Collective bargaining in Europe: towards an endgame

Volume I

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Edited by

Torsten Müller, Kurt Vandaele and Jeremy Waddington

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European Trade Union Institute (ETUI)

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Preface

This publication comprises four volumes that chart the development of collective bargaining since the year 2000 in the 28 Member States of the European Union. Collective bargaining is an integral institution of the European social model and underpins systems of workplace democracy and representation. Although collective bargaining is a key institution in the process of European integration and the development of a European single market that offers benefits to labour and capital, systems of collective bargaining cannot rest easy given the terms of the dominant political and economic discourse. This publication documents numerous examples of the institution of collective bargaining being removed, fundamentally altered or markedly narrowed in scope.

The argument that resonates throughout the publication is that collective bargaining systems are under pressure. In particular, advocates of the neoliberal policy agenda view collective bargaining and trade unions as 'rigidities' in the labour market that restrict economic growth and impair entrepreneurship. With the stated intention of achieving greater labour market flexibility, increasing rates of productivity growth and improving competitiveness neoliberal policymakers have attempted to limit the coverage and scope of collective bargaining.

The outcomes of the pressure from the political pursuit of the neoliberal policy agenda vary between and within Member States. Throughout western Europe, for example, industrial bargaining systems are being fragmented, albeit to different extents in different Member States. Nowhere is this clearer than in the private sector in the United Kingdom, where industrial bargaining has all but disappeared, and in the Member States subject to intervention from the Troika, where the coverage and scope of bargaining has been much restricted. Elsewhere in western Europe marked differences have emerged between sectors and industries within Member States as employers, trade unions and the state have not reacted uniformly. Although in post-1990 central and eastern Europe attempts were made by the International Labour Organization and the European Union to establish industrial bargaining arrangements, most of these initiatives foundered. The variation in the impact of the neoliberal policy agenda between and within Member States looms large throughout the publication.

As beneficiaries of the neoliberal policy agenda, employers have striven for and, in many cases, secured decentralised bargaining arrangements with limited scope. Employer-led decentralisation has been supported by governments committed to neoliberal economic policies, by Troika interventions and by the reluctance of the European Union and European Commission to support institutions that underpin the different variants of the European social model. For trade unions the decentralisation of bargaining

challenges their capacity to articulate and coordinate settlements. Decentralisation also ensures that wages become an element of competition with the consequence that labour is subject to recommodification. In short, the position of labour within the national variants of the European social model is now increasingly open to question.

The first three volumes of this publication are structured around 28 country chapters, each of which assess the unique trajectory of collective bargaining in a Member State. An 'Introduction' elaborates the themes mentioned above, while the 'Conclusion' assesses the impact of developments since the year 2000, the redistribution of power inherent in the neoliberal project and the capacity of labour to influence future change. Volume IV contains the index and three appendices presenting national data on issues associated with collective bargaining, a glossary of terms utilised throughout the first three volumes and a review of the different extension mechanisms employed to broaden the coverage of collective agreements. The country chapters analyse the six dimensions of collective bargaining identified by Clegg (1976: 8–11): extent of bargaining, level of bargaining, depth of bargaining, security of bargaining, scope of agreements and the degree of control of collective agreements. This framework accentuates the analytical similarities between chapters, while also facilitating the identification of different developments in the various Member States.

The scale of this publication has necessitated the involvement of a wide range of people in addition to the authors of the country chapters. The editors express their heartfelt thanks to these contributors. The editors reviewed all country chapters. In addition, authors presented their chapters for peer review by their fellow authors at workshops convened specifically for this purpose during the course of the project. The European Trade Union Institute acted as the hub of the research and funded the numerous meetings of authors and editors over the three years of production. Kristel Vergeylen organised the workshops and administered the project with her quiet efficiency. Specific responsibilities were distributed throughout the networks operated by the European Trade Union Institute. In particular, James Patterson was responsible for the English editing of the country chapters, the layout of the chapters and the compilation of the Index. With good humour Birgit Buggel-Asmus efficiently organised the layout and production of the publication. Giovanna Corda, Pascale Daubioul, Fabienne Depas and Jacqueline Rotty of the Documentation Centre of the European Trade Union Institute cheerfully worked through the bibliography of each chapter. Needless to say, responsibility for the final manuscript rests with the editors.

Torsten Müller
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Brussels, May 2019

Reference

Clegg H. (1976) Trade unionism under collective bargaining, Oxford, Basil Blackwell.

Chapter 1
Setting the scene: collective bargaining under neoliberalism

Jeremy Waddington, Torsten Müller and Kurt Vandaele

Low inflation, the domination of neoliberal market-based policies, untrammelled opportunities for capital to pursue profit in an increasingly 'open market' and low levels of trade union density and industrial action are now characteristic features of many European economies. Only forty years ago, as the 'Golden Age' was drawing to a close, inflation was rising, Social Democratic and Labour parties actively discussed a more pronounced role for the state in economic management, profits were squeezed and trade unionists secured improvements in workers' living standards (Armstrong *et al.* 1991; Glyn *et al.* 1990; Shonfield 1965). The transformation between these two periods was underpinned by marked shifts in policies within the economic, social and political spheres, the particular form taken by globalisation and the intensity of regime competition. These shifts have had far-reaching implications for the role, processes and impact of collective bargaining in Europe. This publication traces the development of collective bargaining over the period since 2000 in the 28 Member States of the European Union (EU). Throughout, emphasis is placed on how the transformation has impinged on collective bargaining.

The period since 2000 is the timeframe of the analysis. Several economic and political developments during this period have had a marked impact on the trajectory of change in collective bargaining. Prominent among these developments is the overt pursuit of a neoliberal policy agenda in which trade unions and collective bargaining are viewed as sources of rigidity within the labour market at a time when flexibility is seen as key to sustaining economic growth. At the European level the asymmetry between market-enforcing and market-correcting policies (Scharpf 2009), an increasing reliance on 'soft' law solutions (Sapir 2014), the 'social deficit' apparent in economic and monetary union (Hinarejos 2016) and the absence of a social dimension from the EU Pillar of Social Rights (Lörcher and Schömann 2016) characterise the predominance of the neoliberal policy agenda, albeit couched in the language of 'modernisation'. Furthermore, the Court of Justice of the European Communities (ECJ) found that trade unions were unable to take action against undertakings that exercise the economic freedoms guaranteed by the Treaty on the European Union (TEU) to lower collectively agreed wages or working conditions (Blanke 2006; Ghailani 2008), setting a precedent to the effect that the pursuit of flexibility has a downward trajectory. Within Member States many Social Democratic and Labour parties have jettisoned, in practice if not rhetorically, commitments to full employment, supply-side interventions to promote economic growth and the pursuit of economic equality through redistribution (Glyn 2001; Sassoon 1996: 443–644). The development of certain human resource management practices has led some to argue that collective bargaining is no longer an appropriate means to set terms and

conditions of employment, as such matters can be handled 'flexibly' at company level by human resource managers (Emmott 2006). In brief, allies for a union agenda based on collective bargaining in general, and industry-level bargaining in particular, are in increasingly short supply.

Pursuit of the neoliberal agenda has been compounded by the impact of EU enlargement and the terms within which economic and monetary union was undertaken. In 2004 and 2007 no fewer than 12 states joined the EU, followed in 2013 by Croatia.[1] Economic inequality, differences in rates of productivity growth and the scale of surpluses and deficits in the balance of payments between countries within the EU increased markedly as a consequence of enlargement. Furthermore, throughout much of central and eastern Europe (CEE) collective bargaining arrangements were, at best, rudimentary, thus highlighting an institutional disparity between CEE/EU11 and the EU17 that is central to the concerns of this publication.

The terms of economic and monetary union associated with the adoption of the euro in 1999 further impacted on national economic management regimes. The priority assigned to reducing public deficits and restrictive convergence criteria, the omission of any social convergence criteria, the absence of mechanisms to coordinate monetary and fiscal policy and, above all, the lack of appropriate institutions to coordinate a European economic policy constituted fundamental weaknesses within the model of economic integration and have been linked to European growth rates that are systematically lower than those recorded during the 1970s and 1980s (Avdagic *et al.* 2011; Crouch 2000; Hein 2012) and concurrent wage moderation, insofar as real wage increases no longer follow productivity growth (Erne 2008). The presupposition of similarity in economic conditions implicit in the terms of economic and monetary integration was brutally exposed as a fallacy following the sub-prime and banking crisis of 2008 when the European sovereign debt crisis affected several Member States. Most prominently affected were Cyprus, Greece, Ireland, Portugal and Spain, which were subject to austerity programmes based on neoliberal assumptions imposed by the Troika comprising the International Monetary Fund (IMF), the European Central Bank (ECB) and the European Commission. One of the outcomes of these programmes was a 'frontal assault' on the institution of collective bargaining (Marginson 2015). This approach contrasts markedly with the views of the Organization for Economic Cooperation and Development (OECD) and the International Labour Organization (ILO), which emphasise the benefits of collective bargaining in the context of globalisation (OECD 2017: 125–73; ILO 2015).

Collective bargaining, then, does not rest easy with the terms of the dominant political and economic discourse. The purpose of this publication is to establish how the parties to collective bargaining within the 28 Member States of the EU have adjusted the institution to meet new circumstances. To introduce the analysis this chapter comprises three further sections. The first of these identifies the features of collective bargaining and the approaches to collective bargaining adopted by the parties involved prior to

1. The states joining the EU in 2004 were Czechia, Cyprus, Estonia, Hungary, Lithuania, Latvia, Malta, Poland, Slovakia and Slovenia, while Bulgaria and Romania joined in 2007.

2000. The second section maps recent developments in the structure and outcomes of collective bargaining, while the third section outlines how national developments in collective bargaining are analysed in the country chapters that comprise the main body of the publication. This chapter thus charts aggregate developments; no attempt is made to identify industry-specific developments. National variations in aggregate development and variations between industries are examined in the country chapters.

Charting the pre-2000 trajectory of change

This section charts the trajectory of change in collective bargaining institutions prior to 2000.[2] Developments within western Europe and central and eastern Europe are introduced separately as fundamentally different processes and outcomes characterise the two groups of countries. Of course, this is not to argue that the two groups of countries are monolithic blocks, but rather to highlight some historical similarities within each group. Attention is also directed towards the political objectives of the parties to collective bargaining: employers, trade unions and the state. The section demonstrates a movement after the mid-1970s away from industrial bargaining arrangements that characterised western Europe throughout the 'Golden Age' and a subsequent failure to establish industrial bargaining in most of central and eastern Europe. In western Europe the decentralisation of bargaining and in central and eastern Europe the failure to centralise bargaining resulted primarily from the actions of employers and the limited capacity of trade unions to sustain or establish industrial bargaining. In several countries neoliberal policies adopted by the state facilitated the efforts of employers to decentralise bargaining.

Western Europe

In most western European EU Member States employers' organisations and trade unions reached an accommodation early in the industrialisation process, integral to which was the establishment of industrial collective bargaining (Crouch 1993). In the United Kingdom, for example, collective bargaining in the engineering industry was initially established in 1898, while similar arrangements were made in other industries between 1917 and 1919. In Denmark the 'September Compromise' of 1899 underpinned the initial institutions of collective bargaining (Scheuer 1992). In Sweden collective bargaining institutions were established in 1905 and 1906, while in Austria, Belgium, France, Germany and Italy the period immediately following the First World War was critical to the development of industrial collective bargaining arrangements (Sisson 1987: 11; Traxler 1992; Vilrokx and Van Leemput 1992). In Finland and the Netherlands industrial collective bargaining arrangements were formalised on a broad scale after the Second World War, although Finnish typographers had signed a nationwide collective agreement in 1900 (Knoellinger 1960: 5–9) and the Dutch printing and tobacco industries were covered by industrial agreements by 1918 (Windmuller 1969:

2. No attempt is made to examine in detail the development of social pacts, other than when they affect collective bargaining.

44–45). In Greece, Portugal and Spain industrial collective bargaining institutions were established following the demise of totalitarian regimes in 1974 and 1975 as part of 'democratisation' processes (Fishman 1990; Pridham 1995; Schmitter 1995).

The circumstances of these accommodations between employers' associations and trade unions varied markedly. In Sweden and the United Kingdom, employers and trade unions in engineering initially concluded agreements due to industry-specific unrest, while in France, Germany and Italy unrest was more wide-ranging and impinged upon the polity, with the consequence that governments underwrote the accommodations reached between employers and trade unions (Sisson 1987: 11). Denmark is an exception insofar as employers viewed the September Compromise of 1899 as a first step towards a comprehensive all-industry settlement without government underpinning (Due *et al.* 1994: 64–94). The establishment of industrial collective bargaining in Greece, Portugal and Spain was integral to regime change. Compared with elsewhere in western Europe the role of the state in these circumstances was relatively pronounced, albeit supported by trade unions and, to a lesser extent, employers (Barreto 1992; Martínez Lucio 1992; Kritsantonis 1992).

Irrespective of this variation in origin, the outcomes of these initiatives had a range of regular features. First, industrial agreements were composed of 'common rules', which were aimed at taking wages out of competition within the nation state (Chamberlain and Kuhn 1951: 109–13). Second, most national accommodations included understandings designed to protect managerial prerogative, the so-called 'right' of managers to manage. Third, collective agreements on terms and conditions of employment were subsequently supplemented by procedural agreements covering issues such as discipline and grievances.[3] Fourth, mechanisms were developed to articulate bargaining across levels within industries (Crouch 1993: 54–55) and to coordinate bargaining between bargaining units (Traxler *et al.* 2001). While the mechanisms chosen to articulate and coordinate bargaining varied markedly between countries, the effectiveness of industrial bargaining is dependent on the coherence of these mechanisms (Marginson 2015).

The motivations of the parties to industrial collective agreements illustrate the tension inherent in their relations. In addition to taking wages out of competition and ensuring a degree of predictability and social peace employers benefit from industrial bargaining in terms of economies of scale: a single agreement may cover many employers, each of which would have to put in place bargaining arrangements if single-employer bargaining prevailed. More central to employers' motivation, however, is that industrial bargaining restricts the role of trade unions at the workplace, thus enhancing the discretion of the employers and protecting the exercise of managerial prerogative (Sisson 1987: 13). This development is most apparent in dual systems, in which works councils are the formal representative institutions of labour at the workplace, but is present throughout, with the emphasis on the protection of managerial prerogative.

3. This publication focuses primarily on the changing role of collective bargaining in setting substantive terms and conditions of employment. Reference is occasionally made to procedural agreements. The substantive emphasis is justified on the grounds of space.

In contrast to the employers, for trade unions industrial collective bargaining defines the character and extent of trade union involvement in the rule-making processes that regulate industrial relations (Clegg 1976: 8–10). While the presence of industrial collective bargaining has implications for power relations within trade unions, strengthening the position of national officers, it also has a protective function for workers, a distributive function and a voice function (Visser 2013). In combination, these features enabled trade unions to develop solidaristic wage polices that counteracted the centrifugal force of the market towards wage differentiation and inequality throughout the thirty years of economic growth after 1945 (Meidner 1993; Schulten 2002).

What the state sought in collective bargaining was the institutionalisation of industrial conflict (Sisson 1987: 12). The state viewed the 'stability' achieved in the absence of industrial conflict as providing a platform for economic growth. Furthermore, when industrial conflict arose collective bargaining constituted a transparent procedural mechanism for resolving the issues at stake, which, in the main, allowed the state to remain apart from settlement processes. The manner in which the state acted to support collective bargaining and to define the relations between the parties involved varied markedly. In Sweden the state ensured that the social partners settle collective agreements largely independent of any state intervention. In France and Germany collective agreements are legally enforceable contracts, whereas in the United Kingdom collective agreements have no legal status and are sustained only by the actions of the signatories. The extent to which the state defines minimum standards of terms and conditions also varies markedly between Member States, most notably regarding the presence/absence of a legal minimum wage.

From the mid-1970s the assumptions underpinning the utility of industrial collective bargaining were increasingly being called into question. The oil shock crisis prompted a gradual shift away from so-called 'Keynesian' approaches to economic management. The strike waves of the late 1960s and early 1970s also led to a realisation among right-of-centre policymakers that industrial relations institutionalisation no longer functioned. In the place of Keynesian approaches, monetary policy was implemented on the assumption that monetary control would contain inflation; that new forms of labour market regulation, regressive tax and benefit reform would lead to full employment; and that economic performance would improve as a result of a more unequal distribution of income and the 'freeing' of markets (Kitson *et al.* 2000). In addition, corporate governance was financialised, production processes were globalised, regime competition intensified and labour markets shifted towards private sector services and away from manufacturing. Consequences of the shift toward monetary policy included persistently high levels of employment, a focus on containing inflation rather than unemployment, privatisation coupled to a diminished role for the state in economic management and the reintroduction of wages as an element of competition (Lehndorff 2012; Blyth 2013).

In these circumstances trade unions and long-standing institutions of industrial collective bargaining were challenged. Although trade union density (Ebbinghaus and Visser 2000) and industrial action (Dribbusch and Vandaele 2007) declined, collective bargaining institutions in continental western Europe and Cyprus remained largely in place (Traxler *et al.* 2001). Over time, however, an ever wider range of mechanisms

were implemented to relieve some employers of the obligation of meeting the terms and conditions agreed at industry level. As the parties to industrial collective agreements often agreed to the removal of this obligation, this tendency is referred to as 'organised decentralisation' (Traxler 1995). Accompanying the emergence of mechanisms allowing derogations from industrial collective agreements was the narrowing of the content of many such agreements (Keune 2011; Marginson and Sisson 2004). In contrast to developments in continental western Europe a 'disorganised decentralisation' took place in the United Kingdom in the course of which employers, supported by a 'combative' neoliberal government in the United Kingdom (Davies 2016), jettisoned the institutions of industrial collective bargaining in favour of single-employer bargaining or no bargaining at all (Murray 2002).[4]

Central and eastern Europe

While necessitating some form of accommodation between capital and labour, the situation in central and eastern Europe regarding the emergence of collective bargaining institutions was fundamentally different from that in western Europe after 1990. There are some parallels, however, with the regime changes implemented in Greece, Portugal and Spain. In particular, in central and eastern Europe the state was prominent in the promotion of collective bargaining as integral to a movement towards liberal market economies coupled to EU membership and away from pre-1990 command economies. Although accompanied by policy commitments and political rhetoric supporting the establishment of industrial collective bargaining in the medium term, these politically-led initiatives resulted in a wide range of collective bargaining arrangements, which operated primarily at more decentralised levels (Myant and Drahokoupil 2011). Collective bargaining, however, was viewed as integral to the shift towards market economies in central and eastern Europe (Bohle and Greskovits 2012; Cazes and Nesporova 2003). In addition, the desire for EU membership created a political imperative towards the creation of institutions of collective bargaining. The *acquis communautaire*, for example, supports social dialogue in general, while Article 28 of the Charter of Fundamental Rights of the EU upholds the right to collective bargaining and action in particular.

The contrast between western Europe and central and eastern Europe in the final decade of the twentieth century was nowhere more marked than in the pattern of economic development. In particular, low wages, low unit labour costs and low productivity characterised central and eastern Europe (Bohle and Greskovits 2012). Similar to western Europe, however, the rate of productivity growth outstripped real wage growth in central and eastern Europe throughout the 1990s (Janssen and Galgóczi 2004). While relatively high rates of economic growth were recorded, particularly after 1995 (Eichengreen 2007: 310–34), per capita GDP in central and eastern Europe remained at about 50 per cent of the EU15 average in 2003 (Janssen and Galgóczi 2004). In short, economic disparities within the EU were accentuated on enlargement in 2004 and 2007. Furthermore, the capacity of trade unions to bring influence to bear was limited by the

4. The situation in Ireland was mitigated by the presence of peak-level agreements concluded between 1986 and 2009.

sharp declines in membership after the late 1980s, the absence of industrial unrest and, in several countries, the fragmentation of union movements.

To manage the transformation to liberal market economies tripartite institutions were established throughout much of central and eastern Europe. Although ostensibly inclusive, such institutions generated no more than an 'illusory corporatism' (Ost 2000) in which the state operated *primus inter pares* in the creation of Labour Codes. While a wide range of functions was assigned to tripartite institutions after 1990, five features of the Labour Codes created are central to the purpose of this publication. First, Labour Codes initially tended to regard collective bargaining as a basic trade union right. In several countries, including Hungary, this right was subsequently diluted insofar as collective bargaining by works councils was promoted within establishments in which trade unions had not established a presence. Second, as a minimum, rhetorical commitments to the establishment of industrial collective bargaining were included in most Labour Codes. Third, the 'favourability principle' was acknowledged, whereby terms and conditions set at industry level could only be improved on at company or plant level, not undercut. Implicit in this acknowledgement is the recognition that collective bargaining may take place at more than one level. Fourth, tripartite institutions were responsible for setting the level of the minimum wage, albeit with a possibility that the state may act unilaterally in several countries in certain circumstances, such as in Czechia, Hungary and Slovakia.[5] Fifth, the objective of many collective agreements is merely to establish minimum standards, such as the minimum wage for the industry or company, rather than a range of wage levels that recognise differences in skills, tasks and grades.

The transformation of central and eastern Europe towards liberal market economies resulted in considerable disparity in both the coverage and the level of bargaining by the turn of the century. At one pole of the continuum regarding bargaining coverage by 2000 were Slovenia and Romania, with coverage rates in excess of 80 per cent (see Appendix A1.A). In contrast, coverage rates in the Baltic states did not exceed 20 per cent, although the extension of collective agreements was introduced in 2000 in Estonia and in 2002 in Latvia with the intention of increasing coverage (Kohl and Platzer 2004: 218). Elsewhere in central and eastern Europe the coverage rate ranged from 25 per cent in Poland to 51 per cent in Slovakia.[6]

While there is no apparent direct relationship between the coverage and the level of bargaining, it is noteworthy that industrial bargaining was the principal level of bargaining in 2000 in Slovenia and Romania, where bargaining coverage was most pronounced. Furthermore, in the Baltic states, where coverage is low, bargaining at company level is dominant (Kallaste and Woolfson 2013). In Bulgaria, Czechia, Hungary, Poland and Slovakia company-level bargaining prevails, although in specific industries, industry-level bargaining was present in 2000 (Bohle and Greskovits 2012). A range of factors explain the low coverage of bargaining and the failure to establish industry-level bargaining throughout most of central and eastern Europe. Principal

5. Prominent among these circumstances are occasions when the social partners cannot reach an agreement or when right-of-centre governments are in office.

6. These data are drawn from Table 1.1.

among these factors are the activities of employers, including multinationals engaged in foreign direct investment. In some industries employers have been reluctant to establish industrial employers' associations. Where employers' associations exist, coverage is often far from complete and there is no political will to engage in bargaining beyond the company (Meardi 2012). In short, employers in central and eastern Europe are neither institutionally nor politically prepared to engage in industrial collective bargaining. Compounding the employers' opposition to industrial collective bargaining are fragmented union movements (notably in Bulgaria, Hungary, Poland and Lithuania), almost universally falling membership levels, a weakening of trade unions by political parties in government pursuing neoliberal economic and social policies, privatisation and deteriorating economic circumstances marked by rising unemployment and pressures for wage moderation (Bohle and Greskovits 2012; Meardi 2012). As the country chapters in this publication demonstrate, coverage and the extent of industrial bargaining tended to diminish after 2000 as a result of these and other factors.

To summarise, in western Europe by 2000 industrial collective bargaining institutions were under pressure as many employers' associations limited their support for them and the coverage of some employers' associations declined. This 'incremental erosion' (Marginson 2015) of industrial collective bargaining was rarely accompanied by state- or EU-led initiatives to strengthen collective bargaining. To the contrary, the neoliberal policy agenda pursued by many governments sought to increase flexibility by limiting the coverage and scope of collective bargaining. A notable exception to this situation is the United Kingdom, where employers, encouraged by Thatcher-led Conservative governments, effectively eliminated industrial bargaining from the private sector. In central and eastern Europe there was much rhetorical support for the establishment of industrial collective bargaining after 1990 as an element of the shift towards market economies. With the exceptions of Romania and Slovenia, however, the rhetorical support for industrial bargaining did not result in the establishment of such institutions. Instead, where bargaining existed it remained primarily at company level, often with a very restricted scope. Employers in particular were reluctant to establish institutions and procedures appropriate to industrial collective bargaining.

Mapping developments since 2000

This section maps movements in some of the aggregate trends in collective bargaining, key economic measures and indicators of union mobilisation. In so doing the section 'sets up' the country chapters, which among other things explain variation within these aggregate trends. The majority of the data are presented graphically, with plots commencing in 2000 and covering separately an EU17 and an EU11.[7] The data for these plots are available in Appendix A1: Indicators relevant to collective bargaining (Tables A1.A–A1.I), which is found in Volume IV of this publication. This Appendix includes data from the 1980s and 1990s to allow examination of the longer-term impact

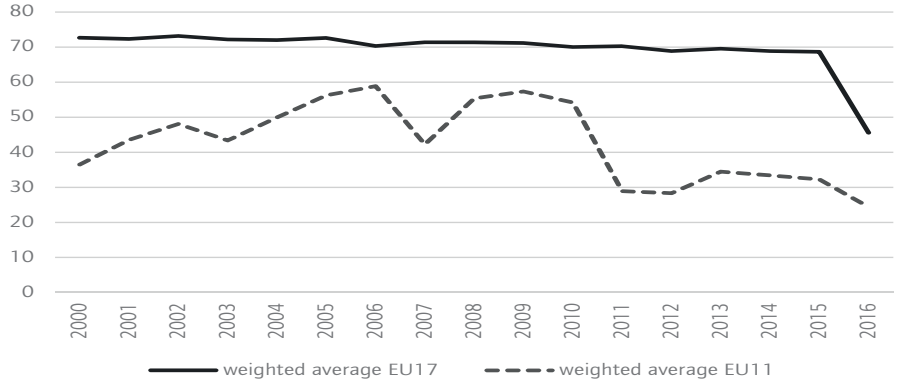
7. The EU17 comprises Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Spain, Sweden and the United Kingdom. The EU11 includes Bulgaria, Croatia, Czechia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia.

of neoliberal policies.[8] Throughout this section reference is made to aggregate data, as plotted on the graphs, and country specific data available in the Data Appendix. Unless otherwise stated, all country specific data mentioned in this section are drawn from the Data Appendix.

Collective bargaining: coverage and level

Figure 1.1 shows movements in the weighted coverage of collective bargaining, defined as the number of employees whose terms and conditions are set by collective bargaining as a proportion of the labour force. The plot for the EU17 illustrates an overall slight decline in coverage from 73 per cent in 2000 to 69 per cent in 2015. The plot, however, shows no marked upward or downward shifts. Only after 2009 is there a consistent downward trend in collective bargaining coverage due principally to declines in the countries subject to intervention from the Troika: coverage in Cyprus declined from 54 per cent to 45 per cent between 2009 and 2013, in Greece from 83 per cent to 40 per cent, and in Portugal from 84 per cent to 75 per cent. Furthermore, as the country chapters demonstrate, coverage rates where the Troika has intervened are exaggerated insofar as the terms and conditions of some employees are set by collective agreements that employers have declined to periodically update as required by the terms of the collective agreements. Elsewhere within the EU17 collective bargaining coverage remained relatively stable; only in Finland did collective bargaining coverage increase between 2000 and 2015, from 85 per cent to 89 per cent. There is considerable variation in collective bargaining coverage between Member States within the EU17, ranging from 26 per cent in the United Kingdom in 2016 to more than 80 per cent in the Nordic

Figure 1.1 **Weighted average of collective bargaining coverage, 2000–2013**



Note: It is assumed that bargaining coverage remains the same in Austria (2001-2004, 2006-2007, 2009, and 2011-2012) and Belgium (2001, 2003-2007, 2009-2012 and 2014) for the missing years. Weighted by employees in employment.
Source: Appendix A1.A and Eurostat.

8. In most cases the data presented for 1980 and 1990 refer to the situation in these years. For the data on productivity growth and unemployment average data for the decades of the 1980s and 1990s are presented.

countries Denmark, Finland and Sweden, as well as those other countries in which some corporatist policy approaches and institutions are still in place, Austria, Belgium and the Netherlands. Appendix A1.A also demonstrates that, with the exception of the United Kingdom, the coverage of collective bargaining in the EU17 has remained relatively numerically stable since 1980. In the United Kingdom, in contrast, reflecting the impact of neoliberal economic policies and the actions of employers, collective bargaining coverage declined by 40 percentage points between 1980 and 2016 as private sector employers, supported by successive governments, sought to increase flexibility. Even where the decline in coverage has not been as pronounced, a lowering of coverage has led to profound changes in policies towards collective bargaining. In Germany, for example, the coverage of collective bargaining fell from 68 per cent in 2000 to 56 per cent by 2016. This reduction was perceived as dramatic by the trade unions, with the consequence that they campaigned for the introduction of a statutory minimum wage.

Compared with the plot for the EU17, the one for the EU11 shows considerable variation between 2000 and 2016. The irregular plot is indicative of the relative immaturity of collective bargaining systems in these Member States and the marked impact of policy shifts associated with changes in government and/or the actions of employers.[9] Until around 2008, however, the coverage of collective bargaining within the EU11 tended to converge with that of the EU17, only to diverge thereafter. The sub-prime and banking crisis of 2008 thus coincided with the high-water mark in the coverage of collective bargaining within the EU11. Thereafter in almost every EU11 Member State collective bargaining coverage declined, with particularly steep falls between 2008 and 2013 in Romania (from 98 to 35 per cent), Slovenia (from 92 to 65 per cent) and Slovakia (from 40 to 30 per cent). The declines in Romania and Slovenia are noteworthy insofar as the collective bargaining coverage in these two countries was comparable with the highest rates of coverage recorded within the EU17 in the period before 2008. Furthermore, in the Baltic states, where neoliberal economic policies have been implemented to wide-ranging effect (Kallaste and Woolfson 2013), collective bargaining coverage rates failed to reach 20 per cent after 2008.

Table 1.1 shows developments in the level of bargaining since 1980. Following discussion of the coverage of collective bargaining, the data are examined by reference to the EU17 and EU11. It is noteworthy from the outset that the data presented in Table 1.1 indicate the principal level or levels at which bargaining is conducted, not the only level. It is, furthermore, noteworthy that the data drawn from Visser (2016) only cover developments until 2014.

Table 1.1 shows that between 2000 and 2014 the level of bargaining has remained constant in 13 of the EU17 countries.[10] The level at which this constancy was achieved varies. In nine countries industry bargaining remains predominant; in Cyprus and Luxembourg both industry and company bargaining take place; while in Malta and the United Kingdom bargaining takes place principally at local and company levels. In two

9. The irregularity of the plot could also be exacerbated by missing data.

10. The 13 countries in which the level of bargaining remained constant are: Austria, Cyprus, Denmark, France, Germany, Italy, Luxembourg, the Netherlands, Malta, Portugal, Spain, Sweden and the United Kingdom.

Table 1.1 **Level of bargaining, 1980–2014**

	1980	1990	2000	2005	2010	2014
AT	5	3	3	3	3	3
BE	3	5	4	5	4	5
BG			3	2	2	2
HR			2	2	2	2
CY	2	2	2	2	2	2
CZ			1	1	1	1
DK	3	3	3	3	3	3
EE			1	1	1	1
FI	3	5	3	5	3	4
FR	3	3	3	3	3	3
DE	3	3	3	3	3	3
GR	5	5	5	4	5	2
HU			1	1	1	1
IE	5	5	5	5	1	1
IT	3	2	3	3	3	3
LV			1	1	1	1
LT			1	1	1	1
LU	2	2	2	2	2	2
MT	1	1	1	1	1	1
NL	3	3	3	3	3	3
PL		1	1	1	1	1
PT	3	5	3	3	3	3
RO					5	1
SK			2	2	2	2
SI		3	3	3	3	3
ES	5	3	3	3	3	3
SE	5	3	3	3	3	3
UK	3	2	1	1	1	1

Notes:
1: bargaining takes place predominantly at local or company level;
2: intermediate or alternating between industry and company bargaining;
3: bargaining predominantly takes place at sector or industry level;
4: intermediate or alternating between central and industry bargaining;
5: bargaining predominantly takes place at central or cross-industry level with binding norms for lower level agreements.
Source: Visser (2016).

of the remaining four countries, Belgium and Finland, bargaining remains centralised but varies between industry and cross-industry level. In Greece and Ireland, two of the countries adversely affected by sovereign debt crises and subsequent intervention by the Troika, bargaining has been decentralised, particularly since 2010. With these four exceptions the principal level of bargaining since 2000 thus appears relatively constant.

As becomes apparent in the country chapters, this quantitative indicator masks the extent of decentralisation.

Comparing recent levels of bargaining with those prevalent in 1980, however, reveals a wider pattern of decentralisation. In addition to Greece and Ireland, compared with 1980 decentralisation has also been a feature of bargaining in Austria, Spain, Sweden and the United Kingdom, and compared with 1990 in Portugal. In Austria, Portugal, Spain and Sweden decentralisation was from cross-industry to industry level, whereas in the neoliberal United Kingdom decentralisation was from industry to company level. In each case, however, employers lobbied for decentralisation, albeit for different rhetorical reasons. In Sweden, for example, the issue cited by employers for decentralisation was the compression of wage rates (Swenson and Pontusson 2000), whereas the effects of wage drift were paramount to employers in the United Kingdom (Brown 1981; Sisson 1987). The challenges of coordination and articulation are more prominent in countries in which decentralisation is under way, as more agreements have to be concluded and attempts made to ensure some similarity in the outcome of negotiations. Furthermore, in some countries in southern Europe, notably Spain, the system of industrial negotiations is still formally in place, but has been hollowed out by increased possibilities to conclude agreements at company level (Schulten and Müller 2015).

Reference to the EU11 data demonstrates that since 2000 local or company level bargaining has been dominant in Czechia, Estonia, Hungary, Latvia, Lithuania and Poland. In Bulgaria, Croatia and Slovakia bargaining tends to vary between industry and company bargaining, with the latter being increasingly influential (Bernaciak 2013; Kahancová 2013). In short, the much publicised initiatives to establish industry-level bargaining as the basic mechanism for settling terms and conditions of employment in these countries have yet to be realised (Vaughan-Whitehead 2003; Bernaciak 2015). Only in Romania and Slovenia were bargaining arrangements at central and industry level established on a wide-ranging basis. The relatively high coverage of collective bargaining in these two countries noted in Table A1.A in the Appendix is thus directly associated with the level of bargaining. In Slovenia the level of bargaining remained constant after 2000. In contrast, the central and cross-industry bargaining arrangements that were underpinned by legislation in Romania were dismantled in 2011 by a centre-right government and measures introduced that precluded the social partners from negotiating any further cross-industry agreements. Furthermore, these actions were taken without parliamentary debate (Trif 2013). As a consequence, the coverage of bargaining fell sharply from 98 per cent in 2010 to 35 per cent in 2011. Among the EU11 only in Slovenia has wide-ranging and relatively long-standing industrial bargaining been established.

It is apposite to raise two caveats regarding the commentary on collective bargaining at this juncture. First, neither the coverage nor the level of bargaining is an indicator of the scope of issues that are negotiated during a bargaining round. As becomes apparent from the country chapters, when bargaining takes place at the same level in any two countries, the range of the collective agreements that are settled may vary markedly. Similarly, although the level of bargaining may remain constant the scope

of issues that are negotiated may change over time within a Member State. Second, the presence of a collective agreement is no guarantee that the terms specified therein will be implemented. If the signatories to a collective agreement have neither the will nor the capacity to enforce the terms of the agreement, it is possible that its terms are not implemented in practice. In these circumstances the coverage rate of collective bargaining is likely to exaggerate the actual rate.

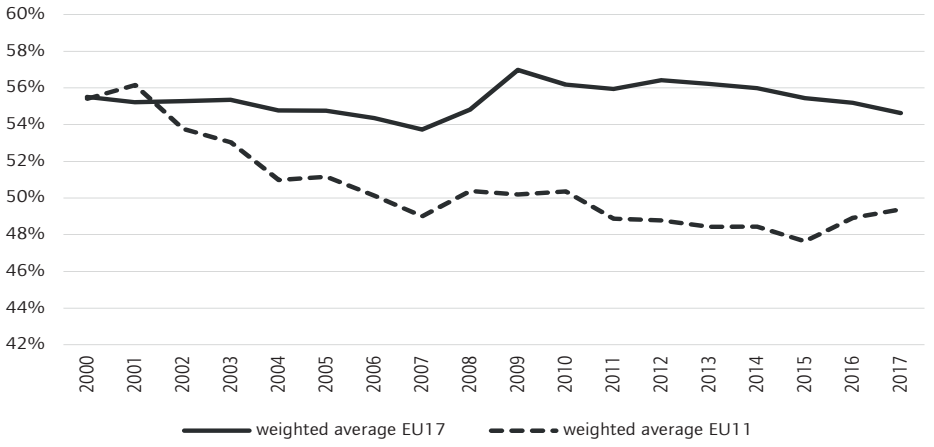
Economic indicators

The institutions of collective bargaining in Europe are under pressure from four wide-ranging developments. First, the adoption of monetarist and neoliberal policies in preference to any form of Keynesian policy agenda during the 1980s led to a 'competitive corporatism' (Rhodes 2001) or 'supply-side corporatism' (Traxler *et al.* 2001), characterised by increased global competition, the recommodification of labour and pressures to reduce labour costs. Second, the dominant strand of 'negative integration' (Scharpf 1996) within European integration comprising deregulation and measures to facilitate the 'four freedoms' within Member States generated pressures for wage moderation as competition between Member States intensified (Keune 2008). Third, further pressures for wage moderation arose from the terms of economic and monetary union. In particular, euro zone Member States' loss of mechanisms for adjusting to economic imbalances and shocks effectively raises the importance of wage moderation as a national policy instrument whereby adjustment may be implemented. In addition, the strict requirements regarding public expenditure and public debt that are integral to economic and monetary union exert, through limits on government expenditure, pressures to limit public sector wage increases. The interventionist approach from the European actors also considerably limited the capacity of national collective bargaining agents, particularly trade unions, to act independently (Schulten and Müller 2015; Erne 2015). These pressures for wage moderation are exacerbated by the policy of the European Central Bank in assigning primacy to maintaining low inflation, consistent with the neoliberal agenda (Gamble 2014; Streeck 2015). Fourth, the sub-prime and financial crisis of 2008, followed by the sovereign debt crisis generated a series of shorter-term demands on policy that exacerbated the longer-term pressures arising from the three points mentioned above. A review of key economic indicators serves to establish how these developments have impinged on labour's economic circumstances. To this end, movements in the wage share, inequality, the relationship between real wages and productivity and unemployment rates are examined. The country chapters illustrate the inter-relationships between collective bargaining and movements in these economic indicators within Member States.

Wage share

Figure 1.2 illustrates an almost unchanged wage share accruing to labour in the EU17 between 2000 and 2017. Although there appears to have been a short-term rise in the wage share after 2007, this is due primarily to the result of GDP declines in the EU17 following the sub-prime and financial crisis. The trend suggests that the economic

Figure 1.2 **Weighted average of wage share, 2000–2017**



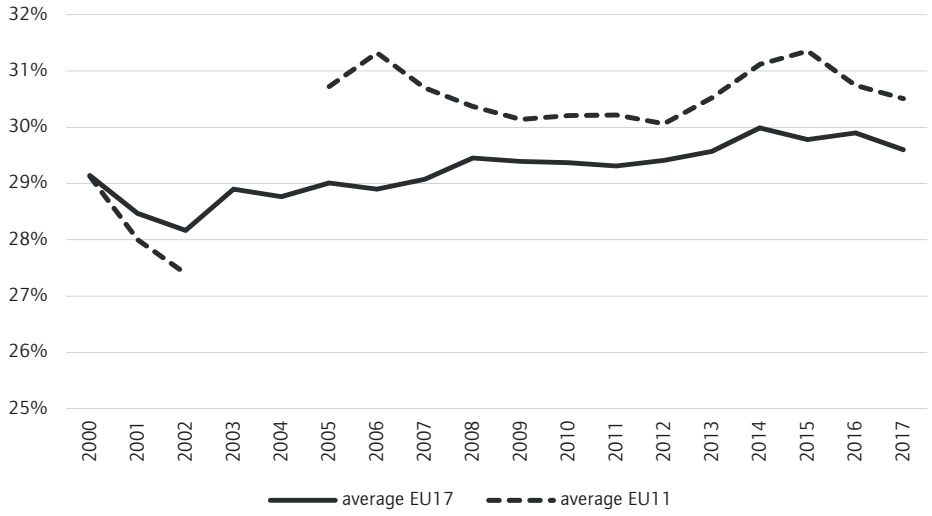
Note: Weighted by GDP.
Source: Appendix A1.B and European Commission, AMECO Database, Gross Domestic Product at current prices (UVGD).

and political pressures mentioned above have acted to promote wage moderation. Appendix A1.B shows that declines in the wage share between 2000 and 2017 among the EU17 are not concentrated in countries with a specific arrangement of collective bargaining institutions. In coordinated Austria, Belgium, the Netherlands and Sweden, for example, the wage share declined, while in similarly coordinated Denmark and Finland it increased. In Ireland, Greece, Portugal and Spain there were marked declines in the wage share, particularly after 2010, indicating the extent to which labour bore the weight of the economic reforms introduced by the Troika, but no declines are recorded for Cyprus, where the Troika also intervened.

Table A1.B in the Appendix also allows comparisons of the wage share in 1980 and 1990 with developments in the twenty-first century among the EU17. In every Member State among the EU17 for which data are available the average annual wage share for the period 2000 to 2017 was less than that recorded in 1980 and only in Greece, Luxembourg, Portugal and Sweden was the twenty-first century average annual wage share greater than the 1990s figure. Furthermore, the extent of the decline between the 1980s and the twenty-first century annual average in several countries was marked: Ireland, 15.5 percentage points; Italy, 8.6 percentage points; and Finland, 8.1 percentage points. A long-term effect of the implementation of neoliberal policies is thus the diminution of the wage share accruing to labour among the EU17.

Turning to the plot for the average wage share among the EU11 shows that the shift towards equality with the EU17 peaked in 2001. Between 2001 and 2017 the wage share in the EU11 fell by 7 percentage points. Labour was thus unable to maintain its wage share after 2001 in the EU11 and compared with labour in the EU17 sustained marked losses. Appendix A1.B illustrates that only in Slovenia has the wage share remained fairly constant throughout the twenty-first century. In Romania, where centralised

Figure 1.3 **Gini coefficient of weighted average of inequality in disposable income, 2000–2017**



Note: Gini coefficient of equivalised disposable income in EU17 and EU11, 2000–2017 (%).
Source: Appendix A1.E.

collective bargaining arrangements were dismantled in 2011, the wage share fell away sharply as the coverage of bargaining declined. Elsewhere among the EU11 there is no apparent relationship between movements in the wage share and the coverage and level of collective bargaining.

Income inequality

Figure 1.3 shows the development of inequality of disposable income in the EU17 and EU11 between 2000 and 2017 by reference to the Gini coefficient, which takes a value between zero and one represented here as percentage data. Two points are apparent from Figure 1.3. First the extent of income inequality in the EU11 is greater than in the EU17 throughout the period since 2005. Second, inequality has tended to rise within the EU17 since about 2002. Trade union activity has thus failed to reduce inequality markedly since the turn of the century. Furthermore, there is evidence demonstrating that current levels of inequality, particularly in those countries in which neoliberal policies have prevailed beyond the short-term, are generating macroeconomic inefficiencies, as well as driving up rates of poverty (Piketty 2014; Ostry *et al.* 2016).

Variations in income inequality by Member State are illustrated in Appendix A1.E. Among the EU11 particularly high rates of income inequality are reported in Bulgaria, Estonia, Latvia, Lithuania and Romania, with Bulgaria at the peak of European income inequality at 40.2 per cent. The Visegrad nations, Croatia and Slovenia have income inequality rates comparable with those of western Europe. It is noteworthy, however, that there is no single tendency of either increasing or decreasing income inequality

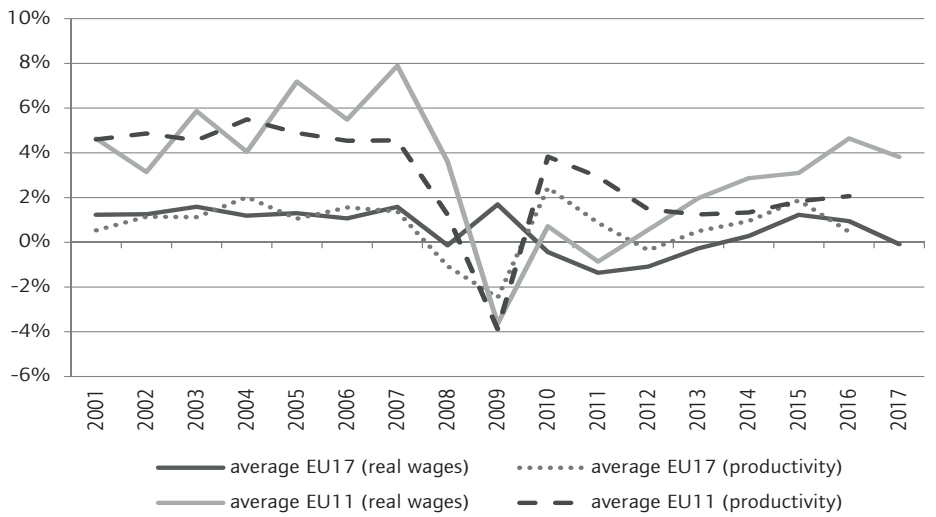
among the EU11 following the financial crisis. Similarly, among the countries within the EU17 where the Troika intervened there is no single pattern of development, although in Greece, Portugal and Spain inequality in disposable income in 2017 was the highest among the EU17.

Real wage and productivity development

The relationship between the growth of real wages and productivity growth is a further indicator of labour's situation. A lower rate of increase in real wages compared with that of productivity suggests limitations to the capacity of labour to benefit from productivity growth. Raising the rate of productivity growth by increasing flexibility through bargaining decentralisation is also a key policy objective of neoliberal strategy. Following the approach adopted above Figure 1.4 plots the rates of real wage and productivity growth for the EU17 and EU11.

Up until the sub-prime and financial crisis, real wage and productivity growth in the EU17 were broadly comparable, suggesting that both labour and capital benefitted from any improvements. The rate of productivity growth dipped sharply in 2008–2009 as the effects of the crisis became wide-ranging. The impact of the crisis was that real wages lagged behind productivity growth, with the consequence that after 2009 the rate of real wage growth in the EU17 fell behind that of productivity growth, where it remained until 2015. Capital thus benefitted more than labour from the impact of the sub-prime and financial crisis. Austerity measures introduced as a response to the financial crisis accentuated these adverse effects on public sector workers.

Figure 1.4 **Average real wage development and productivity growth, 2001–2017**



Source: Appendices A1.C and A1.D.

Table A1.D in the Appendix allows examination of the longer-term trajectory in productivity growth. In every EU17 Member State the average annual rate of productivity growth in the twenty-first century is lower than that recorded during the 1980s and only in Germany is the recent average annual rate of productivity growth higher than that of the 1990s. The improvements in productivity growth that the neoliberals suggested would accrue from the flexibility generated by abolishing or decentralising collective bargaining have not been forthcoming. Indeed, the slowing rate of productivity growth after 2000 raises the question: what are the benefits of bargaining decentralisation? In the United Kingdom, for example, where neoliberal policies intended to generate greater flexibility were implemented relatively early, rates of productivity growth after 2000 were a third of those attained in the previous two decades.[11]

The growth in real wages in the EU11 surpassed productivity growth for much of the period before 2009 and was markedly higher than that achieved in the EU17. As the effects of the sub-prime and financial crisis hit home, however, real wage growth fell sharply and by 2009 reached almost minus 4 per cent. Although initially slower than the recovery in the rate of productivity growth, the rate of real wage growth in the EU11 was greater than that of productivity growth after 2012. The precipitous decline in real wage growth and its rapid recovery after the crisis suggest a more direct effect of economic circumstances in the EU11 compared with the EU17 and an absence of institutions to act as 'automatic stabilisers' that might mitigate the impact of adverse economic change.

Unemployment

Integral to the shift away from Keynesian policies was the political downgrading of the pursuit of low unemployment and the priority assigned to controlling inflation. The move away from controlling unemployment served an additional political purpose of weakening the bargaining position of trade unions when unemployment rates rose. Figure 1.5 shows the movements in the weighted averages of the unemployment rate from 2000.

Among the EU17 collectively the rate of unemployment varied within a relatively narrow range between 2000 and 2017. Unemployment increased following the sub-prime and financial crisis and has yet to return to previous rates. Although unemployment tended to rise throughout the EU17 after 2008, Appendix A1.F demonstrates that very sharp increases were recorded in the countries in which the Troika imposed neoliberal austerity measures. Post-2008 unemployment peaks in these countries were much higher than elsewhere in the EU17: Cyprus, 16.1 per cent; Greece, 27.5 per cent; Ireland, 15.5 per cent; Portugal, 16.4 per cent; and Spain, 26.1 per cent. In each of these Member States unemployment rates among young workers were higher than the national average.

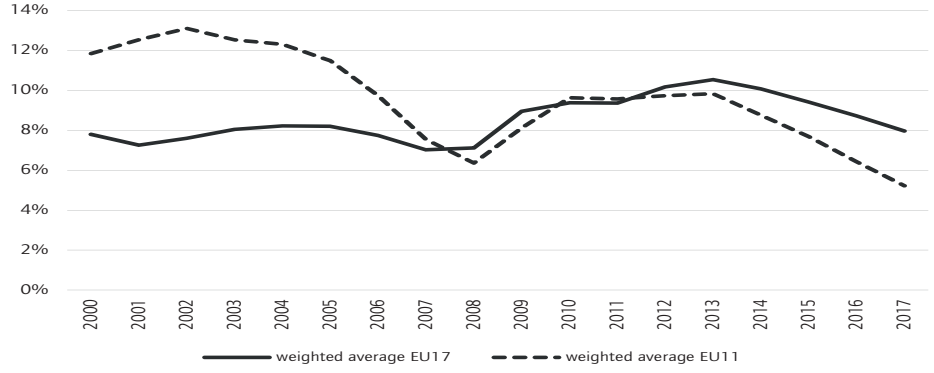
Compared with the 1980s, unemployment rates in the EU17 during the twenty-first century vary. In nine Member States the average annual rate of unemployment after

11. Productivity growth has also been depressed by the shift in employment from manufacturing to private sector services that accompanied the adoption of neoliberal policies in the United Kingdom.

2000 was higher than that recorded during the 1980s, whereas in six Member States recent rates are lower than during the 1980s.[12] This varied pattern suggests that considerable temporal variation remains within Member States regarding movements in the business cycle and the policies implemented to limit unemployment. It is noteworthy that Ireland and the Netherlands, two of the countries with high rates of unemployment during the 1980s, implemented the Programme for National Recovery in 1988 and the Wassenaar Agreement in 1982, respectively, as coordinated responses involving the state and social partners. These measures led to marked reductions in unemployment (Eichengreen 2007: 388–93). Such initiatives have not been replicated during the twenty-first century among the EU17. Indeed the Irish Programme for National Recovery persisted in the form of social partnership agreements until 2009 when it was disbanded as a result of the programme of reforms demanded by the Troika. In the few countries in which tripartite 'crisis corporatist' responses to the sub-prime and financial crisis were sought, it was not possible to conclude tripartite agreements at national level because of the marked divisions among the parties, although some bilateral company level arrangements were concluded when the workers' side made concessions to safeguard employment (Urban 2012).

Figure 1.5 shows that the unemployment rate in the EU11 was relatively high during the early years of the twenty-first century, suggesting a long-term impact of the transition towards market economies and the struggle for competitiveness (Bohle and Greskovits 2012). The sub-prime and financial crisis acted to reverse the decline in the EU11 unemployment rate experienced between 2002 and 2008. The post-2008 unemployment rate, however, has yet to reach pre-2005 levels, unlike in the EU17, reflecting the relatively limited direct exposure of the EU11 to the sub-prime and financial crisis (Bohle and Greskovits 2012). In contrast, compared with the unemployment rate

Figure 1.5 **Weighted average of unemployment, 2000–2017**



Note: Weighted by labour force.
Source: Appendix A1.F and Eurostat.

12. The nine Member States with higher rates of unemployment after 2000 than during the 1980s are: Austria, Finland, France, Germany, Greece, Italy, Luxembourg, Portugal and Sweden. The six Member States with lower recent rates are: Belgium, Denmark, Ireland, the Netherlands, Spain and the United Kingdom. No data are available for Cyprus and Malta for the 1980s, hence these two countries are excluded.

during the 1990s twenty-first century average annual unemployment rates are higher in six of the EU11 Member States and lower in three,[13] confirming the range of political approaches intended to lower unemployment in these countries (Bohle and Greskovits 2012). It should also be acknowledged that large-scale emigration from several of the EU11 to the EU17 Member States has mitigated unemployment rates.

Union mobilisation

For present purposes union density and strike volumes are deployed as indicators of union mobilisation.[14] Classic analyses of trade unionism assess the purpose of union mobilisation by reference to, among other things, improving the terms and conditions of employment and reducing inequality through collective bargaining (Webb and Webb 1894; Perlman 1928), although it is acknowledged that trade unions can influence distribution only under certain economic circumstances (Phelps Brown and Hart 1952). Trade unions are also viewed as acting within the political sphere to promote measures to reduce unemployment (Touraine *et al.* 1987; Markovits 1986). Evidence on the association between indicators of union mobilisation and economic circumstances suggest a nuanced relationship that does not 'sit easily' with union rhetoric. Three points illustrate the complexity of these relationships. First, long-standing research demonstrates an inverse relationship between wage growth and the rate of unemployment, on the one hand, with union density on the other (Bain and Elsheikh 1976; Visser 1994). Only countries that operate a variant of the Ghent system are exceptions to this general point. Similarly, wage growth and the rate of unemployment are inversely related to strike activity (Pencavel 1970; Ashenfelter and Johnson 1969). Second, large declines in union density between 1975 and the early 1990s are linked to increases in earnings inequality and governments less likely to implement wealth redistribution policies. After the early 1990s, however, these relationships are not as strong, as union members became relatively better off and less supportive of wage solidarity and redistributive policies (Pontusson 2013). A further variant of this argument suggests that workers towards the top of the earnings distribution do not join, or alternatively leave, trade unions because they feel they no longer need the protection offered by unions, while workers in the lower reaches of the earnings distribution view unions as ineffective and unable to improve their relative position (Checchi *et al.* 2010). From this perspective, wage inequality becomes one of many factors that may promote membership decline, although analysis of survey data demonstrates that 'confidence' in trade unions has not been adversely affected (Frangi *et al.* 2017). Third, a positive association between union density and wage share has remained in place for fifty years (Bengtsson 2014). This relationship was stronger between 1960 and 1979 than between 1980 and 2007, suggesting that trade unions

13. The six Member States in which twenty-first century unemployment rates are higher than during the 1990s are: Bulgaria, Czechia, Estonia, Latvia, Lithuania and Slovakia. The three Members States in which the reverse is the case are: Hungary, Poland and Romania. In Slovenia the unemployment rates in the two periods were the same, while no data are available for the 1990s for Croatia.

14. It is acknowledged that, at best, these indicators are partial measures of union mobilisation. A range of alternative measures could be deployed. The point at this juncture, however, is to emphasise the challenges faced by trade unionists in the current economic and political climate, which these indicators facilitate.

have been less influential when neoliberal economic policies have prevailed, confirming earlier findings (Kristal 2010).

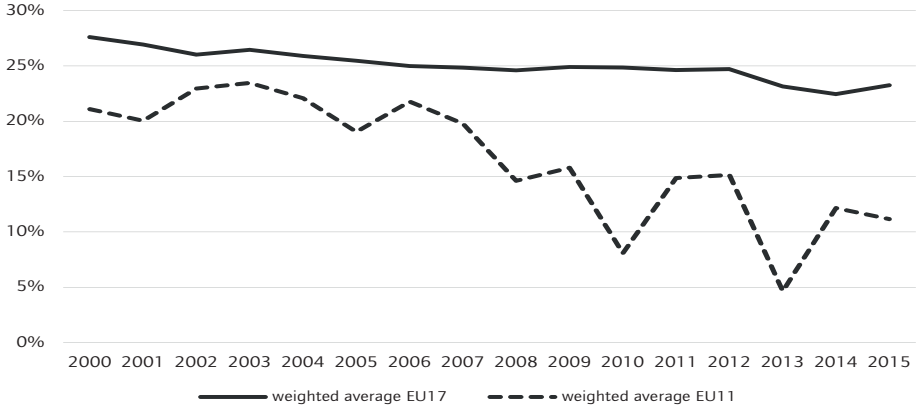
Two notes of caution should be entered regarding these findings. First, the countries assessed are advanced capitalist countries. Countries from central and eastern Europe are excluded. Second, the authors cited above acknowledge the complex interplay between union mobilisation, economic indicators and institutional variation. As the country chapters in this publication demonstrate, there is a marked variation in this interplay within Europe.

Union density

Figure 1.6 charts the weighted average of union density between 2000 and 2015 for the EU17 and the EU11. There is a downward trend in both plots, with that for the EU17 showing a consistent decline, while the EU11 plot exhibits considerable relative variation. Throughout, density among the EU17 is higher than that among the EU11. In combination the density levels of 23 per cent in the EU17 and 11 per cent in the EU11 in 2015 represent the lowest levels of union density recorded since 1945, leading some to suggest that trade unions are no longer representative of working men and women (Minford 1990; Ebbinghaus 2006).

