968).

With regard to the content of labour market reforms, the input of EES guidelines on the *Libro Bianco* and the reforms was merely indirect. Even if Act no. 30, in its preamble, mentions the need to ‘fully adapt current regulations to the community rules’ (Art.1), this is a statement devoid of content as no specific Directive is transposed into Act no. 30. On this ambiguous link between Act no.30 and European law, it has been argued that ‘community law and the ECJ jurisdiction appear even dogmatically known and weighted, only to then introduce regulations that sterilise the constraints that should emerge [from EU law]’.³⁶ Flexicurity had not yet become an important catchphrase, and in any case the debate in Italy was only centred on flexibility, not on security. A reform of social benefits in the direction of the Danish model was discussed under the centre-left governments of 1996-2001 and 2006-08, but with only a minor improvement to unemployment benefits in 2007 (Act no. 247/07), achieved again through a tripartite social pact. The architecture of unemployment benefits remains that of the original, Fascist-era regulations (1936), with the addition of a selective Wage Guarantee Fund for large companies, in its main features dating from 1975. If there has been a direct effect of the EU on Italian labour market policies in this period, it has not been through its ‘social dimension’ and the EES, but through its ‘market-making’ nature: the rejection of the previous main form of subsidised contractual flexibility for young workers through the *Contratti di Formazione e Lavoro* (Training and Work Contracts), introduced in the 1980s and

³⁴ M. Ferrera and E. Gualmini, *Rescued by Europe? Social and Labour Market Reforms from Maastricht to Berlusconi*, Amsterdam, Amsterdam University Press, 2004.

³⁵ L. Bellardi, ‘Dalla concertazione al dialogo sociale: scielte politiche e nuove regole’, *Lavoro e Diritto*, 1, 2004.

³⁶ M. Rocella, ‘Una politica del lavoro a doppio fondo’, *Lavoro e Diritto*, 1, 2004, p.48.

condemned by the European Commission (in 1999) and the European Court of Justice (2002) for providing too generous state subsidies, thus violating EU rules on free competition.

The major improvement of the Italian labour market in the first half of the 2000s is not in direct relation to flexibility reforms as advocated by the EES. In particular, the largest 'shock' in terms of job creation was in 2002-03, when total employment increased by around 750,000 people. This figure corresponds almost exactly to the total number of undocumented immigrants regularised by a concomitant immigration reform (the 'Bossi-Fini' Act of 2002): 650,000.³⁷ It can be deduced that a significant proportion of the 'new' jobs were not created, but simply recorded: they already existed, in the shadow economy, performed by hitherto undocumented immigrants outside official employment statistics.

To conclude, Italy, if anything, has been a follower of the earlier, neo-liberal OECD Jobs Strategy, and the EES has had no perceivable distinctive effects.³⁸ Moreover, Italy's implementation of flexibility without significant improvement and change in social security has led to a system deserving the definition of 'Flex-insecurity'.³⁹

6. THE SPANISH CASE

As a new European Community member since 1986, Spain has been particularly susceptible to European influences. In the post-Franco situation, Europe had a symbolic dimension inspiring reform and internationalisation, and European policies and funding were particularly important. The Spanish social partners, in particular, profess a strong pro-European orientation, although it is disputable how effectively they have engaged with the European level organisationally.

Spain's history of labour market reforms dates back from before the European Employment Strategy, and it has been particularly turbulent and practically continuous since the transition to democracy in the early 1980s. As soon as it introduced new labour law legislation coherent with a democratic system with the Law nr 8 of 1980 (called *Estatuto de los Trabajadores* because inspired to the Italian *Statuto dei Lavoratori* of 1968), Spain was faced with mass unemployment, as a consequence of the major industrial and economic readjustment caused by the integration with the European economy. The first major reform in the direction of labour market liberalisation was in 1984, when unemployment had peaked at 24%, at the initiative of the new Socialist government and with the agreement of the trade union UGT. The most important measure, which marked the Spanish labour market ever since, was the deregulation of temporary employment, no longer subject to the requirement of explicit and objective justification: temporary contracts multiplied from half million in 1984 to over 8 million in 1996. More reforms were introduced in 1988, 1992 and 1994, still by the Socialist government, but with trade union opposition.