Three further points arise from Appendix A1.H. First, the fall shown in Figure 1.6 is a continuation of a longer-term decline. Only in Belgium, Finland and Spain is the level of density in 2015 comparable with that of the 1980s. The Ghent system has enabled trade unions in Belgium and, to a lesser extent, in Finland to maintain density levels. Similar systems in Denmark and Sweden have not prevented declines in union density of 10 or more percentage points, in no small part because governments have taken

Figure 1.6 **Weighted average of union density, 2000–2015**



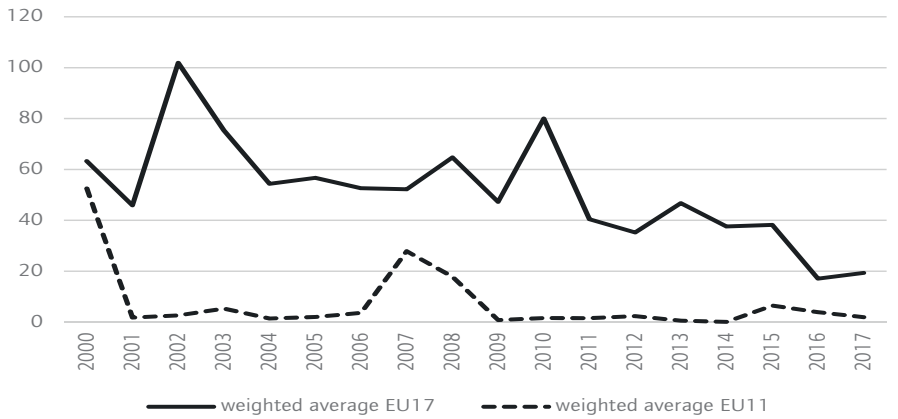
Note: Weighted by employees in employment.
Source: Appendix A1.H and Eurostat.

measures to weaken these systems (Høgedahl and Kongshøj 2017). Second, declines in trade union density among the EU11 have been particularly steep, suggesting that trade unions, which were an integral institutional feature of the pre-1990 command economies, have been hard hit by the transition to market economies and have yet to adjust to the prevailing circumstances. Third, national differences between union density and collective bargaining coverage demonstrate that 'free riding' is widespread. France is the extreme case in this instance with 8 per cent union density and 98 per cent coverage of collective bargaining, resulting in a free rider rate of 90 per cent.[15]

Strike activity

Figure 1.7 plots a weighted average of strike volume (days not worked due to industrial action per 1,000 employees) between 2000 and 2017 for the EU17 and EU11. Both the EU17 and EU11 plots exhibit steep rises and falls in strike volume, indicating the impact of specific and large-scale strikes. Strike volume in the EU17, however, tends to decline, while that in the EU11 remained low throughout with the exception of 2007 and 2008. At no point does the strike volume in the EU11 surpass that recorded for the EU17. The downward trend in strike volume in the EU17 since 2000 and the persistently low levels of strike volume in the EU11 have been explained principally by three factors: structural change in the composition of the labour force; a downsizing of the remaining manufacturing workforce through subcontracting and outsourcing; and the impact of more intense competition resulting from the development of national and transnational production networks (Dribbusch and Vandaele 2007). As these authors acknowledge, these factors are integrally linked to globalisation and the neoliberal policy agenda.

Figure 1.7 **Weighted average of strike volume, 2000–2017**



Note: Weighted by employees in employment.
Source: Appendix A1.I and Eurostat.

15. In France only active members tend to join trade unions. The extent of free-riding in France is accentuated by this characteristic. French unions, for example, are able to mobilise more people than members when many strike actions are initiated.

Reference to Appendix A1.I illustrates the effects of specific national bargaining rounds on strike volume. In Sweden in 2003 and Denmark in 2008 and 2013, for example, public sector settlements to industrial bargaining were achieved only after industrial action; hence the sharp increases in strike volume for these years. Annual peaks in strike volume recorded for some countries are also indicative of the recent development of general strikes called as a means to resist neoliberal policy initiatives (Hamman *et al*. 2016) and resistance to austerity measures in the public sector (Vandaele 2016). It is also apparent that some countries are not as strike prone as others: Germany and the Netherlands among the EU17, for example, consistently have relatively low annual strike volumes compared with Finland and France.

This section has shown that industrial collective bargaining in western Europe is coming under increasing pressure. While industrial collective bargaining remains in place among most EU17 Member States, coverage has declined since 2000 and an ever wider range of derogations are available. Issues of articulation and coordination are thus becoming more pressing. Within the EU11, in contrast, rhetorical commitments to industrial bargaining generally failed to produce their intended outcomes as employer resistance and the election of right-of-centre governments committed to neoliberal policy agendas undermined rhetorical commitments. Concurrent with these shifts were a decline in the wage share accruing to labour; increasing inequality; wage moderation reflected in increases in real wages lagging behind those in productivity growth; and persistently high levels of unemployment. In short, the economic position of labour deteriorated, although rising inequality benefitted some segments of the labour force. It is clear that the increase in prosperity of the order of 5 per cent of the GDP of the EU promised in the Cecchini Report (Cecchini *et al*. 1988) on completion of the internal market was absurdly overoptimistic. In terms of union density and strike volume, labour was unable to mobilise against the deterioration in its economic position. As illustrated by the country chapters, other forms of labour mobilisation and resistance were widespread, although they have yet to reverse the declines sustained since 2000.

Structure of the publication

The main body of the publication comprises country chapters, which trace aggregate developments in collective bargaining since the year 2000 and incorporate analysis of industrial variations. In practice, these chapters associate the developments mapped in the preceding section with changes in the structure and processes of collective bargaining. As a means of ensuring a degree of consistency between chapters reference is made throughout to the six dimensions of collective bargaining identified by Clegg (1976: 8–11). Furthermore, each chapter commences with a section entitled 'industrial relations context and principal actors' as a way of introducing the reader to the country-specific situations. Authors were encouraged to present the six dimensions of collective bargaining in an order that best facilitated the development of the argument they wished to advance. Hence the order of presentation of the six dimensions varies in the country chapters.

In adopting the approach based on Clegg's six dimensions four points are immediately noteworthy. First, Clegg aimed to explain national variations in union 'structure and behaviour' by reference to variation in the six dimensions of collective bargaining. In contrast, the concern of this publication is to chart and explain changes in the structure and processes of collective bargaining since 2000. Technically, Clegg treats collective bargaining as the independent variable, whereas in this publication it is the dependent variable. The six dimensions are employed here as a means of assessing how collective bargaining has changed rather than in an attempt to explain their impact on trade unions or some other aspect of industrial relations. Second, Clegg treats national collective bargaining institutions and processes as fixed entities that act upon unionism. The point of departure for the present publication is that collective bargaining is by no means a fixed entity, but is subject to regular, if not continual change. Among the factors that influence change in collective bargaining are the activities of trade unions, employers and the state. Clegg's assumption of a single direction of effect; namely, that collective bargaining influences trade unionism; is rejected here. Instead, it is assumed that a wide range of factors influence collective bargaining changes which, in turn, influence the activities of trade unions, employers and the state. Third, Clegg does not address the issue of power and its distribution among the parties to collective bargaining. In contrast, this publication puts power at the centre of the analysis insofar as its underlying assumption is that the distribution of power is unequal and has changed markedly since 1976, when Clegg introduced readers to the six dimensions. Clegg's analysis is based on the dominant neo-pluralist perspective of UK industrial relations of the period and reflects the institutional stability of the previous 30 years. This publication examines institutional change and the impact of the shift away from a Keynesian policy agenda. Fourth, while Clegg's analysis is comparative, its focus is national systems of collective bargaining and trade unionism.[16] This approach is entirely understandable in light of the period in which Clegg was working (Ackers 2007). Similarly, the approach taken here reflects the time of writing insofar as it is explicitly comparative while also examining the impact of supranational European institutions, policies and practice on the development of national systems of collective bargaining, and vice versa.

The six dimensions of collective bargaining are as follows. From the outset, it should be noted that these dimensions are interrelated and that changes promoted in one dimension may result in changes in other dimensions.

Extent of bargaining

This refers to the proportion of employees covered by collective bargaining. The extent or coverage of bargaining can be expressed by reference to country, industry, company or plant. In this publication attention is directed primarily to the extent of bargaining at country and, on occasion, at industry level. In general, where extension mechanisms or their equivalent are in place the extent of bargaining tends to be higher than in their absence. Clegg does not mention the issue of time in the context of the extent of collective

16. Clegg focuses on the impact of collective bargaining on trade unionism in Australia, France, Sweden, the United Kingdom, the United States and West Germany.

bargaining. He assumes that collective agreements are updated periodically to ensure improvements in the terms and conditions of employment. The duration of collective agreements may vary, depending on the terms agreed by the signatories. As mentioned above, however, in recent years some collective agreements have not been renewed within the period stipulated by the parties to the agreements. In these circumstances, the extent of bargaining is an ambiguous measure insofar as employees are covered by the conditions laid down in a collective agreement, but the agreement has expired. As far as possible the country chapters identify the extent of this practice.

Level of bargaining

Bargaining may take place at plant, company, industry, region or national levels.[17] Different signatories to agreements are associated with the level at which bargaining takes place. Local trade union representatives and plant managers often conduct plant-level bargaining, whereas industry bargaining usually involves senior union officers, who may act on behalf of an industrial trade union, a cartel of unions or a federation of unions, and representatives of an employers' association. Furthermore, bargaining may take place at several levels in a single bargaining round. A framework agreement concluded at industry level, for example, may be supplemented by company bargaining, plant-level bargaining or both to elaborate framework conditions. Similarly, industry-level settlements may be coupled to company- or plant-level bargaining whereby the terms agreed at industry level are supplemented by additional benefits bargained locally. The point here is that the level of bargaining is associated with power. Industry-level bargaining assigns power to senior representatives within trade unions and employers' associations, whereas plant bargaining is associated with power at the local level. In some industries in the United Kingdom during the 1960s and 1970s, for example, shop stewards wrested power from senior representatives of trade unions and employers' associations in bargaining increases to industrial agreements that were characterised as promoting 'wage drift'. In this context, the distribution of power was associated with high levels of trade union density and industrial action, weak management and product market circumstances (Brown 1981). As the country chapters demonstrate, the distribution of power is far from constant and the factors underlying the distribution of power vary between Member States. Examination of the level of bargaining within the country chapters also focuses on the articulation between and coordination across different levels of bargaining. The country chapters demonstrate there is a marked variation in the mechanisms utilised to articulate and coordinate bargaining.

Depth of bargaining

This refers to the involvement of local representatives of labour and capital in the formulation of demands and the administration of agreements. The depth of bargaining

17. In order to ensure consistency, the terms 'sector' and 'industry' are used specifically. There are three sectors: manufacturing, private sector services and the public sector. Within each of these sectors there are several industries. Within manufacturing, for example, there are the metal, chemical, food and textile industries.

is thus concerned with how the bargaining process reaches the workplace. In the context of industrial bargaining the involvement of local trade union representatives may take place before negotiations with employers commence, as demands are formulated; and after the negotiations are complete, when the agreed terms are implemented. Similarly, employers' associations take soundings from member companies regarding the stance to take during negotiations with trade union representatives and subsequently the agreement requires implementation within each member company. Implicit in an understanding of the depth of bargaining is that there may be variation depending on the content of bargaining at different levels. In an articulated industrial bargaining regime in which the industrial agreement sets framework conditions there may be a broad range of issues to settle elsewhere. A comprehensive industrial agreement, in contrast, leaves less to be decided locally.

The depth of bargaining is intrinsically linked to the internal organisation of trade unions and employers' associations. In his commentary on the dimensions of collective bargaining and trade unionism Clegg states that 'the greater the depth of bargaining in a given area of employment, the higher the union density there' (1976: 8). In the absence of trade union membership, unionised works councils or their equivalent at company or plant level, the capacity of labour to implement the terms of an industrial agreement is limited. The organisational rate of employers' associations may also influence the depth of bargaining. An employers' association with a low organisational rate, for example, is unable to ensure that the terms of an industrial agreement are applied universally.

Security of bargaining

Clegg employs the term 'union security' in referring to the support provided by employers to union organising (1976: 8). The present publication attaches a broader meaning and explanation to security of bargaining. Certainly, the support provided, or opposition expressed by employers to union organising is one aspect of security of bargaining. The state, however, might also act to secure bargaining in a similar manner to employers, as suggested by Clegg. In many countries state regulation defines the 'rules of the game' regarding collective bargaining procedures, and the rights and obligations of the parties to collective bargaining. More specifically, state support for Ghent systems, whereby trade unions have a role in the administration of unemployment and welfare benefits, acts to promote union density and thus the security of bargaining (Jokivuori 2006; Kjellberg 2006). The legislation governing union recognition procedures may also influence the security of bargaining. Demanding recognition legislation may limit unionisation and thus have adverse consequences for the security of bargaining. Given that meaningful bargaining is dependent on the capacity of trade unions to take industrial action (Hyman 1975: 189–90), the state may also influence security of bargaining through the terms of the legislation on industrial action. Unionised civil servants in Germany, for example, are prohibited by law from taking industrial action. In addition, the state may promote collective bargaining through tripartite institutions as were established in central and eastern Europe, Greece, Portugal and Spain to assist in the transformation to liberal market economies. Similarly, where the state acts to ensure that collective agreements are legally binding, the security of bargaining may be enhanced.

Scope of agreements

This concerns the number of features of the employment relationship included in collective agreements. In general terms, trade unionists wish to increase the scope of agreements in order to subject more features of the employment relationship to joint regulation. Conversely, employers tend to narrow the scope of agreements to retain unilateral control over a wider range of features of the employment relationship. The scope of an agreement is thus likely to vary over time, depending on the relative power of the parties to the agreement. The scope of agreements may also vary at different levels at the same point in time. A framework industrial agreement that covers relatively few substantive features, for example, may be accompanied by company or plant agreements with a broader scope. Similarly, over time 'new' bargaining issues may emerge. In recent years qualitative issues have appeared on the bargaining agenda to supplement more traditional quantitative issues, such as wages.

Degree of control of collective agreements

This refers to the extent to which a collective agreement defines the actual terms and conditions of the workers it covers. The degree of control is thus concerned with both the content of a collective agreement and the manner of its enforcement. Regarding the content: framework industrial agreements or company agreements that set only minimum standards do not exert a high degree of control compared with detailed industrial agreements that specify mandatory terms and conditions of employment and company agreements that stipulate terms and conditions for all grades of workers within the company. The enforcement of agreements may result from its terms, associated dispute or grievance procedures or internal procedures and rules of the relevant employers' association or company. For the purposes of this publication reference is thus also made to the procedures that may be invoked to deal with disputes over the interpretation of an agreement, including mediation procedures, within the context of the degree of control of collective agreements.

The degree of control of collective agreements is closely associated with the scope of agreements and the depth of bargaining. Assuming appropriate enforcement mechanisms are in place, the more wide-ranging the scope of an agreement, the greater its degree of control. Similarly, the depth of bargaining concerns enforcement insofar as the absence of workplace representation for labour jeopardises the control of a collective agreement as there is no means to 'police' the agreement within the workplace.

Summary of the argument

The argument that resonates throughout this book is that collective bargaining systems are under pressure. The outcome of this pressure varies between and within Member States. In western Europe, for example, industrial bargaining systems are fragmenting almost everywhere, albeit to different degrees. Chapters in this publication illustrate that quantitative analyses tend to overstate the resilience of industrial bargaining

systems. Industrial bargaining, however, has long gone in the UK private sector, and, where it remains, is under direct threat in those Member States that were subject to intervention from the Troika. In contrast, despite the efforts of the ILO and the EU, attempts to establish industrial bargaining systems in central and eastern Europe were largely unsuccessful. This publication charts the various national approaches to bargaining decentralisation and uses the different dimensions identified by Clegg (1976) to highlight the impact of these approaches on the character of collective bargaining. Throughout Europe employer preferences for decentralised bargaining have tended to prevail. These preferences have been supported by governments committed to neoliberal economic policies, by Troika interventions and by the reluctance of the EU to lend its support to institutions that underpin the 'European social model'. The consequences of the changes introduced to bargaining systems in Member States are a declining wage share accruing to labour, increasing inequality and real wage development that has tended to lag behind productivity growth, which itself has been lower since the 1980s compared with the 1960s and 1970s. In short, labour has paid a high price for the decentralisation of bargaining.

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Abbreviations

CEE	Central and Eastern Europe
ECB	European Central Bank
ECJ	Court of Justice of the European Communities
EU	European Union
ILO	International Labour Organization
IMF	International Monetary Fund
OECD	Organization for Economic Cooperation and Development
TEU	Treaty on the European Union

Chapter 2
Austria: from gradual change to an unknown future

Vera Glassner and Julia Hofmann

At first glance, the Austrian system of collective bargaining seems to be doing fairly well. The consensus-oriented, neo-corporatist system (Schmitter 1979) has been stable over time, open industrial conflicts are rare and collective bargaining coverage is remarkably high. At second glance, however, we see some signs of erosion and increasing divisions in Austria. These are due to a power shift from labour to capital since the 1980s and find expression in, among other things, changing economic policies, attempts to decentralise collective agreements and increasing segmentation within the Austrian workforce (Astleithner and Flecker 2018). Moreover, the electoral shift to the right in the national election in 2017 may strengthen these general developments and pose a threat to the 'Austrian model'.

Thus, the main aim of this chapter is to present the strengths and weaknesses of the Austrian collective bargaining system and to venture suggestions concerning its future challenges. The following assumptions will guide our analysis:

– By international comparison, the Austrian collective bargaining system is fairly stable, but highly dependent on institutional requirements and socio-cultural underpinnings. This might be disrupted by political changes, which in the recent political struggles might endanger the institutional and political support of the 'Austrian model'.
– Even though the Austrian collective bargaining system is marked by an expansion of collective bargaining agreements into areas that formerly were not covered and by a high inclusiveness, it also upholds wage differentials between industries and groups of employees and struggles in order to counter increasing labour market segmentation.

The Austrian collective bargaining system features extremely high and stable bargaining coverage: around 98 per cent of all workers are covered by collective agreements. This is mainly because of the companies' compulsory membership of the national employers' association, the Chamber of the Economy (WKO, Wirtschaftskammer). Collective agreements are negotiated at industry level by (multi)-industry trade unions and the industry-level organisations of the national employers' association. The right to negotiate collective agreements is regulated in the Labour Constitution Act of 1974 (ArbVG, Arbeitsverfassungsgesetz). The ArbVG grants the right to negotiate collective agreements to, on one hand, the legal representatives of employers and employees, the Chambers, and, on the other hand, voluntary organisations of employers or employees, if they meet certain criteria (ArbVG 1974: §4ff.).

On the employee side, the main actors in collective bargaining are the trade unions, with their umbrella organisation the Austrian Trade Union Confederation (ÖGB, Österreichischer Gewerkschaftsbund) and its seven affiliated industry unions. Even though the ÖGB is legally the negotiating party, actual wage negotiations are carried out by the industry unions. Overall the Austrian trade unions have around 1,200,000 members (ÖGB 2017), yielding an overall union density of around 28 per cent in 2017. In contrast to employer density, trade union density is rather low by European comparison and constantly declining (see Table 2.1 and Appendix A1.H). But because of the high institutional power resources of Austrian employee representatives, this low union density has not yet affected collective bargaining coverage.

On the employer side, it is mainly the WKO that is involved in wage negotiations for the private sector. The WKO is subdivided into seven main sections (Crafts and Trades, Industry, Commerce, Banking and Insurance, Transport and Communications, Tourism and Leisure, Information and Consulting), which, in turn, are further divided into industrial organisations. The WKO also maintains organisational structures at the regional level of each of the nine federal states. Membership of the WKO is mandatory for most enterprises and the majority of agreements are concluded by its federal or regional level organisations. Some smaller establishments are organised in other Chambers (such as the Lawyers' or the Doctors' Chamber).

Collective agreements set legally binding minimum standards of pay and working conditions and only under exceptional circumstances allow for downward derogation at company-level, contrary to the favourability principle.

Table 2.1 **Principal characteristics of collective bargaining in Austria**

Key features	2000	2017
Actors entitled to collective bargaining	Industry union organisations and industry-level units of the Austrian Chamber of the Economy (WKO)	
Importance of bargaining levels	Industry level predominant	
Favourability principle/derogation possibilities	Favourability principle/derogation clauses in industry collective agreements	
Collective bargaining coverage (%)	98	98 (2013)
Extension mechanism (or functional equivalent)	Compulsory membership of national employer organisation (WKO)	
Trade union density (%)	37	28
Employers' association rate (%)	100	100 (2013)

Sources: Appendix A1 and ÖGB (2017).

Industrial relations context and principal actors

The socio-cultural underpinning of the relatively consensus-oriented Austrian system of industrial relations can be traced back to the country's social, political and economic policies after the Second World War. From 1945 onwards, we see a broad desire for social cohesion and the aim of avoiding a repeat of the bitter pre-war divisions. This intention and the economic situation, including weak private capital, fostered cooperative relations between employer and employee organisations in the post-war period. The 'post-war consensus' was guaranteed by different forms of power sharing between the relevant societal actors and the strong inclusion of interest groups in political decision-making, so-called 'Austro-corporatism' (Pernicka and Hefler 2015).

Perhaps the most prominent instance of Austro-corporatism is the country's system of chambers, membership of which is mandatory. The chamber system has a long history and was re-established after the Second World War with the explicit aim of representing the interests of (mainly professional) interest groups vis-à-vis other interest groups and the state. At the beginning of 2017, there were 13 chambers, of which the following three are the largest and most important: the Chamber of Labour (AK, Arbeiterkammer), the already mentioned WKO and the Chamber of Agriculture (LK, Landwirtschaftskammer). The chambers not only ensure the participation of specific interest groups, such as employers and employees, in policy-making but also fulfil important service functions for their members. The tasks of the WKO also include the negotiation of collective agreements (see below).

The representation of labour interests therefore rests on three formally independent pillars: first, the national trade union confederation ÖGB and its (multi-)industry organisations: the service sector union (GPA-djp, Gewerkschaft der Privatangestellten, Druck, Journalismus, Papier with around 280,000 members), the public sector union (GÖD, Gewerkschaft öffentlicher Dienst, 240,000 members), the production workers' union (PRO-GE, Produktionsgewerkschaft, 230,000 members), the union for municipal employees (Younion, Daseinsgewerkschaft, 150,000 members), VIDA (transport and service sector union, 135,000 members), the construction workers' union (GBH, Gewerkschaft Bau–Holz, 120,000 members) and the postal service and telecommunication union (GPF, Gewerkschaft der Post- und Fernmeldebediensteten, 50,000 members) (ÖGB 2017).

The second pillar is the AK, which acts as the statutory employee interest organisation of all employees. While the trade unions are legally entitled to negotiate collective agreements, usually on an annual basis, the AK only acts as a supporting actor in the bargaining process, providing information on macroeconomic development and data on industry developments.

Finally, the third pillar is the Austrian system of employee interest representation at the company level, which comprises board-level representation through employee representation on supervisory boards and works councils (BR, Betriebsräte), which, by law, can be set up in all workplaces with more than five employees. Austria features a dual system of employee representation, which means that works councils are formally

independent from trade unions. Hence, unions negotiate at national or regional industry level on pay and other working conditions, while works councils negotiate at enterprise level on issues such as additional improvements in pay or work pensions. This dual system has the potential to foster competition between unions and works councils. In practice, however, works councils are well integrated into union structures and the relations between them are close and usually cooperative.

On the employer side it is mainly the WKO, particularly its sub-organisations at industry level, that is involved in wage negotiations for the private sector. Besides the Chambers of Agriculture, a few voluntary associations, representing cooperatives in various industries and cooperative banks and social service organisations, conclude collective agreements. Business interests are also represented by the Federation of Austrian Industry (IV, Industriellenvereinigung), a voluntary organisation that does not participate in collective bargaining. The membership domains of IV and WKO overlap, however, with a tendency on the part of larger companies to be members of the former organisation (Traxler 2007). Relations between the Chambers and the voluntary organisations on the employer and employee sides are generally close. They cooperate closely on economic and labour market policies.

The Austrian industrial relations system was especially successful in the so-called 'golden age of Fordism', when political and social reforms were based on a demand-driven economic policy, including a strong state, nationalised industries and a large public sector, characterised by high economic growth. After the crisis in the 1970/1980s, and especially since the country's accession to the European Union (EU) in 1995, there was a shift from 'demand side corporatism' to 'supply side corporatism' (Traxler 1995) through which the Austrian industrial relations system and especially the employee side came under increasing pressure. Privatisation policies, internationalisation and the hard-currency policy, as well as growing unemployment and rising inequality weakened the labour organisations.

At the beginning of the 2000s, the government of the conservative Austrian People's Party (ÖVP, Österreichische Volkspartei) and the right-wing Freedom Party Austria (FPÖ, Freiheitliche Partei Österreichs) actively challenged the Austrian industrial relations system. Social and labour policies were for the first time negotiated without properly involving the social partners. A large-scale reform of the pension system in 2003, for instance, resulted in big demonstrations and the largest nationwide strike since 1950. Even though this confrontation was partly successful, as it brought the social partners back to the negotiation table, the dependence of the social partners on legal and political support became particularly evident during that time. Since the election campaign of autumn 2017, this debate has become highly relevant again: the FPÖ still demands the abolition of compulsory membership of the Chambers, one of the most important preconditions for the stable and inclusive model of industrial relations in Austria.

Economic framework conditions are another important factor shaping the content and process of collective bargaining. Austria is a small, rich and open economy in the euro zone, with a relatively important manufacturing sector. The export orientation and international entanglements of the country's economy puts a lot of pressure on wages and

has led to a form of pattern bargaining in which metal takes the lead. This is because, in an internationally exposed industry metal is particularly vulnerable to developments in labour cost competitiveness (see Level of bargaining).

In the 'golden age of Austro-Keynesianism', wage policies were oriented primarily to the country's macroeconomic performance, ensuring demand and limiting inflation as well as unemployment. Since the 1980s, however, corporatist-oriented wage policies have increasingly come under pressure; especially since EU accession in 1995 supply-side and stability-oriented macroeconomic policies have prevailed and further increased the pressure on wages (Feigl and Zuckerstätter 2012). Over recent decades, the wage share in Austria has declined, but the figures point to stabilisation in recent years. In international comparison unit labour cost increases are fairly moderate. In Austria's private sector, small and medium-sized enterprises play an important role. In manufacturing and banking around 70 per cent of employees work in firms with more than 250 employees, while in retail, tourism or crafts small and medium-sized enterprises dominate (WKO 2015).

Even though Austria has one of the lowest unemployment rates in the EU, it was at a post-war high, at around 6 per cent, in 2016. Due to economic development and active labour market policies, the unemployment rate (see Table A1F) fell again to 5.5 per cent in 2017. The biggest challenge for the Austrian labour market is the trend towards increasing segmentation (see Scope of bargaining). In 2015, around a third of the Austrian workforce were not employed for the whole year. In particular fixed-term employment has increased in recent years, while temporary work has remained more or less stable and freelance work has decreased. Employers derive fairly low benefits from these two forms of so-called 'atypical work contracts' because the regulation aims at equal treatment, for instance, in terms of social insurance or collective bargaining outcomes. Another problem in terms of segmentation for the Austrian labour market is the posting of often poorly-paid workers, particularly from eastern Europe and, in construction, the procurement to foreign firms, which fosters competition within the Austrian labour market and tends to undermine the Austrian collective bargaining system via dubious works' contracts (Krings 2017). In 2017, the Austrian government thus passed a new law on wage dumping, but it has not yet been able to control the problem.

Extent of bargaining

The extent of bargaining refers to whether employees or employers are covered by collective agreements or not; that is, collective bargaining coverage. In qualitative terms, collective agreements in Austria can be distinguished by reference to their range (sector, industry or craft); their geographical scope (national, regional and company agreements); and the group of employees they apply to (blue- and white-collar workers). In quantitative terms, the extent of bargaining refers to the share of employees or employers of the overall workforce that is covered by a collective agreement or to the share of workers belonging to a particular bargaining unit whether defined by country, industry, region or company.

Collective bargaining coverage is outstandingly high in Austria because all companies are obliged to be members of the WKO, which makes collective agreements legally binding for them. No fewer than 98 per cent of the private sector labour force is covered by a collective agreement (see Table 2.1). The public sector is formally excluded from collective bargaining. In practice, however, GÖD and Younion negotiate the pay and working conditions of civil servants and public sector employees. These standards are declared legally binding by parliamentary resolution. In addition, the Labour Code includes a special clause that guarantees that all workers, unionised or not, employed by an enterprise belonging to a legal, or legally recognised, interest organisation are covered by the collective agreement.

Due to its legal-institutional underpinnings, collective bargaining coverage in Austria has also been remarkably stable. In some areas in which employers were not members of the WKO and no industrial collective agreement applied, such as information technology, private education and research institutions, employers formed a bargaining cartel to negotiate collective agreements with trade unions in the 2000s (Hermann and Flecker 2006). In the late 1990s, social services employers succeeded in creating an encompassing national industrial employers' association representing private social service providers and a collective agreement at the industry level was concluded in 2003. This agreement was declared generally binding in 2006 and covers around 95 per cent of workers in the industry (Pernicka *et al.* 2018).

Furthermore, an industrial collective agreement for blue-collar temporary agency workers was concluded in 2002. The Act on temporary work (AÜG, Arbeitskräfteüberlassungsgesetz) was repeatedly revised with the aim of ensuring equal treatment of temporary workers and preventing discrimination. According to the trade unions, the law has enhanced the alignment of pay and working conditions of temporary and permanent workers. The collective agreement guarantees that temporary agency workers' pay, based on the industrial collective agreement, is applicable to the user company. In practice, discrimination, in particular regarding further vocational training, bonuses and other elements of variable pay, still exists between permanent and temporary workers. In addition, a collectively agreed minimum wage for the temporary agency work sector guarantees remuneration above the legal minimum, conditions during on-call work, improved protection against dismissals and bonus payments (Hermann and Flecker 2006). Thus, social partners', often successful, attempts to conclude collective agreements in new and growing areas that were formerly uncovered and the support of national institutions, such as administrative agencies and state actors, have resulted in an exceptionally high and stable collective bargaining coverage in Austria, which ranges from approximately 95 per cent in industries such as banking and social services to almost 100 per cent in most other industries.

Employers' strategies to avoid the application of collective agreements more generally or to apply a collective agreement that does not cover the main activities of the company and provides for lower pay and employment standards are common in many countries. This strategy is not possible in Austria because of the comprehensive and legally binding collective agreements based on enterprises' compulsory WKO membership. An example of the second strategy of changing from one collective agreement to another

Table 2.2 **Trade union density in metal and banking in Austria, 2000 and 2015 (%)**

	2000	2015
Metal	>70	~70
Banking	47 (2003)	25 (2010)
Total economy	37	28 (2016)

Sources: Appendix A1; Adam (2011b); ÖGB (2017); Traxler (2010); authors' research.

one with less favourable conditions for employees is the manufacturing industry, in which a few companies attempt to lower collectively agreed standards by applying the crafts agreement instead of the industry agreement.

Again because of enterprises' compulsory WKO membership trade union density, which currently is 28 per cent (ÖGB 2017), is not a decisive factor in the extent of collective bargaining. A high level of unionisation is an important power resource for trade unions, however, as it increases their bargaining power vis-à-vis employers and government actors. Structural change, with an increase in employment in private services, declining employment in the public sector, a stronghold of trade union organisation, and growth of high-skilled, white-collar jobs in industry, have contributed to the decline of the trade union density rate from around 37 per cent in 2000 to 28 per cent in 2016 (ÖGB 2017; see Table 2.1). Trade union density varies widely between industries. While it is high and rather stable among blue-collar workers in metal, it has declined considerably in crisis-ridden banking (see Table 2.2). Latest data shows that trade union organisation in the public sector, at around 50 per cent in 2010 (Visser 2016), is above the national average, although in the teaching profession, union density tends to be lower than in the public sector overall (Adam 2011a).

Scope of agreements

The scope of collective agreements refers to the range of issues covered. Thus, in Austria it is associated with regulations governing the hierarchy and articulation between bargaining levels with regard to the issues addressed. To put it more generally, the scope of agreements depends on rules and norms affecting power relations between trade unions and employers, on one hand, and relations between and within unions on the other hand, and touches upon the dimensions of depth and control of collective bargaining (see below). Against this background, three closely interlinked types of agreements are considered in the Austrian context: first, substantive agreements setting terms and conditions of employment; second, procedural agreements governing the bargaining process; and third, agreements that may deal with issues related to the work context, such as work–life balance, job protection and early retirement. This section briefly addresses bargained outcomes in terms of substantive issues such as wages and working time.

The legal-institutional setting of collective bargaining establishes a hierarchy, with collective agreements at the top. These are concluded between employers' federations

and trade unions at the industrial level, and only in a very few cases directly between management and trade unions, when company collective agreements are concluded. Next are company/works agreements, concluded between management and works councils at company level; followed by individual work contracts. Labour law is superordinate to collective agreements. The latter prescribe the scope for company agreements by delegating the negotiation of certain issues to local bargaining actors. Labour law, for instance, allows for flexible working time arrangements and the extension of working time beyond the legal minimum by industrial collective agreements. Austrian labour law authorises works councils to bargain over pay only when mandated by a multi-employer agreement. There is no statutory minimum wage in Austria. Rather, legally enforceable minimum wages are stipulated in industrial collective agreements. Social partners, pre-empting regulation by law, agreed on a general wage floor of €1,500, monthly gross income, in all collective agreements in June 2017. Trade unions, against the background of the exceptionally high bargaining coverage, regard their competence to conclude collective agreements as a central part of their bargaining autonomy and thus, in contrast to unions in other countries, are not pressing for the introduction of a uniform statutory minimum wage.

Inter-industry wage differentiation is comparatively high in Austria. While trade unions in the late 1980s succeeded in obtaining a general increase in collectively settled minimum wages, instruments to over-proportionally increase lower grades, such as one-off payments, did not result in a sustained harmonisation of inter-and intra-industry wage differentials (Mesch 2004: 111). Changes in pay above collectively settled wage increases, the growth of part-time work and labour migration account for the divergence in effective pay between high and low pay grades (ibid: 113). The industrial employers' association and the manufacturing unions of the electro/electronics industry played a pioneering role in the harmonisation of pay and basic conditions for blue- and white-collar workers and settled on a common scheme in 2001. In other parts of metalworking, a largely unified remuneration scheme was concluded in 2005. In autumn 2017, the terms and conditions of employment of blue- and white-collar workers, such as dismissal protection and continued remuneration in case of sickness, were further harmonised by legal regulation. This decision was met with fierce criticism by the conservative and liberal political camp and caused tensions between the social partners.

Labour market segmentation with regard to employment stability and income has intensified in Austria since the opening of the labour market (2011 and 2014), when labour immigration from central and eastern European countries increased. A large proportion of immigrant workers are employed in unstable work arrangements, such as temporary work or seasonal work, which are associated with less dynamically developing pay and low employment security (Eppel *et al.* 2017: 434).

The electronics industry has played a pioneering role with regard to innovative regulation of issues aimed at improving work–life balance. A so-called 'leisure time option', for instance, included in the collective agreement allows for a working time reduction instead of effective wage increases, above the minimum increase, on the basis of a company agreement. The 2016 collective agreement entitles workers to a week off

work to participate in further education and training programmes. Such options on additional leisure time were also included in collective agreements in the automotive, steel and paper industries.

Level of bargaining

In the literature, the notion of bargaining level refers to where wages are formally set; the main levels are macro/central in national cross-industrial bargaining, and meso/industrial and micro/local at the company and plant level. In Austria, wages and working conditions are set by multi-employer bargaining at the industry level. Only in exceptional cases are collective agreements settled at enterprise level. This applies in particular to large and formerly state-owned companies.

In addition to the formal level of collective bargaining, the mechanisms by which collective bargaining is coordinated between levels and industries are important. Horizontal (Traxler *et al*. 2001: 112) and vertical dimensions of bargaining coordination can be distinguished. The horizontal dimension refers to coordination between workers belonging to different industries and groups such as crafts, occupations, and white- and blue-collar workers. The issue of vertical coordination, that is, the compliance of the shop floor with wage agreements settled at industry or national level, strongly touches upon legal requirements of collective bargaining (see below on control). This section, therefore, focuses on the horizontal dimension of coordination and the specific mode of pattern bargaining in Austria.

Wage-setting, in particular for blue- and white-collar workers in manufacturing, is synchronised in the so-called autumn bargaining round. In the annual negotiation round, starting with metal, the collective agreement concluded in this industry serves as an informal benchmark for unions' wage demands in other industries. Pattern bargaining became established fairly gradually, with collective bargaining units in other industries following the metal wage accord (Traxler *et al*. 2008). With regard to bargaining outcomes, pattern bargaining led by the exposed metalworking sector is associated with wage moderation rather than wage equality. Differentials in pay levels settled in industry-level and industrial collective agreements tend to be maintained by the synchronisation of pay increases (Zuckerstätter 2012). Pressures to cut public expenditure during the European fiscal and debt crisis have resulted in wage freezes in the public sector. In recent years, some provinces have even declined to implement collectively settled wage increases for public sector employees.

Although pattern bargaining has remained comparatively stable in Austria, one can observe changes in the forms and practices of bargaining coordination. Developments in metal are paradigmatic in this respect. During the autumn bargaining round in 2011, the Association of Machine Construction and Metalworking Industries (Fachverband Maschinen- und Metallwarenindustrie), the most important employers' association in metal in terms of member companies and employees, left the bargaining cartel and negotiated a separate agreement. Since then, collective agreements on wages have been successively negotiated for the five metal industries and for the metal crafts; these are

non-ferrous metals, mechanical engineering and metalworking, foundries, mining and steel and vehicle production.

The disruptive dissolution of the metal bargaining cartel marked a break with the consensus-oriented and cooperative bargaining tradition. Production was suspended and warning strikes were held in around 200 metalworking companies in autumn 2011. The wage increase the trade unions asked for was considered excessive and rejected outright by employers. In turn, trade unions mobilised for a warning strike, an extraordinary event in Austria. Strike movements were concentrated mainly in the automotive supplier and steel industries, while only a few companies in machine construction and mechanical engineering, where trade union density is lower, were affected by the strikes. After the splitting up of the bargaining platform, the bargaining climate in metalworking deteriorated. The start of the autumn bargaining round, with social partners in machine production/engineering and metalworking taking the lead, became more conflictual. Strikes were averted in the protracted bargaining round in 2013, for instance, when an agreement was reached only because bargaining actors agreed to decouple the contested issue of working time flexibilisation from setting the general wage increase.

After the splitting up of the bargaining platform, however, wage increases in all metal industries remained equal, whereas some qualitative issues, such as leisure time options and shift bonuses, became more differentiated between sub-industries. Hitherto, trade unions have aimed successfully at maintaining collective bargaining for the entire metal industry and have put a lot of effort into arriving at a joint demand with constant intra- and inter-organisational coordination over the year. This contrasts with the stance of some of the metal industry's employers, in particular companies in metalworking and machine construction, who are pressing for decentralisation of wage-setting.

Degree of control of collective agreements

'Degree of control' refers to the extent to which standards and conditions stipulated in collective agreements are complied with at various levels. Thus it depends on grievance, dispute settlement and arbitration procedures (Clegg 1976: 9). More generally, it is contingent, first, on the legal force of collective agreements, and second, on the effectiveness of articulation between bargaining levels. The degree of control touches upon the vertical dimension of bargaining coordination: that is, the compliance of bargaining actors from local levels with norms and conditions settled in higher-level agreements. A high degree of vertical coordination is, first, contingent on legal prerequisites that govern collective bargaining, such as the peace obligation and the legal bindingness of collective agreements. Second, it is affected by the model of employee representation and informal norms of cooperation between trade union representatives from different organisational levels, as well as between unionised and non-unionised employee representatives. The vast majority of works councils in the Austrian dual system are unionised and cooperation and exchange between different levels of employee representation usually functions well. Thus, the main problem with the dual system of industrial relations in Austria is not the lack of articulation between unions and works

councils, but the decreasing coverage of works councils and the growing 'enterprise-level representation gap' (Hermann and Flecker 2009). The latest figures from the ÖGB indicate that only 15 per cent of enterprises that could establish a works council according to the law: that is, if they have five employees or more, have one. There are big differences between industries and company size. While only half of the employees in the private sector work in a company with a works council, nearly 90 per cent in the public sector can rely on one. It is usual in bigger firms to have works councils. Small and some medium-sized enterprises, which are dominant in Austria, tend not to have a works council (Eichmann and Saupe 2014; Hermann and Flecker 2009).

In comparative perspective, collective bargaining in Austria is characterised by a high degree of vertical coordination (Traxler *et al.* 2001:183 ff.). This is based on legal preconditions, such as a peace obligation in collective agreements, which rules out industrial action during the period over which the agreement is valid, and the continuing validity of a collective agreement even after an employer has left the employers' association. Additionally, deeply entrenched norms concerning cooperation and exchange between national, industrial and regional trade union representatives and works councils, often affiliated to a union, ensure that collective agreements are implemented accordingly at the plant level.

Negative wage drift, that is, actual earnings lagging behind collectively set pay rates, is rather limited in Austria, where collective agreements are directly enforceable and bargaining coverage exceptionally high. Wage drift, a concept that is burdened with operationalisation problems due to difficulties in measuring actual pay increases that are also affected by wage setting practices at company level, increased over the period from the early 2000s to 2013, and was slightly positive in Austria. In contrast, it was, in addition to the crisis-hit southern European countries, negative in Germany and the Netherlands (Delahaie *et al.* 2015: 74).

Opening clauses in industrial agreements that allow companies, under certain conditions, to undercut collectively settled standards, have not yet been implemented, as there is uncertainty about their legal conformity. The very few attempts in metal to regulate deviations in collective agreements at company level were not successful and quickly dropped. Another specific feature of Austrian collective agreements, besides the setting of minimum wages ('KV-Löhne'), is the settlement of increases of effective pay ('Ist-Löhne'). This allows the bargaining parties at company level to agree on higher increases for lower pay groups by so-called 'distribution options' ('Verteiloption'). A defined share of the wage bill has to be distributed within the company according to prescribed criteria, while the industrial effective wage increase must not be undercut. Furthermore, a so-called 'distributional volume' might be included in a collective agreement allowing for annual one-off payments for specified groups of workers. In companies with a works council, procedures and criteria for the distribution have to be included in a works agreement, while in companies without a works council, approval of industrial bargaining actors is required.

General trends towards organised decentralisation and flexibilisation have increased the role and workload of works councils in collective bargaining. The implementation of

distribution options requires the works council to decide which employee group receives the additionally distributed amount, which is paid in addition to the collectively set minimum and actual rates. The instrument of distributional options is used mainly in manufacturing, in particular in metal. In the service sector, such as retail trade and social services, effective pay rarely exceeds collectively set minimum rates. These differences in payment above collectively settled wage increases are explained by unions' greater organisational strength in manufacturing in comparison with the service sector. In addition, profitability, capital intensity and productivity tend to be lower in services than in industrial production.

Conflicts regarding the lack of or insufficient implementation of collective agreements in Austrian companies are rare. Employers' strategies to circumvent standards settled by collective bargaining, for example by outsourcing, are limited by the comprehensive scope of agreements. In addition, the dense interrelatedness of trade unions and works councils ensures that infringements of terms are swiftly detected.

Thus formally recognised dispute resolution practices are rarely used. They occur either in the context of company-level codetermination or in specific, private-law employment relationships and situations (Adam 2010). In Austria, individual labour disputes are dealt with by ordinary courts. The legal system does not prescribe detailed procedures for labour dispute resolution, however. This might be because of the corporatist structure of the country's labour relations system, with workers' interests being represented by trade unions and the AK, and through the statutory interest organisation of employees (Adam 2010). AK legal experts provide their members with advice on labour law-related issues. Both trade union and Chamber representatives may bring a case before a court on an employee's behalf. In most individual labour disputes, in particular if there is no works council in the employee's workplace, either the AK or the trade union contact the employer in order to avoid formal court litigation. The role of labour collective interest organisations is particularly important in companies in which no works council exist or establishment is opposed. The vast majority of dispute cases are resolved by such informal intervention outside the court.

Security of bargaining

Security of bargaining refers to the factors that determine the bargaining role of trade unions, with a strong focus on legislation, particularly legislation on trade union recognition and strikes, and its practical consequences, such as the number of strikes in a country. In Austria, security of bargaining has two foundations. First, the already mentioned highly institutionalised links between the social partners; second, the legal foundation concerning union recognition and the right to strike.

While in many European countries 'freedom of association' for trade unions is guaranteed as a basic right in the national constitution, there is no such constitutional right in Austria. In Article 12 of the national constitution, there is only a general clause on the right to assemble and to found associations, which implicitly also includes the founding of trade unions. The Charter of European Basic Rights includes the freedom of

peaceful assembly and has also the status of a constitutional law in Austria. Moreover, in 2008 the constitutional rights of Austrian unions were clarified. Following the political conflicts between the social partners and the neoliberal-conservative government, which was in office between 2000 and 2007, a new article was introduced in the Austrian constitution. It explicitly recognises the role of the social partners and their autonomy and thus grants trade unions freedom to act, but also stabilises the role of the Chamber system in the system of self-governance in Austria. More recently, this article has been politically highly contested, especially during the national election campaign in 2017.

Besides constitutional rights, the right of interest groups to participate in relevant decision-making processes is part of the ArbVG. Following the ArbVG, working conditions are not supposed to be implemented directly by law, but rather negotiated via forms of collective agreement between interest groups at different levels.

The right to take collective action is not guaranteed in the national constitution (Warneck 2008). As already mentioned, however, the European Convention on Human Rights includes the freedom of peaceful assembly and the Charter of European Basic Rights explicitly includes strikes in the same context. As EU law overrules national law, Austrian unions can also rely on a legal background securing forms of collective action.

In practice, strikes are rare in Austria; in 'normal' collective bargaining rounds the sheer threat of calling for an assembly of the workforce is usually sufficient to persuade the employers' side back to the negotiation table and to reach a compromise. These workforce assemblies are not strikes in a strict legal sense, even though work is interrupted for a certain time, as the main aim is the information and consultation of staff. In the 2017 Autumn bargaining round, for instance, which started highly conflictually, the metal unions called for such assemblies of the workforce after five tough negotiation rounds. It took only a few days, even before the workforce assemblies actually took place, to reach a wage agreement.

The negligible role of strikes in Austrian industrial relations is due to the system of social partnership, based on cooperation and compromise. Austrian trade unions rely mainly on their institutional power resources. Between 1945 and 2003, they hardly used strikes to pursue their interests. In this context, the year 2003 marked a sea change in Austria. The issue at stake was not part of a collective bargaining process, but a political one. In 2003 the neoliberal-conservative ÖVP-FPÖ government planned a pension reform disadvantaging Austrian employees. Some planned reform steps were averted due to the mass protests organised within civil society and the strikes organised by the trade unions. After 2003, the usual strike-free procedure was more or less re-established in the country with a small increase in strikes in 2011, when the practice of joint, industry-wide negotiations was challenged by employers in metal (see above).

Although the prevention of strikes and the focus on social-partnership solutions is still part of the 'Austrian industrial relations identity', the strike and protest experiences of 2003 play an important role in Austrian trade unions' collective memory and might act as an important mobilisation resource for future challenges in the political sphere, as well as in the field of collective bargaining (Hofmann 2017).

Depth of bargaining

Depth of bargaining refers to the degree of involvement of local employee representatives in the implementation of collective agreements at company level. It is positively associated with union density and employers' support for union efforts to recruit employees and maintain membership and linked to the degree of centralisation of union government (Clegg 1976). As employers' support is of less importance in the Austrian context, we focus on the process of interest aggregation and demand formulation of trade unions and employers' associations in collective bargaining.

The process of collective bargaining follows established procedures and practices. The annual bargaining round traditionally starts in autumn, with the two trade unions in metal, PRO-GE (Union of Production Workers) organising mainly blue-collar workers, and GPA-djp (Union of Salaried Private Sector Employees, Graphical Workers and Journalists), starting the negotiations. Both labour and business representatives emphasise that setting a wage increase for the whole metal industry is becoming more and more difficult as companies largely vary in terms of export orientation, degree of integration into transnational markets, profitability and competitiveness. Bipartite negotiations are preceded by intra-organisational coordination at the national, industrial and local levels. With regard to internal decision-making, the Austrian union system features a high degree of centralisation, with the peak organisation exerting considerable control over collective bargaining. The unions' formulation of bargaining goals and demands takes place within formal committees and boards and hence with only limited involvement of rank-and-file members. This contrasts with union approaches in Germany where more 'participative' forms of collective bargaining have gained in importance (Dörre *et al.* 2016; see also Chapter 12). For example, in so-called 'conditional collective bargaining', employed by German unions in metal and services (for the latter, see Pernicka *et al.* 2016), the concerns of employees in a given workplace are included in the unions' formulation of demands in collective bargaining. Market internationalisation, structural change, as well as privatisation and liberalisation policies, however, have tended to enhance the influence of works councils in the formulation of demands and negotiations also in Austria. They are particularly influential in industries dominated by multinational companies, such as the electronics and steel industry. Although relations between trade unionists and works councils are usually cooperative, sometimes conflicts between bargaining actors from national/industrial and the company level arise in the formulation of demands. Works councils of underperforming companies are more often ready for concessions due to pressure from local managements and therefore demand lower industrial wage increases.

Internal decision-making and bargaining coordination is more decentralised on the employers' side. Industry-level associations are fully autonomous in collective bargaining. The influence of central officials is more indirect and aims at the inter-industry coordination of bargaining. Interest aggregation on the employers' side has become more difficult in recent years. Aggregation of wage bargaining demands is usually most difficult between full-time officials at the federal level and, primarily voluntary, bargaining agents from the industry-specific associations. Within the metal sector, divergence in positions is most salient in metalworking and machine construction,

where differences in competitiveness and profitability are considerable. Some of the associations' members and functionaries are pressing for the decentralisation of wage-setting, while officials, in particular those at the peak-level, unequivocally support the Austrian system of industrial collective bargaining.

Trade unions orient their demands in terms of three basic parameters: economic growth, both current and forecast; overall and industrial productivity growth, current and expected; and (*ex post*) inflation rate. Austrian unions usually pursue a solidaristic, productivity-oriented wage policy in order to ensure that all groups of workers benefit from economic progress based on the criteria included in the so-called 'Benya formula' based on mid-term overall productivity growth and consumer price inflation rate of the previous year. Over time, the normative power of the central wage guideline has changed; while the Benya formula originally served as a rather informal minimum benchmark for the coordination of wage demands aimed at distribution effects, it has been increasingly undermined by the aim of maintaining international competitiveness and flexibility by keeping wages below productivity growth and inflation (Pernicka and Hefler 2015: 46). In particular, the economic entanglement between Austria and Germany resulted in a growing orientation towards labour cost developments in Austria's neighbour and intensified pressure on wages.

In general, employers and unions agree on the database and basic economic indicators referred to in negotiations (Pernicka *et al.* 2019). For unions, particularly those in metal, the development of profits and turnover of large and often multinational companies in metal and electronics are decisive in their demand formulation. Employers usually refer to overall economic growth and inflation and tend to disagree with unions on the productivity indicator. In other words, overall productivity is considered more appropriate than industrial or wage restraint is demanded when productivity shrinks. Both bargaining parties strategically refer to selected economic indicators in negotiations. Even since the splitting up of the bargaining cartel in metal, bargaining agents from both the employers' and trade unions' side emphasise that negotiators are better prepared and more 'fine-tuned' towards the specific conditions in an industry. The more active participation of local bargaining actors in negotiations has contributed to this development in the metal sector and beyond.

Conclusions

The aim of this overview is to show that the Austrian collective bargaining system has been fairly stable over time. But as the system is highly dependent on institutional requirements and socio-cultural underpinnings, it might be disrupted by political changes. Moreover, major power shifts have taken place below the formal, institutional level. We currently see two, at first sight contradictory, tendencies. On one hand, Austria is still marked by a strong tradition of social partnership and cooperative relations between labour and capital at enterprise, industrial and political level. Even during the recent economic crisis, organised labour and capital negotiated solutions at all of these different levels. On the other hand, power relations have shifted more to the capital side within recent decades, as can be seen for example from the move from demand-

side towards supply-side economic policies. Pernicka and Hefler (2015) thus speak of a process of 'institutional conversion' in Austria in recent years.

Even though the social partners have been able to strengthen collective bargaining coverage by concluding collective agreements for new and growing segments formerly not covered, for instance IT and social services, wage differentials between and within industries and groups of employees remain large (Leoni and Pollan 2011). Furthermore, despite the formal inclusiveness of the bargaining system, labour market segmentation with regard to wages and employment security has been driven by discontinuous employment, in particular among migrant workers. Social partners have to date not been able to effectively address tendencies towards growing labour market segmentation. Furthermore, the compulsory membership that largely accounts for Austria's highly extensive bargaining system has been repeatedly attacked by right-wing and liberal policymakers and sections within the employers' camp.

The EU-wide trend towards the decentralisation of collective bargaining has taken a fairly organised form in Austria. Social partners exert control over the devolution of certain pay and non-pay related issues to the company level. Wage-setting has remained effectively coordinated between industries, regions and employee groups. Trade union mergers might partly account for enhanced horizontal coordination, while legal preconditions such as a peace obligation and the legal enforceability of collective agreements ensure compliance of lower-level bargaining actors with industrial agreements. Pattern bargaining, with metal taking the lead in collective wage bargaining and other industries following the metal sector wage accord, has remained stable over time. Despite the departure from joint negotiations for the entire metal industry and growing bargaining conflicts, which erupted into strikes in 2011, wage setting within metal has remained closely coordinated in terms of both substantive outcomes and procedures. Collectively settled wages in Austria grew rather moderately by international comparison. Bargaining actors tend to orient themselves towards wage developments in Germany, Austria's most important export market.

While the 'Austrian model' has come under economic pressure since the 1980s, it is nowadays also increasingly contested at the political level. The first neoliberal-right-wing government and especially the FPÖ from 2000–2007 failed in their attack on employers' compulsory membership of the WKO, which is the main reason for the high collective bargaining coverage in Austria. During that time, however, it became clear that the normative commitment to social partnership could reach its limits if political power relations change. The new ÖVP–FPÖ coalition, in power since December 2017, is expected to challenge the influence of the social partners at all levels. Even though it is not yet sure whether the government will touch compulsory membership of the Chambers, it will certainly launch many policies that help to decentralise settlement of work-relevant issues, such as deregulation of working time, and thus diminish the influence of organised labour in the Austrian public administration, as well as in labour market and social policies. Moreover, at the time of writing (April 2018), there are debates about a massive reduction of the financial resources of the Chamber of Labour, which would entail a political weakening of labour interests.

Furthermore, structural change such as the growth of employment in the service sector, the decline of the workforce in manufacturing as a proportion of total employment and the increase of atypical, often precarious forms of employment require targeted organising and recruitment on the part of trade unions in order to gain members in these newly evolving segments of the labour market. So far, however, trade unions' organising projects have remained rather ad hoc and limited in industrial and territorial scope. With collective bargaining considered the most important trade union task, achievements in terms of pay increases and working conditions are viewed by trade unions as most conducive to attracting and maintaining members and accommodating the rank-and-file. Having said all that, the 'borrowed stability' (Flecker and Herrmann 2005) of the Austrian model is evident. Thus the Austrian unions, as the 'battle organisation of the working class', would be well advised to build up other power resources besides these highly fragile institutional ones.

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All links were checked on 18 July 2018.

Abbreviations

AK	Arbeiterkammer (Chamber of Labour)
ArbVG	Arbeitsverfassungsgesetz (Labour Constitution Act)
AÜG	Arbeitskräfteüberlassungsgesetz (Act on temporary work)
BR	Betriebsrat (Works council)
FPÖ	Freiheitliche Partei Österreich (Freedom Party Austria)
GBH	Gewerkschaft Bau–Holz (Union of Construction and Woodworkers)
GÖD	Gewerkschaft Öffentlicher Dienst (Union of Public Services)
GPA-djp	Gewerkschaft der Privatangestellten, Druck, Journalismus, Papier (Union of Salaried Private Sector Employees, Printing, Journalism and Paper)
GPF	Gewerkschaft der Post- und Fernmeldebediensteten (Union of Postal and Telecommunications Workers)
IV	Industriellenvereinigung (Federation of Austrian Industry)
LK	Landwirtschaftskammer (Chamber of Agriculture)
ÖGB	Österreichischer Gewerkschaftsbund (Austrian Trade Union Confederation)
ÖVP	Österreichische Volkspartei (Austrian People's Party)
PRO-GE	Die Produktionsgewerkschaft (Union of Production Workers)
VIDA	Gewerkschaft VIDA (Transport and Service Union)
WKO	Wirtschaftskammer Österreich (Chamber of the Economy Austria)
Younion	Die Daseinsgewerkschaft (Union for municipal employees and the small arts, media, sports and liberal professions; until 2015 GdG, Gewerkschaft der Gemeindebediensteten, Kunst, Medien, Sport und freie Berufe)

Chapter 3
Belgium: stability on the surface, mounting tensions beneath

Kurt Vandaele

Located on the cultural boundary of Germanic and Latin Europe, the federal state of Belgium is a small, but heterogeneous and densely populated country. Economic vulnerability is a common assumption among the economic and political elites, as Belgium is one of the most open trading economies in Europe (Jones 2008). The state has promoted a consensual approach and social partnership via a corporatist architecture, although trust among the social partners is relative as polarisation can be high, especially at the cross-industry level. Apart from a guaranteed average monthly minimum wage, four other institutional features distinguish today's collective bargaining system in the private sector (Van Gyes *et al.* 2018).[1] First, Belgium is one of the few European countries in which wages are still 'automatically' adjusted to changing prices of goods and services. Second, the Law on the 'promotion of employment and the preventive safeguarding of competitiveness' of 1996 (Wet tot bevordering van de werkgelegenheid en tot preventieve vrijwaring van het concurrentievermogen[2]) (henceforth: the 'competitiveness law') has institutionally modelled collective bargaining on competitive corporatism via a 'wage norm'. This norm has consolidated supply-side wage moderation since the early 1980s and curtails multi-employer bargaining through calibrating wage developments in France, Germany and the Netherlands. Third, bargaining is highly centralised as the wage norm reinforces this characteristic: setting the norm is part of biannual negotiations between the social partners to conclude an interprofessional agreement (interprofessionele akkoord, IPA[3]) at the cross-industry level, which provides a framework for bargaining at the industry and company levels. Fourth, the interlinked hierarchical bargaining levels and corporatist mechanisms, such as the extension of collective agreements, underpin strong bargaining coordination, which is also 'artificially' stimulated by the wage norm.

Belgium's consociational democracy, with its proportional representation and coalition governments, allows only piecemeal policy adjustment; centrifugal federalism, a party system split primarily along linguistic lines and a volatile electorate add to the complication. In this light, one might infer from Table 3.1 that it is the institutional robustness and organisational continuity that need to be explained and the lack of radical change. Several dimensions of collective bargaining, identified by Clegg (1976; see Chapter 1), are almost unaffected, while both sides of industry remain strongly

1. Employment terms and conditions are set by law in the public sector; its bargaining cycle is different from that of the private sector and bargaining can include negotiation or consultation.
2. Loi relative à la promotion de l'emploi et à la sauvegarde préventive de la compétitivité.
3. The French names of institutions, organisations or others that can be abbreviated are not provided in the main text for reasons of space. The French name can be found in the abbreviations list.

Table 3.1 **Principal characteristics of collective bargaining in Belgium**

Key features	2000	2018
Actors entitled to collective bargaining	Only representative trade unions and employers' associations are entitled to bargain	
Importance of bargaining levels	The industrial level is the main bargaining level but to a diminishing extent	
Favourability principle/derogation possibilities	The favourability principle almost always applies in practice Derogation is legally possible but very limited	
Collective bargaining coverage (%)	96	96
Extension mechanism (or functional equivalent)	Collective agreements are extended more or less 'automatically'	
Trade union density (%)	56.2	54.2*
Employers' association rate (%)	82	82

Note: * 2015.
Source: Appendix A1.

organised. But this snapshot is deceiving: it overlooks 'state intervention' and does not fully grasp tendencies of decentralisation and fragmentation in the bargaining system below the surface of its institutional set-up.

The argument developed here is that a self-perpetuating cycle of heightened tensions is challenging the system's governability and reinforcing its complexity. This has been heightened since the crisis of the finance-led accumulation regime in 2008 (hereafter: 'crisis of 2008') and because the Michel I government of 2014–2018, made up of economic liberals, Flemish nationalists and Flemish Christian Democrats, similar to the Verhofstadt I government (1999–2003, comprising liberals, social democrats and greens), has favoured the 'primacy of politics'. This drift away from Belgium's corporatist tradition by 'state intervention' in the labour market and welfare arrangements, set primarily by the social partners, has strained the relationship with trade unions in particular.

As centralised wage-setting is aligned with domestic inflation and, via the wage norm, to foreign wage developments and is dominated by wage restraint, the social partners' bargaining space has contracted (Dumka 2015; Van Gyes *et al.* 2018; Van Herreweghe *et al.* 2018). This affects bargaining level, scope and depth. The social partners are trying to find negotiation flexibility at a more decentralised level by broadening the scope of bargaining with benefits or less 'tangible' non-wage issues excluded from the calculation of the wage norm. The more technical character of bargaining outcomes may further impede the internal relations between the union confederations and their affiliates, and thus the binding of lower bargaining levels. Failure in the vertical coordination of bargaining opens the door to 'state involvement', which again puts pressure on bargaining space, with rising tensions between the social partners. Bargaining has been further truncated through a tightening of the competitiveness law in 2017. If strictly enforced, real wage increases seem barely achievable by means of collective bargaining, while the law might, indirectly, further encourage individualised remuneration packages at the company level.

Industrial relations context and principal actors

The 'involvement' of the Belgian state in shaping the bargaining system is rooted in the period after the First World War and the experiences of the Great Depression and the Second World War. After clandestine negotiations between business and union leaders in 1944, the 'Social Pact' facilitated the institutionalisation of corporatist institutions, encouraging social partnership and subordinating strike action to bargaining (Cassiers and Denayer 2010). The Act on collective bargaining agreements and joint committees of 1968 (Wet betreffende de collectieve arbeidsovereenkomsten en de paritaire comités[4]) recognises and protects the right to organise and bargain collectively (Van Gyes *et al.* 2018). The Act regulates the establishment, scope and competence of the committees at industry level, which are the key bargaining units, their main competence being to collaborate in drafting collective agreements. Companies assign themselves to a joint committee based on their principal economic activity or activity employing the largest number of workers. If there is doubt or dispute about which is the right joint committee, then the National Office for Social Security (Rijksdienst voor Sociale Zekerheid, RSZ) assigns the company. Thus, the committees' jurisdiction generally depends on the industry to which the company belongs and not on the individual worker's occupation; manual and white-collar workers can thus be assigned to the same industry. A Royal Decree sets the number of mandates in each committee. The allocation of union mandates is either determined by the aggregated results of the latest quadrennial social elections of the industry concerned, or in proportion to the union's strength within the industry, measured by the payment of the 'union premium' (see Security of bargaining) or by mutual agreement between the unions. Members of the committees are appointed for four years by Royal Decree.

There were 101 joint committees and 67 joint sub-committees, set up for smaller industrial groupings, in 2017 (FOD WASO 2018). The total number of committees is fairly stable, but the total masks the fading away of defunct committees and the establishment of new ones because of economic and labour market developments.[5] Several of the committees have not changed their field of competence for a long time, but in 2015 the Michel I government asked the social partners to 'modernise' their scope and coverage to better reflect changed business organisation and production processes. This is a slow process as it typically entails intra-organisational shifts within unions or employers' associations, affecting internal power relations. A quintessential example is the agreement between the social partners in 2013 to gradually end the distinction in the employment regulation between manual and white-collar workers. The new single employment status might result in fewer committees because manual and white-collar committees can now merge.

Joint committees are part of a hierarchal bargaining cycle that materialised in the 1960s.[6] The cycle initially involves talks about a possible new IPA at the multi-industry level, followed by negotiations on collective agreements at the industry or company

4. Loi sur les conventions collectives de travail et les commissions paritaires.
5. There has been a slight increase in the number of joint sub-committees at the expense of joint committees.
6. This cycle mainly concerns wage-setting, but collective agreements can be negotiated at any time.

level. Agreements at the latter level act as a complement to, or substitute for, industry agreements. The practice of bipartite, biannual negotiations at the national level, outside the formal institutions, resulted in seven IPAs between 1960 and 1976.[7] IPAs are negotiated by an informal group, labelled the 'Group of Ten', comprising leaders of the representative union confederations and employers' associations on a parity basis. Although IPAs are not binding, they are symbolic of social partnership; they coordinate the bargaining system by offering a guiding framework for lower bargaining levels and they are translated into collective agreements at the cross-industry level, which cover the entire economy, laying down minimum standards for all private sector employees. Cross-industry agreements are concluded in the National Labour Council (Nationale Arbeidsraad, NAR) and are almost always extended by Royal Decree. The NAR is an influential social dialogue institution, composed on a parity basis of delegates from the representative union confederations and employers' associations, which provides advice to the government or parliament on labour and social security law.

When a new IPA could not be agreed in 1976 state 'intervention' became increasingly mportant (Vercauteren 2007). The number of agreements at the industry level decreased due to state-imposed wage restraint. Bargaining revived after the conclusion of a new IPA in 1986 and a more established biannual bargaining cycle set in. State 'intervention' in wage setting culminated in the 1989 competitiveness law introducing a 'wage norm' (Van den Broeck 2010). The Central Economic Council (Centrale Raad voor het Bedrijfsleven, CRB), reporting on the conjunctural and structural challenges of the Belgian economy, gained in status as it was entrusted with calculating the 'wage norm'. The law authorised state 'intervention' ex-post if wage increases exceed the average of wage developments in seven of Belgium's main trading partners during the past two years. Wage freezes followed in the mid-1990s in order to ensure entry to the first group of the European monetary union. Belgium entered the euro zone in 1999.

Turning to the main bargaining actors, the union confederations are organised along the traditional ideological pillars in Belgian society, although rivalries have blurred in favour of a more pragmatic stance (Faniel 2010). Union pluralism based on ideological differences is mirrored in the three confederations, each with regional divisions: the socialist General Federation of Belgian Labour (Algemeen Belgisch Vakverbond, ABVV), the Confederation of Christian Trade Unions (Algemeen Christelijk Vakverbond, ACV), the largest confederation since 1959 and especially dominant in Flanders, and the much smaller General Confederation of Liberal Trade Unions of Belgium (Algemene Centrale der Liberale Vakbonden van België, ACLVB). The main employers' association is the Federation of Enterprises in Belgium (Verbond van Belgische Ondernemingen, VBO), an umbrella organisation of about 50 industrial employers' associations, representing around 50,000 companies in total, irrespective of size and across the country. This accounts for 75 per cent of employment in the private sector (Arcq 2010). Employers' associations are also fragmented along regional lines. Small and medium-sized enterprises (SMEs), mainly those with fewer than 50 employees, and the self-employed in Flanders and Wallonia have their own associations. Two have seats in the NAR and CRB; this also applies to the VBO, one organisation representing the agricultural

7. The first agreement of 1960 had a three-year duration.

sector and one organisation representing the not-for-profit sector; the latter has been a full member since 2010. The main regional employers' association in Flanders, the Flanders' Chamber of Commerce and Industry (Vlaams netwerk voor Ondernemingen en Kamers van koophandel in Alle sectoren, VOKA), and parallel employers' associations in Brussels and Wallonia have no seats in the NAR and CRB. Similar social dialogue institutions have been established at regional level since the 1980s, however, with a stronger corporatist underpinning in Flanders than in Brussels or Wallonia (Installé *et al.* 2010). VOKA has increasingly gained influence because labour market and welfare policies came increasingly to the fore in the course of Belgium's devolution (Vandaele and Hooghe 2013). Covenants between the social partners at the industry level, which provide a framework setting targets on, for example, school-to-work transitions, lifelong learning and increasing diversity, and tripartite agreements or pacts add another layer to bargaining (Van Gyes *et al.* 2018). Nevertheless, the federal level is still the prima facie level for wage setting and collective agreements cannot legally be concluded at the devolved levels.

Security of bargaining

The Belgian constitution enshrines the right to collective bargaining, while diverse institutional arrangements, provided by the employers or the state, buttress the security of bargaining. This is illustrated by the provision of seats for the social partners on the governing or supervisory boards of various labour market and social security institutions at different policy levels. Bargaining security relates in particular to the regulation on unions and industrial action, incentives for recruiting and retaining union members and wage setting mechanisms. Right-wing political parties have recurrently made legislative proposals to curtail this security, but because federal government coalitions incorporate at least one political party with close links to one of the two main union confederations bargaining security has largely remained intact, although it has become notably weaker over the years. Equally, the right-wing parties in the Michel I government have been bound to the government agreement. The unions' political room to manoeuvre has been reduced, however, and the Flemish nationalist party in the government has followed a media strategy of 'union bashing' to delegitimise them (Zienkowski and De Cleen 2017).

The rights to set up and to join a union are derived from the freedom of association enshrined in the constitution (Humblet and Rigaux 2016). The main union confederations and their affiliates are virtually without competition.[8] Their quasi-monopoly is guaranteed by the representativeness criteria stipulating that union confederations and interprofessional employers' associations are entitled to bargain if they cover the whole country and have a mandate in the NAR and CRB (Blaise 2010). Non-affiliated employers' associations and other associations representing crafts, small businesses or liberal professions can be declared representative via Royal Decree.

8. Some occupations or professions in the public sector or with strong workplace bargaining power have established their own unions that are not affiliated to the main confederations. Managerial staff can also set up their own organisations and put forward their own candidates on the social election lists.

The right to take industrial action is an individual right. Somewhat undermining bargaining security, and indicating a juridification of industrial action, since the mid-1980s employers have made use of the civil courts to break strikes via the unilateral imposition of substantial fines on picketing workers. The social partners concluded a 'gentlemen's agreement' in 2002 to regulate the 'modalities' of industrial action, although the agreement has no binding force. The social partners promised to 'modernise' the Agreement in 2016 under pressure from the Michel I government, but negotiations were unsuccessful. A law on a guaranteed minimum service in railways was introduced in 2017, which set a precedent, as case law regulates mainly industrial action.

Almost continuous upward progress has marked union membership since 1945, with Belgium being considered an exception to the deunionisation trend in Europe. Union-monopolised works councils and union representatives have enabled unions to install and maintain a social norm of membership at the workplace, especially in large companies, in industries dominated by manual workers and among certain medium-skilled occupations and professions. The quasi-Ghent system further explains the stable net union density rate of about 55 per cent (Vandaele 2006). While unemployment insurance is compulsory, unions de facto dominate the system through their involvement in benefit administration, via payment bodies paying out unemployment and early retirement benefits. The public non-union payment body, governed by the social partners, plays only an inferior role in benefit administration. The quasi-Ghent system stimulates workers to join a union and to remain a member, especially those with relatively high unemployment risks or with lower educational attainment (Van Rie *et al.* 2011). Austerity measures taken by the Di Rupo government (2011–2014), comprising Social Democrats, Christian Democrats and liberals, and the Michel I government targeting unemployment regulation have indirectly affected the system (Vandaele 2017). Membership growth has halted for the ACV and ABVV since 2011 and 2014, respectively, with aging memberships, accelerated deindustrialisation and declining unemployment as additional factors. Positive or critical union support is still widespread, however, although weaker in Flanders (Swyngedouw *et al.* 2016).

Social security funds at the industry level usually supplement unemployment and early retirement benefits. They also typically organise skill-based education and training for employees and promote health and safety policies. Established by collective agreements, and financed by employers, there are about 180 funds autonomously governed by the employers' associations and unions. The funds normally also pay out a 'union premium': an additional benefit for union members introduced only in certain industries in the 1950s but widespread today. Because collective agreements apply to all employees, irrespective of union membership, the premium aims to avoid free-riding, as it partly or largely compensates for union dues. Settled by a cross-industry collective agreement, the premium is partly exempted from social security contributions and taxes, with a ceiling of 145 euros a year since 2017. The exact amount of the premium is settled by bargaining at the industry level; if no premium is set at this level, then it can be set by a company agreement.[9]

9. A collective agreement at the company level can in principle also increase the premium settled at the industry level.

Bargaining security is also backed by a guaranteed average monthly minimum wage, initiated by means of a cross-industry collective agreement in 1975, and given legal force via a Royal Decree, which was augmented in real terms in 2008. The social partners agreed in 2012 gradually to abolish the specific minimum wages for young employees between 18 and 21 years of age by 2015, but the Michel I government introduced a law, despite union mobilisation, allowing derogation from the industry or cross-industry agreement on minimum wages for young workers aged 18, 19 or 20 years. Actual minimum wages tend to vary considerably between industries and to be considerably higher than the national minimum wage, especially in industries with a strong bargaining tradition. If there is no collective agreement about minimum wages in an industry, then the national minimum wage applies by default; this is so only for a small proportion of employees (CRB 2018). In particular, agreements at the industry level for white-collar workers in the profit sector also include seniority-based wage increases connected to a job classification scheme; similar arrangements exist at the company level. The Michel I government questioned these 'automatic' seniority-based wage increases and wanted to replace them with a system based on individual competences and productivity.

Further strengthening bargaining security, minimum wage and pay scales are linked to indexation mechanisms (Van Gyes *et al.* 2018). Those mechanisms are not present in all industries, however, because it belongs to the bargaining autonomy of the social partners. As they are set by collective agreements, the index arrangements differ within industries, but have in common that they 'automatically' set a floor for wage increases by linking wages to past inflation based on a so-called 'health index'. This index, introduced in 1994, is a watered-down version of the consumer price index excluding volatile, heavily tax-influenced commodities such as alcohol, motor fuel and tobacco. A biannual 'little' update of the basket of goods and services for tracking consumer prices was introduced in 2006, while the eight-year period for a 'big' update was kept. The Di Rupo government again altered the basket's composition and weighting of goods and services and established a yearly update in 2014, also attempting to moderate energy prices and thus their effect on the basket. The Michel I government imposed a 'wage-index jump' of 2 per cent in 2015 to structurally impede 'automatic' wage increases based on the 'health index'. Wage increases based on indexation arrangements thus stopped temporarily, resuming a year later.

Level of bargaining

Joint committees at the industry level are considered to be the cornerstone of Belgium's multi-level bargaining system as collective agreements at this level are broad in scope and provide legal content for cross-industry agreements (Vandekerckhove and Van Gyes 2012). While the industry is the dominant level, the system is more complex and sophisticated than quantitative indicators capture (CRB 2009; Van Ruysseveldt 2000; Van Gyes *et al.* 2018). Industries can be ordered in terms of their degree of multi-level bargaining. Six types can be distinguished: horizontal coordination between the joint committees via pattern bargaining only in not-for-profit industries; collective agreements at the industry level accompanied by a limited number of company agreements; industrial agreements followed by additional agreements in the largest

companies; industrial agreements providing a framework for company bargaining; industrial agreements acting as a substitute if company agreements are not reached or settled; and solely company agreements.

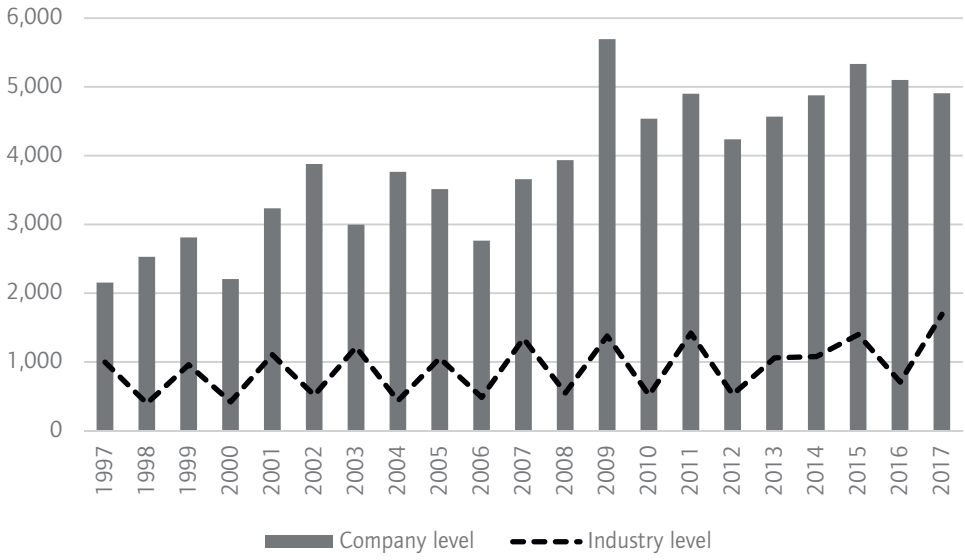
The balance between the company and the industry level is a matter of complementarity, which is largely influenced by companies' capital intensity and employment size. Therefore, some industries are traditionally characterised by organised decentralised bargaining. Current bargaining dynamics do not suggest a decentralisation trend in the strict sense. Some recent decentralising tendencies are noticeable, however, driven by altered employers' preferences (Van Herreweghe *et al.* 2018). A special kind of decentralisation in the Belgian context is regionalisation. Establishing joint (sub-) committees on a territorial basis has always been possible and is relevant for regionally clustered economic activities such as sea ports, or for informal bargaining groups, as in the metal industry. Yet there has also been a more marked regionalisation in certain industries due to Belgium's devolution. This has shifted competences from the federal level to the Regions and Communities: for example, joint committees have been set up in urban and regional public transport, and especially in the not-for-profit sector.

Since the late 1980s there has been a strong but uneven increase in collective agreements at the company level, which tend to cover single issues. This largely underscores 'delegation', in the sense of the implementation of what has been decided at higher levels, whereby unions at the company level are explicitly granted bargaining power (Van Gyes *et al.* 2018). Moreover, while agreements at the company level have traditionally acted as a complement to or substitute for industrial agreements, they have gained more substance as today's industrial agreements are often framework agreements. One typical example of delegation is the 'non-recurrent performance-related collective bonus', which has existed since 2008. This wage bonus has to be introduced through a collective agreement if union representation is present in the company. If it is not, then the employer can opt for either an accession act, to be approved by the joint committee concerned, or a collective agreement that must be signed by a union officer of a representative union. While 'bonus plans' can be initiated at the industry level, its predominant level is that of the company: the number of agreements implementing a bonus plan more than doubled in the period 2008–2017 (FOD WASO 2018).

The increase in bonus plans should be understood in relation to the 1996 competitiveness law. This law reduced the benchmark from seven to three reference countries for calculating the wage norm and has replaced the ex-post assessment of hourly labour costs in those countries with ex-ante assessment. The CRB is responsible for calculating predicted inflation in Belgium and the wage norm for the two-year period the IPA is intended to cover; they provide the floor and ceiling of wage setting at lower bargaining levels (Dumka 2015). The norm is a percentage expressing the maximum margin for wage increases in the private sector based on the weighted average of anticipated hourly labour cost developments in France, Germany and the Netherlands.[10] Company-level bonus plans are not explicitly excluded from the wage norm calculation, but they allow

10. The union confederations initially set up the 'Doorn process' to coordinate wage demands with the unions from the reference countries, but this has faded away over time.

Figure 3.1 **Collective agreements at the company and industry levels in Belgium, 1997–2017**



Source: FOD WASO/SPF ETCS.

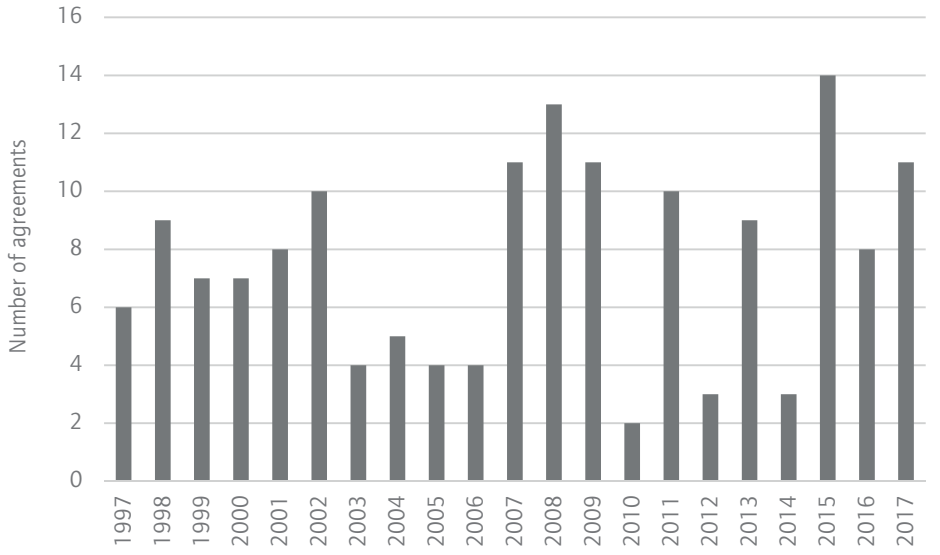
for remuneration gains above the norm, so that they can be considered a response to the limited space for wage increases.

The growth of company agreements has not been at the expense of agreements at the industry level. The slight increase in the number of joint committees and social funds, and a broadening of the scope of bargaining that calls for industrial agreements explains their slight upward trend (Bocksteins 2006). All industries are covered by a joint committee today. The industry-level bargaining cycle also shows the interaction with the biannual setting of the wage norm: except for 2014 there is a clear two-year pattern (Figure 3.1). Guided by the CRB-report, negotiating the wage norm is part of the IPA negotiations among the 'Group of Ten'; if they reach no agreement on the precise norm, the federal government is authorised to suspend negotiations and to propose a compromise or, ultimately, to set an imperative wage norm, mainly following the draft IPA, especially if it is supported by most social partners.

Centralised wage setting has oscillated between state-sponsored and state-imposed coordination since 1996. Before the crisis of 2008 state sponsored coordination mainly took the form of cutting employers' social security contributions. Companies have been exempted from withholding tax since the IPA of 2008.[11] The Michel I government replaced the existing cuts and exemptions with a tax shift of 7.2 billion euros in 2016, aimed at gradually shifting taxes from labour to other sources, especially consumption, and at reinforcing job creation and boosting consumer purchasing power, although the budget effects and the achievement of those aims have been seriously debated. In

11. Those exemptions have been first introduced in companies using shift, night and non-stop work in 2004.

Figure 3.2 **Cross-industry agreements in Belgium, 1997–2017**



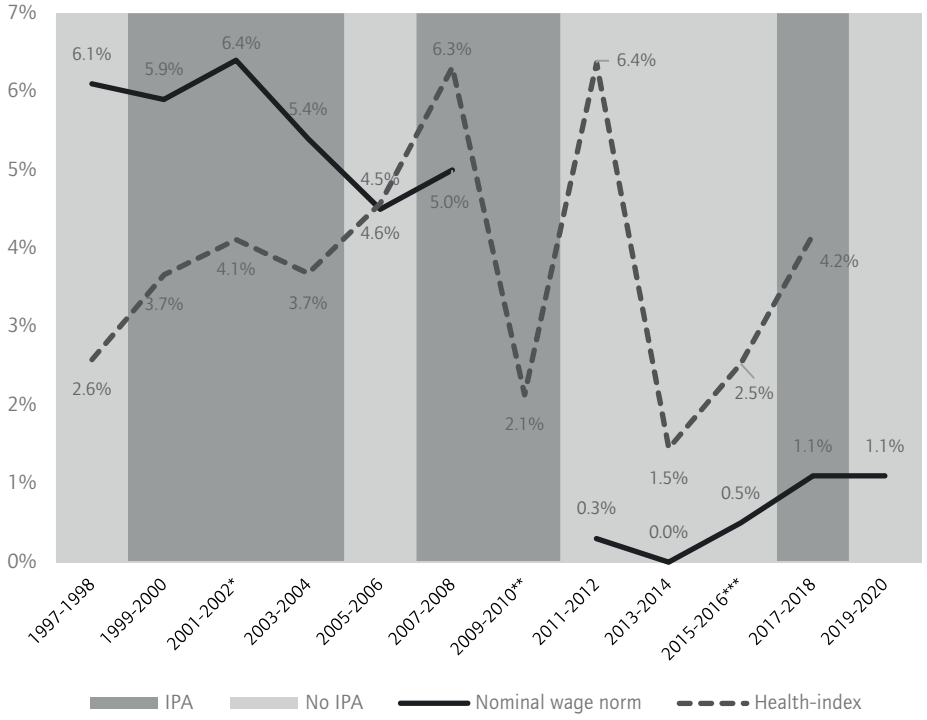
Source: NAR.

any case, employers' social security contributions have been structurally reduced since then, which calls into question the prospects of future state-sponsored coordination, at least in this form. Six IPAs have been concluded successfully since 1996, but this has to be set against six (partial) failures.

In the case of state-enforced wage-setting, time and again, concerns have arisen about whether this implies the end of social partnership. Cross-industry agreements are still concluded in the NAR (Figure 3.2), however, although their scope has 'become more technical than before (…) and [some] can be defined more as "implementation agreements" of government decisions' (Van Gyes *et al.* 2018: 85) because of either discord between the social partners or the Michel I government's 'primacy of politics' stance, overruling the advice of the partners concluded in the NAR. Regarding the European social dialogue agenda, the involvement of the social partners via information and consultation at the federal level has become notably weaker. While the NAR and the CRB still organise information exchange based on the European Union's Semester approach, it has a far less formal, explicit and extensive character than social dialogue as regards implementing the Lisbon Agenda. A 'Belgian desk' has been established, however, to ensure regular social dialogue between the social partners and the European Commission (EC).

Before the 2008 crisis, the leeway for IPA negotiations was reduced either by inflationary wage developments exceeding the wage norm, or by wage moderation in the Netherlands and, especially, Germany. Additionally, if economic prospects look bleak, as in the crisis period 2008–2016, agreeing an IPA is touch-and-go because the odds on state-sponsored coordination are slim, given its strong dependence on budgetary and

Figure 3.3 **The floor and ceiling for wage development in Belgium, 1997–2020**



Note: After 2008 the wage-norm excludes wage-indexation. * The wage norm was set at 7 per cent in some industries. ** No percentage increase was set for 2009–2010; instead, a maximum increase of 250 euros was permitted, 125 euros of which could be granted in 2009. *** There was a jump in the wage index from April 2015 to April 2016; the 0.5 per cent wage increase might be raised by 0.3 per cent in some cases.
Source: Dumka (2015: 144), and author's updates from 2013 onwards.

fiscal policies (Figure 3.3). The social partners concluded a new IPA after government mediation in 2008. The agreement no longer contained a non-binding interpretation of the wage norm, enabling employers to grant increases above the wage norm in some well performing companies or industries; it allowed only for binding or imperative wage increases. Two years later the IPA negotiations failed (see Depth of bargaining), and the government imposed the draft-IPA with a Royal Decree, excluding wage indexation from the wage norm, although indexation was still guaranteed, and making the norm imperative again (Ajzen and Vermandere 2013).

State 'intervention' in wage setting before the IPA negotiations, focusing on its floor or ceiling, or both, cast talks about a new IPA into disarray from the start. This occurred in 2012 and 2014. A wage freeze was imposed for 2012–2013 before the IPA talks, while retaining the index mechanism, as part of the state budget consolidation effort. At most only partial agreements have been reached on specific topics. Whereas there was no state intervention before the IPA negotiations regarding the ceiling, the Michel I government imposed a 'wage-index jump' affecting the floor for wage-setting (see Security of

bargaining). The negotiations failed again, and the wage norm was set by the government at 0.8 per cent in 2015–2016. The government also expanded application of the wage norm by including certain state-owned enterprises in 2015. After three consecutive failures, the social partners concluded a new IPA in 2016 (Faniel 2018).

Encouraged by the EC, within the framework of its Semester recommendations since 2012, the Michel I government substantially strengthened the competitiveness law in 2017 by building into the wage norm's calculation an ex-ante safety margin and ex-post correction mechanisms (for details, see Van Gyes *et al*. 2018: 81). While 'automatic' wage increases based on seniority or indexation arrangements remain outside the scope of the calculation, real wage increases are considerably limited by the new calculation methods. There is legally no room for an indicative interpretation of the wage norm. Additionally, the negotiation flexibility for the social partners to agree on the ceiling has been further reduced: the wage norm is an entirely technocratic exercise today because only the secretariat of the CRB is responsible for setting the maximum norm and no longer the CRB as a whole. The partners can only discuss how and to what extent the wage norm will be used, which means that the maximum norm set by the CRB is imperative. Either the wage norm is set autonomously by the social partners by a legally binding collective agreement at the cross-industry level or imposed by the state with a Royal Decree. The IPA negotiations failed in 2018. The union confederations held a national strike in early 2019 to obtain a higher wage increase than the wage norm of 0.8 per cent calculated by the CRB. Although an updated CRB calculation set a slightly higher wage norm of 1.1 per cent, a new IPA could not be concluded. Consequently, the minority government 'Michel II', that is, without the Flemish nationalists, set the new wage norm, as newly calculated, while agreements on several labour market and welfare issues of the draft IPA agreement will be implemented via the NAR.

Scope of agreements

There are no comprehensive studies analysing long-term changes and trends in the scope of bargaining. A dynamic picture can be partly sketched out, however, by means of representative snapshots of selected industries in certain periods. The bargaining scope at the lower levels depends on the dominant level of bargaining, but generally covers a wide range of issues, such as pay levels, job classification schemes, luncheon and other vouchers and bonuses; working time arrangements; occupational welfare benefits via the social security funds; employment and careers; training; and social dialogue and union matters (Verly and Martinez 2010). Responding to the changing demographic and economic environment, collective agreements in particular industries sometimes play a pioneering role: agreements introducing occupational pension schemes, for example, have substantially influenced the bargaining scope by setting best practices for other industries.

For a long time, occupational pension schemes have either been set aside for staff members only or have been part of agreements in certain companies or industries. To compensate for the comparatively low pension benefits available through the state-managed pay-as-you-go system, a legal regulation adopted in 2003 aimed to consolidate occupational

pension schemes to all employees, encouraging this through fiscal incentives for employers (FOD WASO 2016). Collective agreements on innovation have also been encouraged by the Di Rupo government since 2014 (Van Gyes et. al 2018: 84–85). Such agreements set up a scoreboard for tracking commitment to improve innovation and performance in terms of product and process innovations and innovations in work organisation. A recent example is the 2015–2016 collective agreement in the chemical industry that established a 'demographic fund' for stimulating longer labour market participation in a motivational and practicable way.

Bargaining scope is increasingly marked by a tension between the social partners, trying to retain bargaining autonomy, and the state, which sometimes overrules them. The competitiveness law leaves little room for additional wage increases, especially since its 'imperative turn' after the 2008 crisis and its strengthening in 2017. Recurrent state 'intervention' in wage setting has made wage increases even more difficult, whereas litigation by the union confederations against state-imposed wage freezes has not been successful (Kéfer 2017). The social partners are therefore trying to find negotiating flexibility on other issues than wages, resulting in a broadening of bargaining scope (Dumka 2015). This again implies a more prominent state role in the negotiation process as these new bargaining issues often demand legal revision or new regulation.

Although juridification, with a strict mandate for legal advisors representing the employers, limits negotiating flexibility, it is often sought in types of remuneration that are omitted from the calculation of the wage norm and are commonly partly exempted from social security contributions and taxes. Moreover, while bonus plans (see Level of bargaining) are in addition to wage increases, so-called 'cafetaria plans' are increasingly being used in an attempt to replace current benefits and wage increases via a set of individualised alternative benefits. Furthermore, the Michel I government overruled the social partners by introducing a new variable pay scheme, the tax-favourable 'profit premium', in 2018, whose introduction and application can unilaterally be decided by management. It remains to be seen to what extent this will supplement or replace the current scheme based on bonus plans, especially in SMEs. Another example of overruling is the 2017 law regarding manageable and feasible work (Wet betreffende werkbaar en wendbaar Werk[12]). This concerns the flexibilisation of working time and deregulates night and overtime work. While details about working time are normally set by the unions and employers' associations at the industry level, the law allows companies to make it more flexible in a more unilateral way.

Depth of bargaining

Bargaining depth is generally strong in countries such as Belgium with its high union density and multi-level bargaining system. Influencing the duration of the bargaining process, depth is ideally the result of a bi-directional process. It refers to the degree of articulation between the lower organisational levels vis-à-vis the umbrella organisations in terms of interest aggregation and agenda-setting, as well as internal agreement

12. Loi concernant le travail faisable et maniable.

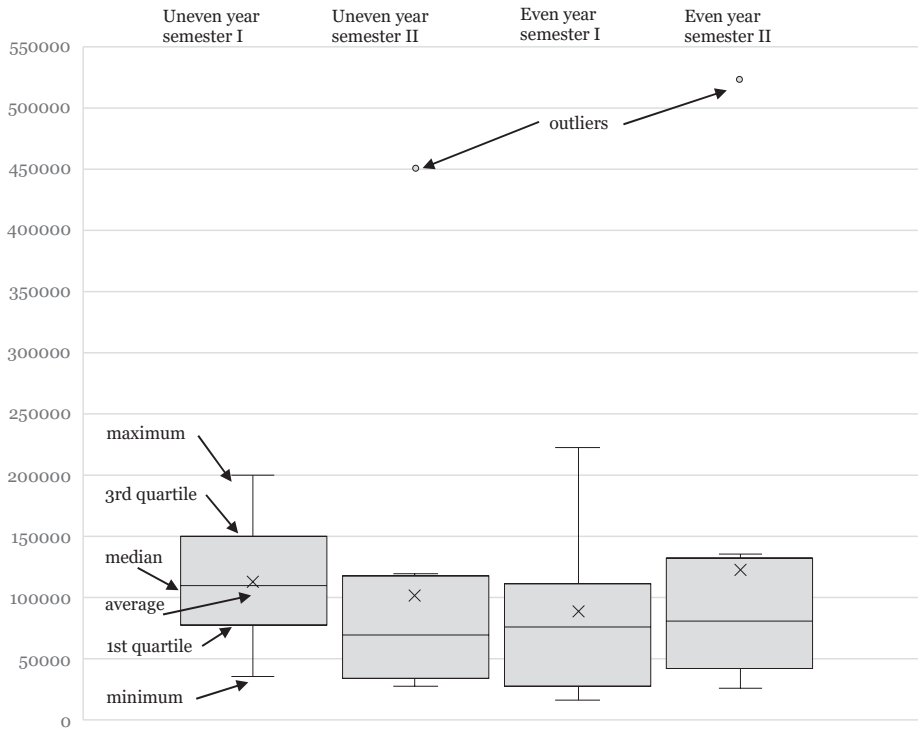
ratification procedures once a draft collective agreement has been achieved. From a historical-comparative perspective, the capacity of the Belgian social partners to bind lower organisational levels to higher-level agreements is considered fairly ineffective (Crouch 1993). Their rather weak vertical coordination can be explained by the union affiliates' or employers' associations' dominance over their respective umbrella organisations at the industry level. Thus, on the employer's side, when it comes to setting its demands and negotiation strategies, the VBO is dominated by its most prominent associations, whereas coordination between them is weaker compared with unions at the industry level (Van Ruysseveldt 2000: 239). While the VBO aims to reach an internal consensus on ratifying a draft IPA, on several occasions not all employers' associations have whole-heartedly supported it. Indicating interest heterogeneity, particularly employers' associations that represent export-oriented industries have repeatedly considered wage moderation insufficient. Moreover, VOKA, the employers' organisation representing Flemish business, has also been critical of centralised wage setting and IPAs, while associations representing the not-for-profit sector have considered the wage norm too rigid.

Turning to the unions, bottom-up decision-making provides room for union activists and representatives to articulate their demands (Van Ruysseveldt 2000: 216–217). Some unions may also conduct surveys to reach their members, especially in industries dominated by SMEs, in which union representation is weaker. Regional and national full-time officials aggregate the demands and inform union activists and representatives. While in the past demands were based on experience, they have recently become more sophisticated, juxtaposed with socio-economic data. ABVV affiliates use the socio-economic data only for tactical reasons; this is to try to reach a common understanding with the employers' associations. The ABVV affiliates reject this approach for ideological reasons, however, because they do not want socio-economic data to constrain bargaining outcomes (Vanherreweghe *et al.* 2018). Full-time officials in particular are consulted on key shifts in demands during the negotiations. A draft agreement is approved by an assembly consisting of union representatives and full-time officials. Research is lacking on the extent to which this process is prevalent in all union sections, but the responsiveness of full-time officials and the leadership will certainly be influential.

Intra-union coordination is enhanced either by negotiators at the industry level who can have an advisory role in bargaining at company level, or by union officers negotiating several agreements at the company level in the same region (CRB 2009). There is normally also a 'common union front' for setting joint bargaining demands. Such inter-union coordination is particularly relevant at the industry level as collective agreements should be signed by all unions on the joint committee. If there is more than one union at the negotiation table from the same confederation, then the ratification of only one is required. While the local union organisation(s), together with the union representative(s), negotiate(s) the agreement at the company level, it is normally signed by the full-time official responsible for the industry in which the company is active, unless the union mandates otherwise.

Negotiations on collective agreements at lower bargaining levels are generally collaborative (Van Ruysseveldt 2000: 204; Van Herreweghe *et al.* 2018: 10), with few

Figure 3.4 **Days not worked due to industrial action per semester in Belgium (private sector only), 1997–2018***



Note: * 2018: only first semester.
Source: RSZ/ONSS.

industrial actions at the industry level, although the biannual bargaining cycle seems to influence strike behaviour. Following the IPA talks, negotiations start at the lower bargaining levels in the first semester of odd years. The strike level is markedly higher in those years than in any other semester (Figure 3.4). It appears, however, that IPAs have a dampening effect on the level: whereas the median is 69,726 days not worked due to industrial action in the case of an IPA, it stands at 105,256 days when there is no IPA.[13] Union demonstrations and mass strikes against labour market and welfare regime reforms, which have increased in particular since 2011, explain outliners in the strike level.

To some extent, the competitiveness law has put the union confederations and their affiliates at odds with one another. It is especially delicate for unions organising in the domestic sector, such as white-collar unions, to comply with draft IPAs promoting wage moderation because they feel less pressure for restraint and emphasise the importance of purchasing power in stimulating domestic demand. A considerable proportion of today's wage increases are also not directly credited to actual union efforts. They are

13. The median is chosen over the mean as mass strikes tend to dominate strike data, resulting in extreme values that skew the average.

rather the result of 'automatic' arrangements such as the indexation arrangements and seniority-based schemes at the industry level and, recently, of government policies, such as the tax shift attempted by the Michel I government, aimed at increasing nominal wages, especially for lower wage categories. Finally, the broadening of bargaining scope has made bargaining outcomes more opaque and technical 'where their ability to connect with affiliates and members is increasingly being challenged' (Dumka 2015: 145).

The locus of power is the affiliated unions and not the confederal level, although arguably less so within the ACV, which operates a centralised strike fund.[14] Not only has the ABVV relatively weaker authority over its affiliates, with each union maintaining a strike fund, but also membership concentration and leadership's instability at the confederal level have been relatively stronger in the period considered here. White-collar workers in both confederations are organised across industrial boundaries, thus in separate unions, because of the legal distinction that previously existed between manual and white-collar workers in employment statutes. Negotiations between the social partners about harmonisation impeded the bargaining round in 2012: one of the main unions in the ABVV, organising manual workers, and the white-collar unions in both confederations voted against the draft IPA. The social partners reached an agreement on unified status and the partial harmonisation of existing statutes in 2013. Unions organising manual and white-collar workers anticipated the labour law change by exchanging members in certain industries, a process that continues today. Finally, the ethno-linguistic dimension might be another source of union division (Vandaele and Hooghe 2013). Some unions, such as the Christian white-collar unions, have been split along this dimension from the outset. Christian education unions, for example, have been divided on whether this would make lobbying the political authorities at the Community level more effective. Internal discord led to a formal split of the socialist metal union in 2006. In each confederation, affiliated unions account for two-thirds of the votes for (dis)approving the draft IPA, while one-third are assigned to regional sub-structures.

Degree of control of collective agreements

The Federal Public Service Employment, Labour and Social Dialogue (Federale Overheidsdienst Werkgelegenheid, Arbeid en Sociaal Overleg, FOD WASO), together with the joint committees, plays a key role in the bargaining process by facilitating the conclusion of collective agreements, monitoring their implementation and preventing or settling labour disputes. The chair of the joint (sub-)committees is usually a civil servant from the FOD WASO. In practice, while legally agreements must be signed within the committee, negotiating flexibility is often achieved through informal groups based on more homogenous industries (Van Ruysseveldt 2000: 190–191). Negotiations also often take place informally in small groups outside the committee. One or more labour conciliators can be appointed by the FOD WASO or by one of the conflicting parties in case of a stalled labour dispute or company restructuring that has a regional

14. ACV affiliates have the authority to recognise strike actions.

or national impact. Labour tribunals are responsible for settling disputes between workers and employers, including the interpretation of collective agreements.

Joint committees generally establish a conciliation body for preventing or settling labour disputes in the companies in the industry concerned or at the industry level. This conciliation body, or the chair, tries to reach a recommendation in case of an impending conflict. Although recommendations are non-binding, in practice they are followed mainly by the conflicting parties. Apart from conciliation bodies, 'social peace' clauses in collective agreements are also available as a means to avoid labour disputes (Cox 2007). This obligation is tacitly assumed in every collective agreement. The obligation can either be 'absolute' or 'relative'. If the obligation is made explicit, then it usually implies that the 'social peace' clause is 'absolute': the contracting parties cannot resort to industrial action to formulate additional demands during the duration of the agreement. It is considered 'relative' if industrial action is still possible except regarding issues settled by the agreement. Absolute or relative obligations can also bind lower bargaining levels. The most restrictive clauses are associated with industries in which the industry level is predominant (CRB 2009). Employers' contributions to the social security funds or union premium payments are generally, but not always, dependent on the compliance by the rank-and-file with this 'social peace' clause. But even if there is no compliance, sanctions are often not carried out as part of the settlement agreement. Overall, in many cases, industrial action is still possible. If a collective agreement has ended and a new one cannot be concluded, then the terms and conditions remain unchanged to guarantee 'social peace', except if otherwise stated in the terminated agreement.

The labour inspectorate monitors labour law compliance and the implementation of collective agreements; the inspectorate may act pro-actively or after receiving a complaint. The degree of control of agreements is further safeguarded by union-only representation structures at the company level. Union representatives are active in companies with at least 50 employees, but this threshold is lowered in various industries depending on provisions laid down in collective agreements. Health and safety bodies are legally required in companies with 50 employees and works councils in those with 100 employees or more. Works councils have the right to information and advice and a limited right of consultation. Union agency also matters for strengthening the degree of control: unions have targeted specific groups of workers through public or comprehensive campaigns highlighting issues that should be addressed by better regulation. Prominent examples are campaigns on employment agencies and the cleaning industry or union actions against social dumping in construction and transport or against internal social dumping by labour 'platforms' such as Deliveroo. The introduction of so-called 'flexi-jobs' by the Michel I government in 2015 has made the unions' controlling agenda heavier: they consider it a Trojan horse for further deregulation and flexibilisation of employment relations.

As for bargaining outcomes, wage drift is generally modest at the aggregate level, although there is cross-industry variation, with higher wage drift during periods of economic expansion, especially among higher earners due to individualised bonuses (Vandekerckhove and Van Gyes 2012). Since the 2011–2012 bargaining round, the FOD

WASO has stepped up its efforts to scrutinise agreements to ensure compliance with the wage norm. Non-compliance can result in administrative fines, which have been increased since the 2017 law revision, but this has rarely been applied in practice. Wage setting also seems to allow inter-regional wage differentials reflecting regional diversity in productivity (Plasman *et al.* 2010). Belgium's relatively modest and stable income inequality is often attributed to resilience in its bargaining system compressing the wage distribution in addition to its welfare state regime (Marx and Van Cant 2018; Valenduc 2017). Inter-industry differences in wage developments even seem to fall because of its highly centralised and coordinated character (Vandekerckhove *et al.* 2018). Equally, together with gender-neutral job classifications systems since 2012, this explains why Belgium has one of the smallest gender pay gaps (IGVM and FOD WASO 2017).

Extent of bargaining

Bargaining coverage, including cross-industry agreements, is estimated at 96 per cent, which has remained unchanged since the 1980s. The remaining 4 per cent comprises high-level jobs such as management. Their employment terms and conditions are usually set individually. Coverage is high even before legal extension, as employment is strongly concentrated in a few bargaining units (RSZ 2018). Above all, the strong and stable employers' association rate of 82 per cent, which is nearly 30 percentage points higher than net union density, is responsible for the high coverage. Incentives for companies to join employers' associations are either instrumental for SMEs, in the form of services, or political for larger companies, which in particular seek influence over the association's bargaining position as collective agreements at the cross- and industry level are nearly always extended. Extension is especially requested in industries with a fairly low organisational rate among employers' associations (Van Ruysseveldt 2000: 199–200). Non-members of employers' associations often anticipate extension, as they apply the agreements straightaway after bargaining negotiations (Vandekerckhove and Van Gyes 2012: 4). Collective agreements at the company level are erga omnes.

Stimulating organisational coordination, collective agreements concluded in joint committees and in the NAR require the signature of all the parties involved. If one or more of the parties do not agree with the agreement, then it can be concluded outside the committee. But such agreements cannot legally derogate from agreements concluded in joint committees or the NAR as it is legally lower in the hierarchy. Only agreements concluded within those joint bodies can be declared generally binding. The signatory parties must be considered representative, but no additional criteria are needed for extension. Although only one party is required, usually all parties involved ask for an extension in practice. Agreements must be officially registered with the FOD WASO, which controls for normative and obligatory requirements, and must be confirmed by Royal Decree.

If not stated otherwise in the employment contract, normative issues related to the individual employment relationship in non-extended collective agreements at the industry or cross-industry level are binding. Derogation, however, is theoretically possible as non-extended agreements concluded in a joint body are legally ranked below an individual

employment contract in writing. Extending a collective agreement by Royal Decree concluded in a joint body is therefore common practice to avoid this type of derogation by non-signatory employers. Only the collective normative provisions, including social peace clauses, can be extended, not the obligatory provisions of the agreement. Once declared generally binding by Royal Decree, all employers and their unionised and non-unionised employees within the jurisdiction of the joint body are bound by the professional or territorial scope stipulated by the agreement. If a company is allocated to another joint committee, due to a change in its activities, then the company still needs to apply the terms and conditions of the former joint committee to the existing employees. Ways in which companies seek to avoid 'expensive' employment terms and conditions include bogus self-employment or 'regime shopping' in an effort to be allocated to a 'cheaper' joint committee by outsourcing, subcontracting or franchising.

The favourability principle has no legal standing. The hierarchy of legal sources implies, however, that a norm set at a lower level cannot contradict norms set at a higher one. Thus, in practice, collective agreements at the company level cannot negatively derogate from higher-level agreements. Derogation can occur if the higher-level agreement explicitly allows for it and if the agreement has not been declared generally binding (Van Gyes *et al*. 2018). But the guaranteed average monthly minimum wage, set at the cross-industry level, must always be applied. Formal derogation occurs very exceptionally, for instance via hardship clauses that are possible for companies in financial trouble: they must defend their case before an arbitration board composed of members of the joint committee. Hardship clauses are very limited, and not on the increase. Finally, a kind of derogation has been established by the Michel I government. While night-work is in principle not allowed, there exist several exceptions in certain industries regulated by collective agreements. The government has made night-work possible in several joint committees that are active in e-commerce, thereby overruling existing agreements as union approval is no longer needed.

Conclusions

Joint committees at industry level are the main bargaining units in the Belgian collective bargaining system. This system offers more flexibility than one might think as bargaining traditions reveal an interplay and complementarity between bargaining levels. The bargaining system has largely been unaffected on the institutional surface because it is underpinned by relatively strong security of bargaining. Apart from the unions' institutional embeddedness in the labour market and welfare regime, this security is also related to the floor of wage-setting through 'automatic' nominal wage increases via seniority-based pay scales, particularly for white-collar workers, and index mechanisms at the industry level, in particular pertaining to unions. Aspects of this bargaining security are contested by right-wing political parties, although security is still fairly solid: federal governments so far have been composed of political parties that have historical links with at least one of the two main union confederations. Nevertheless, these political allies have lost significant electoral influence over time, while especially the Flemish nationalist party is attempting to delegitimise the corporatist tradition, and some unions have recently lost members. A more outspoken prioritisation of

union innovative strategies, beyond advocating and mobilising, is required to regain organisational power and reignite membership growth, especially as today's political opportunity structure is less open.

Adjustment in the bargaining system has taken place incrementally, with path-dependent change particularly influenced by Belgium's export-oriented position in global capitalism. As a result of this intersection between domestic and European and international developments, especially German wage restraint, the competitiveness law of 1996 put a ceiling on wage-setting by means of a central wage norm in anticipation of indexation and real wage increases. Instead of reregulating wage setting through market forces, via decentralisation, the law institutionalises the triggering of state intervention in wage setting when the social partners cannot agree upon the wage norm. Disorganised decentralisation was not a policy option in 1996 and this is still the case today, due to the unions' institutional embeddedness in the workplace, especially in large companies. Simultaneously, employers' incentives to openly resist unions at the workplace are low due to the strongly centralised bargaining system. Usually in the disguise of regionalisation of employment relations, right-wing political parties still foster the idea of decentralisation, however. The aftermath of the crisis of 2008 has been a political opportunity for those parties to strengthen the law and in 2017 a stringent permanent regime of wage moderation was established, making the wage norm imperative and no longer indicative. Above all, to the frustration of the union rank-and-file and affecting bargaining depth, the current competitiveness law has implanted collective bargaining socio-economically instead of being based on a purely social logic.

If autonomous bargaining is considered a balloon, then the state's pressure exerted at one point, through squeezing via the competitiveness law, explains why the air within the balloon creates a bulge with benefits that are exempted from the wage-norm's calculation. It partly explains the creative broadening of bargaining scope over time via, for instance, occupational pension schemes, company bonus plans and other à-la-carte benefits. The social partners consider that this enables them to preserve a certain autonomy in response to the state-led institutionalised centralisation and coordination of bargaining via the wage norm. Both sides of industry have their own incentives to do this. It is a way in which the unions can increase workers' incomes, as the norm has considerably restricted the bargaining scope for wage negotiations at the industry level. Simultaneously, several benefits have a more individual productivity-based orientation and are habitually exempted from the normal taxes and employers' social security contributions in contrast to wage increases set collectively, which explains why employers and their associations favour them. These gains, however, are likely to feed back adversely in the immediate and medium term. This approach encourages a type of organised decentralisation of collective bargaining that, especially via company bonus plans, induces income inequality, as variable pay schemes tend to be paid out in well performing companies and less so in weaker ones. Exemptions from taxes and employers' social security contributions, together with the tax shift by the Michel I government, also entail structural underfinancing of the social security system and of public services. At the same time, autonomous collective bargaining is increasingly being overruled by the state. None of this, however, means that collective bargaining is likely to fail in the short or medium term.

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All links were checked on 18 July 2018.

Abbreviations

ABVV/FGTB	Algemeen Belgisch Vakverbond/Fédération générale du travail de Belgique (General Federation of Belgian Labour)
ACLVB/CGSLB	Algemene Centrale der Liberale Vakbonden van België/Centrale Générale des Syndicats Libéraux de Belgique
ACV/CSC	Algemeen Christelijk Vakverbond/Confédération des syndicats chrétiens (Confederation of Christian Trade Unions)
CRB/CEC	Centrale Raad voor het Bedrijfsleven/Conseil central de l'économie (Central Economic Council)
IPA/AIP	Interprofessioneel akkoord/accord interprofessionnel (inter-professional agreement)
FOD WASO/SPF ETCS	Federale Overheidsdienst Werkgelegenheid, Arbeid en Sociaal Overleg/ Service public fédéral Emploi, Travail et Concertation sociale (Federal Public Service Employment, Labour and Social Dialogue)
NAR/CNT	Nationale Arbeidsraad/Conseil national du travail (National Labour Council)
RSZ/ONSS	Rijksdienst voor Sociale Zekerheid/Office national de sécuritésociale (National Office for Social Security)
VBO/FEB	Verbond van Belgische Ondernemingen/Fédération des Entreprises de Belgique (Federation of Enterprises in Belgium)
VOKA	Vlaams netwerk voor Ondernemingen en Kamers van koophandel in Alle sectoren (Flanders' Chamber of Commerce and Industry)

Chapter 4
Bulgaria: collective bargaining eroding, but still existing

Vassil Kirov

Bulgaria is the poorest member of the European Union (EU). It had a difficult economic and political transition and faces substantial demographic challenges. During the post-communist transition industrial relations and collective bargaining practices developed in the context of a dynamic political, economic and social environment. The Bulgarian state could be characterised as weak, in Bohle and Greskovits' typology (2012), postponing or imposing reforms without domestic consent and locking the fragile economy into 'low-road' competitiveness policies.

The first economic reforms from 1991 implemented economic shock therapy and aimed at 'demonopolising' state-owned economic groups, liberalising prices and instigating massive economic restructuring. As an immediate result, unemployment rose quickly, there was massive emigration and a substantial part of the population fell into poverty. In the winter of 1996–1997 the country was facing financial collapse and street protests forced the neo-communist government to resign. Since then, stabilisation efforts have included the establishment of a currency board, agreements with the International Monetary Fund (IMF) and the World Bank and measures to ensure macroeconomic consolidation. Economic reforms have also included massive privatisation, as well as closure of enterprises in financial difficulties. This economic policy initially contributed to positive results in terms of growth and investor confidence, but at a high social price, namely rising poverty and unemployment. Economic growth resumed in 1998 and continued to 2008. The unemployment trend was reversed, falling from almost 20 per cent in 2000 to below 6 per cent in 2008. During the 2000s there was a massive inflow of foreign direct investment (FDI), reaching almost 33 per cent of GDP in 2007, benefiting many sectors of the economy and contributing to Bulgaria's dependence on multinationals (Delteil and Kirov 2016). In 2007 the country joined the EU, a long-term goal for Bulgarian political actors and society as a whole. From the beginning of the financial crisis, however, the economic situation in Bulgaria started to deteriorate for four or five years and then resumed growth in 2013.