The following major reform took place in 1997, through a tripartite agreement between the conservative government, the employers' confederation and the trade unions. The aim was reducing the regulatory gap between temporary and permanent workers, in particular by facilitating the firing of permanent employees. Although the direction of that reform was similar to previous and later ones, the fact that it was approved through a 'tripartite' agreement may have affected its implementation. While its content was not very different from the reform of 1994, which was largely a failure, the 1997 one led to both unemployment and the share of temporary contracts (from 40% to 36% of the total between 1996 and 1998):

³⁷ M. Barbagli, A. Colombo and G. Sciortino (eds), *I sommersi e i sanati. Le regolarizzazioni degli immigrati in Italia*, Bologna, Il Mulino, 2004.

³⁸ B. Casey, 'The OECD Jobs Strategy and the European Employment Strategy: Two Views of the Labour Market and the Welfare State', *European Journal of Industrial Relations*, 10, 3, 2004.

³⁹ F. Berton, M. Richiardi and S. Sacchi, *Flex-insecurity. Perché in Italia la flessibilità diventa precarietà*, Bologna, Il Mulino, 2009.

this has been defined as ‘placebo effect’ of social concertation, affecting not the content but the implementability of reforms through increased legitimacy and consent.⁴⁰

While the reform of 1997 coincides with the launch of the EES, there is clearly no cause-effect link between the two, as the former was negotiated earlier. All our interview partners agree that it was the effect of an internal Spanish path. Nonetheless, the EU was influential of Spanish employment policies, especially through the European Social Funds and through EMU requirements, which had been behind the 1992 and 1994 reforms. Also the EU stress on regionalisation coincides with the Spanish devolution of employment policies to the regional level, but again, the Spanish solution responded to internal pressures and developments much more than to external ones.

Reforms accelerated in the 2000s, with a new General Law on Employment in 2003 and, after the Socialist election victory of 2004, a number of tripartite agreements on the labour market. The EES has influenced Spanish debates and policies, especially through the catchwords of employability, adaptation and gender mainstreaming. However, the European engagement of the actors remains rather limited. An intriguing case is the debate on flexicurity. While the concept of flexicurity was strongly criticised by union experts who followed the EU debates, eventually the Spanish union leaders in the ETUC did not oppose it in Brussels, probably in order to maintain their ‘good European’ reputation. In turns, however, the employer side was ready to exploit this concession, by repeatedly reminding Spanish unions that, now, they had committed to flexicurity at European levels and should no longer oppose the liberalisation of dismissals.

The European Commission’s recommendations for the National Action and then Reform Plans, however, have had little impact on Spain. The government only provided the social partners with its proposals few days before submitting them, making any social dialogue impossible. The CCOO repeatedly registered its opposition to the National Action/Reform Plans, but to no effect. Overall, the government proposals were more exercises of ‘reordination’ of existing policies than real novelties. A Spanish expert defined the first Spanish National Action Plan as nothing more than ‘old wine in new barrels’.⁴¹

It is true that in the 2000s Spain witnessed a spectacular improvement in the employment figures. It is however dubious that such an improvement has been led by European policies, or even by the Spanish reforms. The sector that has driven the employment growth has been construction, accounting for a peak of 14% of total employment, twice the EU average. The decrease in the unemployment rate is partially due to demographic factors (smaller new cohorts), whereas the increase in employment, like in Italy, has been driven by immigration. The two years with the sharpest increase in the employment rate were 2001 and 2005, and both followed the largest regularisations of undeclared immigrants: regularised foreign workers accounted for around two third of the new jobs in both years. The role of immigration in the Spanish labour market cannot be underestimated, as the employment rate of immigrants, before the crisis, was much higher than for Spanish nationals (77% vs 57%).