The industrial relations system was emancipated from the Communist Party in 1990. It was subsequently shaped by the economic and political changes and in the context of tripartism, developed initially under the impulse of the International Labour Organisation (ILO) from 1990 and afterwards in the context of European integration and EU membership since 2007.

As illustrated in Table 4.1, collective bargaining in Bulgaria takes place between trade unions and employers' organisations at industry and company level. The most

Table 4.1 **Principal characteristics of collective bargaining in Bulgaria**

Key features	2000	2016
Actors entitled to collective bargaining	Trade unions and employers/employers' organisations	
Importance of bargaining levels	Bargaining at company and industry level. Company-level bargaining prevails	
Favourability principle/derogation possibilities	Very limited derogation possibilities (only in case of problematic financial situation)	Limited derogation possibility
Collective bargaining coverage (%)	40 (2002)	29 (2012)
Extension mechanism (or functional equivalent)	No	Yes, introduced in 2001 (but very rarely used in practice)
Trade union density (%)	26 (2002)	Around 15 (2012)
Employers' association rate (%)	N.A. (low)	50 (2012)

Source: Appendix A1, author's compilation based on data from Eurofound, ILO and NICA.

important bargaining level, however, is the company level. Even though in the ten years between 2002 and 2012, collective bargaining coverage decreased by 11 percentage points, at 29 per cent it is still fairly high compared with other central and eastern European countries. An important factor explaining the decline in collective bargaining coverage is the drop in union density from 26 per cent in 2002 to 15 per cent in 2012. For the employers' side there are no figures available for 2000, but in 2012 employer organisation density was about 50 per cent.

Industrial relations context and principal actors

Bulgaria's industrial relations system includes various tripartite structures (Iankova 2000) for national and sectoral social dialogue and collective bargaining structures at sectoral, industry and enterprise level and, in some cases, also at the territorial level (municipalities). National tripartite cooperation takes place within the National Tripartite Cooperation Council (since 1993), the Economic and Social Council (since 2001) and various tripartite governing or supervisory bodies within the employment and social security administration. Industrial tripartite cooperation takes place at (sub-)industrial councils under the umbrella of the respective ministries (in about 50 councils). Although trade union density and the impact of collective bargaining have decreased since the 1990s, bargaining coverage is still substantial in a number of industries and companies.

In addition to tripartite structures, Bulgarian industrial relations also include a dual system of employee representation. From the beginning of the transition process in the early 1990s until 2006, the only worker representation in enterprise union sections was by trade unions. With the harmonisation arising from transposition of the EU *acquis communautaire*, worker representation became a dual system. The role and scope of the second channel, the-so called 'employee representatives for information and consultation', is still marginal, however, because the establishment of these bodies is

Table 4.2 **Membership development of KNSB and CL Podkrepa**

	1992	1993	1997	1998	2003	2012
KNSB		1,426,057	850,000	607,883	380,000	275,762
CL Podkrepa	250,000			154,894	120,000	91,738

Source: National census.

not automatic and has to be triggered in accordance with Article 7 of the Labour Code. As regards collective bargaining, the principal actors are trade unions, employers' organisations and/or individual employers, which negotiate collective agreements. Bulgaria is characterised by trade union plurality. During the transition the Bulgarian trade union movement was dominated by two large confederations.[1] The main actors in the development of industrial relations on the trade union side were the reformed old social partners' structures and the newly created organisations. Two trade union confederations are of enduring importance. The Confederation of Independent Trade Unions of Bulgaria (Konfederatziata na nezavisimite sindikati v Balgaria, KNSB) is the largest confederation in Bulgaria. The membership of the confederation stood at about 250,000 in 2014. The Confederation of Labour (CL) 'Podkrepa' (Konfederatziata na truda 'Podkrepa') was formed on 8 February 1989 by a small group of dissidents. After the political changes in 1989 CL Podkrepa rapidly became the second largest trade union confederation in Bulgaria with a strong presence in all sectors and regions. According to the latest available data CL Podkrepa had about 91,738 members in 2012.

KNSB was established on the basis of the former communist union Balgarski profesionalni sauizi (BPS) (see Petkov and Thirkell 1991). It emancipated itself from the former Communist Party at the beginning of the transition, with a few exceptions, when particular political coalitions were supported. In late 1989, the membership of BPS was about four million (about 98 per cent of the labour force) because membership was quasi-obligatory (Gradev 2001). In February 1990, when KNSB was established, BPS's was already declining as many employees cancelled their membership.

Table 4.2 illustrates the continuous decline in KNSB's membership. In 1993 KNSB still had 1,426,057 members organised in 79 industrial federations and unions, which corresponded to 70 per cent union density. Four years later, in 1997, its membership had almost halved to 850,000 in 53 industrial federations with more than 11,000 trade union company sections. According to national census figures membership decline continued in the following years from 607,883 in 1998, to 380,000 in 2003 to reach 275,762 in 2012.

1. In addition to the two largest confederations, in different periods during the post-communist transition in Bulgaria, other unions were also recognised as being nationally representative, such as the National Professional Union (Natzionalen profsaiuz or NPS), the Association of Democratic Trade Unions (Assotziatziata na demokratichnite sindikati or ADS), the Commonwealth of Free Trade Union Organizations in Bulgaria (Obshnostta na svobodnite sindikalni organisatzii v Balgaria or OSSOB), the General Headquarters of Branch Trade Unions (Generalnata tzentrala na branshovite sindikati or GTBS), and 'Edinstvo' Independent Trade Union (Nezavisimiat sindikat 'Edinstvo'). Since the last census of 2012, however, the only two representative trade unions have been KNSB and CL Podkrepa. The other trade union confederations no longer exist or are marginal.

CL Podkrepa, the second largest trade union confederation, was initially part of the democratic opposition in Bulgaria and one of the founders of the Union of Democratic Forces (Saiuz na demokratichnite sili, SDS). Since 1992 it has been politically neutral or has supported centrist parties. According to CL Podkrepa leaders, at the time of its creation the laws were very 'liberal' with regard to trade unions (Kirov 2005) and it was able to obtain official status and operate legally. During the initial period of CL Podkrepa (1989–1991) it was very difficult to distinguish its trade union activities, as it functioned rather as a political movement. Even its initial demands were more political (free movement of persons within the country) than trade unionist. The membership of CL Podkrepa was fairly limited before 11 November 1989. It started to grow rapidly at the end of 1989 to reach about 250,000 members in 1992. After 1992, CL Podkrepa membership began to decrease. One of the explanations given by the leaders of the organisation was that in its first years CL Podkrepa was also a strong political movement and the decrease started when it turned into an 'authentic' union (Kirov 2005). As Table 4.2 shows, in 1998, CL Podkrepa had 154,894 members. Subsequently, membership declined further, to 120,000 members in 2003 and 91,738 in 2012 (see Table 4.2).

Trade union membership declined significantly in the early years of transition. The decline continued at the beginning of the twenty-first century for various reasons, including high unemployment, privatisation followed by restructuring, employers' anti-union behaviour, especially in private companies, where union leaders were sacked, and lack of trust in trade unions (Kirov 2005). In addition, unions are rarely present in the huge number of SMEs that came into being (Illessy *et al.* 2007). There are different explanations of why membership stabilised. Large-scale privatisation and restructuring ended in the 1990s, while the economic boom in the mid-2000s led to labour shortages, thereby boosting trade union bargaining power. At the same time trade unions started to develop more successful unionisation strategies. Trade union membership resumed its decline from 2012, however. According to ILO data, overall trade union density has decreased continuously. Whereas in the early transition period union density was very high, recent figures from the ILO Industrial Relations database (ILO 2018) suggest that it was only 13.7 per cent in 2012. Behind the overall density figures, however, there are major differences between industries. According to the Eurofound representativeness studies, in 2011 trade union density in education was 56.7 per cent (Eurofound 2011a) and in 2009, even 57.8 per cent in the steel industry (Eurofound 2009), but it was very low in banking in 2011, at 4 per cent (Eurofound 2011b) and only 7.5 per cent in textiles and clothing (Eurofound 2013). In general, trade union presence is higher in the public sector (education and health care) and in few manufacturing industries, such as metal, chemicals and mining, where existing companies were privatised, but very low in the rest of manufacturing, services and construction.

Compared with the trade union movement, pluralism is much more prominent on the employers' side. Since the last Census of 2016, five organisations have been nationally representative. The successors of the old structure of managers of state-owned companies, the Bulgarian Industrial Association (Balgarskata stopanska kamara, BSK) and the Bulgarian Chamber of Commerce and Industry (Balgarskata targovsko-promishlena palata, BTPP) co-exist with the more recently established organisations, such as the Confederation of Employers and Industrialists in Bulgaria (Konfederaziata

na rabotodatelite I industrialzite v Balgaria, KRIB), claiming to represent a significant part of GDP and employment, or the Association of Industrial Capital in Bulgaria (Assoziaziata na industrialnia capital v Balgaria, AIKB), representing the former mass privatisation funds. From early 1990 until 2012, two organisations of small businesses, the Union for Economic Initiative (Saiuzat za stopanska initziative, SSI) and the Union of Private Employers 'Renaissance' (Saiuzat na chastnite predpiremachi 'Vazrajdane') were active employers' organisations and recognised as nationally representative. Since 2016, SSI has again been recognised as nationally representative. Until 2012 a company could be a member of more than one employers' organisation, but the rules were changed and now only one membership is permissible. At industry level both the organisational structure and the attitude of employers' organisations make collective bargaining difficult. In some industries, there are no employers' organisations with which trade unions can negotiate. In other cases, employers' organisations exist at industry level, but are not willing to negotiate and, as in other countries in the region, their role is limited to business representation and lobbying. In recent years, the prevailing attitude of employers is to skip joining employers' associations or not to authorise them to conclude sectoral/industry agreements. The latter is the case not only among local employers, but also large multinational companies, often from countries with a strong bargaining tradition, such as Germany or Belgium.

Extent of bargaining

Overall collective bargaining coverage is fairly low in Bulgaria compared with the EU average, but still stands among the highest in central and eastern Europe. There are different estimations of bargaining coverage, between 20 and 30 per cent (ETUI 2016), for recent years. Probably the most reliable data come from the *Structure of Earnings Survey* for 2014, which estimates collective bargaining coverage for this year at 27.55 per cent. The latest data provided by the National Institute for Conciliation and Arbitration (NICA 2017) suggest that the number of collective agreements has been slowly decreasing in recent years. In 2016, there were 1,658 active collective agreements at company level covering a total of 247,426 employees, which amounts to coverage of approximately 11 per cent. Most agreements were signed in the public sector. Only 12.2 per cent of all collective agreements active in 2016 were in the private sector, covering 32.1 per cent of all covered employees.

Collective bargaining can take place only between trade unions and employers and their representatives. At sector/industry level, trade union organisations and employers' organisations have to be affiliates of the respective nationally representative organisations.[2] At enterprise level other trade union organisations that are not members of the nationally representative organisations can also take part in collective bargaining. Drafts of collective agreements are prepared by workers' organisations. If a collective agreement is concluded at the sectoral or industry level between all representative organisations of employees and employers within the sector/industry, the Labour Code provides for, upon their joint request, the Minister of Labour and Social Policy to extend

2. Five employers' organisations and two trade unions have been granted national representativeness.

the agreement or certain individual provisions thereof to all enterprises in the sector or industry. The General Labour Inspectorate runs the collective agreement register, containing information on decisions to extend industry-level agreements. Between 2001 and 2011 the option to extend collective agreements was not used because of employer-induced government opposition to the principle of extension. This situation changed in 2011 when the trade unions campaigned to promote extension in anti-crisis agreements. Hence, after May 2011 five agreements were extended in industries such as mining, beer brewing and water supply (Kirov 2011). Since 2016, however, the extension mechanism has not been used.

In addition to bargaining for collective agreements, in Bulgaria there is also bargaining on the so-called 'minimum insurance income' (MII),[3] which is used as a basis for calculating the minimum social security contributions for the nine professional categories for each economic activity.[4] If the social partners at industry level cannot reach agreement on the MII, they are set administratively by the Ministry of Labour and Social Policy. In 2016, 2017 and 2018, employers' organisations withdrew from the negotiations on setting the MII. While the government sets the monthly minimum statutory wage, higher minimum wage levels could be negotiated at industry level, although this rarely happens in practice, or company level.

The continuous decrease of collective bargaining coverage in Bulgaria reflects the gradual decrease of trade union and employer organisation density rates. As in other central and eastern European countries, the reason for weak sectoral/industry bargaining is the organisational weakness of the industry-level organisations. Within trade unions, industry-level federations are often badly funded and staffed, unable to mobilise employees in the industry as a whole. At company level, collective bargaining can be hindered by particular employers' anti-union activities.

Security of bargaining

Security of bargaining refers to the factors that determine trade unions' bargaining role and their involvement in regulating the employment relationship. The initial development of the post-communist industrial relations system in Bulgaria was characterised by numerous conflicts at national, sectoral and enterprise level. In the turbulence of the early transition, there was an explosion of conflicts, protests, movements and demonstrations. There were many national and sectoral strikes, especially between 1990 and 1995. Often these conflicts were neither purely political nor purely economically motivated: in general, redundancies and wages were the central issues.

Concerning trade union involvement in the regulation of the employment relationship, three factors play an important role in Bulgaria: first, the Labour Code as the basis for

3. https://bit.ly/2MN7uVj
4. In some cases MII can also serve as industry-level minimum wages as for instance in the brewing industry - http://www.ssi-bg.net/storage/pdf/Inovacii_kolektivno_dogovarjane.pdf

the trade unions' bargaining; second, trade union involvement in tripartite structures that define the 'rules of the game' for collective bargaining; and third, their capacity to mobilise their membership and the wider public for protests and other forms of collective action. The second and third elements of the trade unions' repertoire of action often go hand in hand in order to put pressure on the employers' side and policymakers. In some cases strikes and protests even brought down the government.

The trade unions' involvement in tripartite structures can be traced to the beginning of the transition period, with the establishment of the National Council for Social Partnership in July 1992. In 1993, labour legislation was modified and the Labour Code officially included the principle of tripartism. In this year, the National Council for Tripartite Cooperation (NCTC), the new name of the national consultative tripartite body, functioned relatively well because of the cooperative attitude of the government. The social partners agreed with the government, for instance, to repeal some decisions on shock price increases. In November 1993, KNSB and BSK signed a Framework Collective Bargaining Agreement for 1994. This bipartite agreement stated that national collective bargaining would have a framework character, setting rules, while the real bargaining would take place at industry and enterprise levels.

In the period 1997–2000, trade unions participated in working groups dealing with proposals for further amendments to the Labour Code, shaping the new rules for collective bargaining, These includes the introduction of a maximum two-year period for collective agreements, the possibility of extending industry-level collective agreements and stricter criteria for representativeness. According to the social partners at national level, in recent years there has been 'real partnership' and they have been actively involved in the preparation of legislation on labour and social issues (Kirov 2005). One example of such participation was the revision of the Labour Code (2001), which was evaluated as well-balanced by both social partners.

Interestingly, in 1997–2001, in the first years of Bulgaria's currency board arrangement,[5] which still operates in the country, industrial action declined considerably. Social dialogue improved during this period, but the currency board left unions with little room to manoeuvre and it was not until 2003 that union mobilisation began to recover, despite the severe consequences of the restrictive currency board policies for workers.

In the period after 2001, the main trade union confederations, KNSB and CL Podkrepa, continued their work in the NCTC and the sectoral tripartite bodies, even if the National Movement 'Simeon II' (now known as the National Movement for Stability and Progress) government initiated some legal amendments, which limited strained the scope for social partner participation: for example, the new Employment

5. Under a currency board arrangement a national currency (central bank monetary liabilities) is required to maintain a fixed exchange rate with a convertible foreign (reserve) currency. The currency board in Bulgaria was introduced by the new Law on the Bulgarian National Bank of 10 June 1997. The currency board arrangement was adopted after several inconclusive attempts to stabilise the economy in 1991–1996 and a major financial crisis, which culminated in a short-lived hyperinflationary episode in December 1996–February 1997. See Avramov, R. (1999), The role of a currency board in financial crises: the case of Bulgaria, Publications Division, Bulgarian National Bank. http://www.bnb.bg/bnbweb/groups/public/documents/bnb_publication/discussion_199906_en.pdf

Promotion Act abolished the tripartite consultation body, envisaged in the previous legislation.

The legislative changes of 2001 envisaged the possibility of concluding national collective agreements. The role of such agreements was to set the rules and framework for collective bargaining at industry and enterprise level. In spring 2002, however, the negotiations for a national agreement failed because of the employers' organisations' resistance. Despite repeated attempts by the unions to revive national-level bargaining this level of bargaining has remained dormant. The trade union confederations presented a proposal that the employers' organisations rejected because they did not want to commit to any concrete parameters at national level.

In 2003–2004, the unions organised various nationwide protests against a government proposal to flexibilise labour protection regulations and implement restrictive wage policies. In the period 2003–2008, national social dialogue focused on Bulgaria's EU integration, including harmonisation of national labour legislation with the *acquis communautaire* in 2006, preparations for the structural funds and the need for a qualified labour force. In this period the macroeconomic situation was quite favourable. Social cooperation was formalised in the Pact for Economic and Social Development until 2009, signed by the government and social partners in 2006. This Pact laid down a range of social and economic policy measures.

Social dialogue in Bulgaria was strongly affected by the financial and economic crisis of 2008. There was an intensification of social dialogue at national level, which besides the crisis was influenced by the new government of Boyko Borissov's populist centre-right GERB party from July 2009. Anti-crisis measures were being discussed as early as autumn 2009. In April 2010, after continuous discussions, the social partners agreed on 60 measures to combat the crisis. The measures on employment and households were agreed mainly as a result of pressure from the trade unions, although they were largely supported by the employers. The most important of these provisions include raising the minimum wage; introducing a set of measures funded under the Operational Programme for Human Resources Development and the state budget aimed at preserving employment in companies experiencing difficulties; and asserting the right of the Minister of Labour and Social Policy to extend industry-level collective agreements to all companies in the respective industry or sector and encouraging bipartite negotiations.

The legal regulation of teleworking was incorporated in labour legislation for the first time. The involvement of the social partners in the formulation of public measures against the consequences of the crisis was more significant, especially in 2009–2010. In this period it seems that the exigencies of the crisis led to a closer involvement of the social partners beyond their traditional institutional role. After 2011, however, social dialogue was again hampered by various unilateral government decisions, particularly the increase of the retirement age to 65 years for men and 63 for women. This led observers to affirm that the anti-crisis measures were a kind of PR tripartism (Bernaciak 2013) aimed at providing government decisions with a certain legitimacy. According to Bernaciak (2013), this inclusion of the social partners could be interpreted as an attempt

to take a wider range of views into account in a context of uncertainty and electoral volatility. The crisis allowed the social partners to become involved in decision-making and anti-crisis measures and to achieve a number of important outcomes, such as the extension of industry-level collective agreements.

In 2013 the first Borissov (GERB) government resigned after mass protests against the increase in electricity prices. The unions did not take part in these spontaneous popular actions, however. The coalition government of the Bulgarian Socialist Party (BSP) and the Movement for Rights and Freedom (DPS) early on took a number of unpopular measures and already in autumn 2013 trade unions organised protests and a national strike. In 2014 the Oresharski government resigned and a four-party coalition government, led by GERB, was established in November 2014. Social dialogue continued to focus on pension reform; wages, especially the minimum wage; and, to some extent, on ongoing reforms in the energy sector and health care.

Since then there have been some strikes and protest movements in mining and in large public companies threatened by restructuring and job cuts, such as Bulgarian railways (BDZ) or military production plants. NICA maintains its own register of collective labour disputes, which is not representative. The register suggests continuous growth in the number of registered collective labour disputes since 2012, but a decline in the number of registered effective strikes in 2014. According to the NICA register, in 2015 there were 24 collective labour disputes, three of which counted as effective strikes (Markova 2018).

Level of bargaining

The ILO and other international organisations supported the institutionalisation of collective bargaining in Bulgaria in the early 1990s. The system adopted reflected the principles of tripartism, with a top-down structure: decisions taken at national level lay the basis for industry-level agreements, which, in turn, are supposed to form a basis for enterprise-level dialogue. The principles of tripartite negotiation have not always been observed by successive governments since 1989, although tripartite institutions have existed formally (Kirov 2005). During the post-communist period, one may distinguish periods of 'partnership', periods of 'formalism' and periods of 'open conflict'.

According to the Labour Code, collective agreements in Bulgaria are concluded at enterprise, industrial/sectoral and municipal level. At the first two levels, only one collective agreement can be concluded. As regards the issue of quality of work, industry-level agreements usually only provide a general minimum floor, which in most cases is not higher than the legal provisions. The social partners at company level can negotiate more favourable clauses for better working conditions in a company-level collective agreement. At the municipality level collective agreements are concluded in areas financed from municipal budgets, such as education, health care and social services.

Since 2001 the Labour Code has provided for national collective agreements; in other words, agreements between national organisations setting out general principles,

framework regulations and procedures in the sector and industry collective agreement. No such agreement has been concluded, however, and industry-level collective bargaining has developed without such guidelines.

The amendments to the Labour Code, in effect since April 2001, as well as the privatisation of the entire economy, have changed the situation with regard to collective bargaining. The amendments provide for an option to conclude a collective agreement at the level of the sector-/industry or the enterprise for a term of one year, unless provided otherwise, but not exceeding two years. In this sense, collective bargaining has become a 'continuous process', unlike in the years before 2000, when a lot of agreements were concluded in the 1990s and afterwards amended solely by annexes (Kirov 2005; Kirov 2018). According to labour legislation, the negotiation of a new collective agreement shall start not later than three months before the current collective agreement expires.

Despite the improved conditions for industry-level collective bargaining provided for by the new Labour Code, the most important level of collective bargaining in Bulgaria is the company level. Collective bargaining at enterprise level started in the early 1990s. At that time, trade unions were developing previously non-existent bargaining skills, and already by the mid-1990s an ILO study indicated that experience had been accumulated in this area (Aro and Repo 1997). Meanwhile, the almost completed privatisation of Bulgarian industry changed the composition of corporate ownership. Whereas in the 1990s enterprises were run by managers appointed by the relevant government ministry, since the end of the decade they have had private owners. In parallel with the 'known' owners, according to the trade unions there are a number of scarcely identifiable ones and negotiations may be hampered by the fact that an enterprise's formal managers may not be authorised to make decisions (Kirov 2005). The lack of 'homogeneity' within one and the same industry contributes to the existence of considerable differences in terms of remuneration and social benefits. More positive collective bargaining outcomes tend to be found at enterprises owned by multinational companies (ISTUR 2008), although some enterprises acquired by domestic investors also exhibit good practices. At the same time, during the transition many enterprises faced an uncertain future, developing only short-term strategies or merely trying to survive. Collective bargaining can be extremely difficult in such circumstances.

Depth of bargaining

Depth of bargaining refers to the involvement of local representatives of labour and management in the formulation of claims and the implementation of collective agreements. Depth of bargaining thus concerns the internal processes through which unions formulate their claims. There has not been much research on trade unions' formulation of bargaining goals and their validation of bargaining outcomes in Bulgaria (Kirov 2005).

Trade union organisation in Bulgaria is centralised. This centralisation co-exists with fragmentation, especially in KNSB, with parallel federations in many industries. The

existence of industry-level collective agreements and instructions and advice from industry-level federations partly shape collective bargaining at company level.

As signatories of collective agreements trade unions have to ensure compliance. In some industries and companies bipartite committees have been established for this purpose. Usually, collective agreements are not validated by trade union members.

According to the law, trade union organisations are supposed to jointly draft a new collective agreement and start negotiations. If they are unable to reach an agreement, the legislation envisages that the employer concludes a collective agreement with the trade union organisation whose draft has been adopted by an employees' general assembly (or at a meeting of elected employee representatives, also known as proxies) by an absolute majority (Labour Code, Art. 51 a. 3). No research is available to indicate whether this legal possibility has ever been applied in practice.

Strikes are part of the negotiation process, but since the end of the 1990s strikes have been rare in Bulgaria and take place mainly in the public sector, as illustrated by the teachers' strike during 2007. In September and October teachers went on strike for about 40 days in pursuit of higher wages. The strike was successful and as a result teachers' wages increased by 18 per cent. The strike by the railway workers was one of the longest in the recent history of the Bulgarian union movement, lasting from 24 November 2011 to 18 February 2012. The outcome was no job cuts for thousands of workers and the conclusion of a collective agreement. There are no comprehensive data about strikes in Bulgaria. According to the European Company Survey (ECS) (2013), in the period 2010–2013 only 5 per cent of all private sector companies reported strikes of one day or more.

Degree of control of collective agreements

The degree of control of collective agreements refers to two dimensions: first, the extent to which the actual terms and conditions of employment correspond to those originally agreed by collective bargaining; and second, the process of monitoring and enforcing compliance with collective agreements. The later also includes procedures to deal with different interpretations of agreements, such as arbitration procedures.

In Bulgaria, collective agreements are in force for up to two years. If no new agreement is reached the old one expires. In this case only the Labour Code applies. There are some exceptions, however, for instance when the employer changes. In these cases (under Art. 123 and 123a of the Labour Code), the existing collective agreement shall remain in effect until the conclusion of a new one, but for no longer than one year from the date of the change of employer.

In general, collective agreements apply only to the members of the signatory parties. At company level, employees who are not members of a trade union that is party to the agreement may accept the terms concluded by their employer by applying in writing to them or to the leadership of the trade union that concluded the agreement, under

conditions and by an order determined by the parties to the agreement (Labour Code). In practice the trade unions that signed a collective agreement prefer to levy a fee for joining the agreement, but such a clause is not always accepted by the employers.

The collective agreement shall be concluded in writing in triplicate, one copy for each of the parties and one for the labour inspectorate, and shall be signed by the parties' representatives. The collective agreement shall be recorded in a special register at the labour inspectorate where the employer's registered office is located. Collective agreements of an industry-wide or national significance shall be registered with the General Labour Inspectorate Executive Agency.

According to the Law on Collective Labour Dispute Resolution, collective labour disputes are settled through direct negotiations between workers and employers or between their representatives in a procedure freely determined by the negotiating parties. In the case of collective labour conflicts related to the application of collective agreements there are mediation and arbitration mechanisms provided by the National Institute for Conciliation and Arbitration (NICA). The mediation and arbitration processes involve mediators or arbitrators assigned by NICA from a list of 36 to carry out the procedure. The outcome is binding for the parties only if this was included in the collective agreement. If that is not the case, the outcome could be challenged in court.

According to the law, failure to comply with the collective agreement can be taken before a court by the parties to it, as well as by any employee to whom the collective employment contract applies. In Bulgaria there are no specialised labour courts.

Scope of agreements

In Bulgaria, the Labour Code does not define the scope of collective agreements. Usually, they include a procedural part that covers the following: contractual parties, date of entry into force, termination, detailed regulation of the bargaining process, validity of the agreement with regard to employees covered and time horizon and the structure of cooperation between the contracting parties, for example, bipartite structures. As regards content, both industry and company-level agreements cover a wide range of issues, such as employment conditions, pay levels, health and safety, training and trade union activities. Industry-level agreements only rarely contain concrete parameters and therefore serve mainly as framework agreements. Since 2000 the scope of collective agreements has widened, including new items such as improved information and consultation. According to KNSB analyses of collective bargaining for 2010 (KNSB 2010), some industry- and company-level agreements provide for a wider scope of information and consultation on the issues presented in Table 4.3.

Other new 'qualitative' issues covered by, for instance, the metals collective agreement signed on 16 April 2013 by the Bulgarian Association of the Metallurgy Industry and the trade union federation 'Metalicy', KNSB and the Metallurgy union affiliated to CL Podkrepa include monitoring of the labour market, employees with disabilities and the development of competitiveness.

Table 4.3 **Issues for which some collective agreements provide wider scope of information and consultation**

Issue	Industry
Application of new technologies and restructuring	Metallurgy, mechanical engineering, woodworking and furniture, pulp and paper, textiles
Investments	Metallurgy, brewing, woodworking and furniture, paper
Labour mobility and new jobs for people with disabilities	Metallurgy
Financial situation of enterprise	Textiles, wood and furniture, pulp and paper, metallurgy, mining
More favourable deadlines for information and consultation in case of mass dismissals than foreseen in legislation	Metallurgy, engineering, woodworking and furniture, pulp and paper, forestry, brewing

Source: KNSB 2010.

Conclusions

While it is still in fairly good shape compared with other central and eastern European countries, collective bargaining in Bulgaria has been eroding for some time. The case of Bulgaria illustrates the EU's limited power to structure industrial relations systems and collective bargaining practices (Delteil and Kirov 2016). More concretely, collective bargaining addresses two major obstacles: resistance to and reinterpretation of exogenous rules by local actors, whose original strategies (aimed especially at institutional or political survival) were often far from consolidating Community social regulation; and the ambivalence of European governance, whose flexible rules on industrial relations are sometimes contradicted by the mandatory rules favouring economic competitiveness (Meardi 2016) and increasingly support the neoliberal agenda of international institutions and foreign investors.

Collective bargaining in Bulgaria developed at industry and, most importantly, enterprise level. Bargaining coverage is limited, in the best case standing at about 30 per cent, leaving many workers outside negotiated regulation. Extension mechanisms were applied for a short period at the beginning of the 2010s, but since have fallen into abeyance. The introduction of a second channel of representation since 2006 has had only limited results. The eroding collective bargaining in Bulgaria reflects the falling trade union membership and union weakness in many industries and companies. In addition, employers' attitudes to bargaining are not positive; some of them avoid membership of organisations or do not authorise those organisations to validate collective agreements at industrial/sectoral level. Collective bargaining is present in a number of strongholds, however, mainly in the public sector and heavy industry.

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All links were checked on 15 January 2019.

Abbreviations

ADS	Assotziatziata na demokratichnite sindikati (Association of Democratic Trade Unions)
AIKB	Assoziaziata na industrialnia capital v Balgaria (Association of the Industrial Capital in Bulgaria)
BDZ	Balgarski darzhavni-zheleznitzi (Bulgarian Railways)
BSK	Balgarskata stopanska kamara (BSK) (Bulgarian Industrial Association)
BSP	Balgarska sotizalisticheska partia (Bulgarian Socialist Party)
BTPP	Balgarskata targovsko-promishlena palata (the Bulgarian Chamber of Commerce and Industry)
DPS	Dvijenie za prava I svobodi (Movement for rights and freedom)
GERB	Grazhdani za evropeisko razvitie na Balgaria (Citizens for European Development of Bulgaria)
GTSB	Generalnata tzentrala na branshovite sindikati (General Headquarters of industrial trade unions)
ILO	International Labour Organisation
IMF	International Monetary Fund
KNSB	Konfederatziata na nezavisimite sindikati v Balgaria (Confederation of Independent Trade Unions of Bulgaria)
KRIB	Konfederaziata na rabotodatelite I industrialzite v Balgaria (Confederation of Employers and Industrialists in Bulgaria)
NSE	Nezavisimiat sindikat 'Edinstvo' ('Edinstvo' Independent Trade Union)
NICA	National Institute for Conciliation and Arbitration.
NPS	Natzionalen profsaiuz (National Professional Union)
OSSOB	Obshnostta na svobodnite sindikalni organisatzii v Balgaria (Commonwealth of Free Trade Union Organizations in Bulgaria),
SSI	Saiuzat za stopanska initziative (Union for Economic Initiative)
SDS	Saiuz na demokratichnite sili (Union of Democratic Forces)

Chapter 5
Croatia: stability amidst heterogeneous collective bargaining patterns

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It is difficult to describe the main features of the collective bargaining system in the Republic of Croatia because there is no uniform collective bargaining system. There is no dominant pattern of collective bargaining regarding the level at which it is conducted, collective bargaining cycles, the content of collective agreements and the relationship between agreements concluded at different levels. Instead, at least three different patterns of collective bargaining can be identified. The first is characterised by collective bargaining that takes place exclusively at industry level, without additional agreements at lower levels. In this pattern, which predominates in the public sector, including education, health care and state administration, wage provisions are not strictly defined. The second pattern is characterised by bargaining at industry and company level. It is found primarily in construction and tourism, in which, in addition to industry-level agreements concluded by industry-level trade unions and employers' organisations, company collective agreements are signed in a large number of companies. The third pattern is characterised by bargaining at only the company level. It is present in public and private companies outside sectors with a tradition of industry-level collective bargaining.

The main characteristic of collective bargaining developments over the past 15 years, as set out in Table 5.1, is their relative stability despite several challenges such as the global economic and financial crisis starting in 2009 and, not least, the country's accession to the EU in July 2013. With the exception of a few industries, collective bargaining patterns in the economy as a whole did not change between 2000 and 2016. One exception is the retail industry, in which collective bargaining 'moved' from the second pattern of multi-level bargaining to the third pattern of decentralised company-level bargaining. This change in the retail industry largely explains the decrease in collective bargaining coverage, from approximately 65 per cent in 2000 to 53 per cent in 2016. The overall stability of collective bargaining in Croatia for the past couple of decades is due mainly to the consolidation of the main industrial relations actors and the country's economic structure after dramatic changes during the transition period in the 1990s. As illustrated in Table 5.1, between 2000 and 2016, the density of employers' associations remained roughly the same and, even though union density declined from just under 40 per cent in 2000 to below 25 per cent in 2016, it is still the highest in all the post-communist countries (see Appendix A1.H).

Table 5.1 **Principal characteristics of collective bargaining in Croatia**

Key features	2000	2016
Actors entitled to collective bargaining	Trade unions and employers or employers' associations	Trade unions and employers or employers' associations
Bargaining levels	There is no uniform system; it differs by sector. In the public sector negotiations take place at sectoral or company level, while in the majority of private sector firms negotiations take place at company level	
Favourability principle/derogation possibilities	Yes. Favourability principle is absolute, there is no possibility to derogate rights at lower level	
Collective bargaining coverage (%)	≈65	53
Extension mechanism (or functional equivalent)	Yes, by decision of minister of labour, if both sides request it	Yes, by decision of minister of labour, if test of public interest is positive
Trade union density (%)	≈38	<25
Employers' association density (%)	≈50 per cent of employees in the private sector work in companies that are a member of an employers' association	

Sources: Bagić (2013).

Industrial relations context and principal actors

The characteristics of the collective bargaining system in the Republic of Croatia today were established relatively gradually in the period from 1990 until 2000. The main reasons for the relatively long formation process are to be found mainly in the economic and political transition, which was strongly affected by the war of independence ('Homeland War') and its consequences,[1] and by the authorities' focus on nation-building during the transition process. The first Labour Act (Zakon o radu, ZOR), which defined the employment relationship as a contractual and market relationship between a worker and an employer, came into force as late as early 1996: that is, more than five years after the formal abandonment of the socialist system.

Collective bargaining had begun before the adoption of the Labour Act, which regulated that area in detail. In September 1991 the democratically elected government and the three trade union confederations signed the first agreement, which can be considered the framework collective agreement.[2] This agreement set the framework for the conclusion of general national collective agreements, which regulate workers' financial and other rights. The first general national collective agreement for employees in private and state-owned companies was signed in July 1992. It defined the rules for harmonising wage developments in accordance with inflation, which in 1992 stood at 938 per cent on an annualised basis. In October 1992 a similar agreement was signed for public and state employees: for example, schools, hospitals, police and state administration. In

1. It has to be borne in mind that around one-third of national territory was occupied and significant parts of it were directly affected by the war, which had devastating consequences for the economy and the labour market. The Croatian authorities established full control over the whole territory only as late as in 1998.
2. At that time, the majority of the economy was still state-owned and privatisation was still not implemented on a large scale. Therefore, the government was an indirect employer to the majority of the workforce. Mass privatisation started in 1994.

principle, the conclusion of the two agreements regulated the basic rights of almost all workers in Croatia and the formal coverage of the two collective agreements was over 90 per cent.[3] The conclusion of the general collective agreement also created the conditions for the conclusion of collective agreements at industry level. In the next couple of years, a dozen industry-level collective agreements were signed. In the early phase of the transition therefore a centralised and coordinated system of collective bargaining was established, similar to the one in Slovenia (Stanojević 2003; see Chapter 26). From the mid-1990s, however, a more decentralised and uncoordinated system emerged. The main forces behind this significant shift in the model of collective bargaining compared with the early phases of the transition period can be found in trade union fragmentation and significant changes in the structure of the economy in the second half of the 1990s. In particular the latter involved changes in the relative importance of different sectors and in the share of medium-sized and large companies. Several very important industries, such as metal and garments, almost disappeared in this process. At the same time, a significant number of large companies were eliminated or fragmented, and numerous small businesses opened. The far-reaching deindustrialisation and the rise of SMEs changed the economic context of industrial relations. The processes behind those changes in the economic structure were the war, a deep economic crisis and 'tycoon' privatisation.[4] After economic turbulence during second half of the 1990s, the structure of the economy stabilised. Today, the structure of the Croatian economy is aligned with that of other developed and medium-developed countries. This means that most economic activity and employment are concentrated in services, which accounts for about 66 per cent of employment, with a particularly high share in tourism; followed by industry, which comprises about a quarter of employment; while agriculture accounts for only about 7 per cent of employment.

On the other hand, the industrial relations cast of characters has been relatively stable since the mid-1990s. As regards trade unions, the main feature is the high level of fragmentation, initially based on ideological lines between new unions and reformed socialist unions and later by the establishment of company-level unions. In the early years of transition, more than 100 new trade unions were established, making a total of about 630 unions by 2016. The majority of these trade unions are company-level trade unions. As industry-level trade unions, most of the former socialist trade unions survived, transformed into modern trade unions. Industry-level and company unions are organised in four national union confederations: the Union of Autonomous Trade Unions of Croatia (Savez samostalnih sindikata Hrvatske, SSSH), the Independent Trade Unions of Croatia (Nezavisni hrvatski sindikati, NHS), the Association of Croatian Trade Unions (Matica hrvatskih sindikata, MHS) and the Croatian Association of Workers' Unions (Hrvatska udruga radničkih sindikata, HURS). The trade union confederations

3. In formal and legal terms, the only two sectors not covered by the two collective agreements were crafts and agriculture. Those two sectors were dominated by self-employment and so the vast majority of dependent employees were formally covered by the two general collective agreements.

4. 'Tycoon privatisation' is a term often used in scholarly and general public discourse to describe the dominant model of privatisation in Croatia and some other South-East European countries. The model implies the concentration of ownership of companies in the hands of a small number of individuals who are close to the political establishment and gained ownership under suspicious circumstances. Individual tycoons have concentrated ownership in various industries without clear synergy and intent mainly on extracting wealth from these companies in as short a time as possible (for example, by selling real estate and machinery) (Županov 2001).

do not have a direct role in collective bargaining, but through their involvement in tripartite social dialogue they exert influence on the legislation regulating collective bargaining.

In contrast, the employers' side is highly consolidated. Since 1993 there has been only one' association, the Croatian Employers' Association (Hrvatska udruga poslodavaca, HUP), which affiliates employers' industry-level and interest representing associations. Because industry-level negotiations exist only in two or three sectors, HUP and the majority of its industry-level associations are not involved in collective bargaining and focus mainly on lobbying for business interests within tripartite social dialogue.

Extent of bargaining

According to the most recent available data (end of 2014), the rights of about 650,000 workers in the Republic of Croatia are regulated by one or several collective agreements, which gives a bargaining coverage of around 53 per cent (Bagić 2016). There is, however, great variation in the level of coverage depending on type of employer and predominant ownership. The highest collective bargaining coverage (88 per cent) is in the public sector, including state and local administration and public services, such as public education, health care and culture. In public companies that are in majority ownership of the state or local and regional self-administrations, the collective bargaining coverage is around 75 per cent. Bargaining coverage in private companies is considerably lower, amounting to only about 36 per cent. Nevertheless, there are also considerable differences within the private sector depending on the industry and the size of the company.

With regard to industry, collective bargaining coverage ranges from 100 per cent in construction and catering and tourism to only 2 per cent in the sector of expert, scientific and technical activities. The complete coverage in construction and catering and tourism is due to industry-level collective agreements, which have been extended to all workers and employers by a decision of the labour minister. In manufacturing industry coverage is around 39 per cent, while in retail it is considerably lower, at a

Table 5.2 **Bargaining coverage by ownership sector, 2014**

Sector	Coverage
Public administration and services	88.3%
Central government	100.0%
Local government	17.7%
Public enterprises	74.8%
Central government owned	77.5%
Local government owned	67.4%
Private employers	35.5%
Total	52.8%

Source: Bagić (2016).

mere 8 per cent. Coverage in banking and finance is above average for the private sector, at around 36 per cent.

Given that there is no settled system for monitoring data on collective bargaining coverage, it is not possible to ascertain trends. The last comprehensive analysis was done in 2009 and yielded overall coverage of around 61 per cent (Bagić 2010), which means that in the five-year period from 2009 until 2014 there was a substantial decrease of collective bargaining coverage of 8 percentage points. The main reason for this decrease was the cancellation of the industry-level agreement for retail, which was extended to all workers in the sector.[5] Because the retail sector employs around one-sixth of the total workforce, the cancellation of that industry-level collective agreement decreased overall coverage significantly. The second important factor explaining the negative trend are the negative employment effects of the economic crisis in construction and catering and tourism, the two sectors with 100 per cent coverage.

As a regular practice, industry-level collective bargaining has been established only in some industries, and there are structural obstacles to greater coverage at the industry level, on the side of both trade unions and employers. As regards trade unions, the key reasons are the highly fragmented union structure and the fact that company-level trade unions predominate. Industry-level unions exist only in those areas that were developed during socialism, and only in some of these areas was industry-level collective bargaining retained. The main structural obstacle to the development of industry-level collective bargaining on the employers' side is the fact that different industry-level employers' associations use different definitions of the 'industry of activity'. This leads to a lack of coordination and mismatch between trade unions and employers' associations as regards their organisational domain, which hinders the establishment of any kind of social dialogue at industry level, and especially of collective bargaining.

Another explanation for the significant sectoral variation in collective bargaining coverage are the sectoral differences in trade union density. According to the most recent research (from 2014) overall trade union density in the Republic of Croatia was 26 per cent, although with significant differences depending on type, sector of activity and size of employer (see Table 5.3).[6] Trade union density in the private sector varies considerably depending on company size and area of activity. In large companies, union density is higher than 30 per cent, in medium-sized companies around 15 per cent and in small companies significantly below 10 per cent.

The administrative extension of collective agreements to all employers in an industry plays an important role in collective bargaining coverage, especially in the private sector. At the end of 2014, the two extended industry-level collective agreements, in construction and catering and tourism, formally applied to approximately 140,000

5. According to the Labour Act (Official Gazette No. 93/2014), the labour minister may extend a collective agreement if so demanded by all the signatories to the collective agreement. The decision to extend the collective agreement to those employers that are not members of the employers' association which signed the collective agreement is based on the minister's judgement of whether extension is in the public interest.

6. The results of the author's unpublished research carried out on a nationally representative sample of 2,000 respondents.

Table 5.3 **Union density by sector, 2014**

Sector	Coverage
Public administration and services	45.9
Public enterprises	52.8
Private sector	11.5

Source: author's unpublished research.

workers. This was about 50 per cent of the private sector workforce covered by collective agreements. Although the extension mechanism still plays a relatively important role, its significance has decreased over time. Ten years ago, at least six industry-level agreements were extended, including the collective agreement for retail. The number of extended agreements decreased because some agreements were cancelled, but at least two industry-level agreements are no longer extended because of changes in the Labour Act (ZOR) in 2014. The new Labour Act cancelled all previous extension decisions and defined new and stricter criteria for extension. According to the new criteria, the decision to extend a collective agreement is taken by the minister, based on an obligatory test of public interest. It is no longer enough if the signatory trade union and employers' association submit a joint request for the extension of an agreement. These changes, as well as the redefinition of the validity of collective agreements after expiry, were at least partially influenced by the European Commission, which in several reports on Croatia's macroeconomic situation suggested a restructuring of the collective bargaining system in order to make it more responsive to economic change.

In general, we can conclude that in the Republic of Croatia there is no uniform pattern of collective bargaining with regard to type of agreement in terms of duration, bargaining cycles and dynamics of amendments. Roughly, we can distinguish four different patterns of collective bargaining in terms of their dynamics and duration. The first comprises agreements concluded for a definite period, usually for a year or two, which are common in multinationals or big domestic companies. The second includes agreements concluded for a definite but longer period of four or five years, and are found in the public sector and in public companies. Unlike the first pattern, this type of collective agreement is characterised by relatively frequent changes during the term of the agreement. The third pattern comprises dynamic agreements concluded for an indefinite period, but often updated through amendments that reflect changes in economic circumstances, a pattern common in privatised companies. The fourth pattern comprises relatively inert collective agreements concluded for an indefinite period that are rarely or never changed.

Security of bargaining

Security of bargaining concerns factors that determine the bargaining role of trade unions, such as legislation on union recognition or strikes. According to the Labour Act (ZOR), trade unions are the only actors entitled to conclude collective agreements on behalf of workers in the Republic of Croatia. On the employers' side, a party to a collective

agreement can be an individual employer or an employers' association. Works councils also have the right to negotiate agreements with the employer, but these agreements must not regulate matters related to wages, duration of working time and other issues, which the Labour Act stipulates may be regulated by a collective agreement. In this way trade unions are ensured a collective bargaining monopoly. Because Croatian labour legislation associates the right to strike primarily with collective bargaining, trade unions are thus also guaranteed a monopoly on the right to strike. The right to bargain collectively, and thus the right to strike in relation to collective bargaining, is restricted to representative trade unions in line with the criteria defined in the Croatian Act on the representativeness of employers' associations and trade unions (Official Gazette No. 93/2014). Trade unions can organise a legal strike for three reasons: first, in relation to collective bargaining, as a means of putting pressure on an employer to start negotiations or during negotiations as a means of pushing through their bargaining agenda; second, in case of non-payment of wages to workers in a regular timeframe; and third, as a solidarity strike with workers employed by other employers who are on strike for one of the two other reasons named above.

Against the background of the highly fragmented trade union movement, the question of whether trade unions should have the right to take part in collective bargaining has been a matter of dispute among trade unions since the beginning of the transition. The first Labour Act adopted in 1995 did not adequately regulate this issue, which led to repeated conflicts among trade unions about the composition of trade union bargaining committees. The situation improved in 2012 following the adoption of the first law regulating the criteria and procedure for determining trade union representativeness for collective bargaining (Potočnjak 2016).

If there is competition between unions where collective bargaining is conducted, unions can agree which of them are representative for bargaining purposes. If competing unions cannot reach an agreement, then every trade union may initiate a procedure to determine representativeness for collective bargaining, to be conducted by an independent commission (Representativeness Committee). In that procedure, representative status is granted to all unions representing at least 20 per cent of all unionised workers at the level at which collective bargaining is conducted (see Potočnjak 2016).

As is clear from the described legislative framework for collective bargaining, employers are not able to contest the trade union right to collective bargaining. Only trade unions may contest the right to bargain collectively with other trade unions if they think they are not representative. Employers, however, are not obliged to conclude a collective agreement or to initiate collective bargaining, but trade unions have the right to exert pressure on employers through strikes in order to force the latter to enter into negotiations. Once a collective agreement has been concluded, both sides may cancel it before expiry; according to the Labour Act, a collective agreement may contain provisions on the validity of the agreement after it has expired. If not otherwise agreed, the agreement is valid for another three months after expiry.

Union membership is not a precondition for entitlement to any general social right. Workers who are not union members enjoy all entitlements that trade unions have

agreed in collective agreements. Some trade unions have long advocated measures to reduce the risk of free riding, in the form of a mandatory payment of a 'solidarity contribution' or a 'bargaining fee' for all who enjoy entitlements arising from collective agreements but who are not union members (see Barjašić Špiler and Šepak-Robić 2016).

Level of bargaining

Due to the large variation across different industries, there is no uniformity in Croatia concerning bargaining level and links between different levels. Essentially, there are three main patterns with respect to the bargaining level.

The first pattern concerns public services, state administration and some other industries of the economy in which collective bargaining is conducted exclusively at industry level.[7] In the case of public services, industry-level collective bargaining is conducted at two levels. First, the so-called 'basic collective agreement for public services' is signed, which regulates joint rights and obligations of workers in all centrally financed public services. This is then followed by the conclusion of additional collective agreements for each industry, such as obligatory primary education, secondary education, science and higher education, social welfare, health care and culture. These agreements regulate matters that are specific to each segment of the public sector. As a rule, agreements at both levels have the same duration.[8] In the private sector, this practice exists in only a small number of industries, such as health care services, in which collective agreements are regularly signed between the associations of private health care employers and trade unions. Because private employers who provide health care services are as a rule relatively small in terms of the number of workers employed, this model is practical for both employers and for trade unions. There is a similar practice also in the humanitarian demining sector,[9] but in recent years there have been interruptions of the regular cycle of bargaining. This model could also cover retail because there was an industry-level collective agreement from 1998 until 2013, which was only exceptionally supplemented by additional collective agreements at company level.[10]

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7. Workers employed in centrally financed state administration and public services formally have different employers, individual institutions or establishments (hospitals, schools, theatres and so on). This is why in Croatia it is common to classify collective agreements that regulate the rights of state employees and public services employees as industry-level collective agreements because they formally regulate the rights of the employees with a larger number of separate employers. It has to be added that this classification is questionable, however, because the signatory to all these agreements on the employer side is the government of the Republic of Croatia, and not the employers' association.

8. Such a collective bargaining system for public services was established in the early 2000s; in the past 15 years, however, there have been situations in which 'the cycle has been broken' at those two levels, in such a way that at a certain point only agreements at one of the two levels was in force. The coordination of these two levels was re-established in 2012. The fact that at some point in time only one of the agreements at the two levels was in force led to a situation in which the provisions of the basic agreement were as a rule repeated in the industry-level agreements for individual public services.

9. After the war of independence, mines covered large parts of Croatian territory. After the war, a significant effort had to be made to clear those areas of mines and that job is still not finished. As the government and international donors continually have to fund demining, a separate industry has developed comprising dozens of companies and several thousand employees.

10. Apart from the industries mentioned, this pattern of bargaining to a certain degree also applies to the wood and paper industry and tourist agencies, which are two industries with valid, though relatively outdated industry-level agreements that are complemented by company-level agreements in only a very small number of cases.

The second pattern refers to industries such as construction and catering and tourism in which bargaining takes place at two levels, the industry level and the company level. In these two industries industry-level collective agreements are extended to all employers. In the large companies of these two industries, however, there is a tradition of concluding company-level agreements in addition to the industry-level agreement. At the end of 2014, in the construction industry there were an industry-level collective agreement and 36 company-level collective agreements; in the tourism industry there were 91 company-level agreements in addition to the industry-level agreement. This is the only pattern of collective bargaining in which there is a challenge concerning the articulation and harmonisation of rights at different bargaining levels. In line with the favourability principle stipulated in the Labour Act (ZOR), it is always the most favourable right that applies to a worker and it is not possible for lower-level agreements to derogate from industry-level agreements. Consequently, it only makes sense to conclude a collective agreement at company level if the employer is prepared to grant better conditions to workers than those agreed in the industry-level agreement; or if there is a need to regulate some issues that have not been regulated adequately by the industry-level agreement. Although there are similarities in these two industries as regards the formal relationship between industry- and company-level agreements, there is no harmonisation in terms of the scope of issues dealt with. For example, basic wages for individual job types have not been regulated by the industry-level collective agreement for the tourism and catering industry, while the agreement for the construction industry defines a minimum wage for each job category.

The third pattern includes those industries in which collective bargaining takes place solely at the company level. Because industry-level bargaining is conducted in only a very limited range of industries (see above), this pattern covers most of the economy, including private and public companies. Apart from bargaining level, it is difficult to find other similarities in this pattern, whether in terms of scope or the cycle and dynamics of bargaining.

Measured in terms of bargaining coverage, the first bargaining pattern is the most important one, accounting for around 43 per cent of total coverage. The third pattern, company-level bargaining only, is the second largest, with a share of 35 per cent of overall bargaining coverage; and the second pattern of multi-level bargaining comes last, with a share of 22 per cent of total coverage. Without the extension mechanism, the share of the second pattern would be much lower.

Because the three patterns have been relatively stable over the past 15 years, there is no clear trend towards the decentralisation of collective bargaining in Croatia, even though in the longer run the system has been considerably decentralised since the end of the 1990s. The only more recent event that points towards decentralisation is the employers' cancellation of the industry-level collective agreement in retail in 2012. More than three years of negotiations after its cancellation did not lead to a new industry-level agreement. The trade unions thus initiated collective bargaining at the company level in a number of companies, which, in turn, advanced the decentralisation of collective bargaining compared with the period before 2012.

Depth of bargaining

Depth of bargaining refers to the processes within trade unions related to the formulation of bargaining claims and, in particular, the involvement of the rank-and-file. Unfortunately, in Croatia there has been no systematic research on internal union practices in collective bargaining processes. Based on information gathered for the purposes of this chapter,[11] however, it is possible to identify several basic patterns depending primarily on the level at which collective bargaining is conducted.

In the case of industry-level agreements, signed by industry-level trade unions, collective bargaining is relatively 'shallow'; that is, the process of articulating trade union demands is dominated by the top-level national bodies of trade unions, without consulting lower levels and the membership. Members and lower levels of the organisation are usually informed only about the course of the negotiations, and the methods and intensity of information provision depend greatly on the profile of the industry, which largely determines the type of communication channels that trade unions use.[12] Upon conclusion of the bargaining process, the final decision on a collective agreement is, as a rule, taken by the peak national bodies of industry-level trade unions. In the adoption phase of collective agreements, some trade unions tend to call a referendum in which all union members can state their opinion. This is occasionally practised by some trade unions in public services, but as a rule only if the employer insists on lowering certain workers' rights.

A somewhat deeper process of collective bargaining can be found in situations of company-level bargaining, with small differences depending on whether it is the industry or company union that conducts the negotiations. The very fact that the collective bargaining is conducted at the level of one company implies greater involvement of the grassroots level in the bargaining process, or at least 'closer' relations between the decision-makers and the rank-and-file. The real depth of the consultation process varies here too, however, depending on the size and organisational complexity of the company, and it is somewhat deeper when a company union is bargaining. If collective bargaining at the company level is conducted by an industry trade union, the demands are formulated and bargaining conducted by the representatives of the local union in that company with the assistance of professionals from the national-level union. The fact that the local trade union leaders need to consult with the national level probably reduces their task to consultations with the membership. Lower levels of trade unions are more involved when the bargaining is conducted by the company-level union because there is no need for 'upward' consultations, which leaves room for 'downward' consultations.

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11. For the purposes of this chapter, the author interviewed seven trade union representatives active at different levels and taking part in collective bargaining at industry- and/or company level.

12. For example, trade unions that organise professionals and white-collar workers, who use computers and e-mail in their day-to-day work, can inform their members quickly and efficiently via e-mails or newsletters. Those communication channels are less efficient for trade unions who organise manual workers or workers in services because the majority of them does not use e-mail at their workplace, and many do not even use it for personal purposes.

Deep collective bargaining, with the close involvement of all levels of the trade union organisation and members in the process of formulating trade union demands and bargaining positions, is relatively rare, although there are good practice examples. The Independent Trade Union of Road Workers (Nezavisni cestarski sindikat, NCS) is an example of collective bargaining with more depth, at least in the initial phase of formulating the demands. This trade union fosters very intensive consultations in the process of drafting preliminary bargaining positions.[13] The process starts by inviting all members of a local union branch to propose provisions that need to be changed or regulated in the collective agreement. After that, a working group is set up, with representatives of various occupations in a company and of union headquarters, which drafts the preliminary bargaining positions. Then follow intensive consultations with the members at plant-level, presenting them with preliminary bargaining positions and collecting their proposals and comments. The final union bargaining positions are then drafted on the basis of all the suggestions gathered. After consultation, the bargaining committee is authorised to bargain with the employer, and the agreed text of the collective agreement is not subject to confirmation by the members. Such 'deep' collective bargaining is probably the result of the union's profile and identity. This particular union has a strong activist orientation and is active in anti-corruption campaigns and campaigns against the privatisation of public goods, often in partnership with NGOs.

The importance of internal trade union consultation processes, however, has diminished due to increased trade union pluralism. In about 40 per cent of cases, more than one trade union is recognised as representative at the level at which collective bargaining is conducted (Potočnjak 2016). This reduces the importance of internal trade union processes because the final content of a collective agreement depends strongly on relations between the representative trade unions involved in the bargaining process.

Scope of agreements

In line with labour legislation, working conditions and rights and duties of workers can be regulated by a collective agreement, or in some cases by an agreement between the works council and the employer, or by company statute, which is simply adopted by management.

The structure of the majority of collective agreements is relatively harmonised; there are no great differences in terms of the issues regulated. There may be differences in the way certain rights are regulated, however. There are substantial differences primarily in the regulation of wage level and structure. Three basic types of collective agreements can be distinguished, depending on how they regulate workers' basic wages. The first type are collective agreements in which the basic wage is not regulated by a collective agreement, either because an agreement does not contain any detailed wage provisions or because they are incomplete in that only one element of the wage

13. On the basis of a phone interview with the trade union secretary.

calculation is regulated in detail, for example the basis for the wage calculation, while the other elements, such as the specification of wage brackets or the level of points for a job, are left to the employer's discretion. This model can be found in collective agreements in public services, in the majority of agreements for public companies and in some industry-level collective agreements in the private sector. According to the collective agreement database, at the end of 2016 around 40 per cent of collective agreements belonged to this category.[14] The second type of agreement contains concrete regulations on the basic wage ranges for several major groups of jobs, and the employer can autonomously determine the wage level for a job within a group. At the end of 2016, approximately 10 per cent of valid collective agreements belonged to this category. The third type of collective agreements are those that contain detailed wage provisions, which means that a collective agreement regulates the basic wage for the majority of jobs in detail. This type of collective agreement accounts for just under half of all valid agreements.

The congruence between collective agreements is much stronger when it comes to other wage-related issues, such as various wage supplements and other material workers' rights. Thus, in about 90 per cent of collective agreements there is a provision that the basic wage is increased for each year of service, usually 0.5 per cent a year. A similar percentage of collective agreements specify certain increments for work in atypical situations, including weekends and holidays, night work and shift work. Collective agreements in Croatia devote a lot of attention to various supplementary material rights. Research carried out in 2014 found that collective agreements typically regulate ten different categories of material rights, such as Christmas bonus, annual leave bonus and one-off extraordinary payments (Bagić 2016).[15]

Besides wages and material rights, collective agreements typically regulate issues related to the length and distribution of working time, as well as rules on leave and rest periods. These issues are regulated in 75–80 per cent of valid collective agreements, and how they are regulated depends greatly on the sector. Those issues are especially important in construction, tourism and trade. In tourism, which is particularly important to the Croatian economy, especially in coastal areas, the distribution of working time over the year is the key issue in tackling seasonality. In retail, the key issue is the distribution of weekly working time in order to regulate compensation for work during weekends, especially Sundays and holidays.

In addition to these issues, recent collective agreements have increasingly regulated issues related to measures to combat discrimination against particular groups of

14. The data gathered through analysis of the database of collective agreements of Saveza samostalnih sindikata Hrvatske (SSSH, the Union of Autonomous Trade Unions of Croatia), which at the time comprised around 200 valid collective agreements. More information on the database is available at: http://www.kolektivni-ugovori.info/

15. Different material rights can be grouped in the following categories: bonuses related to individual or group performance, supplements related to employee characteristics, supplements for work in difficult working conditions, supplements that depend on the distribution of working hours, supplements that depend on the place where work is performed, regular payments on special occasions (Christmas bonus, annual leave bonus), one-off extraordinary payments, severance pay, reimbursement of costs related to performing one's job, other benefits.

employees, bullying and protection of vulnerable groups of workers, such as older workers and pregnant workers. According to the SSSH collective agreement database, around a quarter of valid collective agreements deal with discrimination prevention measures, while about half of all agreements contain provisions on bullying. Usually there is an obligation for employers to appoint someone to be responsible for dealing with workers' complaints regarding violations of their dignity. Approximately 45 per cent of collective agreements regulate measures and procedures for the protection of older workers, such as the employer's obligation to move an older worker to a more adequate job in case of reduced work capacity. Company-level collective agreements increasingly include provisions on the role of trade unions and workers' representatives in restructuring processes and/or changes to the company's organisational or management structure.

Degree of control of collective agreements

Degree of control of collective agreements concerns two main issues: first, the extent to which agreed provisions on the rights and duties of workers and employers set the actual terms and conditions of employment; and second, mechanisms for controlling the implementation of collective agreements and compliance (Clegg 1976). Concerning the first aspect, it is important to remember that in a large number of collective agreements some of the most important provisions on workers' material rights are not strictly defined. As described above, the most important matter of collective bargaining, the level of the basic wage, has not been strictly and fully defined in about half of all the valid collective agreements. This applies in particular to industry-level collective agreements, which account for the largest share of the total collective bargaining coverage. On average, the degree of control of collective agreements is higher concerning other material rights, such as wage supplements, than concerning wages. For example, wage supplements, such as additional payments for work in atypical situations, are as a rule strictly regulated in 80 to 90 per cent of valid collective agreements. Furthermore, some 80 per cent of agreements strictly regulate the payment of jubilee awards, paid to workers for their loyalty to an employer (see more in Bagić 2016).

The other component for assessing the degree of control of collective agreements concerns the implementation of agreements and mechanisms to monitor compliance. Here, two aspects are important: (i) the procedures agreed in a collective agreement and (ii) trade unions' ability to monitor compliance in practice. The procedures of dispute settlement regarding agreement implementation are regulated in about two-thirds of valid agreements. As a rule, the dispute settlement procedure defined in collective agreements consists of three steps: first, the two sides try to solve the dispute through negotiations, either by the standing body for monitoring and interpreting collective agreements or by an ad hoc bargaining committee; if the dispute is not settled in internal negotiations, it is taken before the external mediator, which involves a continuation of bargaining with mediation by a third party. If mediation does not settle the dispute, it is put before the arbitration committee, whose decision is binding, but collective agreements define in detail how the arbitration committee is formed.

As regards trade unions' capacity to monitor the implementation of collective agreements, the situation varies greatly depending on the level at which collective bargaining is conducted. As a rule, the unions' monitoring capacity is somewhat weaker in the case of industry-level collective agreements because industry-level trade unions typically have local union branches only in the largest companies and generally not in small or medium-sized companies. This results in a much weaker capacity to monitor implementation in such companies. This applies particularly to collective agreements extended to the whole industry. To some extent, the absence of trade union branches is compensated by the existence of works councils, which are authorised to monitor the implementation of collective agreements. On the other hand, where collective bargaining is conducted at the company level, control is relatively efficient because in such companies there are local unions and one or more trade union officers one of whose most important tasks is to monitor the implementation of collective agreements.

Conclusions

The heterogeneous collective bargaining system gradually developed from the mid-1990s and stabilised in the early 2000s. During the past 15 years, there have been no major structural changes as regards the patterns of collective bargaining set out in this chapter. Decentralisation of collective bargaining could be observed in some industries, such as retail, but this is not a general trend, especially because collective bargaining is already decentralised in large parts of the private sector. In some industries, such as humanitarian de-mining, collective bargaining has been abolished altogether, but again this is not an economy-wide trend. More recently, it was primarily the public sector that experienced stronger pressure on collective bargaining. Under pressure from the high budget deficit and related EU procedures, central government has tried to cut wage-related costs in public administration and public services by reducing some material rights agreed in collective agreements. As unions were not ready to accept this, the government used its legislative power to abolish some rights of this kind. After stabilising the budget deficit and a positive turn in economic indicators, however, regular collective bargaining practice was restored in the public sector.

Croatia's accession to the European Union, together with the process of harmonising legislation, did not have a substantial impact on the patterns of collective bargaining. Multinational companies have not influenced the established bargaining patterns in the past 15 years either, because their share in the Croatian economy did not significantly increase during that period, with the exception of retail. This overall stability of collective bargaining during the past 15 years can be attributed to two key factors: first, the stability of the main industrial relations actors and second, the stability of the structure of the Croatian economy in terms of the importance of particular industries, the share of the public sector and the number of large companies.

Although collective bargaining coverage is relatively high compared with the majority of new EU Member States, the real effect of collective agreements on wages is limited. As described above, the wages of about half the workers formally covered by collective agreements are not strictly defined by a collective agreement. Thus, the real effect of

collective bargaining on working conditions and workers' rights is lower than suggested by the formal coverage rate. On the other hand, in general, working conditions and material rights of workers covered by collective agreements are much better than those of workers who are not covered at all, who are employed mainly in small and medium-sized private enterprises without a union branch or a works council.

Future key challenges to the collective bargaining system in Croatia are linked primarily to the weakening of trade unions as a result of the rapid loss of members caused by the generational shift. Croatian trade unions have managed to retain part of their membership inherited from the socialist period, but now these cohorts are retiring, and trade unions are failing to recruit sufficient new members to compensate for the loss. Additional challenges may be posed by continued restructuring and privatisation of public companies, in which collective bargaining is well developed. At the time of writing (autumn 2018), however, it looks as if these challenges will, at least in the short run, not lead to major changes in the level of collective bargaining coverage or to changes in collective bargaining patterns.

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Abbreviations

HUP	Hrvatska udruga poslodavaca (Croatian Employers' Association)
HURS	Hrvatska udruga radničkih sindikata (Croatian Association of Workers' Unions)
MHS	Matica hrvatskih sindikata (Association of Croatian Trade Unions) and
NCS	Nezavisni cestarski sindikat (Independent Trade Union of Road Workers)
NHS	Nezavisni hrvatski sindikati (Independent Trade Unions of Croatia),
SSSH	Savez samostalnih sindikata Hrvatske (Union of Autonomous Trade Unions of Croatia)
ZOR	Zakon o radu (Labour Act)

Chapter 6
Cyprus: a divided island – diverging collective bargaining patterns, weakened yet still standing

Gregoris Ioannou and Sertac Sonan

Cyprus is a small island in the south-eastern Mediterranean with a population of about 1 million. Greek and Turkish are the main languages spoken. Cyprus came under British rule in 1878, was made a British colony in 1925 and became an independent republic in 1960. The political antagonism between the two main communities of the island, the Greek Cypriots and the Turkish Cypriots, who in 1960 accounted for 77 per cent and 18 per cent of the population, respectively, resulted in inter-communal violence and the forced withdrawal of the Turkish Cypriot community from state institutions in 1964. The interventions of Greece and Turkey in 1974 led to the island's de facto territorial partition and the total separation of the two communities, thus completing a process that had begun in the late 1950s. Consequently, roughly 37 per cent of the northern part of the island came under Turkish control. The island remains divided as all attempts to negotiate a settlement have thus far failed.

Whereas the Greek Cypriot community in the south, maintaining control of the Republic of Cyprus, achieved significant economic growth in the 1980s and 1990s and joined the European Union (EU) in 2004 and the euro zone in 2008, the Turkish Cypriot community has been unable to follow a similar route, largely because of the refusal of the international community to legitimise its secessionist initiative in the form of the establishment of the Turkish Republic of Northern Cyprus (Kuzey Kıbrıs Türk Cumhuriyeti, KKTC) in 1983, which is recognised and bankrolled only by Turkey.

Both sides' economies are oriented towards services, which account for almost 80 per cent of total employment (Eurostat and State Planning Organisation 2016), and both have sizeable migrant labour populations; in the North around one-third of the workforce is made up of migrant workers, while in the South the proportion is around 20 per cent. The southern part of the island has a labour force currently just over 400,000 people, while the northern part has a smaller labour market with a labour force of around 130,000.

Historically, the two communities have had different economic structures and income levels. From the Ottoman period, Turkish Cypriots were generally employed in the public administration and agriculture, while Greek Cypriots specialised in trade. By 1961, the average per capita income of the Turkish Cypriot community was approximately 20 per cent lower than that of the Greek Cypriots (Nötel, cited in Kedourie 2005: 653), and this gap grew substantially after the first geographical segregation following the inter-communal clashes in 1963. By 1971, Turkish Cypriot per capita income was 50 per cent lower (*ibid.*). The gap has narrowed slightly since 1974; by 2016, Greek Cypriot per capita

Table 6.1 **Principal characteristics of collective bargaining in Cyprus**

South		
Key features	2000	2016/2017
Actors entitled to collective bargaining	Trade unions and employers' associations	
Importance of bargaining levels	Industry-level and company level	Industry-level but company level increasingly important
Favourability principle/derogation possibilities	No	Unilateral employer action and/or ad hoc bilateral agreements because of the crisis
Collective bargaining coverage (%)	<61*	61 (2013)
Extension mechanism (or functional equivalent)	No	No
Trade union density (%)	63.4 (2001)	45.2 (2013) in terms of active employees
Employers' association rate (%)	N.A.	48 (2013)

Note: * No figure is entirely reliable but definitely higher than 61 per cent because a decline has been reported since 2007, accelerating after 2010.
Sources: Appendix A1, EIRO/Eurofound based on Trade Union Registrar, European Company Survey.

North		
Key features	2000	2016/2017
Actors entitled to collective bargaining	Trade unions, municipalities, Ministry of Finance, semi-public institutions	
Importance of bargaining levels	Company level (semi-public institutions, municipalities) and sectoral level (public sector)	
Favourability principle/derogation possibilities	Not applicable	Not applicable
Collective bargaining coverage (%)	Above 33.7	Above 26.2
Extension mechanism (or functional equivalent)	Only in public sector	Only in public sector
Trade union density (%)	33.7*	26.2
Employers' association rate (%)	Employers' association is not a party to collective bargaining	

Note: * The figure is for 2004; the first relatively reliable figure available.
Sources: State Planning Organisation's annual Household Labour Force Statistics and Statistical Yearbooks.

income reached 22,000 euros compared with 12,569 euros among Turkish Cypriots. In terms of industrial relations traditions, in the South a fully-fledged tripartite system was constructed and strengthened after 1974 with strong collective bargaining, while in the North the abnormal political situation and the public sector's economic dominance since the division of the island in 1974 has resulted in weak collective bargaining: the public sector share in total employment in the North, at 28.1 per cent, is very high.

Over the past two decades, collective bargaining and industrial relations in both parts of Cyprus have been characterised by a continuing decline of trade union density and influence. This has taken place gradually alongside other processes, such as the increasing hegemony of neoliberal doctrines, the diffusion of depoliticisation and

decollectivisation at all levels of society and declining trust in established organisations, such as trade unions and political parties. As the two communities' collective bargaining landscapes are almost entirely different from one another, we shall analyse them separately, although as in the introduction, the concluding section covers both.

The South

Industrial relations context and principal actors

The Cypriot system of industrial relations was constructed on the British model, based on voluntarism and codified in the Basic Agreement of 1962. This stipulated a procedure for negotiations and the settlement of labour disputes within the framework of free collective bargaining. The Basic Agreement did not have legal status, however; rather it was a 'gentlemen's agreement' constituting simply an expression of political will, a moral obligation and mutual understanding of the parties' voluntary adherence (Slocum 1972). The Industrial Relations Code was signed in 1977 (Republic of Cyprus 1977) and reflects the need for stability in the wake of the 1974 war. The Code is still in effect today and stipulates the social partners' rights and obligations with regard to collective bargaining, joint consultation and management prerogatives, with procedures for the settlement of disputes, mediation, arbitration, public inquiry and grievances arising from the interpretation or implementation of collective agreements. The Code itself does not constitute legislation but, again following the British voluntarist tradition, is another 'gentlemen's agreement' (Soumeli 2005). It differentiates between disputes of 'interests' and disputes of 'rights' and it provides for a four-stage dispute resolution procedure concerning disputes over both. The Code expresses and reflects the logic of the tripartite system in Cyprus, whose elaboration and diversification in the 1980s and 1990s (Sparsis 1998) have enabled the social partners to have a say on many policy issues, albeit on a consultative basis.

The trade union landscape that developed after 1974 in the South comprises three major trade union confederations and several smaller independent trade unions. The confederations include the Pancyprian Labour Federation of Labour (Παγκύπρια Εργατική Ομοσπονδία, ΠΕΟ), affiliated with the left-wing Progressive Party of Working People (Ανορθωτικό Κόμμα Εργαζομένου Λαού, ΑΚΕΛ) and made up of eight industrial unions, and the Workers' Confederation of Cyprus (Συνομοσπονδία Εργατών Κύπρου, ΣΕΚ), which although not formally affiliated to a political party is centre-right in orientation and composed of seven industrial trade unions. Whereas ΠΕΟ is active mainly in the private sector, ΣΕΚ is also very strong in the semi-public sector. In the public sector proper the main union is the Pancyprian Union of Civil Servants (Παγκύπρια Συντεχνία Δημοσίων Υπαλλήλων, ΠΑΣΥΔΥ), which is formally non-partisan but in practice leans centre-right. Banking has a separate union, as does primary and secondary public education. It is also important to note that the Democratic Labour Federation of Cyprus (Δημοκρατική Εργατική Ομοσπονδία Κύπρου, ΔΕΟΚ), a smaller trade union federation active in the private sector, is usually excluded from collective bargaining and is rarely a signatory of collective agreements. The employers are also organised at the industrial level, in various associations, while at national level

there is the Federation of Employers and Industrialists (Ομοσπονδία Εργοδοτών και Βιομηχάνων, OEB) and the Cyprus Chamber of Commerce and Industry (Κυπριακό Εμπορικό και Βιομηχανικό Επιμελητήριο, ΚΕΒΕ).

In terms of the political framework in the South the main change since the 1990s has been the Republic of Cyprus' accession to the EU in 2004 and the employers' increasing power, whether real or perceived, to resort to individual contractual arrangements outside collective bargaining. In parallel there has been a slow but steady encroachment of legal regulation as collective bargaining is pushed back. This trend has not been completed, nor has it been able to change the industrial relations system substantially at the institutional level, but it is relentless. Unions and employers in Cyprus are centralised in terms of organisations but bargaining is predominantly decentralised to industry and firm level, and takes place through a procedure outlined in the Industrial Relations Code (Κώδικας Βιομηχανικών Σχέσεων, ΚΒΣ) (Ioannou and Sonan 2014, 2017; EurWork 2017). The state remains an observer and mediator in the private sector and there has been no fundamental labour-related change through new legislation in the semi-public sector either.

There is no national minimum wage in Cyprus, but there is a ministerial decree that covers nine occupations, stipulating a minimum entry wage and a minimum wage after six months of employment. This is occasionally revised to adjust for inflation and prevailing economic conditions. The monthly minimum wage for seven of these nine occupations, including sales staff, clerical workers, auxiliary health-care staff, auxiliary staff in nursery schools, crèches and schools, and caretakers, currently stands at 870 euros and 924 euros after six months, respectively, and has not changed since 2012. For cleaners, the hourly rate is 4.55 euros and 4.84 euros and for security guards 4.90 euros and 5.20 euros (Eurofound 2018).

In the economy the main change in the past two decades has been the rapid expansion of construction and, even more so, of banking, resulting in continuous positive growth rates and low unemployment, at least until the financial and economic crisis. There has been an increasing migrant presence both from third countries and, since 2004, from EU countries, while the proportion of Cypriots entering higher education and seeking white-collar employment has also risen. Although living standards were relatively high prior to the crisis, employment conditions were far from satisfactory for the young and new entrants into the labour market and deplorable for regular and, especially, irregular migrants (Trimikliniotis 2009). The increasing presence of multinational companies has reinforced flexibilisation trends, such as subcontracting, outsourcing and personal contracts, and has contributed to the segmentation and fragmentation of the labour force in Cyprus (Ioannou 2015b).

Thus when the financial and economic crisis of 2008 struck, reaching its peak in 2012 and producing negative growth, rising unemployment and austerity policies, it exacerbated existing tendencies of labour market deregulation and union marginalisation. In the context of the Memorandum of Understanding between the Republic of Cyprus and the 'Troika' consisting of the European Commission, the European Central Bank and the International Monetary Fund (2013–2016) and its aftermath, workers' rights and

benefits, as well as living standards were eroded for the overwhelming majority of the population, extending the condition of 'precarity' to broader sections of the Cyprus labour force (Ioannou 2014; Ioannou and Sonan 2016). As far as the institutional order of industrial relations and the tripartite system are concerned, however, no significant changes took place despite the strong pressure exerted by the crisis and the imposition of austerity policies.

Extent of bargaining

Although no accurate, comprehensive and updated figures are available, the extent of collective bargaining coverage is very close to union density as there are effectively no other forms of collective bargaining and no other agents are involved, although sometimes the terms of an existing collective agreement may shape individual contracts as well. The absence of extension mechanisms at industry level and effective *erga omnes* rules at company level leads to the convergence of trade union density and collective bargaining coverage. Thus the overall trend in collective bargaining coverage is a decline in tandem with the decline in union density (Ioakimoglou and Soumeli 2008; Ioannou 2015b). It is therefore possible to infer that the decline of density from 63.4 per cent in 2001 to 45.2 per cent in 2013 has led to a decline in collective bargaining as well.

There is no legal extension mechanism with regard to existing collective agreements that would oblige employers to abide by them in respect of their non-unionised employees. The unions' increasing difficulties in maintaining existing levels of collective bargaining coverage, let alone extending it to the growing number non-unionised workers led ΠΕΟ and ΣΕΚ to attempt to push through an extension clause in the union law reform in 2012. That was blocked by the employers, however. The unions remain committed to this policy and continue their attempts to strengthen collective agreements as primary regulatory tools, with priority over legal means (Tombazos 2017). They have had some success in the hotel industry with regard to working time and provident funds, which are pension schemes funded directly by employer and employee contributions and indirectly by the state through tax concessions. They are currently focusing on minimum wage rates for each pay grade in the hotel and construction industries through the institutionalisation of an accreditation system for skill and experience (Tombazos 2017).

Union density thus remains the key factor in determining collective bargaining coverage, especially in industries in which collective bargaining exists at industry or firm level. Typically, collective agreements have a two- or three-year duration, after which negotiations take place for their renewal. As a result of the financial crisis and the volatility brought about by the economic recession, the duration of collective agreements has been shortened, in the metal industry for example to one year (Rigas 2017). Because they are not legally binding there are no legal instruments to impose their implementation after expiry; in practice, the previous agreement remains in force until it is renewed. Institutionally speaking, however, this is a grey area and it remains unclear what should or could happen when employers refuse to enforce an expired collective agreement. Employers often violate collective agreements in various ways, directly as well as indirectly (Ioannou 2014). This does not happen only in the gap

between two collective agreements, nor is it a sufficient reason for unilateral employer action. The unions frequently issue public statements condemning employers' violation of collective agreements. The industry in which this happens most frequently is hotels and restaurants.

There is no functional equivalent of legal extension mechanisms. Existing collective agreements do sometimes act, however, as a sort of benchmark for at least some non-union workers not formally covered by collective agreements in a given industry. Nevertheless, this is usually informal, uncertain and often only refers to wage levels, excluding a range of other monetary and non-monetary benefits that unionised workers enjoy from the collective agreements (Ioannou 2015b).

Level of bargaining

There are effectively only two levels of bargaining in the southern part of Cyprus: the industrial level and the workplace/enterprise level. There is no substantive articulation between these two levels and no systematic bargaining coordination either. It is important to note, however, that some major collective agreements informally set the pattern for smaller ones in various industries (Eurofound 2018; Soumeli 2005) and the public sector sets the benchmark for the private sector. There is no national-level bargaining setting standards, however, and no cross-industry or regional-level bargaining. In industries in which industry-level bargaining co-exists with firm-level bargaining, such as the metal industry, the content of the collective agreements at the two levels is very similar (Rigas 2017).

Framework agreements are important especially in times of changing economic or political conditions. They may be negotiated by the social partners and signed at national level but more often at the industry level and operate as a sort of codification of changes in industrial relations approach. More importantly they reflect the terms of compromises made at a particular time and as such are indicative of the balance of power. Framework agreements effectively set the range of bargaining objectives for the collective agreements that follow. They are never detailed and usually do not specify actual terms of employment and can therefore not be considered a third, cross-sectoral level of bargaining. These national-level framework agreements should be understood as policy statements and social dialogue rather than as collective bargaining. Sometimes they are made for special issues and are then incorporated in the next collective agreement (Papanicolaou 2008).

The contents of such framework agreements may range from welfare measures and provident funds to wage setting mechanisms and the Cost of Living Adjustment (COLA), as well as special austerity measures adopted as a result of national, industry or company crises. The framework agreements signed in early 2017 in the semi-public and subsequently in the public sector are particularly significant as they instituted a mechanism that links the sum of wage increases (COLA plus wage increases plus yearly increments) to the nominal GDP increase, which operates as a ceiling. The government tried to enshrine this in legislation, but was unable to secure a parliamentary majority

and thus had no other option than to institute it in a framework agreement with the unions. Although the agreement is for a fixed three-year term, it is the first time that such an automatic mechanism has enforced parameters with regard to wage bargaining and in this sense, it sets a precedent.

Sometimes during the term of existing collective agreements, when one of the two sides manages to convince the other, interim agreements or memoranda, or both, may be signed modifying, adding or removing some clauses of the existing agreement. These agreements are often seen by the unions as the means through which they can avert the worse in the form of unilateral moves by the employers and often serve as a process of organised retreat due to changes in the economy, a particular industry or even firm (Ioannou 2014). A series of such agreements were signed during the crisis years in various industries and firms.

Overall, the international trend of collective bargaining decentralisation, driven by employer preferences and made possible by union weakness in the neoliberal age, also applies to Cyprus. Decentralisation is taking place in a disorganised fashion, however, more de facto, as a result of changes in the structure of the economy, than through the decisive agency of the social partners. Some of the industries in which bargaining was conducted at industry level, such as leather goods, clothing and footwear, have shrunk, while other tertiary sectors, in which collective bargaining takes place primarily at enterprise level, have expanded. Although there are no reliable figures across time the fragmented evidence seems to suggest that there has been a decrease in the number of collective agreements and their coverage, with enterprise-level bargaining growing at the expense of the industry level, signalling enhanced decentralisation.

The crisis has also played a role in the increasing trend towards disorganised decentralisation, as it has affected different firms in different ways. In industries in which industrial and firm-level bargaining co-exist, such as the metal industry, the volatile conditions of the crisis exacerbated decentralisation trends (Rigas 2017). In banking, for example, there has been a shift from industry- to firm-level bargaining as a result of the crisis, which led to the collapse of a systemic bank in Cyprus, the second largest in the country, and the shock visited on the whole industry by the turbulence and restructurings of 2013. The Employers' Association was disbanded in 2015 as in the wake of the financial crisis its members decided to handle labour affairs on their own account (Rougala 2015).

Security of bargaining

Security of bargaining refers to the factors that determine trade unions' bargaining role, such as legislation on union recognition and strikes or any other forms of support offered to unions by employers or the state. Union recognition is a prerequisite for collective bargaining. It is not automatic and is often contested. The new union law of 2012 'On the recognition of trade union organisation and the right of trade union facilitation for the purpose of recognition for collective bargaining' (Περί της αναγνώρισης της συνδικαλιστικής οργάνωσης και του δικαιώματος παροχής συνδικαλιστικών

διευκολύνσεων για σκοπούς αναγνώρισης για συλλογική διαπραγμάτευση) has improved the situation for unions by establishing a procedure to overcome an employer's refusal to grant recognition through a decree by the Trade Union Registrar. Previously, the only option was full-fledged industrial action to try to force the employer to back down. The high cost and high risk of this often dissuaded unions from embarking on such a course. With the new law, the Trade Union Registrar may, at the union's request, directly issue a decree of obligatory recognition if, at a firm employing more than 30 people, unions represent at least 50 per cent of the employees. If unions represent at least 25 per cent, the Trade Union Registrar may organise a secret ballot on the firm's premises without the employer's permission whose result, whether for union representation or not, shall be valid with a simple majority if there is 40 per cent participation or above. The law has extended union rights, allowing easier access to workplaces and allocating more time for shop stewards to perform their union duties.

The right to strike is fully protected by Article 27 of Cyprus' constitution, with the exception of the armed forces and the police. The prohibition may be extended to the civil service in the interest of the security of the Republic and the maintenance of public order in case of a 'national emergency'. Similarly, when 'essential services' such as water, electricity and telecommunications are threatened, the government may invoke a national emergency and restrict the right to strike through special defence regulations, although this has not been very effective when attempted in the past (Sparsis 1998). In 2004, the government concluded an agreement with the three main trade union federations reaffirming the right to strike in all essential services, but at the same time stipulating a guaranteed minimum service provision. This agreement regulated the right to strike in essential services, not with legislation but through a tripartite agreement in the spirit of the Cyprus industrial relations system and the Industrial Relations Code.

Employer associations have on many occasions in the past decade demanded legislation restricting the right to strike in essential services, claiming that the agreement mentioned above was insufficient. Due to the resistance of both the unions and some political parties the employers were unable to push it through parliament. After a decisive strike in civil aviation by air traffic control personnel in 2012, however, the government and the parliament proceeded to pass a special law applicable only to civil aviation, stipulating severe restrictions to the right to strike in airports. Although the right to strike was not fully ruled out the 'minimum service provision' clause instituted effectively rendered any legal strike more symbolic than substantial by restricting disruption of flights to a very low level.

Depth of bargaining

The trade union leadership and the union apparatus play a key role in collective bargaining at both the industry and enterprise levels. Negotiations are almost always conducted by full-time officials and very often by the union leaders in the relevant industry, even if the collective agreement sought is at enterprise level. Full-time officials are trained, knowledgeable and experienced and thus lead the bargaining process. Where there is a well-functioning and active local or workplace committee it may also

play a significant role. In the Cypriot single channel system of interest representation, these local/workplace committees are union structures.

Depending on the general state of the economy and of the industry or company more specifically, the union leadership starts preparing for negotiations several months before the expiry of the collective agreement. These preparations are in line with the general strategy and policy decided at the top level of the union federation. Demands are then formulated by the full-time officials and the workplace committee members and presented to the union members in assemblies, at which they are formally approved. The Pancyprian Federation of Labour (Παγκύπρια Εργατική Ομοσπονδία, PEO) and the Workers' Confederation of Cyprus (Συνομοσπονδία Εργατών Κύπρου, SEK), the main union federations, usually coordinate their strategies, attempting to present a united front at the negotiating table. They also hold joint meetings both before and after negotiations and adopt proposals by simple majority, irrespective of the membership numbers of each union in an industry or firm (Tombazos 2017).

Coordination between PEO and SEK usually takes place at the leadership level first, but it is cemented at the level of the rank and file, especially if collective bargaining drags on and further joint meetings of union members are called. Once the demands are coded, prioritised and approved by worker assemblies, the composition of which is mixed in terms of union affiliation, they are subsequently submitted to the employers. Bargaining begins usually two months before the expiry of the collective agreement and, especially in large industries, if conflict is regarded as possible or inevitable, the two sides usually make bold public statements before the culmination of the negotiations to prepare their members, opponents and public opinion. If the negotiations fail, the Labour Relations Department assumes its mediation duties, which usually ends up with a specific proposal that the two sides are called upon to accept or reject. Once an agreement has been reached or a mediating proposal is offered, the unions call a joint general assembly to ratify it or obtain permission to accept or reject it.

Degree of control of collective agreements

The increasing fragmentation of the labour market is a key factor negatively affecting the degree of control of collective agreements. The impact of collective agreements on employment terms and conditions is always relative, very often partial and frequently selective. Even in industries with extremely high union density, such as the public and semi-public sectors and banking a small and recently growing segment of the workforce is employed that is outside the framework of collective agreements. These employees may have fixed-term or service contracts. In the latter case, this is usually what is termed 'bogus self-employment' in the sense that it is often performed on the premises of the employer and without the employees having any control over it. The employers who outsource work in this way thereby become exempt from employer responsibilities concerning not only social security contributions but also health and safety, infrastructure and equipment, medical care and welfare. Fixed-term employees, whether working on externally funded projects, or paid directly by the employer, irrespective of the duration of their fixed-term contract and the number of times this

is renewed are ultimately temporary employees and treated as such. Although, unlike outsourced workers, they may enjoy some of the benefits of regular employees, such as holiday pay, they are usually excluded from other benefits, such as the thirteenth month salary and the provident fund and are often outside the coverage of collective agreements (Ioannou 2015b).

Even though employment conditions in the broader public and private sectors are substantially different, with the former offering much better terms of employment for the overwhelming majority of employees, the growing minority of peripheral employees in the broader public sector is directly comparable with the situation in the private sector. Public education at all levels is one example, as more and more teachers are employed on a temporary basis under various personal contract schemes, with inferior employment conditions compared with those of regular employees. This predates the financial and economic crisis but was exacerbated by it, for instance by the imposition of a freeze on new regular employment. As needs continued to grow, these were covered by various new irregular regimes of employment that were much cheaper and wholly precarious. The primary school teachers' strikes in 2016 focused on precisely this newly established employment regime of temporary teachers. This trend has continued, provoking further disputes and strikes in 2017 and peaking in 2018.

In industries in which trade union density and collective bargaining coverage is not as high as in the public sector, or are close to the national average, such as construction or hotels, the peripheral workforce is much larger. Although collective agreements may still have some sort of impact on the wages offered to non-unionised workers, these workers' terms and conditions diverge from collective agreements. Personal contracts, subcontracting and casual work are the norm for those on the periphery of firms and the industry. Needless to say precarious workers have little if any access to grievance articulation, dispute resolution or arbitration procedures (Carby-Hall 2008; Trimikliniotis and Demetriou 2011; Ioannou and Sonan 2016; Ioannou 2018).

The multitude of terms and conditions in some industries inevitably reduces the degree of application and thus the control of collective agreements concerning the unionised segment of the workforce. In a fragmented workforce with multiple employment regimes, union power vis-á-vis intransigent employers is often inadequate. Thus, the Labour Relations Department of the Ministry of Labour is frequently contacted for mediation concerning compliance with collective agreements, as well as on the interpretation of some of its clauses. The fact that many existing collective agreements are old documents that are maintained and revised has led to a complex network of rules that are often misunderstood and misinterpreted. As a result, many labour disputes arise from questions of interpretation (Soumeli 2005).

Concerning the implementation of collective agreements, the division of labour between full-time officials and workplace committee members is reversed. It is now the local committee that has the initiative in finding out the extent to which the agreement is being enforced and judging whether the union should take corrective measures. Usually the first step is a complaint to the employer and then the Ministry of Labour. Depending on the seriousness of the violation and, more importantly, the union's power at the

workplace this may be followed by a strike warning and even strike action. Whereas the full-time officials issue the written complaints, it is the local committee that is in a position to know what sort of reaction is possible and to mobilise support.

Scope of agreements

Collective agreements in the South are primarily substantive and secondarily are procedural or deal with 'qualitative' issues. They define the terms and conditions of employment, covering in considerable detail a series of employee obligations, on one hand, and employee rights and benefits, monetary as well as non-monetary, on the other. Where there is a strong union presence and collective bargaining, unilateral management decision-making is more likely to be on disciplinary and dispute procedures and 'qualitative' issues rather than terms and conditions.

Although matters of discipline, grievance and dispute within a firm are considered to fall under the managerial prerogative and are not usually included in bilateral collective agreements, unions do not automatically accept internal firm rules and reserve the right to intervene if they consider that an injustice has been committed against their members (Tombazos 2017; Rigas 2017). Depending on how strong and established the union is in a firm it may also manage to insert a reference to the collective agreement in the firm's statutes.

The scope of collective agreements typically covers basic pay, COLA and the design of the overall pay structure by assigning different ranks to different jobs, as well as internal pay scales. It also covers the remuneration rate and estimation procedure for the different forms of overtime pay. Agreements also stipulate the breaks allowed during work, time off, public holidays, rest leave and sick leave and the procedures through which these are granted. Furthermore, agreements may stipulate the contributions to various welfare schemes, such as a provident fund or a pension fund, a welfare fund or a medical scheme. These funds are usually administered by mixed committees, whose members are elected or appointed by the employees and the employers. Depending on factors such as the history, balance of power and specific features of the industry and the firm, collective agreements may include all or most of the above and sometimes some further, smaller benefits, such as travel expenses, extra bonuses besides the thirteenth salary, special remuneration rates for unexpected eventualities, extension of medical care coverage to dependents and further minor welfare benefits.

Issues such as work–life balance, early retirement and employment protection are not the subject of bilateral collective agreements. Aspects of these issues are, however, discussed at the policy level in the institutionalised social dialogue that takes place in the Labour Advisory Council. Aspects of early retirement schemes are also connected to provident or pension funds, the so-called second pillar of social security, and these are a product of collective bargaining and linked with collective agreements.

The North

Industrial relations context and principal actors

Unlike the situation in the South, industrial relations in the North are regulated by law rather than voluntarism, inspired more by the Turkish model. Trade unions, the main protagonists of collective bargaining, are small, fragmented and operate almost exclusively in the public and semi-public sectors with a negligible level of unionisation in the private sector (Ioannou and Sonan 2016). Overall, there are around 25,000 union members (Can 2018), organised in 53 unions (Güler 2017). Only six of these unions have more than a thousand members, while 34 have more than one hundred members.

The union scene is dominated by three major union federations organised in the public and semi-public sectors, and several independent unions in public administration, and primary and secondary public education. The biggest federation is the right-leaning Federation of Free Labour Unions (Hür İşçi Sendikaları Federasyonu, Hür-İş), which comprises seven unions. At the end of 2017, Hür-İş had 5,174 members. The biggest union within this federation is the Union of Public Sector Workers (Kamu İşçileri Sendikası, Kamu-İş), which has 2,900 members. The left-leaning Federation of Turkish Cypriot Labour Unions (Kıbrıs Türk İşçi Sendikaları Federasyonu, Türk-Sen) is composed of ten unions and has 1,748 members. The leftist Federation of Revolutionary Labour Unions (Devrimci İşçi Sendikaları Federasyonu, Dev-İş) is the smallest federation, with 1,188 members. It comprises three unions and is active mainly in municipalities and a few private-sector companies. In public administration, there are two main unions: the left-leaning Union of Turkish Cypriot Public Servants (Kıbrıs Türk Amme Memurları Sendikası, KTAMS) and the right-leaning Turkish Cypriot Public Officials Trade Union (Kıbrıs Türk Kamu Görevlileri Sendikası, Kamu-Sen), which have 3,322 and 2,171 members, respectively. There are also two teachers' unions, the Cyprus Turkish Primary School Teachers' Union (Kıbrıs Türk Öğretmenler Sendikası, KTÖS) and the Cyprus Turkish Secondary School Teachers' Union (Kıbrıs Türk Orta Eğitim Öğretmenler Sendikası, KTOEÖS), with 2,199 and 2,635 members, respectively.

On the employers' side, there are three main organisations. The Turkish Cypriot Chamber of Commerce (Kıbrıs Türk Ticaret Odası, KTTO) and the Cyprus Turkish Chamber of Industry (Kıbrıs Türk Sanayi Odası, KTSO), which have around 3,500 and 900 members, respectively. The third is the less influential Cyprus Turkish Employers' Union (Kıbrıs Türk İşverenler Sendikası, KTİS), which currently has 258 members. KTİS is represented in the Minimum Wage Determination Commission. Other than that, the employers' associations in general do not take part in any form of collective bargaining.

The small size and the public sector–oriented nature of the unions play an important role in explaining the state of affairs in collective bargaining and it is worth elaborating the reasons underlying this weak union landscape. First, because of the ethnic conflict between the two main communities of the island, modern economic institutions and unionism did not develop in the North until the mid-1970s (see Ioannou and Sonan 2016). Furthermore, the Turkish Cypriot parliament passed a law regulating collective

agreements and strikes (Toplu İş Sözleşmesi, Grev ve Referandum Yasası, henceforth CAL) rather late, in 1996, although both the constitution of the Turkish Federated State of Cyprus (KKTC's predecessor, which was declared in 1975) of 1975 (Article 44), and the KKTC's constitution of 1985 (Article 54) recognised the right to collective agreements and the right to strike for the whole working population.

This, together with far-reaching decisions by the Constitutional Court facilitating the laying-off of striking employees, made private sector unionisation very difficult. According to a survey, there are no union members in 95 per cent of privately owned workplaces (PGlobal 2014: 11). It is also true that the small size of companies is not conducive to unionisation, but even if we take firm size into consideration, the outlook is still gloomy. According to the State Planning Organisation's workplace census, there were 565 enterprises with more than 20 employees and 169 enterprises with more than 51 in 2015, while the Trade Union Registrar's annual activity report reveal that when cooperatives, local administrations and semi-public companies are left aside, only eight workplaces were unionised in that year.

Until the CAL was passed in 1996, there was no 'regularly functioning collective bargaining order and the signing of collective agreements [was] out of the question' (Gülmez 1996: 63). Since its inception, collective bargaining has been the privilege of a small group consisting mainly of manual workers in the public and semi-public sectors, particularly in local administrations. Given the deteriorating economic conditions in the past decade and government measures taken to reduce budget deficits, this small group is likely to get even smaller. Collective bargaining even in the public sector has increasingly come under pressure due to new legislation passed in 2010, which, to the unions' chagrin, further restricted the scope of collective bargaining for public sector workers who were employed after this date.

Furthermore, the Ministry of Finance became more involved in bargaining with semi-public institutions because of the tightening budget conditions dictated by austerity measures imposed by the Turkish government, whose influence in the North has been similar in this respect to that of the Troika in the South (see Sözen and Sonan 2018). In line with the three-year economic programmes implemented since 2010, the Turkish government has been providing less and less funds to finance the budget deficit. Accordingly, while the share of Turkish financial contributions used to plug the budget deficit reached almost a quarter of the Turkish Cypriot government's budget in 2009, it was only 4.5 per cent in 2017 (Kalkınma ve Ekonomik İşbirliği Ofisi 2018: 187). This apparent decline in financial dependence on Turkey notwithstanding, Turkey still has considerable influence on the Turkish Cypriot government's economic policies because the latter is entirely dependent on Ankara for public investment and its political survival.

Another form of collective bargaining in the public sector is the so-called protocol talks between the Ministry of Finance, as the representative of the employers' side, and unions. According to Article 135 of the Public Employees Law (1979), a meeting is held annually between the Ministry of Finance and the two civil servant unions with the largest membership. This is done with a view to protecting and developing their economic and social conditions and regulating their working procedures. If the two

sides reach agreement, they sign a protocol whose provisions come into force following the approval of the legislature if the issues agreed require legislation (Sonan 2018). The fact that the last protocol was signed in 2007 shows that austerity policies are also taking their toll on this mechanism of collective bargaining.

The business community's hostility to unionisation and collective bargaining, as well as government unwillingness to enforce legislation protecting labour rights are the most important factors underlying the lack of progress in extending unionisation and collective bargaining.

It is important to keep in mind that, although in legal terms the island as a whole became part of the EU in 2004, in practice the northern part is still outside it. Therefore it has not implemented harmonisation with the EU's acquis. Indeed, the Trade Unions Law of 1971 has remained untouched since 1974 and hence, as acknowledged by the Ministry of Labour is in need of revision; see, for instance, the activity report for 2008. This is not a priority for trade unions, however, because they are afraid that nothing good will come of it; one of their main concerns is the probable elimination of the check-off system, under which the employer deducts the union membership fee from employees' wages and pays it directly to the trade unions. This is a legitimate concern as the elimination of the check-off system has been floated by several governments.

Extent of bargaining

Similar to the South, no figures are available on the extent of collective bargaining coverage in the northern part of Cyprus. Even union density figures are not to hand. Based on available data, from 2004 to 2016 density declined from 33.7 to 26.2 per cent.[1] Density is declining overall not only because there has been virtually no success in expanding unionisation in the private sector, but also because it is falling in the public sector. This is largely because of the so-called 'extension clause'; white-collar public sector employees such as civil servants, teachers, doctors and nurses are covered by protocols negotiated by unions regardless of whether they are union members and therefore they have little incentive to join a union. Overall therefore it can be argued that collective bargaining coverage is higher than union density.

In terms of both the number of employees and social benefits covered, the most comprehensive of all collective agreements in the northern part of Cyprus is the one agreed between the Ministry of Finance and Kamu-İş, which represents public sector workers. In the case of local government, where collective agreements are regularly signed, collective bargaining applies only to blue-collar workers; the remuneration of administrative personnel is subject to protocols. Despite that, in practice they are entitled to the same social benefits and rights as stipulated in the collective agreement.

1. Calculated by the authors based on the household labour force statistics (number of salaried employees) and trade union membership figures provided by statistical yearbooks.

Those who are not union members cannot benefit from the collective agreement, although they can be covered if they pay the union a monthly 'solidarity fee', which however cannot be higher than the membership fee (Article 8.2 of the CAL). In practice, only a negligible number of employees choose not to join the union and do so for ideological reasons (Felek 2017). It is therefore possible to say that *erga omnes* applies. Completely excluded are workers on temporary contracts and cleaning and security workers, whose services are outsourced in almost all cases.

According to the CAL, the duration of collective agreements cannot be shorter than one year or longer than two years (Article 7.1). In practice, most collective agreements are valid for two years with the possibility to reconsider monetary provisions after a year, to protect employees in case inflation drastically increases. Employees' benefits secured in the collective agreement remain in force until a new collective agreement is agreed (Article 6.1).

Level of bargaining

Collective bargaining in the North is very decentralised. In contrast to the South, collective bargaining takes place exclusively at workplace level. The exception is the public sector agreement negotiated between the Ministry of Finance and Kamu-İş (Dev-İş 2016: 72) and the protocol talks between the Ministry of Finance and white-collar employees in the public sector.

The number of workplaces in which collective bargaining takes place seems to be frozen. According to the Trade Union Registrar's annual records of collective agreements concluded since 2007, the number of agreements fluctuates between 60 and 67. As unions, in effect, can organise only in the semi-public sector and local administration, this figure looks like a natural limit given the existing institutional framework. As already mentioned, there were only eight collective agreements in private workplaces. Three (BEM, ICP and Taşel) of these were at foreign-owned companies in manufacturing, one in a recently privatised public enterprise in the energy industry (Turkish Cypriot Petroleum), three in media and printing, with close ties with a centre-left political party, and one in a former cooperative, which became a commercial bank. The total number of employees covered by these is around 300.

Bargaining takes place between individual unions and individual employers. Although there is an employers' association, KTİS, it is not involved in collective bargaining. KTİS becomes relevant in two instances. First, in the administration of social security and provident funds, and second, in the determination of the statutory minimum wage, which is very important as this sets a benchmark for the non-unionised workforce in the private sector. Migrant workers, who make up one-third of the labour force, are the most vulnerable group and the statutory minimum wage is probably the only safety net they can rely on. The minimum wage is determined 'at least once a year', by a commission made up of 15 members: five representatives from the largest union, five representatives from the employers' association and five members representing the government.

Security of bargaining

In 1978, the Constitutional Court made a far-reaching decision that essentially ruled it constitutionally permissible to sack employees who go on strike. Since then, this has set a precedent, which is extremely unfavourable for unionisation, killing all initiatives to unionise in the private sector by effectively giving employers the right to lay off those who join a trade union and start a collective bargaining process. Thus, although the CAL explicitly states that employees cannot be punished for joining a union (Article 18.3), in practice, there are many cases, including a semi-public university and a company of which two ministries are shareholders, at which unionising employees were laid off without any consequences for the employer (Felek 2017).

Similar to the South, there are no legislative or institutional obstacles hindering unions from organising in a workplace. On paper, the union with the highest number of members in a given workplace has the authority to negotiate a collective agreement. The similarity ends there, however, as the law does not regulate what happens when a union establishes a presence and calls for the commencement of collective bargaining but the employer does not respond. The CAL does not lay down a recognition process and there is no mechanism or legal sanction to bring non-complying employers to the negotiating table. Employer hostility towards unions has seriously undermined not only the bargaining role of trade unions, but also unionisation in the private sector. Given these circumstances it is no wonder that collective bargaining is almost non-existent outside the public and semi-public sectors, and even in these sectors, employers have become more confrontational and hostile. In several cases in the recent past the employer rejected collective bargaining and went as far as laying off the workers who had initiated the formal process of collective bargaining by unionising (see, for instance, Kıbrıs 2016).

The key factor that provides security of bargaining, once the recognition of the employer has been secured, is the right to strike. Legislation regulating the right to strike is quite similar to that in the South. The right to strike is protected by the constitution, as well as the CAL. The government can postpone a strike, however, for up to 60 days, a maximum of twice a year, if it is considered likely to disrupt general health, national and public safety, the constitutional order or if it is in essential services (Article 16.3). Lately, the government has used this clause several times to postpone strikes by air traffic control personnel.

Depth of bargaining

Collective bargaining is conducted by full-time officials. It is important to note that union organisations are very small. Dev-İş, one of the three federations, which is involved in one-third of all collective agreements, has only four full-time officials, including the presidents of two of its constituent unions, while only the president of Hür-İş, the biggest federation, is a full-time official. In a similar vein, Koop-Sen, which has more than 700 members and has signed more than 10 collective agreements, has only two full-time officials.

According to the CAL, unions are obliged to inform the employer in writing of revisions they would like to negotiate in an agreement at least 30 days before expiry. In practice, some unions prefer to do this 60 days beforehand. The union leadership calls for a meeting with all members and, in coordination with shop stewards, formulate demands based on the wider economic context and the problems experienced in implementing the existing agreement. The small size and less developed union apparatus are a minor advantage with regard to the strength of relations between individual members and full-time officials. Unionists are constantly in touch with their members and most of the time the rank and file prefer to call the president of the union directly if they have any problems. Therefore the leadership is normally well aware of their members' demands and problems.

There is no need for coordination between unions because only one union can be authorised to negotiate a collective agreement in a particular workplace. If there is a conflict between two or more unions over this authority, a 'referendum' is called and the winner represents all workers in a given workplace. Therefore all workers join the winning union or pay a 'solidarity fee', which is a prerequisite to benefit from the collective agreement.

Similar to the situation in the South, the Trade Union Registrar under the Ministry of Labour acts as mediator when the two sides have difficulty reaching agreement. The Registrar's annual activity reports show that every year on average three to four disputes are referred to the Registrar and half of them are resolved amicably. If a disagreement continues and particularly when there is a threat of serious losses in collective bargaining, federations tend to hold wider consultations with rank and file members and occasionally call a strike. During the implementation process, the close collaboration between full-time officials and members continues.

Degree of control of collective agreements

When it comes to the degree of control of collective agreements, the situation in the North is black and white. An overwhelming majority of those working in the private sector are not covered by any collective agreement whatsoever, while almost all those working in the public or semi-public sectors are covered by either a collective agreement or a so-called protocol. The exception in the public sector are those few workers on fixed-term contracts (around 200 in 2016). By contrast, public servants working on a temporary basis (around 3,000), as well as temporary teachers and workers are covered by collective bargaining. This means that in contrast to the South there is no trend towards employing teachers systematically on precarious conditions and those who are employed on a temporary basis enjoy the same terms and conditions as permanent staff members. It is also worth adding that temporary employment of public servants was abolished in 2014.

Overall, compliance with collective agreements seems to be the norm rather than the exception and agreements as a rule set the actual terms and conditions of employment. Although sometimes with a delay, employers tend to fulfil the requirements of collective

agreements. There are very serious problems in certain local administrations, however, which are mired in financial difficulties. To be more specific, according to Dev-İş, 17 out of 28 municipalities do not pay their employees' social security and provident fund premiums, although they deduct the employees' contributions from their salaries (Dev-İş 2016: 58). This problem is likely to become even worse in years to come because a new law, due to come into force in 2018, caps the personnel expenditure of local administrations.

Scope of agreements

In general, the scope of collective agreements in the North is very similar to that of the South. One notable distinction is that most collective agreements in the North also include chapters outlining procedures dealing with discipline, grievance and disputes. Usually, union representatives participate in disciplinary committees.

A typical collective agreement identifies both parties' rights and obligations, including procedures regarding shop stewards or union representatives. The various chapters of a collective agreement usually cover the following issues: employment and promotion; working conditions and annual leave; pay and other social benefits; safety at work; and discipline, grievance and dispute procedures.

Conclusions

The key tendency in both the southern and the northern part of Cyprus in the past two decades has been the decline of union power and the shrinking of collective bargaining as a regulatory instrument in the labour market. The change has not been dramatic but gradual in the South, while in the North the special conditions have marginalised unions and collective bargaining in the private sector. The financial crisis, experienced in different ways across the dividing line, has brought about a deterioration of living standards in the past decade, while unions have been unable to challenge this even in the public and semi-public sectors where they continue to be relatively strong.

In recent years, as a result of the impact of the crisis (Ioannou and Charalambous 2017) the unions in the South have demanded legal tools from the state to oblige employers to abide by collective agreements and the establishment of a minimum set of rights for all those not covered by collective agreements, including the extension of the existing minimum wage. The key challenge for the unions in the South is to maintain their density and even increase it through recruitment campaigns in partially unionised as well as non-unionised industries. The prevailing economic and ideological climate is not conducive to this, however, as more and more people, especially the young, are reluctant, indifferent and even cynical with regard to political and collective action in general. The unions can only push their agenda of including extension mechanisms in collective agreements if they become stronger in terms of membership and profile. There is plenty of scope in the 2012 union law to force recognition and collective bargaining on resistant employers, but this can come only after the establishment of union committees

at the workplace level that can persuade a sufficient number of workers and majorities to join a union and bargain collectively.

In the past ten years, in the North, the politico-economic scene has been shaped by growing Turkish influence in economic policy-making, which is shaped by neoliberal principles. In 2010, at Turkey's behest, the government passed a very unpopular bill, the Law Regulating the Monthly Salary, Wage and Other Allowances of Public Employees, which considerably narrowed the scope of collective bargaining by setting wages by law for those who have joined the public sector since 2011. After failing to stop the passing of the abovementioned bill, which brought together all trade unions across the political spectrum and provoked two general strikes, the unions will be content if they manage to retain what they already have and are careful in formulating their demands. Against this backdrop, in the absence of a negotiated settlement of the Cyprus problem, the key challenge in the North is to slow this process down; reversing it seems to be almost impossible. A more optimistic scenario may be conceivable in case of a solution of the Cyprus problem, which may make it possible to effectively enforce the existing laws protecting labour rights and to introduce far-reaching reforms.

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All links were checked on 21 January 2019.

Abbreviations

ΔΕΟΚ	Δημοκρατική Εργατική Ομοσπονδία Κύπρου (Democratic Labour Federation of Cyprus)
CAL	Toplu İş Sözleşmesi, Grev ve Referandum Yasası (Law regulating collective agreements, strikes and referendums)
Dev-İş	Devrimci İşçi Sendikaları Federasyonu (Revolutionary Trade Unions Federation)
Hür-İş	Hür İşçi Sendikaları Federasyonu (Federation of Free Labour Unions),
ILO	International Labour Organisation
ΚΒΣ	Κώδικας Βιομηχανικών Σχέσεων (Code of Industrial Relations)
ΚΕΒΕ	Κυπριακό Εμπορικό και Βιομηχανικό Επιμελητήριο (Cyprus Chamber of Commerce and Industry)
Kamu-İş	Kamu İşçileri Sendikası (Public Workers Trade Union)
Kamu-Sen	Kıbrıs Türk Kamu Görevlileri Sendikası (Turkish Cypriot Public Officials Trade Union)
KKTC	Kuzey Kıbrıs Türk Cumhuriyeti (Turkish Republic of Northern Cyprus)
KTAMS	Kıbrıs Türk Amme Memurları Sendikası (Union of Turkish Cypriot Public Servants)
KTÖS	Kıbrıs Türk Öğretmenler Sendikası (Cyprus Turkish Primary School Teachers' Union)
KTOEÖS	Kıbrıs Türk Orta Eğitim Öğretmenler Sendikası (Cyprus Turkish Secondary School Teachers' Union)
KTIS	Kıbrıs Türk İşverenler Sendikası (Cyprus Turkish Employers' Union)
KTSO	Kıbrıs Türk Sanayi Odası (Cyprus Turkish Chamber of Industry)
KTTO	Kıbrıs Türk Ticaret Odası (Turkish Cypriot Chamber of Commerce)
ΟΕΒ	Ομοσπονδία Εργοδοτών και Βιομηχάνων (Federation of Employers and Industrialists)
ΠΕΟ	Παγκύπρια Εργατική Ομοσπονδία (Pancyprian Federation of Labour)
ΣΕΚ	Συνομοσπονδία Εργατών Κύπρου (Workers' Confederation of Cyprus)
Türk-Sen	Kıbrıs Türk İşçi Sendikaları Federasyonu (Federation of Turkish Cypriot Labour Unions)

Chapter 7
Czechia: bargaining supplements legal protection

Martin Myant

The Czech Republic was formed in 1993 after the division of Czechoslovakia into two successor states, the other being Slovakia. This followed a brief period after the end of communist power in 1989 during which a legal basis for collective bargaining was rapidly created. Trade unions, inheriting mass membership from the communist period, took the initiative, pressing for the establishment of tripartite structures, bringing together government, unions and employers' organisations. The last of these existed only in embryonic form at the time, but welcomed the resulting recognition and ability to influence government. The key laws on interest representation and collective bargaining were agreed in 1990 following advice from the ILO. They subsequently underwent only relatively minor changes.

Collective bargaining takes place between recognised union organisations, which need three members for legal registration, and employers or employers' organisations. Bargaining can be initiated at the request of either side, but it is almost always unions that take the initiative. The employer is obliged to respond, but under no obligation to reach an agreement. Collective agreements, usually running for one year, have legal authority. Those signed at the industry level, meaning with employers' organisations, cannot stipulate worse conditions for employees than are provided by law. Collective agreements are binding on all employers in the organisation, even those that may leave while the agreement is in force, and they cover a wide range of issues relating to pay and conditions, but often without precise commitments. Agreements at the enterprise or organisation level cannot give worse terms to employees than those laid down in the law or in an industry-level agreement, and they tend to be more specific on pay and other issues.

Total collective bargaining coverage is not reliably recorded at a central level. Available information suggests that it fluctuated slightly from year to year between 2000 and 2017, with a reasonable estimate of a decline from 55 per cent to 50 per cent. Content also varied: bargaining in public services was limited in scope because pay and basic conditions were decided largely by parliament. In some parts of the private sector, coverage is boosted by the extension of industry-level agreements to cover whole industries. Extension requires a decision from government, which is possible only if requested by both unions and employers' organisations. It is unclear how far extensions have brought benefits to employees.