7. STATE, INDUSTRIAL RELATIONS AND THE CRISIS

The economic crisis that started in 2007 changed the framework of employment policies. The Open Method of Co-ordination proved too slow for facing volatile economic circumstances, and ‘flexicurity’ was nearly forgotten given its poor performance in face of the crisis, and the fact that it was even partially redefined as working-time flexibility, following the German

⁴⁰ T. Sala Franco, ‘La concertación y al diálogo social durante el período 1990-2007’, in F. Valdes Dal-Ré (ed), *30 años de libertad sindical*, Madrid, Fundación Caballero, 2007.

⁴¹ L Cachón, ‘Los auténticos yacimientos de empleo son auténticas necesidades colectivas’, *Gaceta Sindical*, May 1998.

example, proves that even the European Commission ‘can learn’.⁴² By contrast, EU economic governance was boosted, through more interventionist policies of the European Central Bank and the creation of a European Financial Stability Facility. While it is too early to produce an assessment of changes which are still ongoing, this paper discusses whether the three countries considered above have changed their paths.

Germany

While Germany suffered a major output crisis in 2008 (-5%), it avoided any major job losses, and actually employment soon started to increase. Unemployment reached a historic record low since unification in 2011, at 6%. The main reason which is generally given for such performance is the *Kurzarbeit* scheme introduced in 2008, which allowed a publically-subsidised shortening of working time. The decision of introducing the *Kurzarbeit* scheme was reached quickly and through social negotiations, and it would have been unlikely without an established corporatist practices. It is actually significant that while other EU countries had their own short-working time schemes, no liberal ones had. In the UK, even if individual companies did reduce working time to retain their employees, the idea of a short-working time scheme was quickly dismissed by the employers themselves for their difficult enforceability (companies would reduce working time on paper to secure subsidies, but then pay extra hours in cash), a problem which is negligible in the much more densely administered Germany. Working time flexibility, moreover, is characteristic of the German system of internal, rather than external flexibility, and is embedded in high-trust relations based in co-determination at the enterprise level.

The success of the *Kurzarbeit* scheme and of the German labour market overall, which in turn allowed Germany to swiftly recover economically as soon as the recession eased, re-legitimised the ideas of social partnership, while de-legitimising neoliberal reforms. Whereas the liberal party FDP had an electoral success in 2009 and entered, after eleven years in opposition, a coalition government, its deregulation proposals encountered extreme unpopularity and the party itself plummeted in opinion polls and regional elections, leading to the resignation of its leader Westerwelle.

As a result, after years when German industrial relations had been being ‘eroded’⁴³, they have been re-legitimised politically. While in 2003-06 collective bargaining coverage fell by 7 percentage points, in what seemed an inexorable decline, between 2007 and 2010 the fall has stopped.⁴⁴ By contrast, measures have been taken to strengthen the coverage and incidence of collective bargaining. Employer federation BDA and trade union confederation DGB made common front in 2010 to propose legal changes in defence of the principle of *Tarifeinheit*, which had been jeopardised by independent unions and by a ruling of the Constitutional Court, and their position obtained the support of Chancellor Angela Merkel. Moreover, the ‘*Ohne Tarif*’ membership status of the employer federations, that allowed companies to opt out from sectoral collective agreements, has become less popular, with a number of companies going back into the sector agreements, which guaranteed wage moderation and social peace and reduced transaction costs.⁴⁵

⁴² M. Klindt, ‘From Rhetorical Action to Policy Learning: Understanding the European Commission’s Elaboration of the Flexicurity Concept’, *Journal of Common Market Studies*, 49, 5, 2011.

⁴³ A. Hassel, ‘The Erosion of the German System of Industrial Relations’, *British Journal of Industrial Relations*, 37, 3, 1999; W. Streeck, 2009, *op. cit.*

⁴⁴ Source: IAB - Betriebspanel.

⁴⁵ Author’s interviews at the annual conference of the BDA, November 2010. It is necessary to add, however, that a minority of BDA members still promoted radical decentralisation and liberalisation: centrifuge pressures have not disappeared, they have just weakened.