The key actors changed little between 2000 and 2017. The main functions of employers' organisations are representation and lobbying the government. Two confederations are

Table 7.1 **Principal characteristics of collective bargaining in Czechia**

Key features	2000	2016/2017
Actors entitled to collective bargaining	Registered trade unions, employers, employers' organisations	
Importance of bargaining levels	Sectoral (setting general points) and enterprise (more specific), but only one level applies in many workplaces	
Favourability principle/derogation possibilities	Enterprise-level agreements cannot set worse conditions for employees than sectoral agreements and neither can set worse conditions than those laid down in the law	
Collective bargaining coverage (%)	55	50
Extension mechanism (or functional equivalent)	Decided by government when jointly requested by bargaining partners	
Trade union density (%)	26	7
Employers' association rate (%)	67*	67*

Note: * Very approximate.
Sources: See preceding text.

present in the tripartite structure, claiming together to represent 33,000 employers with 2.6 million employees in 2017. If accurate, this would represent about 67 per cent coverage of all employees. Employers' organisations that sign collective agreements, 20 in 2017 and all members of a larger confederation represented in the tripartite structures, rarely reported the numbers their members employed.

Trade union density is also difficult to measure, partly because of unreliable past claims from one of the confederations and partly because stated membership includes pensioners, who make up a significant proportion in some unions but zero in others. In addition, there are organisations that call themselves trade unions and may engage in collective bargaining, but for many of them no reliable data exist on membership. A rough estimate suggests a density level falling from 26 per cent of employees in 2000 to 7 per cent in 2017, close to the estimates presented in Table A1.H in the Appendix.

There had been early expectations that the importance of the law would fade over time as collective bargaining took on a bigger role. In fact, collective bargaining developed to a great extent as a supplement to legal protections, giving slightly better conditions but still covering the same themes. As a result, much of the activity of basic organisations involved ensuring that labour law was respected as much as negotiating, and ensuring implementation of, collective agreements. A major reason for this was a general decline in membership and weakening organisational strength in workplaces.

Industrial relations context and principal actors[1]

The political changes that ended communist power gave trade unions a dominant role in creating the new framework for collective bargaining. Employers' organisations emerged only later and directors of large enterprises were more concerned with

1. The background information on Czech trade unions in this chapter comes largely from Myant (2010).

influencing government economic policies and with pursuing their personal interests through enterprise privatisation (Myant 2000). Trade unions were bequeathed near universal membership from the previous system. Rapid transformation led to fundamental changes in structure and activities, reflecting a strong rejection of the perceived centralised political control of the past.

The new union confederation, Czechoslovak Confederation of Trade Unions (ČSKOS, Československá konfederace odborových svazů), unlike the previous central body, had no formal authority over lower levels. The result was a significant fragmentation. By 2017 there were 29 industry-level unions affiliated to the Czech-Moravian Confederation of Trade Unions (ČMKOS, Českomoravská konfederace odborových svazů), the main Czech confederation that took on the roles of ČSKOS after the breakup of Czechoslovakia in 1993, and 13 affiliated to the smaller rival Association of Independent Trade Unions (ASO, Asociace samostatných odborů), formed in 1995. At least 17 independent unions played significant roles in collective bargaining (Myant 2010: 62–75). Many unions were inevitably extremely small. The biggest ČMKOS-affiliated union in 2017 was the Metalworkers' Trade Union (Odborový svaz KOVO, OS KOVO), representing metal workers, with 95,000 members.

Transformation also involved the development of a new conception of trade union activity, using advice from western European unions and international agencies, especially the ILO. Essential to this was to be a role in defending the interests of employees through collective bargaining at enterprise and industry levels, ideally with an overarching agreement in a supreme tripartite body. The first step was to establish the tripartite Council for Economic and Social Accord (RHSD, Rada hospodářské a sociální dohody) formed at the Czechoslovak, Czech and Slovak levels in October 1990. The subsequent break-up of Czechoslovakia made no substantial difference, tripartism continuing through the Czech and Slovak bodies. In 1990 the RHSD was the forum for negotiating changes to labour law, amending the Labour Code (Zákoník práce) originally set out in 1965, which were then approved by parliament.

These, and some subsequent amendments, still left employees with substantial legal protection. ČMKOS later believed that the union side had succeeded in ensuring that the law guaranteed basic protection of wage levels, ultimately safeguarded by a statutory minimum wage; health and safety; maximum working hours and minimum holiday entitlements; as well as protection against arbitrary dismissal and various forms of discrimination (cf. ČMKOS 2010b: 17). Unions also retained substantial power over ensuring health and safety at work and they were to be consulted on dismissals, redundancies, overtime, working on public holidays and other abnormal shift patterns. There was also a crucial new element, namely a framework for legally-binding collective agreements that could lead only to improvements – from the employees' point of view – to existing laws. There were frequent amendments in later years, often adding more detail to set the terms for more flexible work patterns, but for some of them approval in collective agreements was still required.

Nor did EU accession in May 2004 change very much. Rights to consultation and information were already present in Czech law and there were at the time elected

employee representatives on company supervisory boards who were usually union representatives. One contentious issue was an anti-discrimination law, which was finally passed in 2009, albeit against strong opposition from right-wing politicians who conceded only because the EU would otherwise have imposed a substantial financial sanction. Trade unions for their part resisted the creation of works councils, seeing them as a threat to unions' exclusive position as employee representatives. The law finally passed in 2006 allows for their creation, but without rights to collective bargaining, joint decision-making or protection from victimisation. It is unclear whether many have been formed. None have ever been reported playing any significant role in furthering employees' interests.

From near universal membership in 1990, trade union membership fell to a fraction of that level. ČMKOS reported 300,000 members in 2017, while ASO claimed 85,000. This latter figure is plausible, although ASO has not in the past maintained reliable records of affiliates' membership as it does not charge affiliation fees. Its published figures, however, were clearly exaggerated. Any estimate of the decline is complicated by poor reporting and changing organisational affiliations, but a reasonable estimate from unions that remained affiliated to ČMKOS is a fall in membership to 10 per cent of the 1993 level in 2017.

This decline reflected weak traditions of trade unionism after the communist period, alongside an economic transformation that led to big changes on the employers' side. This was most pronounced in private services where state-owned enterprises disappeared, to be replaced by small, domestically-owned firms and by incoming multinationals. Membership when reported in 2009 was down to, respectively, 7 per cent and 3 per cent of 1993 levels in retail and in hotels and catering. The decline was smallest where organisational structures underwent the least change, as in much of the public sector, transport, finance and parts of extractive and manufacturing industry. New manufacturing plants established by foreign multinationals also provided a base for trade unions, albeit not compensating for declining membership elsewhere.

Employers' organisations took shape in the years after 1990 as bodies representing the interests of business groups. Collective bargaining was never their central activity. Representation in the tripartite RHSD was restricted to organisations with 400,000 employees or more, restricting numbers to two confederations, the Union of Industry and Transport of the Czech Republic (SPČR, Svaz průmyslu a dopravy České republiky , formed in May 1990 by directors of big state-owned enterprises) and the Confederation of Employers' and Entrepreneurs' Unions of the Czech Republic (KZPS, Konfederace zaměstnavatelských a podnikatelských svazů České republiky, uniting eight organisations to reach the threshold size). Neither of these were involved in collective bargaining. They had a common interest with trade unions in maintaining the role of the tripartite RHSD as a means for lobbying and communication, but they disagreed with unions on many issues of economic and employment policy.

SPČR includes 33 business associations among its members, some of which are involved in industry-level bargaining, as are many of the 147 individual companies affiliated to SPČR, to all of which it gives advice and guidance. Four of those in KZPS regularly sign

industry-level agreements. They rarely publish estimates of their affiliates' employment levels. One that does is the association for the construction industry which claimed that its members employed 57 per cent of that sector's workforce.

Coverage on the side of business associations weakened through the 1990s as a result of organisational fragmentation of economic units, the disappearance of large domestically-owned enterprises and a lack of interest in collective representation on the part of some incoming multinationals. Nevertheless, if the figures provided by the two organisations represented at tripartite level are accurate, they cover about 67 per cent of employment, or 81 per cent of employment excluding public services. This is considerably higher than the figures in Table A1.G of the Appendix. Even if these figures are exaggerated, there is a clear imbalance between employee and employer organisations' coverage, leading to some diversity in the role of industry-level agreements, as outlined below.

Level of bargaining

A simple early expectation on the union side was that bargaining would develop at three levels. The national level would set a very general framework. Industry-level agreements would define pay and conditions across similar employers and details would be filled in at the enterprise level. In practice, there has never been bargaining at the national level, industry-level agreements have, for the most part, provided only a general framework and the important issues are most frequently agreed at enterprise/organisation level. Clarifying the relationship between these levels requires some reference to the content of agreements, the main discussion of which is reserved for a subsequent section.

The national level is dominated by the tripartite RHSD, which evolved into a body that allowed consultation over government policies and legislation. Although less than initially hoped for by the unions, this was valued for providing direct contact with government and as a basis for consultations on policy and legislation, particularly as regards labour law and union rights. It performed the same positive role for employers' organisations, which pressed their demands, frequently for limiting progressiveness of taxation, minimum wage levels and regulation of employment conditions.

Individual employers, particularly larger ones, frequently had alternative means of influencing politicians. For many individual unions, however, the tripartite RHSD was the best means of access to the centres of power and they used it to press employment issues specific to their sectors, such as pay in the public sector or working hours in transport and retail. All of these affected employment conditions in ways, and to an extent, that collective bargaining with employers could not, often because not all employers were involved in collective bargaining. They thereby set a context within which bargaining developed at industry and enterprise level.

The industry, referred to in Czech as 'higher-level', agreements carried a degree of higher status as they had to be lodged with the Ministry of Labour and Social Affairs. They could only improve employees' conditions relative to the law and were binding on all members of the employers' organisation, including any that chose to leave during

the period of the agreement's validity. Scope can also be further extended by means described below. This binding nature meant that employers were often willing to agree only to very general points, leaving the details to be settled in enterprise agreements. These too could not lead to less favourable conditions for employees than either the law or industrial agreements. There is no requirement for an enterprise-level agreement when an industry agreement exists. In fact, there often cannot be enterprise-level agreements as in many cases there is no enterprise-level union. Thus, it is possible for an employee to be covered only by an enterprise agreement, only an industry agreement or by both, with the enterprise agreement giving detailed meaning to the industry agreement. This complicates the meaning and interpretation of figures on bargaining coverage discussed in the next section.

Extent of bargaining

There is no central register of all agreements and, in view of the fragmentation of unions and inconsistent overlap between bargaining levels, it is not possible to give a definite figure for bargaining coverage. Table 7.2 shows the coverage recorded by ČMKOS-affiliated unions. The available data do not allow a precise estimate of the number of employees covered by an industry-level agreement who are also covered by an enterprise-level agreement. In view of the industries concerned, including parts of retail, hotels and catering, it is reasonable to assume that a significant proportion will not be covered twice. Those covered by extensions are very unlikely to be covered also by enterprise-level agreements. The total figure for ČMKOS coverage for 2013 is therefore between 42.4 and 52.6 per cent. Agreements signed by ASO and independent unions, taking account of the industries covered, probably increase this by up to 5 percentage points. A rough guess points to total coverage falling from around 55 per cent in 2000 to around 50 per cent in 2017, slightly above the estimates in Table A1.A in the Appendix. This decline is much less marked than the decline in union coverage and is subject to more fluctuations because of variations in the numbers covered by extensions of industry agreements. The coverage of enterprise-level agreements varies much less, while showing fairly consistent decline, from an estimated 80 per cent coverage when collective bargaining formally began, and, as will be indicated, this is the level likely to have the greatest impact on employment conditions.

Table 7.2 **Bargaining coverage for ČMKOS-affiliated unions (% of employees), 2006–2017**

	Industrial	Of which extension	Enterprise
2000	16.4	4.4	39.8
2007	24.9	9.2	37.0
2013	16.4	6.2	36.2
2015			34.0

Source: Calculated from ČMKOS and Trexima (2016), pp. 5, 35.

Industry agreements, recorded by the Ministry of Labour and Social Affairs, followed a clear downward trend in the late 1990s. They are conspicuously absent from some industries with dominant foreign ownership, notably motor vehicles, as many, but not all, inward investors preferred to negotiate individually, if at all. They are more common in industries with long-term organisational continuity, such as chemicals, agriculture, mining and textiles. Industry agreements met continual hostility from some employers and from some on the right of the political spectrum. The main target was the legal power of the Ministry of Labour and Social Affairs to extend their scope to non-signatory firms, a power that could be exercised when formally requested by both sides. This extension provision was used extensively in the years up to 1995, not at all after that until the Social Democrats came to power in 1998, and quite widely in the next few years, apart from 2004, as explained below. The union side is more enthusiastic, but employers often agree when there is a long tradition of collective bargaining: it may often be an 'unwritten' part of the bargaining process that both sides will unite in submitting a request (Brádler *et al*. 2010: 43).

Opposition to extension culminated in a referral to the Constitutional Court, which ruled the practice unconstitutional, insisting that it be ended in 2004 (Tröster and Knebl 2014: 13–18). The judgment did not oppose extension in general, but identified problems in the failure to ensure representativeness of agreements and in the difficulty of making an appeal to courts on the part of employers who claim they are wrongly included. Amendments to the law were passed that satisfied these objections and extensions were approved again from July 2005. For the period 2009–2016 they were agreed, as in the past, for textiles, urban and other road transport, construction and glass and ceramics. Extensions were also approved for the first time for paper and agriculture.

Further information on total coverage comes from the survey on wages conducted annually over all enterprise sizes from 2011 by the Czech Statistical Office and the Ministry of Labour and Social Affairs.[2] This includes a question on whether wages are set by collective bargaining. The figures show substantial fluctuations, suggesting inconsistency in sampling methods, ranging between 38 per cent and 47 per cent. This is somewhat below estimates of coverage derived from other data, but rather high when set against the reservation that, as demonstrated below, bargaining may not even cover, let alone set, pay levels.

It can be added that these data also show collective bargaining leading, on average, to pay about 10 per cent above the level achieved without bargaining. This is highly suggestive, but cannot be taken as conclusive evidence of a positive effect for employees, as it may be a result of better qualifications and larger workplaces coinciding both with higher pay and with collective bargaining. Analyses by trade unions also show higher pay where collective agreements are reached, with a gap of 15 per cent in an analysis of KOVO experience in 2005 (Souček 2006) and a range of further benefits, some of which are referred to below. It is possible that other factors determined pay and benefit levels.

2. https://www.czso.cz/csu/czso/predbezna-data

Failure to reach an agreement, as occurs for over one-fifth of employees of companies at which there are trade unions, often reflects poor economic conditions in the enterprise, such that a favourable agreement might never have been possible (ČMKOS and Texima 2016: 37). Thus, albeit with some reservations, there are indications of a likely positive effect for employees from collective bargaining.

Security of bargaining

The legal framework agreed in 1990 sets the conditions for the trade union role in collective bargaining, including protection against victimisation, conditions for participation in collective bargaining and the right to strike.

Elected trade union representatives are given additional employment security, but there is no automatic right to representation or bargaining. These are voluntary matters between a trade union and an employer. In the early 1990s, trade unions were carried forward from the past and recognition and acceptance as a partner for bargaining was broadly automatic. That was less true after the transformation and fragmentation of inherited organisations and the emergence of many new, small or foreign firms. Many of these were hostile to union organisation and had no interest in collective bargaining. Particularly in the case of German multinational companies in manufacturing bad publicity, and especially the threat of bad publicity at home, was enough to persuade them to accept a union as a partner. They therefore transferred the broad outlines of their home-country practice, if not the details (Bluhm 2007; Krzywdzinski 2011).

This was more difficult in other sectors, but gaining recognition as a bargaining partner was often possible after a trade union had been established. The union representing retail workers, Union of Commercial Employees (OSPO, Odborový svaz pracovníků obchodu), facing foreign-owned chains, claimed some success in winning recognition from an employer after setting out only very modest demands and gaining support also from union confederations in the company's western European home (Myant 2010: 49). Despite this, OSPO in 2009 still reported fewer than 2,000 members out of 60,000 employees of foreign-owned retail chains. Employer hostility undoubtedly was an issue but, as reported by many union activists both in services and manufacturing, it was often matched by lack of employee interest. Past history has reduced the extent to which trade unions are seen as an essential protector of employees' interests.

The legal framework contains some oddities as regards participation from the union side in collective bargaining, which could give immense power to very small unions. A law passed early in 1990, without union involvement, specified that a trade union could register with the Ministry of the Interior, provided it had three members. The subsequent law on collective bargaining specified that a valid agreement required the signatures of all unions operating in a workplace. A small union can therefore block any agreement until its particular demands are met. This might also seem like an invitation to management to create 'yellow' unions, but that has only very occasionally been suspected from the union side.

The existence of multiple unions in collective bargaining can be followed thanks to an annual survey of agreements (MPSV 2006–2017), which shows plurality on the union side in around 20 per cent of cases in the enterprise sphere (private sector plus state-run enterprises). The normal case is an agreement by one union with one employer and even where there is more than one union they nearly always come to an agreement between themselves.

One exception is the railways, in which a number of unions, representing specific groups of employees, have existed alongside one dominant union, the Railway Workers' Union (OSŽ, Odborové sdružení železničářů). Nine unions signed the collective agreement for 2017. The power of a smaller union was demonstrated most emphatically by the Federation of Locomotive Drivers of the Czech Republic (FS ČR, Federace strojvůdců České republiky), independent from its foundation in May 1990. In 2005 it refused to sign the collective agreement with the railway employers for six months, pressing for a pay increase above that of other unions. That meant that no agreement could be signed for any employees until its demands were met (Myant 2010: 39).

Following this, and earlier experiences, the OSŽ was particularly vocal in calling for a change in labour law to make it possible to sign an agreement with the approval of trade unions representing the largest number of union members with that employer. Thanks to ČMKOS backing, this was included in amendments to labour law in 2006, but it was removed in April 2008 after being found unconstitutional by the Constitutional Court on the grounds that 'majority' was inadequately defined.[3]

Discussion of the employment law changes in 1990 ended before a general agreement on a law on strikes could be reached. A draft outlawing political strikes was condemned by the union side in June 1990 as 'bizarre and ridiculous' (Pleskot, *Práce*, 21 September 1990) in view of the importance of two brief general strikes in the political changes at the end of 1989. No subsequent government was able to fill this gap.

As a result, the only references to strikes come under the Law on Collective Bargaining (Zákon o kolektivním vyjednávání) of 1991 which sets severe restrictions, including requirements that they cannot be held while an agreement is under negotiation or after its adoption, prior to an effort at mediation or without the support of two-thirds of the votes, with 50 per cent participation of the employees affected by the issue in dispute. There has been no case of a strike following this procedure. A very few strikes have been possible where there was no prior collective bargaining or agreement. A week-long railway strike in February 1997, by far the largest and most important case of sustained industrial action in the Czech Republic's short history, had legal protection because negotiation of a collective agreement had ended after being blocked by a small union, incidentally suspected by the OSŽ of being a management creation. Two short work stoppages in the Škoda car manufacturer in 2005 and 2007 were linked to collective bargaining, but in neither case did the trade union follow the letter of the law which, it claimed, would have made a strike practically impossible.

3. http://nalus.usoud.cz/Search/GetText.aspx?sz=Pl-83-06_1

The paradoxical result of the wording of the law, periodically confirmed by court judgments, was that strikes not linked to collective bargaining were legal in view of the Charter of Human Rights, approved by parliament on 8 February 1991, which takes precedence over all Czech law. This asserts the right to strike in general terms, unless specifically qualified by other laws. The freedom to strike has been demonstrated in short national protests called by ČMKOS, notably in 1994 and 2008. There have also been one-hour and one-day strikes over pay in public services, called by the unions representing employees in schools, health care and state administration. In these cases, formally there is no bargaining over pay. The total wage bill, and hence any pay increase, is set in the state budget. Unions can try to influence the allocation of financial resources through the state budget by putting pressure on members of parliament and the government, sometimes effectively negotiating with the latter, but this does not qualify formally as collective bargaining and does not end in a collective agreement. Strike action is therefore not restricted by the law.

Depth of bargaining

Demands for items in collective bargaining overwhelmingly follow initiatives from the union side. In industry bargaining, individual employers often resist items in a proposed agreement, particularly detail on pay increases, leading to a certain vagueness of content. Depth on the employers' side therefore tends to limit the scope of agreements. Individual employers are more likely to use managerial power to impose changes, using collective bargaining only to achieve their aims for specific issues where this is required by law, such as the flexible work accounts discussed below.

Union demands in enterprise-level bargaining are presented to management by a union delegation. There is no obligation for wider consultation or to refer back to the membership, but the negotiating team may seek demonstrations of support from members if negotiations are making little progress. They may also come under pressure from the emergence of new trade unions, often around complaints that the existing leadership is not being aggressive enough in pressing demands.

The nature of union demands partly reflects local conditions and issues, but is strongly influenced by ideas from outside. The Škoda car manufacturer has been a pace-setter on pay since 1993, which others seek to emulate. ČMKOS has also provided general guidance and has been important in broadening issues beyond pay. An example is its decision in 2004 to push the issues of equal opportunities and opposition to discrimination, taking up an issue on which the government was dragging its feet and on which not all union activists were enthusiastic. The impact is discussed in a subsequent section. ČMKOS also takes up issues from EU-level agreements, for example on teleworking (2002) and harassment in work (2007) (ČMKOS and Trexima 2016: 90). The agreements were translated into Czech, but there was little explicit take-up in enterprise agreements.

In 2015 ČMKOS embarked on an active public campaign aimed at changing the atmosphere of collective bargaining (Myant and Drahokoupil 2017). After several years of low, or zero, nominal wage growth, the target was to be 'an end to cheap labour'

and affiliates were urged to press for wage increases of 5–5.5 per cent wherever an enterprise's economic position did not make this impossible. Reports from unions show a significant change only in some industries. A new government that seemed favourable to the aims of the campaign took a positive approach to social dialogue at national level. It raised the minimum wage by 9.9 per cent in January 2015 and by a further 6.7 per cent in January 2016 and this was seen by unions in some industries as making bargaining easier. The union representing hotels and catering referred to management reacting 'less hysterically' to talk of a pay increase (ČMKOS and Trexima 2016: 80).

Despite the limited use of strike action, unions occasionally declare a 'strike alert', a tactic used in the period 2003–2015 during negotiations on three industry and 52 enterprise agreements. More commonly, difficult negotiations are resolved with the help of a mutually-acceptable mediator, a method used in 11 industry agreements and 112 enterprise agreements in the same period. The disputed issue was almost always linked to pay, even in the few cases in the public sector, and the result was usually an acceptable compromise. In a few cases no agreement was reached. An alternative method, used in one industry and 11 enterprise agreements over that period, is acceptance by both sides of an arbitrator, whose decision is binding (ČMKOS and Trexima 2016: 90–101).

Degree of control of collective agreements

Signing an agreement does not guarantee its implementation. That depends on the available means for monitoring and enforcement. Control over the implementation of agreements should ultimately be ensured by their legally binding status, meaning that the Labour Inspectorate (Inspektorát práce, full title at national level Státní úřad inspekce práce, State Labour Inspection Office) and ultimately the courts can be involved if one side is felt to have broken an agreement. If such cases have occurred, they have not received publicity. No references to any such cases appear in reports of the Labour Inspectorate, although these, and also union, sources confirm that there are frequent cases of breaches of both the law and the terms of collective agreements, especially on overtime and working hours. Only one-third of collective agreements in the 'enterprise sphere' contain references to means to ensure implementation, including consultation commissions (MPSV 2007–2017: Table A19).

The greatest doubts over enforcement relate to industry agreements and their extension, leading to coverage of large numbers of workplaces without a trade union. In hotels and catering industry-level agreements were signed in 1992–1994 and again from 2004,[4] but detailed enforcement must be a challenge for a union with only 666 active members out of the industry's 119,700 employees in 2009.

Where extension of agreements is required by law, a study for the SPČR concluded that employers generally leave any enforcement to the union side, meaning in practical terms that little is likely to happen in workplaces without a trade union. They noted no cases of complaints to the labour inspectorate that a non-member firm was not implementing

4. https://bit.ly/2DxAoHG

an agreement (Brádler *et al.* 2010: 44), which suggests that extensions achieved nothing beyond making unions appear more successful in collective bargaining by 'an improvement in statistical estimates' of the coverage of industry agreements (Brádler *et al.* 2010: 46). This verdict needs to be set against further evidence on the content and results of industry-level agreements in the next section.

Scope of agreements

The themes covered in industry- and enterprise-level agreements are fairly similar, albeit with more detail and precision at the enterprise level. Industry agreements are seen by unions as establishing goodwill: almost all contain some commitments on issues such as working space for a trade union and set out a framework. They often include references to familiar themes that appear in employment law – notably pay, notice periods, working hours, overtime rules, night rates, conditions for weekend working, extra holidays, further supplements, health and safety, social conditions at work, training and insurance – but often only to indicate that negotiators at enterprise level are invited to negotiate improvements over the legal minimum.

Industry-level agreements can sometimes be a means for the union head office to start pressing new issues into collective bargaining. Thus the industry-level agreement for the period 2012–2016 between the union representing banking, finance and insurance employees and the 20-member employers' federation strongly emphasised opposition to discrimination, adding nothing to the existing law, but indicating a commitment to taking that law particularly seriously.[5]

Negotiations are most difficult over pay issues, sometimes resulting in a failure to reach an agreement at all. There are often references to minimum pay levels, for example in the agreement in banking, finance and insurance set at 20 per cent above the legal minimum wage. Commitment to a specific increase in nominal pay is very rare. There is almost always at least one significant employer who expresses opposition. Commitment to a definite increase in the real wage has occurred only in agreements between the KOVO union and the association representing the aerospace industry, an established sector with 37 members, many of them quite small.

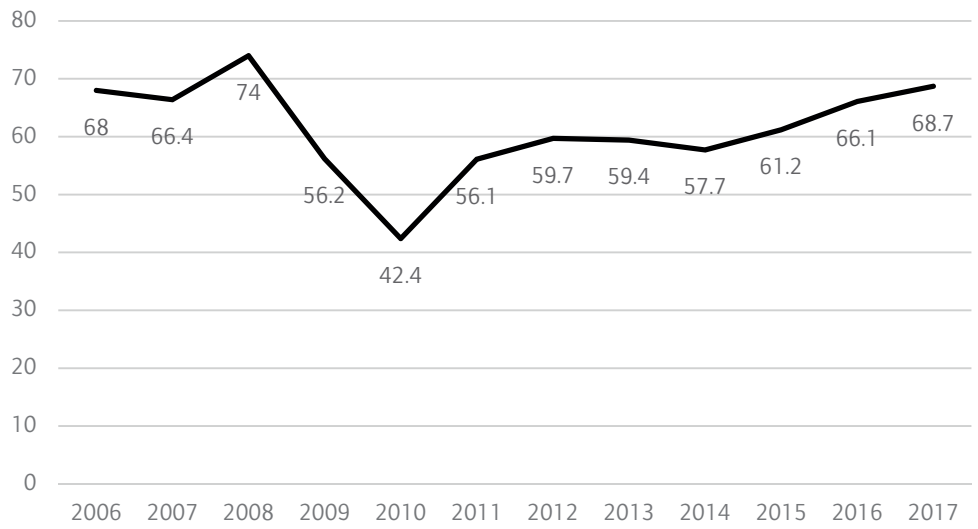
More usually, employers agree to try to prevent a decline in real wages or to maintain their level, or to support negotiation at enterprise level of an increase in wages if justified by productivity, the cost of living and the financial conditions of an enterprise. This offers little in cases, such as hotels and catering, where trade unions are absent from much of the sector. In exchange for stubbornness on pay, employers claim to have been happier to grant other benefits or include newer themes, a move that apparently lightens the atmosphere after the tension over wages (Brádler *et al.* 2010: 26). The extent of such benefits, however, declined markedly during the crisis without any signs of an early recovery (ČMKOS and Trexima 2016: 27).

5. http://www.osppap.cz/stanovy-os/

Enterprise-level collective agreements are usually signed annually, albeit typically taking forward a great deal from the previous year's agreement. There is no central record of all agreements, but an annual analysis has been conducted since 1993. Detailed results covering ČMKOS-affiliated and some other major unions have been made publicly available since 2006 (MPSV 2006–2017). Results are not precisely comparable between years as there are variations in the numbers of agreements covered. The total included is large, however, reaching 1,737 in 2017, 1,318 of them in the 'enterprise sphere' (private sector plus state-run enterprises) and 419 in public services and administration, signed by 27 trade unions and covering in all over 20 per cent of Czech employees.

The number of issues that can be included is enormous. The MPSV analysis includes 31 pages of tables with further subdivisions within those broad themes, and broadly follows topic areas in the Labour Code, indicating when there is an improvement on the minimum laid down by law. The main trend was a worsening in the results from bargaining from the trade union point of view, as the effects of the economic crisis were felt. This was followed by recovery in some, but not all, areas. There were visible improvements mostly where the cost to the employer was negligible. An example was the number of agreements on time off for union work, which increased from 34 per cent to 54.2 per cent of the total in the enterprise sphere between 2007 and 2017. There was also an increase from 16 per cent to 30.9 per cent in the number of agreements including commitments to opposition to all forms of discrimination covered in the law. This, as indicated, followed initiatives from ČMKOS. Somewhat fewer agreements also took up other recommended themes linked to equal opportunities, such as time off to look after children in case of need.

Figure 7.1 **Percentage share of enterprise agreements including some reference to a pay increase, 2006–2017**

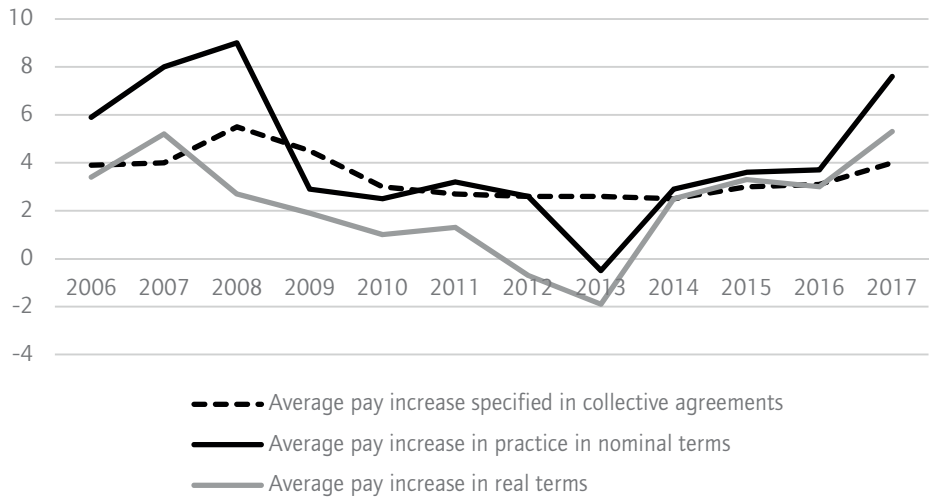


Source: MPSV 2006–2017.

The areas of maximum contention were pay, other benefits and working-time flexibility. Figure 7.1 shows the percentage of agreements that included a reference to a pay increase, showing the peak in 2008, the fall in 2009 and 2010 and the subsequent gradual recovery, such that 2017 was the second highest in the period. Thus although the crisis did not lead to a significant fall in the number of agreements reached, it altered their content as the union side was prepared to accept less in terms of pay in the hope of maintaining employment levels. This was sometimes made explicit in agreements, but commitments on job security are not followed in the published analyses.

As indicated in Figure 7.2, actual wage increases also diverged from levels set in collective agreements. There were several different ways of agreeing a pay rise. A weighted average for the two principal forms, an increase in the average nominal wage and an increase in the pay scales, shows the highest level in 2008 at 5.5 per cent, followed by decline to a low of 2.5 per cent in 2015 and then recovery to 4.0 per cent in 2017. The second of these methods does not include all payments, so it does not guarantee an increase in final pay. In fact, actual average pay increases were generally above the levels agreed by collective bargaining in good times and below in bad times. Thus, in the latter case collective bargaining only offers protection against wages falling too far. In the former case wages may be pulled up above the levels of collective agreements by the effects of labour market conditions, the flexibility built into collective agreements and the effects of pay movements in industries without collective bargaining. These effects were important in explaining the 2017 outcome when money wages rose by 7.6 per cent, following more aggressive bargaining from the union side, government decisions to increase public sector pay and the minimum wage, arguably also influenced by trade union pressure

Figure 7.2 **Average pay increases in collective agreements, actual pay increases in nominal and real terms, 2006–2017**



Source: MPSV 2006–2017 and Czech Statistical Office.

(Myant and Drahokoupil 2017), and growing labour shortages. This year saw a 5.3 per cent increase in real wages, the largest since 2003.

Disappointment over pay could have been compensated by improvements in other benefits. Some of these were also restricted during the crisis, although often by very little. Various forms of social and recreational funds, often funded by the equivalent of 2 per cent of the wage bill, increased between 2007 and 2016, from 40 per cent to over 50 per cent of agreements, with unions retaining joint decision-making rights in about 30 per cent of agreements. Additional holidays were very common in agreements, increasing from 79.3 per cent in 2006 to 87.6 per cent in 2017. The average length of the extra holidays fell after 2008, however, and was yet to recover fully by the end of the period.

Flexibility was the main area for new employer initiatives, although also one on which employees could seek to include new issues. Figure 7.3 sets out references in collective agreements to two themes. The first, flexible work accounts, was a major concern of German multinationals, modelled on the 'Flexikonto' used in German manufacturing. Under this system working hours can be added up over a longer time period so that downtime when demand is low can be set against compulsory extra hours when demand is high. This makes flexibility cheaper for the employer as there is no need to pay workers when they are idle through no fault of their own or to offer bonuses for working extra hours when required. It became possible in Czechia under a law effective from September 2007 with a maximum of 52 weeks for summing total hours and approval in a collective agreement required to allow this period to exceed 26 weeks. Inclusion in

Figure 7.3 **Percentage of collective agreements in the 'enterprise sphere' including flexible work accounts and restrictions on agency work, 2007–2017**

Source: MPSV 2007–2017.

agreements appeared on a significant scale in 2010, the year employees were keenest to obtain commitments on employment security, almost always with the accounting period close to one year. Half of the agreements were in metalworking. There was also good representation in mining and railways.

A flexibility issue raised by the union side is the use of temporary agency workers, usually with a demand for an upper limit on their share in the total workforce. Their use increased in the years up to the crisis, fell rapidly and then recovered. The total number of temporary agency workers in 2014 was recorded at 6.9 per cent of the total labour force, spread over many different industries (Kuchár and Burkovič 2015: 4). There were much higher figures in some enterprises, such as up to 25 per cent in Hyundai (Drahokoupil *et al.* 2015). In such cases employers were not so much seeking greater flexibility as finding cheaper labour prepared to accept what generally were lower wages, poor benefits and worse working conditions.

Trade unions have often accepted the use of agency workers as protection for a core workforce, but the scale of the phenomenon has led some to seek its restriction. These concerns were supported by ČMKOS advice, referring to problems of unequal treatment, lack of training in health and safety, lack of respect for rules on overtime for agency workers and a threat that the core workforce would be reduced and trade unions weakened, to the detriment of all employees. The low level shown in Figure 7.3 suggests that only a few trade unions were successfully pressing the issue and 24 of the 30 agreements including this theme in 2016 were in metalworking.

In the 'budget sphere' (public sector excluding state-run enterprises), in which pay levels are largely set by parliament, the focus of much of union activity was on influencing government decisions. From the agreements included in the analyses it is clear that a pay increase was rarely discussed. Working time and flexibility issues rarely appeared as they, too, were frequently set by law. Conditions for union work were usually covered, as in the 'enterprise sphere' (private sector plus state-run enterprises). On other issues, too, the public sector seemed only slightly different from the 'enterprise sphere'. For example, 83.3 per cent of agreements were signed by only one union in 2017 and there was a growing interest in including provisions to combat discrimination, which was dealt with in 20 per cent of agreements in 2017. Another matter covered was the provision of funds for social and recreational activities, which was included in 87.4 per cent of agreements in 2017.

Conclusions

Clegg in his classic study of trade union behaviour in a number of developed countries postulated that unions were significantly shaped by the development and forms of collective bargaining (Clegg 1976: 4–5). He accepted that this could not be a general theory of union behaviour as in many countries aims were pursued by different means, especially by political action. Modern Czech experience suggests that these two broad methods for furthering employees' interests have worked in combination. The development of collective bargaining was dependent on, and shaped by, trade unions' political influence.

Following the logic of a historical order, trade unions, with a degree of political influence, came first and then set about developing the preconditions for collective bargaining.

The first steps, however, only established a legal framework and a broad conception on the trade union side for future development. The form and importance of collective bargaining was then influenced by an economic transformation that brought different kinds of employers onto the scene. Some were happy to continue from the beginnings of social partnership and hence collective bargaining. Where economic transformation brought completely new employers onto the scene there was often no place for unions or for collective bargaining, although larger multinational companies often accepted unions as negotiating partners without visible complaint. Indeed, they saw benefits in using collective agreements to achieve objectives in relation to flexible working hours, not least because that was required by the law.

Partly because of the effects of economic transformation and some employer hostility, but also because of their weak roots in the emerging society, unions underwent rapid membership decline. This was accompanied by a significant, but much smaller, decline in bargaining coverage. Despite this apparent imbalance, the content of enterprise-level agreements does not demonstrate a substantial reduction in unions' bargaining strength. Organisational weakness may nevertheless have contributed to a continuing dependence on employment law as the best means of protecting employees' interests. Hopes that collective agreements would become more important than the legal framework have been fulfilled only to a small extent and only by the negotiation of improvements slightly above the prescribed legal minimum. Moreover, many industry-level agreements include very few specific commitments beyond what is guaranteed by law and implementation must be questionable in cases where they cover enterprises with no union presence.

This course of development has been similar to that of other countries of central and eastern Europe. Slovakia is the most similar (see Chapter 25), with the same union structures and legal frameworks inherited from the old Czechoslovakia before its break up in January 1993, and then similar courses of economic development. Differences then followed from specific political decisions over employment law and from differing court judgments. There are somewhat larger differences from others in central and eastern Europe. The role of employees' councils is more substantial in Hungary (see Chapter 14), where there was an effort to follow aspects of German experience. The presence of one confederation for much of the Czech union movement gives a clearer political voice than can be heard, for example, from the divided unions in Poland. That gives more force to united union campaigning, such as the attempt to press for widespread pay increases around the slogan of 'An end to cheap labour'.

In all, the system of collective bargaining in the Czech Republic is relatively well-established. It is limited in depth and scope, so that employment law remains an important protection for employees. It is likely to remain significantly different from the systems found in western European countries and similar to those of other central and eastern European countries, which have gone through similar economic and political transformations after similar histories.

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All links were checked on 2 December2018

Abbreviations

ASO	Asociace samostatných odborů (Association of Independent Trade Unions)
ČMKOS	Českomoravská konfederace odborových svazů (Czech-Moravian Confederation of Trade Unions)
ČSKOS	Československá konfederace odborových svazů (Czechoslovak Confederation of Trade Unions)
FS ČR	Federace strojvůdců České republiky (Federation of Locomotive Drivers of the Czech Republic)
KZPS	Konfederace zaměstnavatelských a podnikatelských svazů České republiky (Confederation of Employers' and Entrepreneurs' Unions of the Czech Republic)
OS KOVO	Metalworkers' Trade Union (Odborový svaz KOVO)
OSPO	Odborový svaz pracovníků obchodu (Union of Commercial Employees)
OSŽ	Odborové sdružení železničářů (Railway Workers' Union)
RHSD	Rada hospodářské a sociální dohody (Council for Economic and Social Accord)
SPČR	Svaz průmyslu a dopravy České republiky (Union of Industry and Transport of the Czech Republic)

Chapter 8
Denmark: the sacred cow of collective bargaining is still alive

Jens Lind

The main principles of collective bargaining in Denmark were established in 1899 with the so-called 'September compromise' (*Septemberforliget*). This general agreement, which is sometimes also called the 'constitution of the labour market', is still in force. It confers a prerogative on employers and legitimacy on the trade unions to represent the workers' interests. It also laid the foundation for the voluntarism that still is the main principle of labour market regulation in Denmark. The key issues and basic relations between capital and labour are not regulated by the state but by the two sides in the labour market. The line of demarcation between state regulation and collective bargaining, however, is and always has been contested as regards other issues than pay and working time.

The main argument in this chapter on collective bargaining in Denmark is that it comprises a very stable set of relations that has not changed much and continues to structure cooperation between labour and management. Some of the main features of collective bargaining in Denmark are summarised in Table 8.1.

The most important collective bargaining takes place at national level: in the private sector between employers' organisations in four or five industries and bargaining cartels of various trade unions, and in the public sector in three areas: central state, regions and municipalities. According to most agreements wages are also bargained at company level. Collective bargaining coverage in the private sector is around 65 per cent and in

Table 8.1 **Principal characteristics of collective bargaining in Denmark**

Key features	2000	2016/2017
Actors entitled to collective bargaining	Trade unions, employers' organisations and employers	
Importance of bargaining levels	National sectoral agreements supplemented and adjusted at company level	
Favourability principle/derogation possibilities	National sectoral agreements set minimum standards that can be improved at company level	
Collective bargaining coverage (%)	85	84 (2012)
Extension mechanism (or functional equivalent)	No extension mechanism	
Trade union density (%)	81	77
Employers' association rate (%)	Around 70	

Sources: Appendix A1.

the public sector close to 100 per cent. One of the main reasons for the high trade union membership rate is the so-called Ghent system of unemployment insurance, which includes a close relationship between trade unions and unemployment funds: workers who join an unemployment fund to be insured against unemployment also tend to join a trade union (Lind 2009).

The voluntarist approach to regulating the labour market is often called the 'Danish model' and has gained 'cult status' among practitioners and researchers; there is a high degree of consensus between trade unions, employers' organisations and the main political parties that the state should intervene as little as possible through legislation.

Industrial relations context and principal actors

The 1899 general agreement was reached after a major industrial conflict that was the culmination of increasing and widespread industrial unrest and trade union development from the 1860s (Jensen and Olsen 1901). The agreement solved the main questions arising from relations between capital and labour and laid down that the signing of a collective agreement would make conflicts illegal. Conflicts were, and still are, legal only if bargaining on a new agreement breaks down. This was even more firmly embedded when the government intervened in a conflict in 1908 and set up a tripartite committee that in 1910 came up with a collective agreement in which norms for the solution of industrial conflict were defined (Norm for Regler for Behandling af faglig strid), and laws that instituted a labour court (Arbejdsretten) and a public institution for conciliation (Forligsinstitutionen). Conflicts concerning the interpretation of existing agreements and rights were not allowed to lead to industrial action, but were supposed to be settled through arbitration or labour court decisions. The use of industrial action was restricted to conflicts of interest: that is, conflicts associated with the renewal of collective agreements or in areas not covered by such agreements.

These three regulations (the general agreement, the norm for conflict solving and the conciliation system) are still in force, but have of course been adjusted a number of times. The process indicates that employers and unions deal with their direct issues mainly without interference from the state, whose principal task is to furnish legitimation and institutions. This voluntarist system, the 'Danish model' (Due et al. 1994), refers mainly to the collective bargaining system, the set of norms and regulations that shape collective bargaining and some special agreements on cooperation committees (Samarbejdsudvalg).

The state, however, is not absent from labour market regulation in a broader context. The entire area of employment and social policy, retirement schemes, health and safety at work, education and training, holidays and some legislation on conditions for specific groups, such as white-collar workers and trainees, are regulated by legislation. Employee representation on company boards is also regulated by statute, while cooperation committees are based upon a collective agreement. This indicates the sometimes accidental division of labour between the state and the industrial parties.
Employment policy is of particular relevance for collective bargaining as it influences

market conditions for the exchange of labour in three main ways. First, the level of and access to unemployment benefits compared with wages affects competition in the labour market. High benefits will keep wages high. Second, the number of unemployed will affect the price of labour; and third, training and skilling services improve competitiveness and job opportunities for the unemployed.

The combination of these three elements, which constitute a so-called active labour market policy – also termed 'flexicurity' – can pave the road for successful collective bargaining with relatively little risk of conflict. Thus the state and welfare policies are important factors in setting conditions for the collective bargaining system (Knudsen and Lind 2012).

Most trade unions were affiliated with one of the three confederations: the Danish Confederation of Trade Unions (Landsorganisationen i Danmark, LO), the Confederation of Professionals in Denmark (Funktionærernes og Tjenestemændenes Fællesråd, FTF) and the Danish Confederation of Academics (Akademikernes Centralorganisation, AC). As of 1 January 2019 LO and FTF were merged into a new confederation, the Confederation of Trade Unions (Fagbevægelsens Hovedorganisation, FH). In broad terms, LO member unions organise blue-collar and white-collar workers in both the private and public sectors; FTF affiliates represent almost entirely white-collar professionals, usually in the public sector; and AC member unions organise people with an academic education and in both the private and public sectors. LO has traditionally had close ties with the Social Democratic Party (Socialdemokratiet), while FTF and AC have no official party relationship. The formal relationship between LO and the Social Democratic Party ended in the 1990s, however. The trade unions outside the main organisations are not affiliated for a number of reasons. The most important is the Christian Trade Union (Kristelig Fagforening), which originally was very small and founded in protest against the LO and its socialist profile. In recent years, other so-called 'yellow unions' that are not members of the three confederations and are in competition with their affiliates have emerged, most notably unions connected to the Professional House (Det Faglige Hus), which is mainly based on cheap membership fees. It offers legal counselling and has no collective agreements and is considered to be more employer-friendly than unions in the traditional confederations.

LO is by far the most important of the main organisations and has 18 member unions, first and foremost the Trade Union for Unskilled Workers (3F), the Metal Workers' Union (Dansk Metal) and the Trade and Office Workers Union (HK). FTF has around 70 member unions, representing teachers, technicians, social workers and nurses. AC has around 25 member unions representing engineers, doctors, economists and others.

Trade union membership has been declining since the mid-1990s. LO-affiliated unions have borne the brunt of this, losing almost half a million members. One main reason is that fewer people are employed in industries and trades typically covered by LO member unions. Changing occupational structures are also a key explanation of the growth among AC unions and the stability of FTF. LO-affiliated unions have lost members in particular to the 'yellow unions', which since 2000 have gained more than 200,000 new members or, tellingly, 'customers' as they call them. Neither the traditional trade

Table 8.2 **Trade union membership in Denmark ('000)**

	1970	1980	1990	1995	2000	2004	2008	2010	2012	2014	2015
Labour force*	2027	2384	2669	2648	2659	2656	2723	2704	2591	2594	2610
LO	894	1250	1423	1510	1459	1386	1251	1201	1123	1050	1026
FTF	156	277	325	332	350	359	359	358	353	346	344
AC	–	70	103	132	150	165	174	137	142	203	217
LH (managerial staff)	–	–	71	75	80	76	74	83	91	95	102
Outside LO, FTF, AC, LH ('yellow unions')	111	197	130	114	123	140	202	271	344	305	328
Total	1162	1794	2051	2163	2162	2127	2062	2050	2053	1999	2017
Total	57	75	77	81	81	80	76	76	79	77	77

Notes: * self-employed not included. The figure for 2015 is estimated. Danmarks Frie Fagforeninger (The Free Trade Union in Denmark) not included. Engineers left the AC in 2009 and rejoined in 2014 (43,000 members in 2009).
Source: Danmarks Statistik, Statistikbanken.

Table 8.3 **Confederations' share of total union membership (%)**

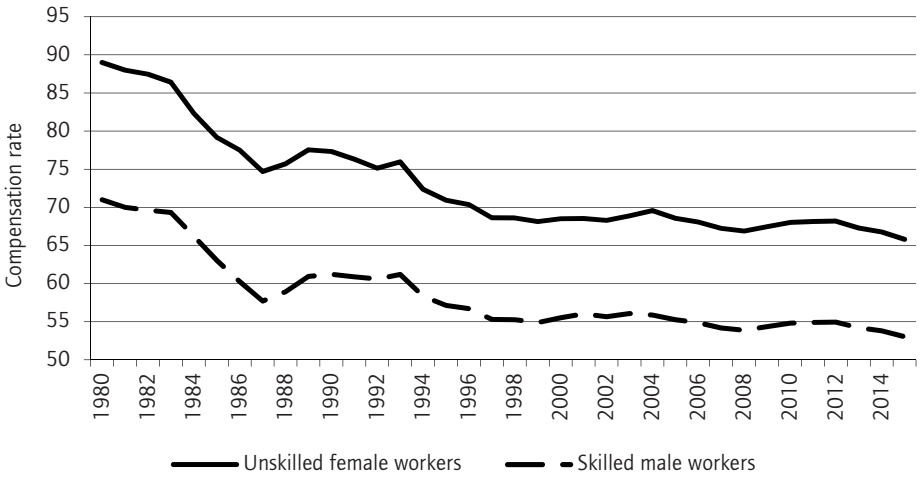
	1970	1980	1990	1995	2000	2004	2008	2010	2012	2014	2015
LO	77	70	69	70	68	65	61	59	54	53	51
FTF	13	15	16	15	16	17	17	17	17	18	17
AC	–	4	5	6	7	8	8	7	7	10	11
LH (managerial staff)	–	–	3	3	4	4	4	4	4	4	5
Outside LO, FTF, AC, LH	10	11	6	5	5	6	10	13	18	15	16

Source: Author's calculations. See remarks to Table 8.2 regarding Engineers' Union.

unions grouped in the LO, FTF and AC nor the employer organisations recognise the alternative unions as part of 'the Danish model'.

Part of the explanation for the decreasing affiliation to the traditional unions, and for falling union membership more generally, must be found in developments in the unemployment insurance system. Denmark, like Sweden and Finland, has a so-called 'Ghent system', which means that unemployment insurance is voluntary and linked to membership of an unemployment fund, which traditionally have been set up and controlled by the trade unions. Limitations on access to unemployment benefits and reductions in benefit rates relative to wages since the 1980s, combined with legislation

Figure 8.1 **Compensation rate of unemployed benefits for skilled male workers and unskilled female workers (1979–2015)**



Source: CASA, Social Årsrapport 2015.

that loosens the ties between trade unions and unemployment funds, have made it less attractive to insure against unemployment and thus become a trade union member (Lind 2009; Høgedahl 2014). The average compensation rate has fallen from around 80 per cent in the 1970s to approximately 50 per cent in the 2010s (LO 2006; Det økonomiske Råd 2014; CEVEA 2016).

On the employers' side DA (Dansk Arbejdsgiverforening) is the most important organisation, representing the overwhelming majority of organised employers in Denmark. DA has 14 employers' organisations, employing around 46 per cent of private sector employees in 2012 (DA 2014) and the most powerful member organisation is DI (Dansk Industri, Confederation of Danish Industry). The only employers' organisation outside DA is in the finance industry (FA, Finanssektorens Arbejdsgiverforening), which covers around 50,000 employees.

DA has always been a very heterogeneous organisation, with both single company members and big member organisations covering entire industries. For many years, and especially since 1987, organisational restructuring in DA has increasingly aimed at reducing the number of both single company members and member organisations. Since a major reform of DA structure and policies in 1994, no single company can become a member, only employer organisations.

The general strategy with regard to DA's restructuring has been, first, to decentralise collective bargaining to the industry level. It has retained its centralised power in approving or rejecting collective agreements bargained by one of its member organisations, however. All agreements have to be accepted by either the board (*bestyrelsen*) or the

general assembly (*generalforsamlingen*). In reality the absolute power within DA is in the hands of its biggest member organisation, DI, which has around 60 per cent of the votes on the board and the executive committee (forretningsudvalget) and 52 per cent in the general assembly. Second, the intention behind the restructuring has been to reduce all DA's other activities and transfer them to the member organisations. This has resulted in a drastic reduction of DA's resources, but it is still formally organised employers' most important agent.

The restructuring of DA paved the way for more decentralised collective bargaining and a change in trade union bargaining organisation. The trade unions had at that time been discussing new organisational structures for the past 20 years, but could not reach agreement. The change in DA's structure forced the unions to adapt (Lind 1995), however, and in the private sector bargaining took place in five bargaining cartels that resembled DA's structure. Such bargaining cartels consist of trade unions that organise workers within an industry, for instance manufacturing, where there are skilled and unskilled workers. Their unions create a cartel and bargain together. In manufacturing, for instance, the employer organisation is DI (Dansk Industri). Their counterpart on the trade union side is the cartel CO-industri which comprises nine unions.

This structure has since been modified somewhat, but the principle that DA and LO do not bargain directly but rather coordinate the bargaining of their affiliates still applies. In the public sector collective bargaining is divided between the central state, on one hand, and local and regional municipalities, on the other. The trade unions and LO, FTF and AC have formed two corresponding negotiating bodies, the CFU (central state) and KTO (municipalities). They cover approximately 900,000 employees.

During the past 50 years collective bargaining has taken place every second year for almost the entire labour market. During the past 15 years or so, the pattern has been less clear, though, as some agreements have run for three years, the present agreement between DA and LO member organisations is a three-year agreement, 2017–2020, and bargaining in the private and public sector has taken place in different years.

Extent of bargaining

In a country in which collective bargaining is something of a 'sacred cow' and considered to be the most important mode of labour market regulation, it is a paradox that nobody knows the exact number of existing collective agreements. In light of the decreasing number of trade unions and the concentration of bargaining areas after DA's restructuring in the early 1990s, it is a fair assumption that the number of collective agreements has fallen somewhat during the past 20 years, at least if single-employer agreements are excluded.

It is equally difficult to determine collective bargaining coverage. It depends on the method of data collection. Coverage in the public sector is no problem. It is 100 per cent or very close to that because the three areas of public sector employers, namely central state, regions and municipalities, bargain collective agreements for all their employees.

Table 8.4 **Collective bargaining coverage (%)**

	2000	2005	2010	2012
Private sector	77	77	73	74
Public sector	100	100	100	100
Total labour market	85	85	83	84

Sources: DA: Arbejdsmarkedsrapport, various years.

Survey-based estimates of private sector coverage come up with between 60 and 65 per cent (Scheuer 1996; Ibsen *et al.* 2011), but DA calculations based on registers end up with around 75 per cent (DA 2014). The DA measures are probably too high and the surveys may be too low because not all employees know that they are covered by a collective agreement. The coverage in the private sector therefore may be around 70 per cent and has probably been decreasing slightly during the past 20 years or so (LO 2011). For the labour market as a whole coverage may be around 80 per cent.

Collective agreement coverage is highest in building and construction and in manufacturing (around 90 per cent), 60 per cent in hotels and restaurants and in cleaning, and around 50 per cent in agriculture (Andersen *et al.* 2013).

If an employer has signed a collective agreement all workers are covered, regardless of whether they are trade union members or not. This system of course faces a high risk of 'free riding': you do not have to pay trade union membership fees to be paid according to the agreement. Free riding may also arise from the extension of collective agreements, but this does not exist in the Danish labour market mainly because both employers and trade unions are strongly against it (LO 2012).

A special exception regarding collective agreements is the collective agreement for around 100,000 white-collar workers in the private sector retail, office and service work. It is laid down in the collective agreement between white-collar trade union HK and employers' organisation Dansk Erhverv that it does not cover companies in which fewer than 50 per cent of white-collar workers are HK members. This is a serious problem for the workers and their union and it has been trying to expunge this provision for many years (it was established in 1939), but the employers have refused.

With no extension mechanisms collective agreement coverage relies entirely on 'free' collective bargaining, the membership of trade unions and employers' organisations and the capacity of the unions to conclude collective agreements, which again depends on the willingness of the members to demand and fight for an agreement. As argued in the previous section employment policy and the Ghent system play an important role for trade union membership, but members who join unions because of the unemployment insurance system may not be active in the struggle for a collective agreement. It is remarkable, however, that the coverage of collective agreements has remained relatively stable during the past 20 years or so despite falling trade union membership and the growth of 'yellow unions' without collective bargaining. It could indicate that employers have not used this weakening of the unions to avoid collective agreements.

Security of bargaining

An important element in the security of collective bargaining, which is understood here to refer to the main factors that support and maintain collective bargaining, is the acceptance and support from the state, the principal political power in society. In legal terms, the state allows employers and trade unions to conclude collective agreements and in this way determine or influence wages and other working conditions. In Denmark this takes place without statutory intervention. The state simply acknowledges the right of employers and trade unions to settle this issue on their own and restricts itself to providing some legal regulation of dispute resolution.

The security of bargaining was constituted in the general agreement in 1899 when workers' and employers' organisations mutually recognised each other as legitimate bargaining agents. It is possible that employers actually prefer a market without collectively based regulations, but as stipulated in the rules of the main employer organisation, DA, and according to its home page (http://www.da.dk/) it still supports collective bargaining: 'In keeping with the Danish tradition of regulating the labour market through collective agreement rather than legislation, DA supports and promotes the use of collective bargaining and considers it vital to ensure that labour markets are regulated through collective agreements as far as possible.'

As long as the employers support the collective bargaining system and the trade unions maintain a high membership rate, the security of bargaining will prevail.

The right to organise was in principle guaranteed in the constitution of 1849, but trade unions and their members had a turbulent time until the general agreement reached in September 1899, when the employers formally accepted trade unions as legitimate representatives of workers. Basically, the constitution forbad the state to interfere with the right to organise and the September agreement made it illegal for employers, who are part of the agreement, to restrict unions in their efforts to organise workers and hinder workers from joining unions. For employers and workers outside the collective bargaining system various laws forbid employers from dismissing or not employing a worker because of trade union membership, for instance the white-collar worker law (Funktionærloven) of 1938 and the law on protection against redundancy because of organisational relations (Lov om beskyttelse mod afskedigelse på grund af foreningsforhold) from 1982 (Kristiansen 2004).

The same principles also apply to the freedom not to join an organisation. In the public sector and as regards general agreements closed shops have probably always been prohibited, but until 2006 trade unions could sign agreements with individual employers stating that only trade union members should be employed. It was estimated that around 220,000 workers were employed in companies with closed shops when they were prohibited by legislation (Bom 2006).

Level of bargaining

The bargaining system as it is today is the result of an ongoing process of decentralisation that started in the early 1980s. It has not resulted in a completely decentralised bargaining structure consisting of single employer agreements, but in a structure based upon nationwide industry-level agreements with options for supplementary local bargaining.

Since the Second World War the most important actors in private sector collective bargaining have been the peak-level confederations LO and DA, which have concluded agreements at cross-sectoral level. After some turbulent years during the 1970s, however, with frequent state intervention in collective bargaining, in the early 1980s LO and DA decided to leave bargaining in the hands of their industry-level affiliates and bargaining cartels. Major organisational changes in DA during the early 1990s completed these 'decentralised' bargaining structures and the agreements in the private sector have ever since been bargained in four or five industries, covering a number of agreements. This means that, apart from a few company-level agreements, the current bargaining structure is still based on national coverage and bargaining has merely moved from the peak-level of cross-sectoral agreements conducted by DA and LO to the industry level, at which bargaining is conducted by the affiliates of DA and LO.

The most radical change in the direction of decentralisation occurred in the early 1990s when wage determination increasingly moved to the individual workplace. DA wanted a more flexible wage-setting system, shifting away from the so-called 'normal wage', which was bargained only at national level and not supplemented by company-level bargaining. In order to replace the normal wage system DA pursued two options. The first was to introduce a so-called 'minimum wage system' according to which the basic wage set by the industry-level agreement can be topped up by wage supplements negotiated at the workplace level. These wage supplements can apply to whole groups of workers or to individuals. The second option was to conclude so-called 'figureless agreements', which means that the centrally concluded multi-employer agreement does not specify any wage level at all and that therefore wages are determined exclusively at company or workplace level. Such flexible wage setting arrangements currently apply to around 85 per cent of the workforce: figureless agreements apply to 20 per cent of the workforce and the minimum wage system to 60 percent (Ibsen and Keune 2018: 27). This in turn means that in the majority of cases the wage level bargained at the national industry level is only a minimum standard for the wages bargained at local level, often several times during the term of an agreement.

In most agreements this right to bargain local wages is set to occur once a year. This is the case, for example, in the most important agreement, namely between the bargaining cartel in manufacturing, CO-Industri, and the employers' organisation in manufacturing, DI. The same goes for the agreement between HK and the employers' organisation, Danish Business (Dansk Erhverv) for white-collar office and private services workers: wages can be bargained once a year, but this agreement does not stipulate any pay level as a figureless agreement. Pay is here entirely up to negotiations between the individual employee and the employer. In line with the favourability principle, local bargaining

cannot result in pay or other working conditions that are below the standards stipulated in the national industry-level agreements.

The bargaining system in the public sector is divided into three areas: state, region and municipality, with bargaining cartels. In the public sector decentralisation of wage setting was introduced in the late 1980s with the so-called 'local wage' system and especially with the introduction of a more individualised system, the so-called 'new wage', in 1998. These wage systems are supposed to supplement the modernisation programme for the public sector that started during the 1980s. After a decade of significant scepticism among public sector employees and their unions these decentralised and individualised wage systems are now broadly accepted and have increased competition and the importance of wages as motivational factors among public sector employees.

There is no doubt that the decentralisation of wage setting has been a significant tendency during the past 20–25 years, but it is also evident that this decentralisation has not been completely and thoroughly implemented in a way that wages are completely individualised and determined at the workplace. This is due to opposition from both trade unions and employers' organisations to control the general level of wages in accordance with competition in the globalised economy.

The present system has been termed 'centralised decentralisation', 'multilevel bargaining' (Due et al 2006) or 'coherent fragmentation' (Lind 2004) in an effort to capture the fact that it is an exaggeration to label collective bargaining in Denmark as decentralised. Especially from an international comparative perspective such a term is imprecise.

Nonetheless, this development has resulted in a power shift in favour of employers as local wage setting is not subject to industrial action (Kristiansen 2004). Disputes are to be settled by arbitration. Local conditions derived from economic factors and company dependence on the capacity of individual employees have become more decisive for pay levels. In addition, decentralisation has strengthened employees' identification with their workplace and its specific conditions and interests, as well as their willingness to subordinate their demands to the company's capacities.

Depth of bargaining

As Robert Michels wrote in his classic study on political parties, 'It is the organisation which gives birth to the elected over the electors, of the mandataries over the mandators, of the delegates over the delegators. Who says organisation, says oligarchy' (Michels 1962: 365). The first chairman of the Danish LO, Jens Jensen, echoed this problem when he said that the 'organisation we are creating must be strong and firm because it shall conquer a world, but it shall also be organised according to democratic principles because it shall develop human beings' (Jensen and Olsen 1901). This issue is not only relevant for the organisational principles of trade unions but also reflected in the centralisation/decentralisation processes of collective bargaining.

The relatively high rate of unionisation of Danish workers is due partly to the unemployment insurance system, the Ghent system, as in Sweden and Finland. This means that many workers join unions to be insured against unemployment rather than to flex their muscles vis-à-vis the employer. Many trade union members thus tend to be passive in trade union affairs, which hardly strengthens the democratic culture in the unions and a commitment to be part of the struggle for better working conditions.

A relatively centralised collective bargaining system furthers the feeling of estrangement among trade union members. The leaders, professionals and delegates take affairs in hand and the rank and file remain passive and sometimes perhaps even uninterested. Despite the decreasing collectiveness and solidarity as the bargaining system becomes more and more decentralised, decentralisation may have the positive effect of getting individuals more closely involved in interest representation for themselves and their colleagues.

The LO trade unions have always talked about 'walking on two legs', perhaps derived from Jens Jensen's words cited above. They should have effective and centralised bargaining power and energetic representation at workplace level. The shop stewards play a crucial role in relations between the members and, in the first place, the local union. Shop stewards are the representatives of both the trade union members and the union. They are supposed to communicate the ideas, needs and wishes of the members to the union and the latter's policies, regulations and traditions to the members.

The bargaining process often starts a year or so before the deadline with discussions at the workplace or in the local union about the bargaining demands. There has been little research on this process, but presumably it varies a lot in intensity and very few union members participate. The most probable scenario is that shop stewards and local union officials are the main source in formulating demands from the local level of the union.

National bargaining takes place behind closed doors, far away from the rank and file, with sporadic reports in the media. The outcome, however, is often subject to discussion among the members and in the ensuing ballot most follow the recommendations of their trade union representatives. Sometimes trade union leaders recommend 'yes' but the members vote 'no', but this is very rare.

If a compromise is not reached by the bargaining parties, bargaining is taken to the official conciliator who may be able to outline a new agreement. If this happens DA and LO may accept the outline and it will be sent to the membership for acceptance or rejection. The big issue in this process is that the official conciliator often bunches all the agreements into one big package and in some areas there is actually a massive 'no' vote, while in other areas there is a majority 'yes' vote. Turnouts for these ballots are usually below 40 per cent, something that also underlines the general impression that nationwide collective bargaining is considered to be out of reach for ordinary trade union members. In 2017 the turnout was rather high, at 51 per cent, and the entire package was given a 'yes' vote of 57 per cent. But 60 per cent of the members from one of the major unions, the 3F, voted 'no' (Forligsinstitutionen 2017).

Local bargaining has a much more participatory and identifiable character. When centralised bargaining is over, local bargaining begins. For blue-collar workers bargaining is mainly collective, meaning that wages and other conditions are bargained for the shop. White-collar workers negotiate far more individualistically. It is normal that individual pay is not a matter of discussion among colleagues. This also means that wages for white-collar workers are not always understood as regulated by collective agreements.

Surprisingly, it seems that workers in LO-affiliated, mainly blue-collar trade unions are less active in trade union and other work-related activities at the workplace than workers from FTF and AC-affiliated unions. Only 33 per cent of LO workers said they had participated in a ballot during the past year compared with 55 per cent of FTF and 44 per cent of AC members (Caraker *et al.* 2015).

Perhaps ordinary members' consent and support for the system is seen most clearly in cases of conflict (Friedman 2008). If a conflict breaks out, the trade union members follow the directives of the unions and go on strike. It is very rare that critical voices are heard. It is obvious that the bulk of union members are just followers. It is noticeable, however, that a conflict increases workers' involvement in efforts to obtain better working conditions.

The basic principles of 1899–1912 still apply to industrial conflicts. If the parties cannot agree on signing a collective agreement an industrial conflict, whether a strike or a lockout, is a legal option. Such a conflict may involve picketing and secondary picketing, within certain limits: a secondary or 'sympathy' conflict (*sympatikonflikten*) must be proportionate, meaning that it must have a reasonable impact on the outcome of the main conflict (Kristiansen 2004).

When an existing collective agreement terminates, for instance after two years, it is still valid until it is substituted by a new agreement or a conflict breaks out, a so-called 'liberating' conflict. It is not enough for the parties just to say that they consider the old agreement to be terminated. They actually have to start a conflict.

Such conflicts about new agreements are called 'conflicts of interest', as distinct from so-called 'conflicts of interpretation', which are conflicts over the reading of an existing collective agreement. The number of conflicts has been steadily declining over the past 20–30 years (DA 2014), but they can happen on a large scale when existing agreements terminate and a compromise cannot be found. In recent times this has happened in 1998, 2008 and 2013. These can be nationwide conflicts for the entire private or public sector or conflicts for specific areas that for one reason or another could not conclude bargaining.

Most conflicts are illegal; in other words, they take place when there is already a collective agreement. They do, however, not influence the number of employees going out on strike or the number of working days lost to any particular degree as they typically last only one or two days and do not involve many people.

Table 8.5 **Industrial conflicts in Denmark, 1996–2016**

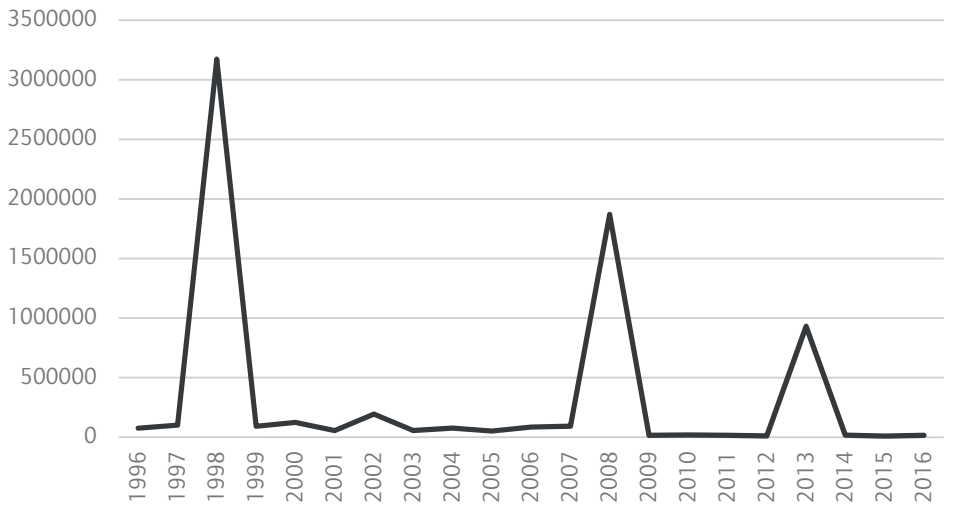
	Number of conflicts	Illegal conflicts	Number employees	Working days lost
1996	930		65,736	75,700
1997	1,023		75,349	101,700
1998	1,257		502,258	3,173,000
1999	1,079		75,170	91,800
2000	1,081	813	75,656	124,800
2001	832	585	49,460	56,000
2002	1,349	932	110,854	193,600
2003	681	608	44,365	55,100
2004	804	741	75,710	76,400
2005	534	490	32,833	51,100
2006	476	380	79,128	85,900
2007	862	768	61,113	91,700
2008	335	282	91,409	1,869,100
2009	207	168	12,679	15,000
2010	329	300	15,828	18,500
2011	280	260	13,127	15,000
2012	225	214	8,589	10,200
2013	197	176	57,319	930,300
2014	318	297	10,616	16,900
2015	158	138	6,054	9,400
2016	144	139	6,997	15,400

Note: The number of illegal conflicts is included in the overall number of conflicts.
Source: Danmarks Statistik and DA: Konfliktstatistik, various years.

Although the incidence of conflicts has been decreasing steadily during the past 10–15 years, industrial conflicts in Denmark are relatively frequent and comprehensive compared with countries such as Sweden and Norway. Compared with most other European countries Denmark ranks somewhere in the middle (Vandaele 2016).

State intervention in collective bargaining is not a recent phenomenon. During the past 40 years this has happened in 1975, 1977, 1979, 1985 and 1998, and the state has intervened in relation to particular elements of collective agreements on other occasions, such as in 2013 when the government legislated for a new agreement on working time for teachers (Klarskov and Svane 2017). Occasionally, state interventions do not threaten free collective bargaining substantially, but warn trade unions that they have to heed macroeconomic considerations and limitations and strict monitoring by the state.

Figure 8.2 **Number of working days lost**



Source: Danmarks Statistik.

Degree of control of collective agreements

The other type of conflict in the collective bargaining system, which will be addressed here under the heading 'degree of control', is the 'conflict of rights', which concerns the interpretation of a collective agreement or violations or breaches of an agreement. In such cases there exists a 'peace obligation'. Work is supposed to continue while the conflict is being settled. A question of interpretation is dealt with in a system dating from 1910 (Norm for Regler for Behandling af faglig Strid) which sets up a negotiation and arbitration procedure starting at the workplace, involving shop stewards, and ending up in the arbitration court. An alleged breach of an agreement may be dealt with in the labour court, which can issue fines and compensation.

The degree of control of existing collective agreements is considered to be high: if a breach of an agreement is observed the case is taken to the labour court and the violation sanctioned. To observe a breach, however, may depend on resources at the workplace. If it is a small company without shop stewards or an experienced workforce there may be violations of the agreement without anybody noticing it. In big companies with proper workers' organisation (shop stewards and so on) control is more thorough.

The degree of control with regard to collective bargaining and agreements depends on many factors in relation to bargaining and agreement implementation.

Both trade unions and employers' organisations consider the collective bargaining system as crucial for the regulation of the labour market, the trade unions perhaps more wholeheartedly than the employers who, according to their statutes, prefer a so-called

'free' market without collective regulation, although if regulation is necessary they prefer collective bargaining to legislation.

Although the bargaining process is becoming increasingly decentralised, the conciliation system is still highly centralised. If the bargaining parties do not reach a compromise they normally send each other a warning that a conflict will commence at the termination of the existing collective agreement (1 March in the private sector and 1 April in the public sector). The Official Conciliator (appointed by the government under the Official Conciliator's Act) may be involved by the parties or on their own initiative to head and supervise further bargaining. If a compromise cannot be reached the conciliator might postpone a conflict twice, for two weeks, and if no compromise can be found after that the conciliator can make his own proposal for a settlement and send it to LO and DA for approval. In the proposal the conciliator will normally use his right of concatenation with regard to various compromises or proposals from the bargaining areas. In this case special rules of concatenation are observed meaning that all the votes are put together in one ballot. The rejection of such a proposal requires not a simple majority of 'no' votes; rather they must represent more than 25 per cent of all potential votes. If participation in the ballot on the new agreements is more than 40 per cent a simple majority is decisive.

Legislation is considered the main threat to this voluntarist 'Danish model'. If the state moves in and regulates issues currently regulated by collective agreements, the industrial parties will be weakened. That is why they are very sceptical of legislation and also extension clauses. It would presumably increase membership losses (Knudsen and Lind 2012) and start a vicious circle, ending with deteriorating working conditions, at least as long as the overwhelming paradigm of political regulation is the strengthening of 'market forces' and 'improving competitiveness' in the global economy. EU influence represents another major threat in this direction: EU directives are seen as an alien element in the Danish system, as are attempts by the European Court to curb collective bargaining, aimed primarily at 'strengthening market competition' (ibid.).

Another issue with regard to maintaining the bargaining system is the establishment of new agreements. EU enlargement has caused a lot of unrest because the free movement of capital, labour, goods and services is considered to pave the way for social dumping. Social dumping typically concerns issues not covered by legislation but by collective agreements, if they are covered at all. If a foreign worker is employed in a Danish company that is covered by a collective agreement, this agreement will be respected. Even if foreign workers are paid lower wages than their Danish colleagues, because the agreement contains local and individualised pay, this does not constitute social dumping. If the company does not have a collective agreement, some key elements, such as wages and working time, are not regulated (apart from the EU working time directive) and will be negotiated directly between the employer and the worker. In other words, such cases are open for social dumping. A trade union can intervene by demanding a collective agreement and, if this cannot be obtained, proceed with legal collective action, which may include picketing involving other unions.

The increased fear of social dumping has also reignited the debate on subcontracting, especially in building and construction. During the past 15 years or so, trade unions have tried to increase the degree of control of collective agreements by including a so-called 'chain responsibility' into collective agreements, but the employers have refused: they do not think that companies that contract out can or should be responsible for subcontractors. In 2017, 3F managed to get a paragraph included the collective agreement for building and construction that stipulates that the shop steward or the union can obtain information about possible subcontractors in a specific building project (Bygge- og anlægsoverenskomsten 2017 mellem Dansk Byggeri og Fagligt Fælles Forbund:125).

All in all, the control of collective agreements is normally considered to be acceptable. There is a system consisting of the labour court and the conciliation and arbitration institutions that works according to accepted procedures. The problem is often that trade unions are not aware of abuses, violations of agreements and social dumping. But if such a case does come to their attention and they take it up, the system seems to work. A recent small case involved a bricklaying company that had employed (contracted with) a number of (Polish) workers purportedly as 'single-man companies' to avoid paying them the normal wage rate. 3F took the case to the labour court, which decided that the workers were of course in reality employed in a wage earner–like relationship and decided that the company had acted in breach of the collective agreement (Fagbladet 18 October 2017).

It is difficult to measure the impact of collective agreements, but statistics show that wage increases during the period of a collective agreement are almost the same as the bargained increase, usually a little more (up to 1 per cent) (LO 2017). A recent study tried to find out whether there is a difference between wages set by collective agreements and wages determined outside collective agreements. It found that there is a small difference in favour of wages set by collective bargaining. The study also concluded that wage dispersion is higher outside collective agreements (Ibsen et al 2016).

Scope of agreements

The scope of general agreements, which initially contained the mutual recognition of the parties, and the agreement on arbitration (Norm for Regler for Behandling af faglig strid) has changed over the years. They have become more detailed and include a range of topics. The latest version of the main agreement dates from 1993 and the latest agreement on arbitration dates from 2006. Furthermore a lot of other general agreements have been settled, such as the cooperation agreement (Samarbejdsaftalen) from 1947 (last changed in 2006). The general impression is that changes have been minor and have not narrowed their scope, but rather expanded it.

There is no main agreement for the public sector, but the basic rules and approach follow the same principles as the private sector. The public sector has its own cooperation agreement, which is very similar to that of the private sector.

Table 8.6 **Achievements of collective bargaining in the retail sector**

1971	Overtime pay
1973	Equal pay for men and women
1983	Freedom from work on a child's first day of sickness
1987	Reduction of the working week from 40 to 37 hours
1991	Right to one week of further training
1993	Occupational pension schemes
1997	Pay during maternity leave, minimum pay scheme for skilled workers
2000	Five more holidays per year
2004	Maternity leave fund
2007	Account for free choice, a right to one week of training of the worker's own choice, compensation for shop stewards
2010	Right to two weeks' training of the worker's own choice
2012	Free-time compensation for working during holidays
2014	More training rights, more money in the account for free choice, longer parental leave

Source: Author's compilation.

The ordinary substantive agreements have changed much more over the years. The main tendency since the 1980s has been decentralisation, meaning that many issues now are dealt with at the company or shop-floor level, first and foremost wages, but also working time which has been made much more flexible, mainly during the 1990s when flexibility was offered in exchange for the introduction and expansion of pension schemes. Maternity leave and the extension of holidays by a week on top of what is laid down in the Holiday Act are a couple of key since the 1980s.

The HK section for retail (HK Handel) details what collective agreements have achieved since 1971 on its homepage. The general picture matches those of a majority of trade unions and provides a useful description of the issues dealt with in collective agreements (see Table 8.6).

An assessment of the content of collective agreements should include the fact that wage increases have been very modest, at around 2 per cent annually for the past 20 years or so, and that occupational pension schemes were traded for more flexible working time during the 1990s.

The most visible and obvious deterioration of collective agreements during the past 20 years is the removal of working time standards for school teachers in 2013. As a result of this local management could decide unilaterally on how teachers spend their working time. After a conflict and government intervention, Local Government Denmark (Kommunernes Landsforening, KL), the employers' bargaining organisation, withdrew their recommendation that municipalities should not conclude a local agreement on working time to substitute the abandoned one. Some municipalities have since concluded agreements similar to the old one. In response to this rough use of power by the government trade unions in the public sector have started to prepare

mutual agreements that allow in future for secondary and supportive action from other organisations than the one whose working conditions have deteriorated (Klarskov and Svane 2017).

The impact of the EU on Danish collective bargaining is twofold: the impact of EU directives and the impact of the free movement of labour, most frequently discussed in terms of social dumping. The Working Time Directive and the Part-Time Directive are examples of EU regulations that have had direct consequences for issues regulated entirely by collective bargaining in Denmark. The Posted Workers Directive and the so-called Service Directive are examples of directives that attempt to directly regulate the level of competition based on the free movement of labour.

The impact of the free movement of labour and capital has not resulted in visible or formal changes in collective bargaining. As mentioned above competition in the labour market has increased and concerns about social dumping have intensified. The increase in competition among workers, especially low skilled and production workers, may have influenced the outcome of collective bargaining in a more indirect way, leading to a very modest wage increase during the years after the 2008 crisis. The fall in average annual wage increases from around 4 per cent before 2008 to 2 per cent after the crisis could be because of uncertainty among workers, but it could also be because the rate of inflation was very low and actually allowed for a modest increase in real wages (LO 2017).

Conclusions

One general conclusion of the examination of collective bargaining in Denmark is that it is still alive. This raises the question, however, is it still kicking? It is the stability and continuity that catch the eye. Changes have been minor, with modest wage increases, consolidation in many areas, a few setbacks and, with a few exceptions, fewer conflicts, although they are still at the upper end or somewhere in the middle in Europe (Vandaele 2011; 2016).

The 'Danish model' is surprisingly stable and it is tempting to use the same words Galenson used back in the 1950s in his book *The Danish System of Labor Relations: A Study in Industrial Peace* (Galenson 1969). He pointed out how important it is that the representatives of labour and capital maintain a cooperative attitude and support a system that makes this possible. The same can be said about the functioning of the collective bargaining system today.

Perhaps it is remarkable that the bargaining system has not been further affected by the hegemony of economic liberalism. The only obvious setback for trade unions has been in public sector bargaining, with the abolition of the working time agreement for teachers. The explanation of this is perhaps that a lot of the other changes in working time regulations that have strengthened management prerogatives have been implemented within the framework of decentralisation: the flexibilisation of working time takes place at workplace level, having been exchanged for the expansion of occupational pension schemes, which took place mainly in the 1990s.

Another explanation is that it has been the part of the population that is outside the reach of collective bargaining and the labour market that has suffered in recent years. Austerity measures generally affect people who are dependent on social services and benefits, as well as people working in teaching and in health and elderly care, who have experienced a drastic intensification of work because spending cuts mean that there are insufficient people to do jobs properly.

To a very large extent such processes are not part of collective agreements, but subject to management decisions, often influenced and legitimised by cooperative committees and other kinds of employee workplace involvement. The so-called welfare state sets the conditions and the local management and employees take over tactical and operational responsibility. Perhaps this reveals the limits of the collective bargaining system: when trade unions accept the employer's prerogative, a substantial part of working conditions are not negotiable.

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Abbreviations

3F	3F (Trade Union for Unskilled Workers)
AC	Akademikernes Centralorganisation (Danish Confederation of Academics)
CFU	Centralorganisationernes Fællesudvalg (Trade Union Bargaining Organisation in the State)
Co-industri	Centralorganisationen af Industriansatte I Danmark (Central Organisation of Industrial Employees in Denmark)
DA	Dansk Arbejdsgiverforening (Confederation of Danish Employers)
DI	Dansk Industri (Confederation of Danish Industry)
FA	Finanssektorens Arbejdsgiverforening (Danish Employers' Association for the Financial Sector)
FH	Fagbevægelsens Hovedorganisation (Confederation of Trade Unions)
FTF	Funktionærernes og Tjenestemændenes Fællesråd (Confederation of Professionals in Denmark)
HK	Handels- og kontorfunktionærernes Forbund (Trade and Office Workers' Union)
KL	Kommunernes Landsforening (Local Government Denmark)
KTO	Forhandlingsfællesskabet (Danish Association of Local Government Employees' Organisation – trade union bargaining organisation for municipalities)
LH	Ledernes Hovedorganisation (Danish Association of Managers)
LO	Landsorganisationen i Danmark (Danish Confederation of Trade Unions)

Chapter 9
Estonia: simultaneous institutionalisation and waning of collective bargaining

Epp Kallaste

Estonia is a small open economy in northern Europe that regained independence from the Soviet Union in 1991 and joined the EU in 2004. The population of Estonia is 1.32 million (2018) with an employment rate of 74.1 per cent (Eurostat 2017), one of the highest in the EU28 and more than 5 per cent above the EU average. In 2017, per capita GDP was 18,000 euros, which according to Eurostat is approximately 60 per cent of the EU28 average.

Collective bargaining in Estonia as we know it today was shaped in two phases. The first comprises the 1990s with the end of the Soviet Union and the transition from a centrally planned to a market economy. This phase was marked by a high degree of political instability and an almost complete decoupling from eastern European product markets, which led to drastic changes in the role and influence of trade unions and collective bargaining in Estonian labour relations more generally. The most visible signs of this were a steady decline of trade union density and shrinking collective bargaining coverage. After the initial turmoil in the 1990s, however, when the institutions inherited from the centrally planned economy sought their place in the new market economy, Estonian labour relations entered a phase of stabilisation in the 2000s, which saw the institutionalisation of collective bargaining practices. The decline of trade union membership and collective bargaining coverage slowed down but to some extent because levels were already very low. At the beginning of the 2000s, most collective bargaining structures and state-level social dialogue institutions were already established in roughly in the same form in which we know them today (see Table 9.1). By 2017, the bargaining practices that survived the transition period were quite strongly established. This means that regular and institutionalised negotiations take place in sectors such as health care and transport and in companies with a long tradition of collective bargaining. At the same time, in industries and companies in which there is no bargaining, it is very difficult to introduce it: for instance, in the finance and retail sectors.

In 2012, the Ministry of Social Affairs launched a reform of collective labour relations regulations, aimed at modernising the framework for collective bargaining created in the 1990s. The reform did not succeed, however: the renewed draft law was abandoned with the change of government in 2014 when Social Democrats, a traditional supporter of the trade unions, entered the government. The reform was also opposed by the trade union confederations as 'undemocratic' (ERR 2014). In the wave of planned reforms only some changes were introduced into collective bargaining regulations.

Table 9.1 **Principal characteristics of collective bargaining in Estonia**

Key features	2000	2016/2017
Actors entitled to collective bargaining	Depending on the bargaining level collective agreements may be concluded by the following: – an employer and trade union or an authorised representative of employees (a trustee) – association/federation of employers and trade union/federation of trade unions – local government association and trade union/federation of trade unions – employers' confederation and trade union confederation – trade union confederation, employers' confederation and the government – local trade union federations, employers' federation and local governments There are no representativeness criteria for bargaining parties and also no regulation for cases in which several trade unions are present in a company	
Importance of bargaining levels	Most collective agreements are concluded at company level There are two industry-level agreements (public bus transport and health care) which are extended and some industry-level agreements that are not extended There is only one national-level agreement on minimum wages covering all employees	
Favourability principle/derogation possibilities	In the event of a conflict between the provisions of different collective agreements applicable to employees, the provision which is more favourable to the employees applies The terms of a collective agreement that are less favourable to employees than those prescribed by law are invalid, unless an option for such an agreement has been prescribed by law*	
Collective bargaining coverage (%)	28 (2001)[a]	19 (2015)[b]
Extension mechanism (or functional equivalent)	Industry- and national-level agreements may be extended by agreement of the parties concerning working time and wages The scope of extension is determined in the collective agreement	
Trade union density (%)	13.9[c]	5.1
Employers' association rate (%)	35 (2002)[d]	25 (2011)[e]

Note: The Employment Contracts Act passed in 2008 widened the scope for collective agreements. Subsection 48(2) allows modifications of working time norms for health care workers professionals, welfare workers, agricultural and tourism workers if this is laid down in the collective agreement. Subsection 97(4) allows different notification periods for the terms of advance notice for cancellation of employment contracts by the employer if agreed in the collective agreement.
Sources: (a) Appendix A1.A; (b) Work-life Survey 2015; (c) Labour Force Survey (LFS) 2000; (d) LFS 2016; (e) Appendix A1.G.

In a nutshell, collective labour relations in Estonia are characterised by low and declining union representation, low and declining collective bargaining coverage and decentralised collective bargaining, with the company as the dominant level (Eurofound 2015). This is not a complete picture, however. Even though collective bargaining is not widespread, it includes a variety of practices at all bargaining levels.

Industrial relations context and principal actors

Collective bargaining and the development of industrial relations in Estonia during the period since regaining independence in 1991 may be characterised as transitional, lasting until the early 2000s, followed by a period of stability and only minor changes to collective bargaining institutions. This period in the 1990s was devoted to the creation

of regulations, the establishment of institutions and a search for their role in the new economic system.

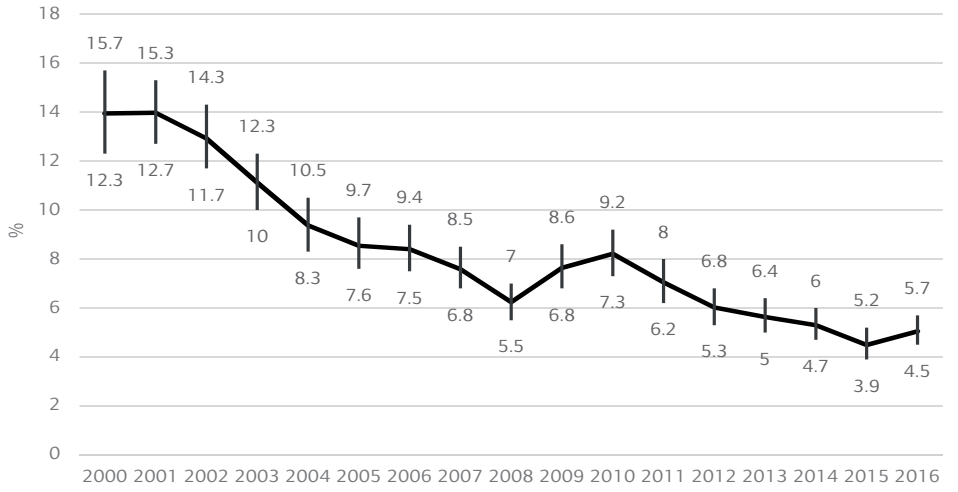
While in western Europe there had been a substantial policy shift towards a more 'liberal' economy since the early 1980s, in Estonia, as in the other Baltic countries, the transformation process was dominated from the outset by a neoliberal economic paradigm. In 1992, monetary reform took place and a currency board monetary regime introduced.[1] The criteria for maintaining the currency board system were a balanced state budget and no possibility to rely on monetary policy, leading to relatively low government intervention in the economic environment overall. Thus developments that in Western Europe were experienced as an abrupt change and put the institutions of collective bargaining under severe pressure, prevailed in the Baltic countries from the very beginning. In the Baltic countries therefore collective bargaining systems did not have to accommodate the new economic system, but rather were established from the outset to satisfy the needs of neoliberal policy.

Trade unions inherited from the Soviet Union were reorganised to suit the new market economy. The trade unions gave up most of the functions they had had in the centrally planned economy, including labour inspections, and sought a new role. Two main trade union confederations were created: the Estonian Confederation of Trade Unions (Eesti Ametiühingute Keskliit, EAKL) and the Estonian Employees' Unions' Confederation (Teenistujate Ametiliitude Organisatsioon, TALO). At the beginning, TALO was largely an organisation for white-collar unions and EAKL the confederation for blue-collar unions, but these boundaries have blurred over time. EAKL is significantly bigger than TALO and some of its affiliates, such as the Estonian Union of Journalists (Eesti Ajakirjanike Liit) are former members of TALO that decided to switch confederations. Whereas TALO represents mainly public-sector unions, EAKL represents both public- and private-sector unions. In 2017 EAKL's membership consisted of 18 industry unions or union federations and TALO's seven (according to their websites). Although EAKL has gained members from TALO the membership of both confederations is in decline. In the early 2000s they had 25 and 12 industry unions, respectively (Kallaste 2004: 81). There are also some major unions that do not belong to any confederation, such as the Estonian Doctors' Union (Eesti Arstide Liit, EAL) and the Estonian Education Personnel Union (Eesti Haridustöötajate Liit, EHL).

Not only the number of trade unions but also union membership has decreased significantly. The most drastic changes took place in the early 1990s. By the beginning of the new millennium, union density had fallen from nearly 100 per cent at the end of the 1980s to slightly above 10 per cent (see Figure 9.1). Since 2000 the trend of declining membership has continued, with a slight reverse during the economic crisis in 2009–2010. According to the latest estimates, total union membership is around 25–33,000 or around 5 per cent of employees (see Figure 9.1).

1. The Estonian kroon was introduced and pegged to the then German mark at an exchange rate of 1 DM to 8 kroons. Afterwards it was pegged to the euro (1 euro = 15.6466 kroons). The currency board system was maintained until Estonia joined the euro in 2011. The currency board regime assumes that all currency in use is backed up by reserves and thus convertible. It eliminates the possibility of using monetary policy as a state governance tool in order to keep the monetary system reliable. This was set as a priority by all the governing parties and helped to build strong economic growth in Estonia.

Figure 9.1 **Trade union membership (% of employees, 95% confidence intervals of estimates), 2000–2016**



Source: Statistics Estonia, Estonian Labour Force Surveys 2000-2016, author's calculations.

Trade union structures are diverse. There are unions with a hierarchical structure consisting of company-level (or sometimes regional-level) unions, which in turn are affiliated to national industry-level associations, such as the unions representing Estonian energy workers (Association of Estonian Energy Workers' Unions [Eesti Energeetikatöötajate Ametiühingute Liit], EEAÜL) or education workers (Estonian Education Personnel Union [Eesti Haridustöötajate Liit]). There are also unions, however, that organise employees directly at the industry level, often by occupation, which in turn have representation in companies. This kind of structure is common in health care and transport. Health care and transport are also the only industries that have extended industry-level collective agreements. This suggests that the industry-based trade union structure has supported specific collective bargaining practices. Having government as one of the biggest sources of funding in the sector helps unify the goals of employers and employees and target their common demands towards the government. The industry-based union structure in health care is also supported by certain characteristics of the profession; all doctors in Estonia are trained at the same faculty of Tartu University.

The employers' organisations have had a slightly different history as, naturally, there were no predecessor organisations from the Soviet time. In the early 1990s two major employers' confederations emerged, one representing manufacturing employers (in 1991) and the other service sector employers (in 1995). They merged in 1997 to form a new employers' confederation, the Estonian Employers' Confederation (Eesti

Tööandjate Keskliit, ETK).[2] There are two other business representation organisations: the Estonian Association of Small and Medium Sized Companies (Eesti Väike- ja Keskmiste Ettevõtjate Assotsiatsioon, EVEA) and the Estonian Chamber of Commerce and Industry (Eesti Kaubandus-Tööstuskoda, EKTK). These organisations do not act as collective bargaining parties, however. According to 2015 estimates, around 18 per cent of employers belong to employers' federations or confederations and this has not changed essentially since 2009 (Kaldmäe 2017:71).

Regulations on individual and collective employment relations, occupational health and safety and working conditions were created in the 1990s. Even though knowledge was scant concerning possible employee representation and bargaining models (Kaadu 2008: 20) the Collective Agreements Act (Kollektiivlepingu seadus, KLS), the Collective Labour Dispute Resolution Act (Kollektiivse töötüli lahendamise seadus, KTTLS) and the Employees' Trustee Act (Töötjate usladusisiku seadus, TUIS) were passed in 1993. The Employees' Trustee Act was based on the concept of dual-channel representation of employees in accordance with ILO Convention No. C135 (Kaadu 2008: 20). The Act created the institution of an employees' trustee (union or non-union trustee[3]) who could also act as an authorised representative of employees in collective bargaining. A trustee is an employee who is elected as their representative by the general assembly of all employees. The main functions of a trustee are to participate in information and consultation, to communicate information between employees and employer, to monitor compliance with working conditions and to represent employees in labour disputes. Trustees may negotiate and conclude collective agreements with the employer if there is no trade union in the company. In this case, a trustee also represents employees in the resolution of collective labour disputes.

The social partners, including the trade unions, supported the establishment of minimum standards for working conditions on a legal basis. This was deemed necessary in order to guarantee decent working conditions for everybody as there was much uncertainty regarding economic developments, the social partners' role and power in the new economic situation. Defining employment conditions in regulations, however, reduced the scope for collective bargaining, reinforcing its decline.

At the beginning of the transformation process social dialogue and collective bargaining were essentially influenced by the Soviet time. Collective bargaining came with the relevant trade union institutions in reorganised companies and industries in which trade unions remained collective agreements were signed; examples include mining, electricity and big textile companies, such as Kreenholm.[4] Because of the major changes in the economic structure, reconstruction, privatisation and bankruptcies, trade unions and their membership declined rapidly and therefore so did collective bargaining coverage.

2. In 1997–2001 it was called the Estonian Employers' and Industry Confederation (Eesti Tööandjate ja Tööstuse Keskliit). In 2003, its membership included 31 industry associations and 24 commercial undertakings (Kallaste and Eamets 2004: 50). In 2017, its membership comprised 22 industry associations and 93 commercial undertakings (ETK 2017).

3. In 2006 the new Employees' Trustee Act was passed, replacing the earlier 1993 Act. The new Act concentrates only on trustees and applies to union trustees within the scope specified in the Trade Unions Act.

4. Bought by the Swedish company Boras Wäferi AB in 1994. It went bankrupt in 2010.

In the 1990s state-level social dialogue involving both trade unions and employers' federations included a wide range of topics. From 1992 there were annual tripartite negotiations and by 2004 16 tripartite agreements had been concluded. In addition to the minimum wage this included topics such as unemployment benefits, tax-exempt income, vocational education and employment guarantees (Kallaste 2004: 46). Since then, however, there have been no regular tripartite negotiations between the confederation of employers, trade unions and the government leading to formal tripartite agreements. National-level collective bargaining has been reduced to bipartite negotiations on the minimum wage between EAKL and ETK; agreements were signed each year in 2002–2007 and then in 2011, 2012, 2013, 2015, 2017 and 2018. The other topics are discussed with the social partners in numerous multipartite bodies and some ad hoc negotiations are held and agreements signed, such as an agreement on the principles of the new Employment Contract Act (Töölepingu seadus, TLS) in 2008. This was signed by the government, EAKL, TALO, ETK, and EKTK.

The system of social dialogue, which includes collective bargaining as one specific variant, has been influenced by two developments: on one hand, union membership and collective agreement coverage have declined, so that the impact of collective bargaining on employment conditions has also declined. On the other hand, there has been strong support for the development of social dialogue by the EU, which has empowered central-level organisations. Therefore there has been a certain polarisation of social dialogue institutions, in which the top-level organisations and their role are not derived from organising power at the lower levels.

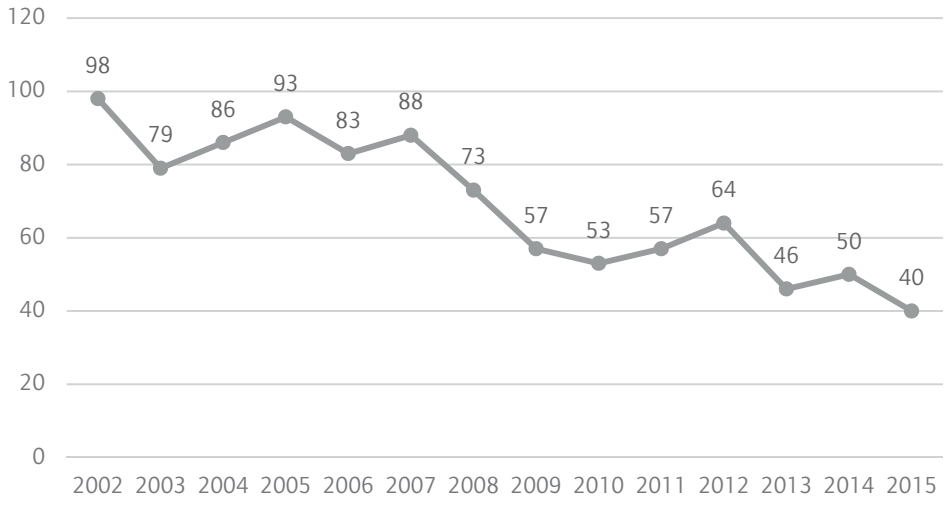
After the initial rapid developments, the main participants and institutions were established. Some have lasted and been institutionalised and some have disappeared. Most of the regulations that essentially influence collective bargaining have lasted, with some modifications. Nationwide collective agreements have narrowed to only one topic, the minimum wage. At the same time representatives of social partners' confederations still participate in various tripartite bodies that have some influence over public policy matters, for example, the Unemployment Insurance Board and the Health Insurance Board.

Extent of bargaining

In Estonia 18–19 per cent of employees are covered by either industry- or company-level collective agreements.[5] During the past 15 years, coverage has decreased by approximately 10 percentage points. The national-level minimum wage agreement has a stable coverage of 100 per cent because it is compulsorily extended to all employers and employees in Estonia. It is more interesting to look at the development of the coverage of company and industry-level agreements; this is the statistic usually reported when discussing bargaining coverage in Estonia. The overall decline of

5. The estimates based on the work-life survey 2015 (see Kaldmäe 2017) and the Collective Agreements Register. Based on the agreements registered in the Collective Agreements Register, active agreements cover the working conditions of 105,087 employees (including extended industry-level contracts and apart from the national-level minimum wage contract), which is 18 per cent of all employees in 2016. There were 583,600 employees in Estonia in 2016 (Statistics Estonia, table ML217: Employed).

Figure 9.2 **Number of collective agreements concluded and registered during the year (including industrial and national agreements), 2002–2015**



Source: Kaldmäe 2017: 76, based on register of collective agreements.

collective bargaining coverage is due mainly to the decline of the coverage of company-level bargaining. There has been no substantial decline in the coverage of industry-level agreements.

By law, collective agreements regulate the working conditions of those who belong to the organisation that concluded the agreement, unless otherwise specified. In at least two-thirds of cases the agreement applies to over 90 per cent of employees in the company or companies that have concluded the agreement (Kallaste 2011; Põldis and Proos 2013; Kaldmäe 2017), thus also covering employees who do not belong to trade unions.

In Estonia, the conclusion of collective agreements is closely related to the presence of trade unions in companies. In companies without a trade union only 2 per cent have a collective agreement, which in this case is signed by a non-union employees' trustee. By contrast, 41 per cent of those companies with union presence have a collective agreement (Põldis and Proos 2017: 81). At the same time, union presence and collective bargaining is concentrated in larger companies. Thus, the decline of trade union density also explains the (somewhat smaller) decline of collective bargaining. This is because of the *erga omnes* principle which entails that all employees, irrespective of whether they are a member of a union, are covered by a collective agreement, if there is one.

The number of collective agreements registered on an annual basis decreased from around 90 in 2002 to 40 in 2015 (Figure 9.2). The share of companies covered by a collective agreement decreased from 6 per cent in 2009 to 4 per cent in 2015 (Kaldmäe 2017: 79–80).

The coverage of industry-level collective agreements is influenced mainly by the extension mechanism. All in all, the extension mechanism increases coverage (excluding national-level agreements) by around a quarter (based on collective agreement register data).

The extension of collective agreements is restricted to the issues of wages and working time in industry- or national-level agreements. Scope is laid down in the agreement and there are no conditions for enforcement other than publication in the official gazette *Ametlikud Teadaanded*. No representativeness criteria or authorisation mechanisms are envisaged for the bargaining parties, if they wish to extend the agreement. The parties themselves determine to whom they shall extend the conditions they agreed upon.

This extremely loose regulation of extension is considered to infringe the constitution, as ruled by the Chancellor of Justice (Õiguskantsler) in 2005 (Õiguskantsler 2006: 284). Ahlberg and Bruun (2009: 4) identified three main problems regarding the extension of collective agreements and fundamental rights in Estonia: first, every social partner has the possibility to extend the agreement without restrictions; second, there are no representativeness criteria for the parties that may extend collective agreements; and third, the third parties to whom the contract is extended have no possibility to express their opinions about the agreement at any stage of the negotiation process.

This was about to change in 2014 with a proposed reform of collective labour relations when a new draft act on collective bargaining and collective labour disputes was presented to the parliament. The draft act was abandoned after the parliamentary election in 2015, however, and no changes were introduced to the extension mechanism. In January 2018, the social partners themselves (EAKL and ETK) signed a historic agreement on good practice in extending collective agreements that addresses the issues brought out by the Chancellor of Justice (EAKL 2017). The agreement suggests that:

– the organisation with the highest membership in the industry shall conclude the agreement that is to be extended;
– the parties shall inform the public of their intention to conclude an extended collective agreement through the media, including social media, one month before starting negotiations;
– the public shall be informed through the media, including social media, of the draft agreement after the negotiations and interested persons may suggest amendments within one month; these suggestions are not mandatory for the parties to the agreement;
– the conclusion of the augmented final agreement shall also be published in the media.

The agreement is considered historic in the sense that the social partners have assumed roles similar to those of the social partners in the Nordic countries, replacing and amending the law by agreement among themselves.

Security of bargaining

Security of bargaining comprises factors that determine the bargaining role of trade unions, such as legislation, union recognition procedures and strike regulation. No representativeness criteria have been laid down for bargaining parties at any bargaining level in Estonia. This means that parties are entitled to bargain of their own volition. Trade union representatives, however, have a prerogative to engage in collective bargaining, as specified in the Collective Agreements Act (KLS). If no trade union is present, the employees may be represented by a non-union employees' trustee. There are legal guarantees for both union and non-union employees' representatives. These include the right to information and consultation and paid free time for representation work[6] and for participating in training. In practice, despite the trade union prerogative, there have been situations in which the non-union employees' representative has bargained on the side of the employees together with or alongside the trade union (see Kallaste *et al*. 2007). Trade unions have claimed that employers have initiated collective bargaining with the non-union employees' representative in order to weaken the union bargaining position (Kallaste 2011: 147). Employers claim that this is the only possibility for ensuring the representativeness of the employees' bargaining party as trade unions represent only a small minority of employees.

The trade unions' bargaining prerogative has been questioned by employers in situations in which a union represents only a minority of employees in a company, whereas an employees' trustee is elected by the workforce assembly and therefore, in theory, represents all employees (Kallaste *et al*. 2007).

There is also no regulation for cases in which two or more trade unions want to bargain. In principle, all trade unions have a right to bargain and there is no obligation to coordinate their demands or to form a united delegation. In one case unions started negotiations as a single delegation and two trade unions refused to sign the agreement while the other two continued bargaining and signed the agreement.[7] The necessity of introducing some representativeness criteria to bestow legitimacy on bargaining and the results of bargaining has been discussed on many occasions, but there is no consensus and the issue was not addressed even in the draft act that was designed to renew the entire collective bargaining framework in 2014.

For the employees the main concern is to bring the employers to the bargaining table against the backdrop of a general aversion to collective bargaining. Collective Agreements Act (KLS) subsection 7(3) states that parties start bargaining within seven days of the other party's call for bargaining. At the same time, the bargaining parties have no mechanisms for forcing the other party to start negotiations. This concerns mainly trade unions who have no power to force employers to enter into negotiations if the employer does not want to negotiate.

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6. The amount of free time depends on the number of employees and ranges from 4 hours per working week in the case of 5–100 employees to a full-time paid representative in the case of 500 or more employees.

7. This happened in 2007 in the health care sector when EAL and ETTK refused to sign the agreement while the Estonian Nurses' Union (Eesti Õdede Liit, EÕL) and the Federation of Estonian Healthcare Professionals Union (Eesti Tervishoiutöötajate Ametiühingute Liit, ETTAL) signed.

The difficulties involved in forcing an employer to bargain are illustrated by the bargaining process for example at Nordea Bank, in which trade unions submitted the draft collective agreement to the employer in January 2016 but received a response to it only in September. After this, in autumn 2016, the employer decided to halt negotiations due to the ongoing merger of Nordea Bank and DNB. The trade union sought conciliation from the public conciliator and the process ended in January 2017 without a compromise being found. The unions organised a picket line in front of Nordea's head office in Sweden, but bargaining has nonetheless not continued.

There is a right to strike in case of a collective labour dispute. Strikes are prohibited in government authorities and other state bodies and local governments. In 2013, the right to strike was broadened by exempting employees working on a regular employment contract from this rule. Now, striking is possible for public sector employees irrespective of form of contract, except for civil servants, rescue and defence[8] workers.

A strike may be started only after the obligatory conciliation procedure has been undergone. In addition to conciliation, another precondition for strike action is the absence of a peace obligation. Industrial peace must be maintained if there is a valid collective agreement. Without conciliation it is possible to call a warning strike for one hour. In order to support the demands of other strikes it is possible to organise support strikes, which may be up to three days long.

Striking has been used effectively to back up employees' demands and to force the employer to the bargaining table. This has been effective, however, only in sectors in which unionisation is relatively high. In general, strikes are fairly rare in Estonia; there have been only four since 2000. These took place in sectors in which the strike threat is credible due to earlier strike experience, such as health care. Warning strikes have been an effective tool for backing up union demands in sectors in which the strike threat is credible due to earlier strike experience, such as health care.

To conclude, even though trade unions have a bargaining prerogative there is no system of trade union recognition and in case of disputes over starting negotiations there is the possibility of strike action. A trade union's ability to assert its desire to bargain in relation to employers depends on their power, however. The main source of trade union power in Estonian company-level bargaining comes from trade union membership and density, which have been in continuous decline.

Level of bargaining

The division between different bargaining levels is indicated by the signatory parties on the employers' side (Table 9.2). The signatory party on the employees' side does not indicate the dominance of particular bargaining levels because trade unions and trade union federations might be involved both in company- and industry-level bargaining.

8. Ministry of Defence, the Defence Resources Agency, the Defence Forces or the Defence League.

Table 9.2 **Signatory parties of collective agreements in practice (valid in 2016; %)**

Signatory party from employees' side	Share of collective agreements
Employees' trustee	30
Trade union	52
Trade union federation	16
Union Confederation	1
Total	100
Signatory party from employers' side	**Share of collective agreements**
Single employer	97
Employers' association	2
Employers' confederation	1
Total	100

Sources: Collective Agreements' Register as of 10.08.2016.

While some bargaining takes place at all levels, company-level bargaining is by far the most widespread, accounting for 97 per cent of collective agreements in Estonia (Table 9.2). These include some regional agreements in which the local government authority acts as an employer to several educational institutions and these institutions are represented by a regional association of educational staff unions. The proportion of industry-level agreements is 2 per cent, while the proportion of national-level agreements signed by the confederations is 1 per cent. The latter is the minimum wage agreement between EAKL and ETK.

There are only three industries in which industry-level bargaining takes place and regular industry-level agreements are signed: health care, transport and performing arts (theatres).

Several industries that are mainly in public ownership do not have industry-level bargaining as there is no employer-side negotiation partner. There are examples, such as education and culture, in which, in the absence of a negotiation partner trade unions have replaced official collective bargaining with more general social dialogue. At the same time, more powerful trade unions in health care have been able to force the government to take part in collective bargaining.

According to the Collective Agreements Act, there can be bipartite collective bargaining also between a local government association and a trade union federation, but such bargaining does not exist in practice. Local government associations have said that they do not have a mandate to represent local governments as employers (Kallaste and Anspal 2003). Local governments are autonomous and have mandated the associations to negotiate on working conditions on their behalf. Thus, there is no association of employers with whom it is possible to bargain. This has been a concern mainly for the education sector as municipalities own the majority of general schools. Despite the regulation that lays down tripartite bargaining on teachers' minimum wages in compulsory education between the Minister of Education and Research, national

associations of local authorities and authorised representatives of registered associations of teachers, no collective bargaining takes place. The basic problem is that local authorities' representative organisations do not have a mandate for bargaining; this is main hindrance to industry-level collective bargaining in education (Voltri 2017).

The industries that face the problem of not having a local government bargaining partner have developed dialogue at state level with the relevant ministries. Thus, in education there is officially no collective bargaining, but dialogue is held between the EHL and the ministry. The EHL monitors wage levels and if they consider compliance unsatisfactory, industrial action might follow. The most prominent example was a fairly far-reaching three-day strike in 2012, in which 12,093 education workers[9] took part, demanding a 20 per cent minimum wage increase for all teachers' wage grades.

The situation is similar in the domain of the Ministry of Culture, in which TALO regularly signs a common interest agreement with the Ministry, which sets the minimum wage for cultural workers in partly or totally state-owned institutions. This is not termed a 'collective agreement', however, but rather a 'agreement on common intent' and is not registered in the collective agreements register.

In health care, collective bargaining also takes place in a tripartite setting. Even though the government does not sign the agreement, trade unions and employers have insisted on its participation. The Ministry of Social Affairs and the Health Insurance Fund have both claimed that they are not employers within the meaning of collective labour law (see for the 2012 bargaining round Delfi [2012] and for the 2016 bargaining round Estonian Parliament [2016]). Facing labour disputes and strike threats, however, the government has been forced to take part in bargaining at least in the two latest bargaining rounds

In Estonia, there is no explicit pattern bargaining. It is evident that the minimum wage agreement influences wage levels (see Ferraro *et al.* 2016), but this does not happen through pattern bargaining. There is some coordination of bargaining in arts and entertainment. TALO and the Ministry of Culture sign an agreement of common interests which sets the minimum wage for qualified cultural workers in the public sector. The Estonian Actors' Union (Eesti Näitlejate Liit, ENL), which operates under the umbrella of TALO member the Estonian Theatre Union (Eesti Teatriliit, ETL) and the Estonian Association of Performing Arts Institutions (Eesti Etendusasutuste Liit, EETEAL) conclude a collective agreement that takes the rate fixed in the agreement of common interests as the base level.

Regarding trends in industry- versus company-level bargaining, in health care the importance of company-level agreements seems to have been diminishing in favour of industry-level agreements. In the transport sector, there is a dual system in which company agreements add and specify the industry agreement with regard to company-specific details (Toomsalu 2016).

9. Statistics Estonia, web database, table PA S01: Streigid.

To conclude, bargaining takes place at all levels, but the company level is by far the most important. In addition to collective bargaining, there are some forms of dialogue whose aim is to fix wage levels, but this dialogue does not lead to collective agreements; instead the outcome is fixed by law or by agreement of common intent. The possibility to resort to industrial disputes and strikes in this process, however, means that it is part of collective bargaining.

Depth of bargaining

Depth of bargaining primarily concerns the process and practice of collective bargaining. The main focus is on internal union processes related to the formulation of demands, on which little information is available for Estonia. Depth of bargaining in Estonia is also related to conciliation, which is an obligatory step in the bargaining process before calling a strike if the bargaining parties cannot reach an agreement.

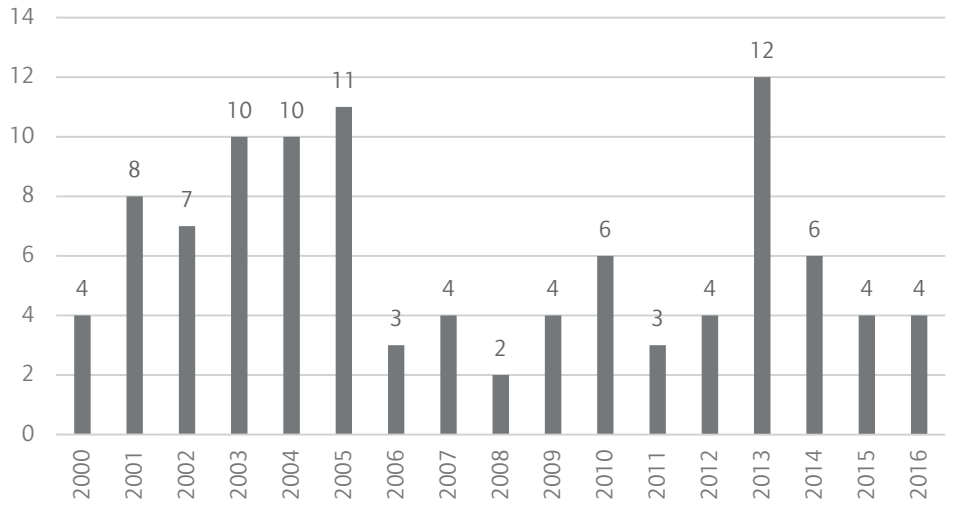
In industry-level bargaining, trade unions form bargaining delegations of their own members. Thus, at least in the transport sector, company-level union members are directly involved in negotiations. In health care, the delegation consists of representatives of different unions. According to Lauringson (2010: 21), there was little coordination between the different trade unions regarding their demands. This may now have changed, however, as bargaining has become regular, more experience has been gained and there has been some clarification regarding occupational representation between unions. In the health sector, demands are formed based on input from union local trustees and confirmed by the union executive. If the initial demand is changed, the approval of the trade union board is required. National-level minimum-wage bargaining delegations are also formed of industry union representatives. The claims and decisions are approved or declined by the board of EAKL.