Another major change in the German labour market, induced by the need to open it to workers from the new EU member states from the 1st of May 2011, has been the implementation of legally binding sectoral minimum wages in some sectors where the problem of low wages and immigration are particularly strong. This has occurred through the use of the Posted Worker Law, permitting the *erga omnes* extension of sectoral agreements: initially used only in the construction industry (1996), this legal provision has been then applied, around 2010, in the sectors of care, commercial cleaning, waste industry, security services and industrial laundries. The limit of this form of extension is that it is limited to core labour rights like pay and holidays, and not cover other important norms on employment conditions, but at least it has provided for minimum wages, differentiated by region and by qualification, for hundreds of thousands workers in particularly sensitive sectors. In addition, in 2011, the most difficult sector, that is the Agency Work Sector, was to be covered by similar provisions through a specific law. In total, the number of extended collective agreements in Germany, which had been in constant decline since the 1990s, has increased from 446 to 490 between 2006 and 2010, but the process is far from being consensual: an employer offensive successfully challenged, in 2010, the extension of the hotel sector's collective agreement.

While the DGB campaign for a national minimum wage has been unsuccessful, this can be considered as a confirmation of German industrial relations practices and especially of collective bargaining autonomy and the prominence of industry-level actors and regulations. In the meanwhile, the German welfare state has survived the drastic retrenchments that have affected other EU countries, and unemployment insurance has actually been subject to some improvements to correct the worst social consequences of the 'Hartz' reforms. Following a ruling by the Constitutional Court, unemployment benefits were even raised at the end of 2010, if by only a negligible amount (5€/month).

Some observers have pointed that this German recovery is only temporary and is based on accommodating attitudes by trade unions and works councils, and that it may well recur to the previous trend in increased flexibility and inequality.⁴⁶ However, this can only be, at this stage, a speculative point. Pessimistic views of German trends tend to be based on an 'idealised' view of what German industrial relations might have been in the past, but, as Streeck⁴⁷ observed, a German model only existed for a few years in the 1970s. In particular, social equality has never been an element of that model, which although it inherited relatively high income equality from the war destruction, it actually included strong segregation of women and immigrants as well as strong sectoral differences. If it is true that the current recovery coexists with rising inequality and it still does not cover Eastern Germany, where both co-determination and collective bargaining remain weak. Yet in the part of the country with state historical continuity, stabilisation is, so far, the main development since 2007.

Italy

Italy's economic and labour market performance shows some apparent similarities with Germany: a strong GDP fall without employment fall, largely thanks to the state-subsidised working time reduction. Italy did not need a new working time reduction scheme as it already had such mechanisms, through the *Cassa Integrazione* wage fund for restructuring and the *Contratti di solidarietà* for defensive working time reduction.

Until the crisis, Italy seemed a case of relatively enduring strength of collective bargaining and trade unionism: both remained virtually unchanged since the 1980s, were actually revamped through *concertazione* and union referenda in the 1990s, and maintained their

⁴⁶ S. Lehndorff, 'Before the crisis, in the crisis, and beyond: the upheaval of collective bargaining in Germany', *Transfer: European Review of Labour and Research*, 17, 3, 2011.

⁴⁷ *Op. cit.*

functions with more continuity than even Sweden⁴⁸. However, Italy's long-standing problem of high public debt (120% of the GDP) made the country much more vulnerable at a time of crisis. Also, Italy has suffered from deep competitiveness problems and no growth since the introduction of the Euro in 1999, most visibly in sectors affected by new entrants such as Eastern Europe and China.

The crisis, like in Germany, has delegitimized the liberalisation agenda, with the Finance Minister Tremonti even acknowledging, in 2009, that 'flexibility was a mistake' (a reference to the 'Biagi' reforms) and that permanent employment suits the Italian family-based model much better. However over time pressures arrived from both within and without.

In January 2009 employers and the unions CISL and UIL agreed a reform of collective bargaining, reducing wage indexation guarantees. The largest union CGIL did not sign and its opposition limited the implementability of the reform: in many sectors, given its strength, CGIL could force the other unions to negotiate on the basis of the previous system, introduced by a tripartite agreement in 1993.

More drastic changes were introduced in 2010 by the largest Italian industrial company Fiat, now merged with Chrysler and managed by an Italo-American CEO, Sergio Marchionne. Threatening relocation to Poland, Marchionne could obtain the consent of CISL and UIL, and of a majority of employees in referenda, to new plant agreements outside the sectoral metalworking agreement, introducing notably more working time flexibility and a peace clause. This was of historic relevance because Italy had lived since 1948 under the illusion of an *erga omnes* system of sectoral agreements. While not legally binding technically, sectoral agreements were routinely used by the courts as reference for setting the constitutional rights to fair wage and fair working time. As a result, employers knew that not respecting a sectoral collective agreement involved serious legal risks. The industrial relations implications of the Fiat agreements were particularly strong because they affected union recognition: by abandoning multi-employer agreements, Fiat also withdrew from the one of 1993 on the system of workplace union representation, which established the hybrid works-council system of *Rappresentanze Sindacali Unitarie* (RSU). Now, Fiat was only bound by the law, i.e. the *Statuto dei Lavoratori* (Law 300 of 1970), which only protects unions that are signatory of collective agreements. In the 1970s, this was irrelevant as all three large trade unions programmatically signed collective agreements jointly. In the new situation of separate agreements, however, by refusing to sign the Fiat company agreement FIOM (metalworkers' federation of CGIL) found itself expelled from the factories despite being by far the largest trade union in the Italian Fiat plants.

The Fiat agreements involved not just a conflict with CGIL, but also associational clashes with the employer federation Confindustria, which defends sectoral agreements while asking for more flexibility, and it instigated legal disputes, precipitating the need for a reform.

On the 28th of June 2011 a new tripartite agreement was signed to reform sectoral collective agreements. This time, it was also signed by CGIL, while still being opposed by its influential metalworking federation, FIOM, which had been on the front line in the Fiat case. The reform introduced long-awaited criteria for union representativeness, establishing that company-level agreements could depart from sectoral ones if signed by unions representing more than 50% of employees. While allowing further decentralisation, the agreement 'saved' sectoral agreements, which correspond to the need of small and medium enterprises to avoid company-level negotiations (due to transaction costs and in particular to the paternalistic attitude of most small and medium employers). However, the agreement was unsatisfactory for Fiat, as it was not retroactive. On the 18th July, the first court ruling on the first Fiat plant

⁴⁸ R. Oliver, 'Powerful Remnants? The Politics of Egalitarian Bargaining Institutions in Italy and Sweden', *Socio-Economic Review*, 9, 3, 2011.

agreement (in Pomigliano) sentenced that the agreement was legal, but the resulting exclusion of CGIL was not. This increased the situation of legal uncertainty. If CGIL could re-enter the factories, it could also call strikes, making the peace clause signed by the other unions totally ineffective. Fiat started asking explicitly for a law to legalise its position, but collective bargaining in Italy has never been subject to legal intervention except the generic principles in the Constitution of 1948. The only attempt at a law on collective bargaining, in 1961, was actually ruled unconstitutional for interfering with the trade union freedom.

In August the situation precipitated because of the financial turmoil. Following unsustainable increase in the spread of government bonds, Parliament had to convene in the middle of the Summer holiday. A first declaration by Berlusconi on the 3rd of August, stating that the Italian economy was in a good shape and previous reforms, including an austerity budget passed only one month before, were sufficient, instead of calming the markets, had the opposite effect. Italy was now facing the real risk of following Greece, Ireland and Portugal. The social partners (Confindustria and the three main unions), to face the emergency, called for a six-point plan, including, crucially, vague references to labour market liberalisation and collective bargaining reform. On the 5th of August the European Central Bank's incumbent and elect presidents, Jean-Claude Trichet and Mario Draghi, wrote letters to the Italian and Spanish governments, asking for austerity budget measures, structural and constitutional reforms as implicit conditions for intervening, from the following week, on the secondary markets and purchase Italian (and Spanish) bonds. The letters were not made public and the content would be revealed only at the end of September by the Italian daily *Corriere della Sera*. The one to Italy included very important labour market 'essential measures', adding that they had to be passed as decree-laws as soon as possible, with parliamentary ratification by the end of September.⁴⁹ The two crucial measures (beside public services reforms) were the following:

b) There is also a need to further reform the collective wage bargaining system allowing firm-level agreements to tailor wages and working conditions to firms' specific needs and increasing their relevance with respect to other layers of negotiations. The June 28 agreement between the main trade unions and the industrial businesses associations moves in this direction.

c) A thorough review of the rules regulating the hiring and dismissal of employees should be adopted in conjunction with the establishment of an unemployment insurance system and a set of active labour market policies capable of easing the reallocation of resources towards the more competitive firms and sectors.⁵⁰

A further request from the ECB is the amendment of the Constitution to introduce, on the recent German example, a commitment to budget balance⁵¹ – constitutional reform is however a long process in the Italian legal system, requiring a minimum of four months and the possibility of a referendum. In response to this, then still unpublished, letter, the government prepared an austerity budget and reform draft bill on Saturday the 13th of August, and the following Monday the ECB started to buy Italian and Spanish bonds. On the 18th of August, Berlusconi intervened in Parliament again, presenting emergency measures including all ECB requirements: a new austerity budget, a labour market reforms and a design of constitutional reform.

While the austerity budget went then through political negotiations within the ruling coalitions and its final version may not have satisfied the ECB (it notably does not include a

⁴⁹ 'Trichet e Draghi: un'azione pressante per ristabilire la fiducia degli investitori', *Corriere della Sera*, 29th September 2011 (http://www.corriere.it/economia/11_settembre_29/trichet_draghi_inglese_304a5f1e-ea59-11e0-ae06-4da866778017.shtml?fr=correlati).

⁵⁰ *Ibidem*.

⁵¹ The wording of the ECB letter was less strong than on the other measures: 'a constitutional reform tightening fiscal rules would also be appropriate'.

cut in state pensions, except the postponement of retiring age for women), the labour market reforms were kept in the final bill, and they are arguably more drastic than all the policies that had been triggered by the EES in the previous fourteen years. They include a radical collective bargaining reform, which is made explicitly retroactive in order to satisfy Fiat. In addition to incorporating the tripartite agreement of the 28th of June, the law also allows company agreements to derogate not simply from sectoral agreements, but also from the law on protection dismissal. That article 18 of the *Statuto dei Lavoratori*, which had survived since 1970 and had been successfully defended in 2002, was now potentially emptied of content. While trade unions reacted angrily and committed never to sign company agreements derogating from the art. 18, it is to be seen whether they dispose of the necessary co-ordination and governability power to impose such intentions on company-level negotiators, especially in situation of company crisis.

Spain

In Spain the crisis has been sharper than in the other two countries. While the GDP fall in 2009 has actually been slightly less than in Germany and Italy, unemployment quickly more than doubled from 9 to 21%. Also, the country had to face financial market pressures already in 2010, during the first Greek crisis, when the Socialist Prime Minister Zapatero had to stop its social reforms plans, introduce drastic austerity measures including public sector wage cuts, and confess, in May 2010, that governments cannot do anything when faced with the international markets, and that he wakes every morning worrying about the spread of Spanish bonds.

In particular the Bank of Spain, in association with the ECB, started exerting strong pressure for liberalisation. Certain reforms, including collective bargaining and labour market, were demanded as ‘symbols’ of recovery. In particular, the Bank of Spain has promoted the introduction of a flexible ‘unique employment contract’ to overcome the dualisation between permanent and temporary contracts, and the decentralisation of collective bargaining. Interestingly, there is no evidence that such reforms could help Spain: actually, the drastic fall in employment shows that the Spanish labour market is, if anything, excessively flexible numerically. Also, the derogation from multi-employer collective agreements’ pay rates (the *discuelgue salarial*) had been possible since the reform of 1994. As a matter of fact, collective bargaining has also been responsive, if not immediately in 2008, certainly in 2009-10.⁵² Moreover, these requests for radical deregulation that come from the European Central bank through the Bank of Spain do not even correspond to the interests of Spanish employers. The employer federation CEOE does not support the ‘unique contract’, knowing that the status of ‘permanent employee’ is a very important tool for the management of human resources in the structurally segmented Spanish labour market and Spanish companies, as proven by the lack of success, despite financial and legal incentives, of any intermediate contractual form such as the ‘special contracts for the promotion of permanent employment’ (*contratos de fomento de la contratación indefinida*), which tend to be rejected by employees as ‘second-class’ contracts. With regard to collective bargaining, Spanish SMEs, like their Italian counterparts, are not ready for company-level negotiations and therefore need the external reference of a multi-employer agreement, even if as flexible as possible.

The Spanish government responded to the crisis by launching a series of labour market reforms. The first major reform, announced in June 2010, which significantly eased the preconditions for lay-offs and for the *discuelgue salarial*, and added incentives to the *contratos de foment de la contratación indefinida*. The reform was opposed by the trade

⁵² R. B. Martín, ‘La incidencia de la crisis económica en la negociación colectiva’, in R.B. Martín (ed) *La negociación colectiva ante la crisis económica*, Albacete, Bomarzo, 2010.

unions which however could do no more than calling a largely ritual general strike in protest. In February 2011, a tripartite agreement was passed to reduce pensions and to start negotiations on a collective bargaining reform. Negotiations on that reform proceeded well until May, and all parties were expecting an agreement. However, at the end of May they collapsed, after the most hard-line component of the employer confederation CEOE, the Madrid region's employer federation CEIM, withdrew from the concessions already made. The unions treated this as ill-will negotiating and talks collapsed. The direct reason for the employer stance is the result of the local elections of the 22nd of May: the unexpected size of the Right's triumph showed the employers that if they waited until the parliamentary elections (to be held by the Spring 2012, but then anticipated to November 2010), they could obtain a more employer-friendly reform.

In the lack of agreement, the government decided to legislate unilaterally. The proposed law actually went through 'arm-length negotiations' and was changed following criticism from the employers. The final bill downgraded provincial agreements (which are important in some sectors without national agreements, like construction) and limited the automatic prorogation of agreement, opening up the possibility for worsening employment conditions over time. At the last minute before the parliamentary vote, in order to obtain the crucial vote of the autonomist parties of Cataluña and the País Vasco, the government introduced the principle of superiority of regional collective agreements (*autonómicos*), which actually was an unpleasant surprise for both trade unions and employers. Overall, the reform still maintains a structure of multi-employer bargaining, while opening up more possibility for derogation, now also subject to arbitration in case of union opposition. Like in Italy, it is too early to know if the reform will lead to actual changes in collective bargaining practices.

Far from being a definitive reform, due to the financial pressure in August Spain had to make, like Italy, new crucial steps as requested by the ECB. It quickly amended the constitution to introduce the budget balance principle, which is particularly striking given that the Spanish Constitution of 1978 had only been amended once, in 1992, and was considered as close to untouchable: its quick amendment almost without debate is so far the clearest occurrence of EU impact on national state traditions. In relation to the labour market, on the 26th of August the government announced a further reform that facilitates temporary agreements, resulting in a U-turn from a reform of 2008 and the *flexicurity* principles of reducing labour market dualisation.

CONCLUSION

The paper has argued that the state traditions of EU member states have been determinant in the framing of labour market reforms in European countries. Even in countries where major change is visible, such as Italy, Germany and Spain, the causal effect is extremely dubious. The timing, form and direction of change do not correspond to the ideal 'flexicurity' orientations, but rather to national political circumstances. While the international market is a constant constraint on national policy, and the European level is often referred to by national policy makers, the EU as a positive 'market-correcting' social regulator is barely visible. In the case of 'flexicurity', flexibility has clearly increased more than security.

At the same time, also interpretations of the role of the EU in promoting neo-liberal hegemony⁵³ may be exaggerated: the main political levels of change have remained the national states. Political pressures are bottom-up at least as much as they are bottom-down, as seen in the impact the new member states have had on EU institutions, or the effect of the Schröder-Blair Paper on EU policies.

⁵³ B. van Apeldoorn, J. Drahokoupil and L. Horn (eds), *Contradictions and Limits of Neoliberal European Governance – From Lisbon to Lisbon*, London, Palgrave, 2009.

After the crisis, the EES has become largely irrelevant, while financial institutions have come to the forefront. However, there has been divergence more than convergence. The developments are apparently in line with the expectations of the ‘Varieties of Capitalisms’ theory: Germany, as well as, arguably, the UK, Ireland and the USA, have consolidated their ‘institutional comparative advantages’ and their dominant practices have been re-legitimised. By contrast, those countries whose comparative advantage has long expired due to the EMU and to globalisation, such as Italy and Spain (not to speak of Portugal and Greece), have come under unprecedented pressure for deregulation, although it is too early to say whether it will actually lead to systemic change. In particular, it remains to be seen if the actors will actually implement, at sector and company levels, the changes introduced centrally: these countries have a tradition of mismatch between higher formal levels and lower informal ones, as described particularly sharply by Regini⁵⁴ in the case of the contrast between national-level conflict and local-level micro-corporatism in the 1980s Italy.

However, the causal link may not be the one expected by the Varieties of Capitalisms theory. The initiative for stabilising the German model has not come from the leading international sectors such as metalworking and chemicals. It has actually come from politics, from union revitalisation, and from sectors affected by freedom of movement of services and workers (e.g. construction, post, food), but are certainly not among German competitive strengths. There has been little evidence of enduring institutional complementarities in the German reforms: the German finance, in particular, has radically changed from the times when the VoC theory was elaborated, and now, rather than supporting German industrial relations, it plays an important role in disrupting the Spanish and Italian ones. The developments in these two countries, as well, indicate enduring relevance of state traditions and political cultures, with stronger associations in Italy, and more direct government intervention in Spain.

In all three cases, the state has been a prominent actor, overall more influential than firms, as the VoC theory predicates, with the possible exception of Fiat’s role in Italy. A more influential actor, that certainly deserves more attention in comparative industrial relations, is now the European Central Bank, whose predicaments are not necessarily in line with the needs of employers at national level, in the real economy. Its recommendations are significantly different from the EES ones: if the Lisbon Agenda had nominally promoted ‘more and better jobs’⁵⁵, the combination of austerity measures and labour market deregulation (as for temporary contracts in Spain) results in practice in the promotion of ‘fewer and worse jobs’.

Whereas the states do not correspond to ‘models’, since radical change occurs, the framing of change and the interactions between actors vary profoundly between, for instance, Spain, Italy and Germany. The Italian reforms have been accompanied by more tripartite social dialogue and less legal intervention than the Spanish ones, even in the dramatic events of August 2011. Overall, the timing and direction of reforms responds to shifting power balances, within as well as between countries.

Traditional portrayals of national ‘types’ of regimes are static and do not provide an understanding, let alone an instrument for predicting, the directions of change across the EU countries. A more dynamic, multi-method cross-time approach to developments in employment regimes shows that while a degree of convergence in employment policies has occurred in the EU in the last two decades, it is not directly related to European policies. Within each ‘type’ of ‘national model’, different countries can move in different directions, according to their political and social balances of power. Political culture is still very important, and it limits the extent to which states can learn from each other within the EU

⁵⁴ M. Regini, *Uncertain Boundaries: The Social and Political Construction of European Economies*, Cambridge, Cambridge University Press, 1995.

⁵⁵ Presidency conclusions, Lisbon European Council, 23 and 24 March 2000.

Open Method of Co-ordination. To understand the evolution of employment policies, the enduring national ‘styles’, if not ‘models’,⁵⁶ need to be considered and understood.

While Europeanisation has changed its form between before and after 2007, political institutions are still very important. And if all countries are now under stronger international financial pressure, the governance of labour still has to respond to societal needs at the national level. In other words, the hypotheses raised in the introduction can be answered by an eclectic conclusion that capitalism is one, but industrial relations are many.

⁵⁶ C. Crouch, *op.cit.*