Bargaining parties may turn to the public conciliator if they do not reach an agreement and if there is a threat of work disruption. Conciliation is mandatory in the process of collective labour dispute resolution and a prerequisite for announcing a strike. Conciliation is led by the state-financed public conciliator who identifies the reasons for and circumstances underlying the labour dispute and proposes solutions. The proposed solutions are not binding on the parties. The public conciliator is appointed by consensus of social partners' confederations. If consensus is not reached, the conciliator is appointed by way of open application.[10]

As few collective agreements are concluded each year, the number of requests to the public conciliator's office is small (Figure 9.3). In the years 2009–2016, there were 43 appeals (Kiin, 2017a), which makes 6.7 appeals per year during past six years. It seems that the business cycle has a fairly strong influence on the number of disputes. During the financial and economic crisis (2008–2009) appeals to the public conciliator

10. This innovation was introduced into the law in 2015 after trade unions' and employer' confederations were not able to reach a consensus about candidates for public conciliator for years. The previous conciliator had been in office since 2001 and a new conciliator was never found as the confederations could not reach a consensus. A new conciliator took office in summer 2017, appointed by way of open application.

Figure 9.3 **Appeals to the public conciliator, 2000–2016**



Source: 2000–2008 Kallaste and Kraut 2010:3; 2009–2016 Kiin 2017b.

decreased to only two or three per year. After the crisis receded, conciliation appeals increased slightly. Despite the small number of appeals, for some parties the conciliation procedure has turned into a customary part of negotiations. This seems to be the case in the health sector, where all three bargaining rounds since the 2008 crisis have been handled by the public conciliator.

Most conciliations end with the agreement of the bargaining parties. One-third of conciliations in 2009–2016 did not end positively (Kiin, 15 May 2017). Strikes were called in this period on only two occasions, however, so even in cases where no agreement is reached, strikes are rarely organised.

All in all, during the whole period 2000–2016 there were only four strikes in Estonia: one strike by train drivers in 2004, two by teachers in 2003 and 2012, and one by health care professionals in 2012. In addition, there was one strike organised by EAKL in 2012, which had wider scope and was not preceded by conciliation. This strike aimed to guarantee a balanced budget in unemployment insurance funds to stop the revision of the Employment Contracts Act and to add amendments to the Collective Agreements Act demanded by the trade union confederation. This raised the questions of the legality of strikes and the boundaries of political strikes, which still lack a clear answer.

All strikes have been backed up by support strikes. In addition, there have been many warning strikes, at least eight since 2000. Given the lack of experience with strikes, several fundamental questions and problems remain regarding the right to strike and the relevant regulations (see Blanpain *et al*. 2011; Raidve 2012; Õiguskantsler 2006; Tiraboschi and Tomassetti 2011). Key issues in this respect include the following:

- the total ban on strikes in the civil service;
- the minimum services that have to be guaranteed during a strike are decided by the public conciliator if the bargaining parties disagree, whereas there is no list of companies or services that are considered to satisfy the primary needs of the population and the economy even though it is the obligation of the government;
- the lack of clear regulations for resolving conflicts of interest and legal conflicts;
- the three-day notice period for support strikes while for regular strikes the notice period is two weeks.

Some of these questions were addressed with amendments to the existing regulations on collective labour disputes in 2015, while the proposed act to reform collective agreements and collective labour disputes was not passed. The amendments improved the conditions applying to the right to strike in public services and increased the notification period for support strikes from three to five days.

Scope of agreements

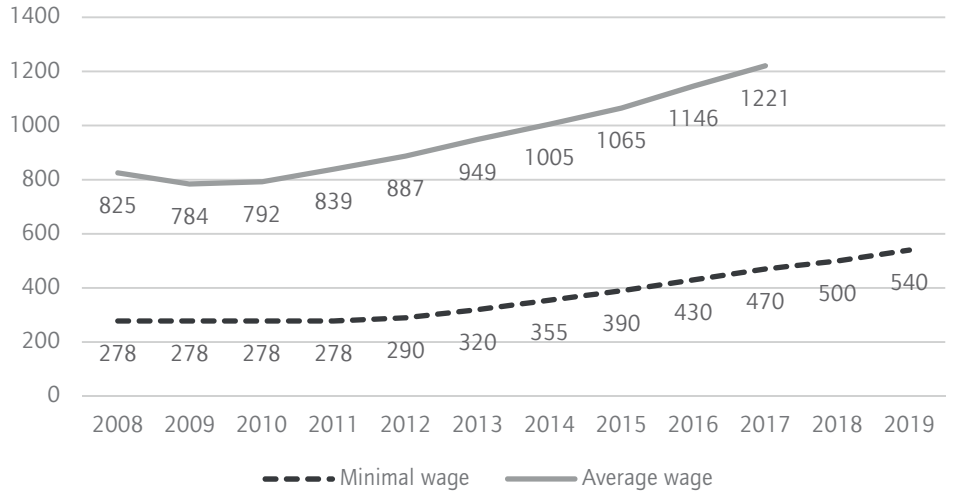
The scope of agreements depends on the bargaining level. National-level agreements concern mainly wages, industry-level agreements primarily wages and working time and company-level agreements deal with a wider range of issues.

The overall scope of the national-level agreements regularly concluded between confederations of unions and employers has been narrowed to the minimum wage, in contrast to the 1990s when more issues, such as minimum after tax income and unemployment benefits, were covered. This might be because in 2000 the Collective Agreements Act was supplemented with a specific regulation that stipulated certain issues which may be extended. This list, however, was rather short, including only wages and working time. Therefore, even if broader social and employment policy matters are discussed and from time to time also included in declarations or agreements, as in the 2008 agreement on the new Employment Contracts Act, they are not defined as collective agreements but part of the wider social dialogue.

Minimum wage developments in Estonia are illustrated in Figure 9.4. The latest research suggests that increases in the minimum wage have influenced the growth of overall wages and the impact is greater on the lower percentiles of the wage distribution (Ferraro *et al.* 2016). Thus, it might be that increasing minimum wages has helped to reduce inequality in the wage distribution. At the same time, in the early 2000s Hinnosaar and Rõõm (2003) found that minimum wage increases reduced the employment of low-wage earners, implying that minimum wage increases may have had negative employment effects.

Extended industry-level agreements also mainly concern wages and working time as these are the conditions that may be extended by law. Reform of collective agreements regulations would have widened the scope for potential extensions with regard to holidays.

Figure 9.4 **Minimum and average gross wage per month, 2008–2018 (euros)**



Source: Estonian Tax and Customs Board, Statistics Estonia web database, table PA5211.

Company-level agreements in Estonia can be rather extensive and include a wide range of issues. All agreements establish at least some individual working conditions, such as pay, working time and vacation terms; 95 per cent regulate collective labour relations and 86 per cent occupational health and safety conditions (Table 9.3).

Thus, even though there are only a few collective agreements, they still improve employees' working conditions compared with statutory minimum standards.

Degree of control of collective agreements

Degree of control concerns, first, the extent to which collective agreements set terms and conditions, and second, the means and procedures for compliance with a collective agreement. The impact of collective agreements on actual working conditions was touched upon in the previous section. In addition to the level of working conditions the time during which the conditions apply is relevant.

Usually, collective agreements are concluded for a fixed term of one or two years. In 1997–2012, 75 per cent of all agreements were fixed-term agreements, 19 per cent were prolonged automatically and 7 per cent were open-ended (Põldis and Proos 2013: 3). Up to 2012, the termination of a collective agreement was not regulated and the law did not specify grounds for exiting a collective agreement. The conditions of collective agreements that were signed for a fixed period had to be followed even if the agreement expired; only the peace obligation no longer applied. The only possibility to terminate a collective agreement was to conclude a new one. According to the Chancellor of Justice

Table 9.3 **Share of active collective agreements regulating different issues (%)**

Issues covered by collective agreement	Share of agreements covering the issue	Share of agreements in which conditions are more favourable than required by law
Agreement on individual working conditions	**100**	**96**
Agreement on pay conditions	94	80
Agreement on vacation conditions	89	83
Agreement on telework	2	1
Agreement on working and rest time conditions	92	69
Agreement on termination of employment contract	67	49
Agreement on training conditions	73	54
Agreement on additional benefits	33	31
Agreement on individual labour dispute conditions	26	13
Agreement on equal opportunities	5	1
Agreement on other individual working conditions	80	51
Agreement on collective industrial relations	**95**	**84**
Employee representatives' rights and obligations	77	59
Free time for representation work	48	6
Representatives' training conditions	29	16
Information and consultation	54	23
Conditions for changing or concluding a new collective agreement	76	37
Benefits for trade union members compared with non-union employees	32	27
Other collective industrial relations conditions	87	59
Workplace health and safety conditions	**86**	**67**

Sources: Register of collective agreements as of 10.08.2017.

(Õiguskantsler 2011) this regulation violated the constitution[11] and was reformed in 2012 when the grounds for termination of the agreement were written into the Collective Agreements Act.

Without the possibility to terminate a collective agreement, employers are not interested in concluding one with favourable terms for employees. This is because there is no possibility to circumvent the agreement if the economic situation worsens. Obviously, employees have no interest in concluding a new agreement that has less favourable

11. The Chancellor of Justice found that this practice violated the freedom to conclude (collective) contracts at the parties' volition and freedom to conduct a business. Even in a situation in which the parties would like to terminate an existing contract, it is not possible. Only a new collective contract could replace the old one. The continuation of a collective agreement serves the purpose of ensuring stability of working conditions so that termination does not leave a void in the regulation of employees' terms and conditions. However, the Chancellor of Justice found that this purpose might be served with terms that infringe constitutional rights less.

terms than the previous one. The impossibility of terminating agreed conditions without the trade unions' consent has resulted in the persistence of some relatively favourable terms in collective agreements. For example, the Estonian Air agreement with pilots in 2011 included a minimum three-month notification period and two months average pay in case of lay-off, while the Employment Contract Act since 2008 requires only a two-week to a one-month notification period and one month's pay in similar situations. Mineworkers' holidays are set at 48 days a year and for some other occupations and officials it is 35 days per year, while according to the Employment Contract Act it is generally only 28 days.

Given the declining trade union membership, this regulation led to a situation in which some companies had valid collective agreements but the signatory union no longer existed (Centar 2011) and thus there was not even the possibility of signing a new agreement to update the conditions.

Usually, collective agreements are complied with. Only a few disputes have occurred based on the interpretation of agreements. As of 2010, 20 per cent of appeals to the public conciliator had been on the grounds of interpretation (Kallaste and Kraut 2010). Such claims are always raised by employees, not employers, and most were in response to employers' violations of pay conditions laid down in the collective agreement (Kallaste and Kraut 2010). In the case of disputes on implementation parties may also turn to the courts.

The surveillance of employment relations is the task of the Labour Inspectorate (Tööinspektsioon). The latter concentrates mainly on workplace health and safety and compliance inspections with regard to individual employment relations, but they also conduct surveillance on the implementation of collective agreements. Even though the Labour Inspectorate may notify a company that it must implement a collective agreement, it is not seen as an essential channel guaranteeing implementation.

In some cases, the terms of a collective agreement are enforced through state regulation. The national minimum wage is set in this way, even though it is supposed to apply on the basis of the collective agreement concluded at national level. A similar enforcement of minimum wages for teachers by government regulation is also laid down in the law, even if a collective agreement is concluded by the tripartite parties (Basic Schools and Upper Secondary Schools Act, Põhikooli ja gümnaasiumiseadus, PGS, section 76 subsection 2). Thus, in some cases government regulation is used to enforce collective bargaining outcomes.

Conclusions

The Estonian collective bargaining system was almost fully developed by about 2005. Since then collective bargaining and social dialogue have been institutionalised in companies and industries in which it has survived. A major reform of collective bargaining and conflict resolution regulations was abandoned after a change of government in 2014 and only minor revisions have been made. A reform of collective bargaining regulations

was not favoured by the trade unions. Updating the regulations in a form that would gain the support of all the social partners and boost collective bargaining as a necessary democratic instrument in employee management is a challenge.

Even though most trade unions operate and conclude collective agreements at company level there are different practices for industry-level bargaining. In the health sector and public bus transport, strong industry-based unions regularly have negotiated and extended industry-level agreements since the early 2000s.

The main challenges that trade unions face are declining membership and employers' resistance to bargaining. In addition to the difficulties in the private sector, in the public sector the government and local government associations are unwilling to accept the role of employer and refuse to bargain in health care, education or cultural activities. In some cases, however, collective bargaining with the government has been replaced by social dialogue, which has resulted in the regulation or imposition of minimum wages.

There is also a striking polarisation in collective bargaining: industries and sectors that have strong trade unions have institutionalised bargaining and agreements have substantial influence on working conditions. National-level minimum wage bargaining and collective bargaining have been institutionalised in industries such as health care and transport, while in other sectors and at company level collective bargaining is waning. In industries in which union membership is on the decline, there is no bargaining and it is very difficult to establish it; for example, in the financial industry.

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All links were checked on 3 April 2019.

Abbreviations

AÜS	Trade Unions Act (Ametiühingute seadus)
EAKL	Estonian Confederation of Trade Unions (Eesti Ametiühingute Keskliit)
EAL	Estonian Doctors' Union (Eesti Arstide Liit)
EEAÜL	Association of Estonian Energy Workers' Unions (Eesti Energeetikatöötajate Ametiühingute Liit)
EETEAL	Estonian Association of Performing Arts Institutions (Eesti Etendusasutuste Liit)
EHL	Estonian Education Personnel Union (Eesti Haridustöötajate Liit)
EKTK	Estonian Chamber of Commerce and Industry (Eesti Kaubandus-Tööstuskoda)
ENL	Estonian Actors' Union (Eesti Näitlejate Liit)
ETK	Estonian Employers' Confederation (Eesti Tööandjate Keskliit)
ETTAL	Federation of Estonian Healthcare Professionals Union (Eesti Tervishoiutöötajate Ametiühingute Liit)
EVEA	Association of Small and Medium Sized Companies (Eesti Väike- ja Keskmise Suurusega Ettevõtjate Assotsiatsioon)
EÕL	Estonian Nurses' Union (Eesti Õdede Liit)
KLS	Collective Agreements Act (Kollektiivlepingu seadus)
KLTS	Collective Labour Dispute Resolution Act (Kollektiivse töötüli lahendamise seadus)
LFS	Labour Force Survey
PGS	Basic Schools and Upper Secondary Schools Act (Põhikooli ja gümnaasiumiseadus)
TALO	Estonian Employees' Unions' Confederation (Teenistujate Ametiliitude Organisatsioon)
TLS	Employment Contracts Act (Töölepingu seadus)
TUIS	Employees' Trustee Act (Töötajate usaldusisiku seadus)

Chapter 10
Finland: goodbye centralised bargaining? The emergence of a new industrial bargaining regime

Paul Jonker-Hoffrén

The Finnish system of industrial relations has been relatively stable since the 1960s. Finland has a centralised model of industrial relations, which recently has shown signs of becoming more decentralised (Kiander *et al.* 2011). Since 1968, the defining characteristic of 'the Finnish model' has been a centralised incomes policy as the basis for industrial collective agreements. These tripartite, centralised agreements (TUPO, tulopoliittinen ratkaisu) are a major economic policy instrument used in pursuit of a solidaristic wage policy; they are also an expression of the strong political will in Finland to reach consensus on economic, labour market and social policy issues (Ruostetsaari 2015). Even though, in practice, the most important bargaining level has been the industrial, industrial agreements are based on, and limited by, the general wage increases stipulated in the centralised incomes agreement. Employment contracts are based directly on industrial collective agreements. Increasingly, however, many aspects of work can be negotiated locally.

In many ways, the Finnish system of industrial relations is similar to that of Sweden (see Chapter 28). The key feature is stability. As Ruostetsaari (2015) emphasises, this is mainly because of the persistently high level of union density since the end of the 1960s, especially in comparison with the rest of Europe (see Table A1.H in the Appendix). Trade unions are generally regarded as competent negotiation partners that play an important role both at the workplace level and in the political arena. Due to the highly internationalised Finnish economy, the strong export-sector unions, particularly in the manufacturing, paper and chemical industries, play a dominant role within the Finnish union movement. In contrast to many other European countries, the density of employers' associations has been lower than union density, but data are hard to come by. Another factor that contributes to the stability of the Finnish collective bargaining system is the almost automatic extension of collective agreements, which ensures a persistently high collective bargaining coverage.

Another significant feature of the Finnish collective bargaining system started to emerge at the end of 2016. Since then, collective bargaining in Finland has undergone a process of 'centralised decentralisation', moving from peak-level incomes policies to an export sector–driven system of industry-level pattern bargaining. This change in Finnish collective bargaining was based on the so-called 'Competitiveness Pact' (Kilpailukykysopimus) signed by the peak-level union and employers' organisations in February 2016. The main instigators of this change were the employers in the manufacturing sector, who hoped by decentralising and flexibilising collective bargaining to improve the competitiveness of Finnish companies (Müller *et al.* 2018;

Table 10.1 **Principal characteristics of collective bargaining in Finland**

Key features	2000	2016/2017
Actors entitled to engage in collective bargaining	Employers' federations and trade unions	Employers' federations and trade unions
Importance of bargaining levels	National: default level if possible (pre-2016/17); sectoral: implementation of national-level agreements; local: application of collective agreements to employment contracts and local employment relations	National-level collective bargaining abandoned Sectoral bargaining is the primary level, but at the local level there is increasing scope for firm-level negotiation of specific issues
Favourability principle / derogation possibilities	Sectoral agreements provide the minimum standards	Sectoral agreements provide the minimum standards; limited possibility of opening clauses
Collective bargaining coverage (%)	85	91 (2016)
Extension mechanism (or functional equivalent)	Yes, extension very widespread	
Trade union density (%)	75	74
Employers' association rate (%)	66	70 (2012)

Source: Ahtiainen (2015; 2016); Andersen *et al.* (2015); Delahaye *et al.* (2015); Dølvik *et al.* 2018; EK (2016); Appendix A1.

Dølvik and Marginson 2018; Eurofound 2016). The Competitiveness Pact was signed under unprecedented pressure from the newly elected centre-right government, which threatened to break with the voluntarist tradition in Finland and to introduce structural reforms on a statutory basis if the bargaining parties failed to reach an agreement that significantly reduces labour costs (Müller *et al.* 2018). Thus a key feature of the new 'Finnish model' of collective bargaining, which is explicitly inspired by the Swedish model of industry-led pattern bargaining established at the end of the 1990s, is that the export-oriented manufacturing sector determines the wage increases to be followed by the other sectors, particularly the 'sheltered' public and private services (Dølvik and Marginson 2018). Finland has always had periods of industry-level bargaining without centralised incomes agreements, the most recent example being 2008–2011. There was always the possibility, however, of a, frequently state-led, return to centralised agreements. Due to the change in the employers' policy and a rule change involving the withdrawal of the Confederation of Finnish Industries (EK, Elinkeinoelämän keskusliitto) from any peak-level negotiations this is no longer the case.

These recent changes in the collective bargaining system reflect the struggle the Finnish economy still faces with the triple impact of the euro crisis, sanctions on Russia and the collapse of Nokia (Svalund *et al.* 2013). Because Russia is Finland's second biggest trading partner, after Germany and before Sweden (Tulli 2018), the sanctions on Russia have had a drastic impact on the country's trade balance. Both exports to and imports from Russia declined by more than 30 per cent following the EU's economic sanctions in 2014. In this sense, it could be argued that Finnish industrial relations are influenced by the EU's foreign policy.

Industrial relations context and principal actors

An important framework condition of collective bargaining in Finland is the socio-cultural underpinning of Finnish industrial relations, which is geared towards a consensus-based model of corporatism inspired by the Swedish model since the 1960s (Ruostetsaari 2015). The prime example of this is the traditional Finnish incomes policy system, an institutionalised tripartite arrangement for the mutual benefit of all parties involved, namely government, employers and trade unions. Centralised agreements are usually based on the interests of the collective bargaining parties, but in many cases the state has offered some 'deal sweeteners', usually in the form of tax benefits, in order to encourage the actors into signing a centralised agreement. In the 1990s, the Finnish state usually saw centralised agreements as a way to limit inflation (Kauppinen 2005) and after joining the euro in 1999, to keep a check on 'competitiveness'. Furthermore, centralised agreements provide labour market peace for the whole country, because collective agreements are not negotiated separately at industrial level. In Finland, industrial bargaining rounds without centralised agreement often led to higher levels of industrial action, including sympathy strikes (Bergholm and Jonker-Hoffrén 2012: 408; Vartiainen 2011).

The predecessor to the present employers' federation and the main union confederations used to conclude 'General Agreements' that stated their intent to work towards collective agreements and other tripartite agreements. This shows the voluntaristic nature of collective bargaining in Finland. This in itself was a new version of the 'Neuvottelutoiminnan perusasiakirja' (the founding document of labour market negotiations) that followed the so-called January Engagement of 1940, when the employers acknowledged labour unions as part of a democratic society. This declaration also led to legislation on collective bargaining, industrial action and conflict mediation. The ground rules of Finnish collective bargaining are thus codified forms of the voluntaristic agreements.

Another important framework condition is the structure of the Finnish economy, which is similar to that of many European countries: agriculture accounts for around 3 per cent of GDP, industry for 27 per cent and services for 70 per cent. Industry accounts for 15.5 per cent of employment, the public sector for 28.5 per cent and the private service sector for around 44.6 per cent. Exports are important, accounting for around one-third of GDP. The important role of exports for Finland has a significant effect on industrial relations, which in recent years have focused almost exclusively on the importance of 'competitiveness' and unit labour costs. In terms of exports, the main products Finland exports remain in the EU (Sweden, Germany) or go to Russia. The largest product groups are petroleum products, electronics and pulp and paper industry products. The prevalence of petroleum products is surprising, but is a result of oil imports from Russia, which are refined in Finland and then exported. Even though the product structure of the Finnish economy is one of the most complex worldwide, in terms of value the country predominantly exports intermediate products, such as petroleum products and paper industry products.

Not that many foreign multinational companies operate in Finland, but in the machinery and electronics sector, as well as in the forestry industries, there are some large Finnish multinationals, such as KONE (elevators, escalators), StoraEnso and UPM-Kymmene (paper, pulp, board), Metso (paper machines, mining equipment) and the remains of Nokia. There is also an important Finnish multinational in consulting, Jaakko Pöyry Oy, a leading paper industry consulting firm. The presence of these Finnish machinery companies is a product of Finnish history: the country was forced to pay war reparations to the Soviet Union in the form of metal industry products. This historical contingency forced the development of domestic industry.

The important role accorded to the export industry is reflected in the political debate, which for the past couple of decades has focused predominantly on the export sectors and the debate on maintaining competitiveness, particularly compared with Finland's main competitors Sweden and Germany. As a consequence, developments in the period 2000–2016 were also influenced by the 'austerity' policy pursued in the rest of Europe and at home by the centre-right coalitions throughout the 2000s, a 'rainbow coalition' in 2011 and a right-wing government in 2015, which included the populist Finns Party (Perussuomalaiset). In industrial relations, the recurring themes in Finland have thus been 'competitiveness' and 'austerity'. Both have influenced collective bargaining developments. 'Austerity' policies, for instance, have negatively affected the possibility of public sector workers' achieving wage gains. They have also had a direct effect at the county level through public sector lay-offs. The so-called 'Competitiveness Pact' of 2016 played a particularly important role in this context. Although the earlier centralised agreements of 2011 and 2013 also focused on competitiveness, this was taken to new extremes in 2016. The 2016 agreement came into being under strong government pressure and envisioned a 4 per cent decrease in wage costs through internal devaluation. Furthermore, it set the stage for a decentralisation of wage setting towards the industry-level, aimed at facilitating further devolution of wage formation to company-level negotiations. In the context of the euro-zone rules, the Competitiveness Pact also aimed to keep the brakes on public sector wages (Müller *et al.* 2018).

EMU's Maastricht criteria and the more recent Two- and Six-Packs are directly relevant to wage developments in the compulsory education sector because teachers are civil servants and therefore, through municipal budgets, are included in the budget of the Ministry of Education. Regarding total government expenses, teachers' wages are a marginal item, but at the municipality level personnel costs are nonetheless significant. Because the government aims to reduce its budget to remain compliant with the Maastricht criteria, the municipalities also receive smaller transfers from the state. Budgetary pressures have resulted in a, sometimes temporary, reduction of municipal personnel. In the period 2008–2014 local governments laid-off large numbers of employees, with highs of more than 12,000 in 2009 and more than 14,000 in 2014. The main reason for this has been implementation of 'austerity' measures, which immediately affected the financial situation of local governments.

The main union confederations at the central level are the Finnish Confederation of Trade Unions (SAK, Suomen Ammattiliittojen Keskusliitto), the Federation of Salaried Employees (STTK, Suomen Toimihenkilöiden keskusliitto) and AKAVA (Confederation

of Unions for Professional and Managerial Staff in Finland). SAK has 992,716 members (in 2016) spread over 20 different industrial unions. STTK has 540,000 members spread over 17 industrial and professional unions. AKAVA has 596,947 members spread over 37 different, mostly professional, unions. Altogether these confederations account for 2,129,663 union members compared with overall employment of 2,446,000, which results in an aggregate union density of 87.1 per cent. Although this aggregate level is high, there is nonetheless a large variation between sectors and 'levels'. SAK organises employees predominantly at industrial level, so for SAK traditional industrial unionism is alive and well. This model includes manufacturing but also service and public sector workers. STTK organises both industrially and professionally. One of its members is the union for salaried workers of the manufacturing sector (Ammattiliitto Pro), for example, but another is the union for firefighters (Suomen Palomiesliitto). For salaried personnel, it is then logical that there are profession-oriented and sector-oriented unions, because not all of its members are involved in production. AKAVA is in many ways different from the other two confederations. It has a relatively large number of quite small member unions, which might be influential in their sector, such as the Union of Professors (Professoriliitto). AKAVA, furthermore, is the confederation with the strongest focus on organising workers on the basis of their profession. AKAVA also differs from SAK and STTK on some labour market issues, particularly concerning the need for labour market flexibilisation and for reforms of employment policy towards a workfare system.

The main employers' organisations at the cross-sectoral level are the Confederation of Finnish Industries (EK, Elinkeinoelämän keskusliitto), the Local Government Employers (KT, Kunnan työnantajat), the Church Employers (KiT, Kirkon työmarkkinalaitos) and the Office for the Government as Employer (VTML, Valtion työmarkkinalaitos). Furthermore, there is a lobbying organisation, the Federation of Finnish Enterprises (SY, Suomen Yrittäjät), but this is not a party to collective bargaining. The main actor, at least before 2017, was EK. It currently has 27 private sector member federations and represents around 16,000 firms, employing roughly 980,000 people (EK 2016).

Ahtiainen (2015) has calculated the unionisation rate in Finland in various sectors between 1989 and 2013. In 2013, the density rate in industry was 80.8 per cent and in the public sector 76.3 per cent. The private services sector is weakly organised by Finnish standards, with a density rate of 51.6 per cent. The net overall coverage rate, according to Ahtiainen, declined from 71.9 per cent to 64.5 per cent between 1989 and 2013. This is much lower than the levels based on the ICTWSS database because Ahtiainen calculated the net coverage rate as the percentage of union members among employed *and* unemployed. This measure makes sense in the context of the union-managed unemployment funds. Finnish data on the employers' organisation rate are difficult to find, as they have to be calculated from administrative data. Sectoral representativeness reports by Eurofound suggest that the density rate of Finnish employers varies between 70 and 80 per cent. In any case, it is high by international standards.

In Finland, the most important actors within EK are the Technology Industries Federation (TT, Teknologiateollisuus), which covers the metal and electronics industries, and the Chemical Industry Federation (Kemianteollisuus ry), which organises companies in

the Finnish (petro-)chemical industry. These are the most important members of EK because these two employers' federations cover nearly all of the Finnish export sector companies. Generally, what is good for the export sectors is regarded as good for Finland. Another influential member of EK used to be the Finnish Forest Industries Federation (Metsäteollisuus ry), because of the forest industries' importance for Finnish exports, but it ceased to be a member of EK in 2017.

Level of bargaining

The period covered in this section deals with the 'old' system, which was relatively simple to understand. At the national level, centralised incomes agreements (TUPO, tulopoliittinen ratkaisu) were agreed and were applied to negotiate the industry-level collective agreement; and wage increases agreed at the national level were to be directly applied to the industry-level agreements (Lilja 1998; Bergholm 2003; 2015; Kauppinen 2005). Locally, the collective agreement applied directly to employment contracts. This was a three-tiered system, in which the centralised incomes policy was subject to tripartite bargaining and the industry- and local-level agreements were bargained in a bipartite manner. A centralised incomes agreement would be negotiated if there was enough support or interest from the bargaining parties. Sometimes the state would use its power to bring about a centralised incomes agreement if it was thought to be in the general interest, for example, by promising tax reforms. The main parties to the centralised incomes agreement, employers' federations, union confederations and the state, had different incentives to negotiate a centralised agreement. The state, for example, used to be concerned primarily with inflation control, while from the early 1990s it was more concerned with meeting the Maastricht criteria. Employers often joined because of the potential to 'buy' industrial peace, as well as to agree on policy goals for labour market flexibilisation and other issues. Trade union confederations frequently joined because of the prospect of solidaristic wage policies.

A centralised incomes agreement is a tripartite agreement, which includes general wage increases and social and labour market policy issues, for instance, related to gender equality or pensions. For collective bargaining, however, the most relevant is the wage increase, because that is the result that is to be implemented in industry-level collective bargaining. All policy issues stay at the national level or are further discussed by tripartite working groups. The industry-level agreement is related only to issues directly relevant to the industry in question.

The situation changed in 2015 when EK announced a change in its statutes. The rule change was simple: EK would no longer be able to negotiate binding centralised agreements on its members' behalf. Later, it withdrew from most of the agreements it had signed over the years. The Finnish system of collective bargaining had been under much stress because the Finnish government threatened system-weakening legislation unless enough coverage could be achieved for the Competitiveness Agreement, which envisaged, among other things, a reduction in wage costs of 5 per cent (Dølvik *et al.* 2018). As a result, since autumn 2017, Finnish industrial relations have been in uncharted waters, although, in a sense, it is the familiar industry-level bargaining. As Andersen *et*

al. (2015), Dølvik and Marginson (2018) and Lilja (1998) note, Finland has experienced a process of 'centralised decentralisation'; this means that the move from centralised to industry-level bargaining has happened in an organised manner according to rules and procedures defined in the centralised agreement. Earlier in 2017, an attempt was made to devise an export-led wage bargaining model akin to the Swedish bargaining model, but this collapsed after the influential Finnish Forest Industries Federation (Metsäteolluus ry) rescinded its membership of EK. After a nearly completed bargaining round, it seems that the 'new' model of collective bargaining in Finland is the familiar industry-level bargaining with pattern bargaining, based on the first manufacturing agreement (see also Müller *et al.* 2018). This pattern bargaining happened without a formal wage anchor or other limit. Nonetheless, the Finnish model is now in line with the two-tiered bargaining system in the other Nordic countries (Dølvik and Marginson 2018).

Table 10.2 shows that much has changed over the past 16 years. The core topics reflect both Finland's economic situation and the inclination of its governments: since 2008, when EK renounced centralised agreements, the core economic policy focus has been on 'competitiveness'. In this context, the employers blame weak economic growth on the industry-level agreements of 2007–2009. A particular issue is unit labour costs, which greatly increased during this time. All subsequent 'new' centralised agreements have attempted to reduce Finnish unit labour costs relative to those of its 'competitors',

Table 10.2 **Collective bargaining levels in Finland, 2000–2016**

Year	Level	Notes
2000	Industrial	
2001–2002	Centralised agreement	Apart from wages, focus on training, tax issues, preparation for euro
2003–2004	Centralised agreement	Apart from wages/purchasing power, focus on training, work–life balance, local union representatives, improving law on co-decision-making
2005–2007	Centralised agreement (paper industry separate sectoral agreement, 2005–2008)	Longest centralised agreement in TUPO history; in negotiations for subsequent agreements there was a peculiar labour conflict in the public health sector involving a threat of collective resignations
2008–2011	Industrial	Annual pay review, in practice two sectoral rounds (2007–2009 and 2010–2011); 2009 (failed) attempt at manufacturing-led wage-anchor
2012–2013	'New' centralised agreement ('Framework agreement')	Focus on training, position of temp workers, other working life issues
2013–2015	'New' centralised agreement ('Employment and Growth Agreement')	Focus on improving employment, competitiveness, potential reforms of labour relations system, extreme wage moderation, three-year agreement
2015–2017	'New' centralised agreement ('Competitiveness Agreement')	Focus on competitiveness and economic growth, creating jobs, consolidating government finances, wage freeze, working towards local bargaining Option for extension through 2017 was applied

Source: SAK online archive, Marjanen (2002: 96), Jonker-Hoffrén (2012).

particularly Sweden and Germany. According to the Technology Industries of Finland, however, EK did not coordinate with the industrial employers' federations during the negotiations on the 2011 agreement. After the chair of EK was sacked in 2012, the employers' federations took control of the process, which resulted in a much tougher line on labour costs and competitiveness (personal interview with TT, 30.1.2014).

Extent of bargaining

The extent of bargaining refers to the factors that influence collective bargaining coverage. In Finland, there are three principal factors: the collective agreement extension mechanism, the high unionisation rate and the high level of centralisation of collective bargaining between 1968 and 2017. The extent of bargaining is also influenced by the organisation rate of the employers' organisations.

Finland has a stable extension mechanism for collective agreements. In practice, all industry-level collective agreements are extended to all workers and firms in the industry to which the agreement applies. The Law on Collective Agreements (Työehtosopimuslaki) states that a collective agreement has to be considered representative for the industry by the parties to the agreement. This implies that, in most cases, collective agreements are recognised as representative, as usually there are no competing collective agreements in an industry. When a collective agreement is concluded, the negotiating parties are obliged to send it to an Extension Committee (Työehtosopimuksen yleissitovuuden vahvistamislautakunta) whose task it is to decide whether the agreement can be extended to the whole industry. This committee operates independently under the Ministry of Social and Health Affairs; it is chaired by a judge and its other two members are expected to have experience of employment law. The members of the committee are independent of the labour market parties.

The bargaining parties are obliged to inform the committee of certain aspects of the collective agreement that may influence whether it can be extended. According to Ahtiainen (2016: 10), until 2001 the decisive factor, derived from a 1974 Supreme Court ruling, was whether the agreement covers at least 50 per cent of employees in the industry. In addition, the following factors were taken into account:

- employee- and employer organisation rates;
- geographic scope, agreements with only a regional dimension are not extended;
- the number of firms that are members of the employers' organisation in the sphere of the collective agreement;
- the number of employees of the firms that are members of the employers' organisation; and
- the membership of the union that signed the agreement.

According to the annual reports of the committee, the decision to extend a collective agreement is usually not revised unless its scope significantly changes. Table 10.3 shows the collective bargaining coverage between 2000 and 2016. The slightly lower coverage in 2009–2010 can be explained by the lack of a centralised agreement in 2008–2011.

Table 10.3 **Collective agreement coverage in Finland, 2000–2016 (%)**

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008
Coverage	85	91*	91	91	91	87.7	87.7	87.7*	89.5
Year	2009	2010	2011	2012	2013	2014	2015	2016	
Coverage	78.8	78.2	90	90	93	93	93*	91**	

Note: The asterisk indicates that this value was missing from Appendix A1.A, but in those years coverage was the same as the following year (2001–2002) because the collective agreement was signed for two years and the same as in the preceding year(s) for 2005–2007 and 2015–2016 because centralised agreements were concluded in those years. The double asterisk signifies that this value is taken from a shared press release by the bargaining parties stating that coverage of the 'Competitiveness Agreement' is 91 per cent. See also Table 10.2.
Source: Appendix A1.A.

This by itself has no direct effect on coverage, but reaching a centralised agreement has always required a certain 'sufficient' coverage rate: that is, industries willing to apply the centralised agreement, usually around 90 per cent. Without this requirement, there is less pressure to extend industry-level collective agreements beyond the contracting parties. Ahtiainen (2016) shows that for many industries there were large differences in coverage between 2007/2008 and 2014, particularly in the retail and hospitality sector. Thus it seems that these industries benefit from centralised agreements as they seem to increase coverage.

Regarding extension there is a substantial difference between the public and private sector: where private sector collective agreements can be extended through the abovementioned procedure, public sector civil servant agreements, by definition, apply to all civil servants.

It is significant that after EK announced that 'the centralised incomes agreement is dead' in 2008 the discussion about the extension of collective agreements flared up (Kiander *et al.* 2011; Eurofound 2016). The employers' lobbying organisation SY (Federation of Finnish Enterprises) is a strong advocate of scrapping the extension mechanism. In recent years, there has been a lively debate on the possibility and desirability of opening clauses, which firms can resort to in economic difficulties. Since the successful conclusion of the Competitiveness Agreement and its related industry-level collective agreements, the bargaining parties have agreed that 'survival clauses' (selviytymislauseke) are possible, but that they require the consent of unions and employers at industry level. The bargaining parties agreed that the implementation of a 'survival clause' requires local negotiations, the modalities of which are laid down in the industry-level agreement, and that it may exist for only a limited duration but can potentially be extended. The name 'survival clause' is used because it has a more limited sense than opening clauses in general. 'Survival clause' is the literal translation of the term, but seems to be equivalent to hardship clauses, such as those familiar from German collective agreements (see Chapter 12).

Another important factor that explains the high bargaining coverage in Finland is the persistently high level of union density, which, in turn, is strongly based on the Finnish Ghent-system of unemployment fund management (see below). This system is an

important reason to become and remain a member of a union. Union density impacts on collective bargaining coverage more indirectly because, as discussed above, it is one criterion on which the decision to extend a collective agreement is based. Industrial unionisation rates vary. In manufacturing and the public sector union density is high, but in the service sector it is comparatively low. The lower density rates in the service sector may have consequences for the extension of collective agreements in the future if the Extension Committee, which decides on the extension of collective agreements, considers the density rates of both employers' organisations and trade unions to be too low. If a clear majority of the employees in the sector are organised, there will not be drastic changes in the way collective agreements are extended. In recent years, however, there has been persistent political pressure from employers' lobbying organisations to abandon the general extension of collective agreements on the grounds that it is 'old-fashioned' and 'impedes flexibility'. The extension of collective agreements is therefore not legally contentious, but it may become an issue if the trend towards decentralisation continues, especially in wage bargaining. Because the wages agreed in collective agreements are minimum wages, the extension of agreements also performs a role played by legislation in other countries.

In Finland, collective agreements vary in duration. If there is a centralised incomes agreement, the collective agreement connected to that centralised agreement will be valid for the same duration. Most agreements last for one or two years, although the centralised incomes agreement of 2005 lasted for nearly three. It can be said that the duration of the agreement is related to economic circumstances: in good years the duration tends to be longer. Since 2007 it has been common to leave negotiations about wages for the second, or even third year to a later date. This is called 'pay review' (palkantarkistus). Sometimes a second or third year duration can be included as an option, as in the case of the 2015 agreement.

Finnish collective agreements are clear about their temporal validity. When an existing agreement expires and a new one has not yet been concluded, there may be a so-called 'period without agreement' (sopimukseton tila). In this case, the provisions of the old collective agreement remain valid, but not the peace clause, which means that industrial action is possible. In many sectors, particularly in industry, there is a process of 'continuous negotiation' (jatkuva neuvottelumenettely). This refers to the circumstances in the industry that influence collective bargaining. Because Finland does not have works councils, this process partly stands in for that institution and is a vital instrument in enabling the sectoral unions to know what issues are important at the local level and influences the formulation of bargaining claims.

Security of bargaining

Security of bargaining refers to the factors that determine the bargaining role of trade unions. In Finland, the union-managed unemployment fund system (or Ghent system) is very important as it ensures high union density rates and bargaining power (Böckerman and Uusitalo 2006; Checchi and Visser 2005). Furthermore, the role of unions in negotiating collective agreements is enshrined in the Law on Collective

Agreements (Työehtosopimuslaki) and the obligation to apply the provisions of collective agreements in employment contracts is enshrined in the Law on Employment Contracts (Työsopimuslaki). In the context of negotiating collective agreements, the Law on Labour Conflict Mediation (Laki Työriittojen sovittelusta) asserts the role of the National Conciliator and the procedural aspects of strikes and lock-outs.

A union-managed unemployment benefits system is the most important factor in explaining the high union density rate of countries such as Finland and Sweden. The system in Finland functions through the unemployment funds (työttömyyskassa) which exist, with a single exception, in conjunction with trade unions. When people join a union, they are required to choose whether they will also join the unemployment fund. It is also possible to join only the unemployment fund and not the union itself, although especially in manufacturing this may be socially unacceptable.

It has to be stressed that although the income-dependent unemployment funds are managed by the unions, they are not exclusively financed by them. The Finnish state finances 38 per cent of unemployment benefits, the unemployment fund itself 5.5 per cent and the so-called 'unemployment insurance fund' (TVR, työttömyysturvavakuutusrahasto) finances 55.5 per cent (TYJ 2018). After the Finnish economic crisis in the 1990s, the fund was reformed to include both employees' contributions and employee representation in its management.

In Finland, the right to strike is not explicitly mentioned in the constitution, but it is derived from the right of association. Paragraph 8 of the Law on Collective Agreements outlines the peace clause, which means that for the duration of the collective agreement no strikes are allowed that are based on issues regulated in the collective agreement, such as wages and working time. Finnish law does allow political strikes, for instance, against government policies and sympathy strikes in support of another workplace or sector (Warneck 2007).

Strikes are allowed during negotiations, but only when they are duly announced, fourteen days in advance, citing the location(s), starting and ending times of the strike, and how workplace safety is to be ensured. This brings in the National Conciliator (Valtakunnansovittelija), who is formally independent, but part of the Ministry of Labour. Thus, although a strike is still an instrument for putting pressure on employers during negotiations, in Finland it also instantly opens a way toward conciliation. In the public sector, a strike warning committee (virkamieslautakunta) assesses the societal impact of a strike. The committee includes representatives of employers and employees and can delay the beginning of a strike by 14 days.

The Finnish Labour Court (Työtuomioistuin) adjudicates on labour issues, among other things on the legality of strikes. It is a special court, which has equal representation from both sides of industry in its processes. Although the court rules on the legality of strikes and issues fines in case of a breach of the peace clause, in recent years EK has claimed that 90 per cent of strikes in Finland are illegal. Their reasoning is that most strikes are held in violation of the peace clause and therefore are illegal almost by definition. The decisions of the Labour Court have not upheld EK's claim, however,

because not every strike is referred to the Court. This is clearly also a framing issue in the sphere of labour market politics. The union confederation SAK, in contrast, argues that most strikes are short walk-outs in reaction to employers' decisions. A legal issue for the future is whether strikes that occur in a local bargaining context also fall under the peace clause provisions of the industry-level agreement. This fundamental issue may have a major impact on local bargaining processes.

Depth of bargaining

Depth of bargaining refers to how the bargaining process works and how negotiation claims are formulated. Another important dimension is internal union democracy and how the rank-and-file are involved in the formulation of claims.

Finnish unions have a history of internal political disagreement (Bergholm 2015; Jonker-Hoffrén 2013). Nonetheless, they have developed strong systems of internal democracy. Most unions have a similar structure: they have an executive committee (hallitus), which deals with daily affairs and negotiations. It consists of the union's president and vice-president, as well as a number of board members. Unions also have a council (valtuusto), which is the highest organ of the union and allows representation of the regional union branches. The members of the council are usually locally elected through proportional representation. Finally, unions have the general assembly (liittokokous), which appoints the union president, council and executive committee. Political divisions may be especially visible in the council. Unions do not now have formal links with political parties. Usually the council has to approve the draft collective agreement, which is not always straightforward. In 2016, the council of the union representing retail workers, the Services Union United (PAM, Palvelualojen Ammattiliitto), initially rejected the proposal to join the 'Competitiveness Agreement'. In earlier years the council of the Finnish Paper Workers' Union (Paperiliitto) was highly divided on certain issues, such as removing a clause from collective agreements that gave shop stewards power to extract wage increases from local improvements in productivity through innovation. Another divisive issue was the outsourcing of cleaning personnel (Jonker-Hoffrén 2013). Union demands and priorities are commonly communicated through press releases and action programmes.

Although the processes involved in formulating demands are not transparent from the outside, wage claims made by the manufacturing unions have been studied to some extent. The cooperation between unions and employers' organisations in the manufacturing sector illustrate Finnish corporatism and pragmatism. Sauramo (2004) shows that unions and employers' associations have developed a kind of consensus on the limits of wage increases. This can be seen in their cooperation on productivity statistics and shared understanding of 'wage norms', in particular because economists of both bargaining parties have worked together in the same committees on labour market issues. A wage norm includes more or less complicated formulas, usually including expected inflation, labour productivity and other factors, such as consumption. The agreement on cooperation on statistics from 2009 is one of the few that EK did not quit in 2017. In the service and public sectors, wage claims in the union are frequently made

on the basis of comparisons with the male-dominated manufacturing sector in order to address the gender wage gap. Another instrument trade unions use in formulating bargaining demands is SAK's 'shop steward questionnaire', which collects information on many topics at the firm level.

Finland has a single-channel representation system: the unions are represented at the firm level by the shop steward (luottamusmies). Shop stewards are elected in local elections by union members. There are few formal requirements except a thorough knowledge of the workplace. This implies that the 'barriers' to becoming a shop steward vary considerably in terms of firm size and complexity. The main function of the shop steward is to ensure that the collective agreement is applied as agreed. Because many issues are negotiated locally, the shop steward will act as a representative of the local workforce in lieu of a works council. He or she can also be involved in the codetermination procedures (yhteistyöneuvottelut) which are required in case of lay-offs and significant changes in work processes (Sippola 2012). The shop stewards are instrumental in formulating union demands through their knowledge of local issues, which are communicated to the industrial union.

A strike in Finland is called by the executive board (hallitus). The union can nonetheless also organise a ballot on whether to organise a strike. The union board or the 'central strike committee' defines the geographical scope and duration of the strike, which are also communicated to the National Conciliator, 14 days ahead of the intended strike. This activates the mediation process at the National Conciliator's office and a strike threat can be cancelled if the bargaining parties come to a mutual agreement on the Conciliator's proposal for a collective agreement. The union's regional offices have responsibility for most practical aspects of the strike.

Strikes used to be very common in Finland until the 1990s (Bergholm and Jonker-Hoffrén 2012). Since then, the absolute number of strikes has fallen dramatically. It is difficult to distinguish between 'process strikes' and 'protest strikes', which is problematic in the Finnish case because in recent years most strikes have been protests against redundancies that were the outcome of co-decision procedures, rather than aimed at collective bargaining processes. Figure 10.1 shows strike developments between 2000 and 2016. It also includes the number of working days lost per person, which illustrates that, on average, Finnish strikes are fairly short. Noteworthy are the peaks in 2005, 2010 and 2015. The great increase in strikes in 2005 was due to a protracted conflict in the Finnish paper industry (Jonker-Hoffrén 2012; Jonker-Hoffrén 2011). The peak in 2010 was due to a complicated conflict in the collective bargaining of stevedores. The strike peak in 2015, however, is an anomaly. It was caused mainly by a large political strike in September 2015, which also spawned many local strikes. The political strike was aimed at the government's austerity policies, abolishing two paid public holidays and reducing Sunday overtime pay. Finland previously was seen as a country with a high propensity to strike, but currently strikes are mainly instruments of protest. Generally speaking, strikes are still part of the repertoire of contention.

Figure 10.1 **Strikes in Finland, 2000–2016**

Source: Statistics Finland (2018).

Degree of control of collective agreements

Degree of control refers to how much actual practice and conditions are compliant with those of the collective agreement, as well as the processes, actors and mechanisms concerning differences in the interpretation of collective agreements, such as arbitration and mediation procedures.

Generally speaking, there is a high degree of control of collective agreements in Finland. The main reason is that, because of the high collective bargaining coverage, many employment contracts are by default in the sphere of a collective agreement. Employment contracts are generally relatively simple with regard to pay and employment conditions; employment contracts simply note which collective agreement is applicable to the employment contract. Shop stewards are responsible for monitoring implementation of collective agreements at the workplace.

This high degree of formal control obscures workplace realities. The employment contract is based on the collective agreement, but the actual wage, especially in manufacturing, is based on job-dependent classifications of skills and experience. In addition, the wage comprises a job-dependent part and a personal part. This is made more complicated by shift-based working times: different shift systems result in different effective wages. The direct control of collective agreements on work is thus qualified by the actual work. There is a link between the collective agreement and work processes, but it is often complex (see Jonker-Hoffrén 2013 for the paper industry).

It is even more complicated outside 'blue-collar work'. The current 'wage tables' (palkkataulukot) of the SAK-affiliated unions are either in the collective agreement or

online, but the wages of salaried and professional employees are generally negotiated locally. These higher-level collective agreements do allow for a 'plan B' regarding direct control: if no result arises from local negotiations before the current collective agreement expires, the generally agreed wage increases apply.

While union control over employment contracts is strong, it is not rigid. Trade unions have the power to monitor and supervise the implementation of collective agreements through local shop stewards. This is an important issue for the viability of the Finnish labour movement in the long term: also in an economy dominated by services, unions need to have local representation. In terms of the Finnish economic structure, this is not easily achieved because of the legacy of industrial unionism. In the service sector, this structure is harder to replicate because in many cases firms and workforces are much smaller. Hence, a challenge for service sector unions is to organise a fragmented workforce. Service sector work is also often characterised by fixed contracts and high labour turnover, which have consequences for union density (Ahtiainen 2015: 20).

Finnish industrial relations are known for their institutionalised rules. This also applies to conflict resolution. Most collective agreements allow for mediation processes (välimiesmenettely) that deal with issues other than wages, usually disagreements about the interpretation of the collective agreement. The mediation method is legally very complicated, but offers ways of conflict resolution that reduce the need for strikes and, similarly, reduce the legitimacy of strikes, but also reduces the risk of state intervention in industrial relations (Koulu and Turunen 2012: 221–22). This form of conflict resolution fits in the Nordic tradition of voluntarism. Usually a mediation process starts locally as a disagreement between employer and employee but can be taken up by the industry-level bargaining parties or even the union confederations if needed. The mediation process involves representatives from both the employees' and employers' side. It starts when one of the parties to the conflict informs the other party in writing that they want to use the mediation process to solve the conflict, whereupon they have to select three mediators. The process and scope of the mediation process is agreed between the parties. Although not commonly published, the decisions of the mediation process are public and binding (Ovaska 2007; Koulu and Turunen 2012). The public sector seems to have a slightly less expansive understanding of the right to mediation as the collective agreements do not mention mediation explicitly, although they describe a similar process that involves a written intention to negotiate at the industrial level when local negotiations fail. Furthermore, a conflict may not be directed to the Labour Court before the mediation procedure has been completed. Other issues, such as the lawfulness of strikes or lay-offs, are directed to the Labour Court. In Finland mediation is thus included in the rules on industrial relations as concluded by the bargaining parties. The formal mechanism of this mediation process is very similar across collective agreements, but its practice, particularly its frequency, may vary between industries.

Scope of agreements

Collective agreements in Finland cover a wide range of issues. As a result, they tend to be fairly voluminous, although managers' agreements tend to be shorter than blue-collar employees' agreements. The basic topics of collective agreements are: the industrial scope of the agreement, wage formation, working time, holidays, social provisions such as child illness, parental leave, issues related to pensions and work–life balance, and negotiation rules. Significant issues regarding gender (wage) equality and pension reform are agreed at the federal level. Collective agreements, in particular regarding parental leave, also show the influence of EU directives. At the level of centralised incomes agreements there can be variation in scope regarding the issues the government deems important. Topics not explicitly open to local negotiations are applied as agreed in the industry-level agreement, except for wages, which have to be seen as minimum wages for the sector. Employers can always improve on minimum standards. The actual formation of wages depends on the sector: manufacturing has highly complicated wage systems, due to shift work and complex calculation of bonuses, while in services the basis is an uncomplicated hourly wage. In manufacturing therefore labour processes can affect wage drift at the local level, which can be studied through registry data.

Between 2000 and 2016 the scope of collective agreements remained largely the same, although some industries saw variations on specific issues. The financial services industry agreement, for example, included a large number of appendices dealing with specific issues. This can be explained by regular changes in the regulations governing this industry. The metal industry, on the other hand, had a collective agreement that is nearly a carbon-copy of the previous agreement. In general, industry-level collective agreements can diverge from what is agreed in the confederation-level agreements. In this sense, the scope of bargaining is always determined by industry-specific concerns.

Substantively, provisions on wage increases have varied but if these are agreed, only their application to the industry-level agreement is open for negotiation, not their actual level. Although the form of inclusion varies, most collective agreements have sections or annexes about local bargaining issues, shop steward functions and procedural issues. Other sectors refer to the general agreements concluded by the bargaining parties. Due to EK's withdrawal from bargaining, some unions had to negotiate procedural agreements anew for their industry during the 2017–2018 bargaining rounds. These include the rules governing Finnish industrial relations, such as negotiation order, issues of representativeness, shop steward functions and the general aims of industrial relations.

Although this was an ad hoc agreement, in 2009 the bargaining parties concluded the so-called 'social agreement' (sosiaalitupo), which reformed the rules on unemployment security and occupational pensions. The core goal for the bargaining parties was to ensure the financial sustainability of the occupational pension system. This agreement shows that occasionally 'collective bargaining' also goes beyond topics traditionally associated with it.

Conclusions

In conclusion, it seems that collective bargaining in Finland has undergone a controlled transition from a centralised system of peak-level bargaining to a two-tier system of manufacturing-led industry-level pattern bargaining akin to the bargaining system in the other Nordic countries. In principle, such a move towards a two-tier bargaining system increases the likelihood of more differentiated bargaining outcomes in local negotiations. In practice, the impact of the transition of the Finnish bargaining system remains to be seen because the decentralisation has been accompanied by measures to secure articulation between the industry and the company level. The concrete impact of controlled decentralisation will depend largely on the power relations between the bargaining parties at local level and the leeway granted for local negotiations by the industry-level actors. Even though trade unions in Finland can still rely on a high level of union density as a power resource, the question remains how stable this will prove to be in relation to local bargaining.

The first agreement concluded under the new regime established after the Competitiveness Agreement was between the Metal Workers' Union (Teknologialiitto, formerly Metalliliitto) and the employers' association for the technology sector (Teknologiateollisuus). It is valid for two years with an optional third year. The bargaining parties agreed that the starting point is that wage formation should happen locally. If no agreement can be reached at local level, the industry-level agreement contains provisions that determine the division between central and local wage increases. At first sight, it seems that the bargaining parties of the manufacturing sector have found a way to increase the scope of local bargaining but also to provide a kind of backstop for when local negotiations fail.

Finnish industrial relations have seen much upheaval since 2008, when EK announced that it will no longer adhere to centralised agreements. One could argue that the detour through a 'new' kind of centralised agreement, instigated by economic concerns, helped to prepare the political climate for more local negotiations, at least through significant political pressure. The first agreement signed in the manufacturing sector has so far functioned as a kind of anchor for negotiations in other industries and therefore is in the Finnish tradition of pragmatism in industrial relations, because in substantive terms the industry level has always been the most important. A monumental change, however, is that for the first time it gives primacy to local wage bargaining. On a more procedural level the new collective agreement in retail has made the relationship between locally agreed issues and the collective agreement more transparent. Although these are just two examples, they illustrate the power of the labour movement: even though more aspects of industrial relations are open for local negotiations, the trade unions have made sure there is a set of rules for those negotiations and how they relate to industrial agreements.

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All links were checked on 27 August 2018.

Abbreviations

AKAVA	Korkeakoulutettujen työmarkkinakeskusjärjestö (Confederation of Unions for Professional and Managerial Staff in Finland)
EK	Elinkeinoelämän keskusliitto (Confederation of Finnish Industries)
KiT	Kirkon työmarkkinalaitos (Church Employers)
KT	Kunnan työnantajat (Local Government Employers)
PAM	Palvelualojen ammattiliitto (Service Union United)
SAK	Suomen Ammattiliittojen Keskusliitto (Finnish Confederation of Trade Unions)
STTK	Suomen Toimihenkilöiden keskusliitto (Federation of Salaried Employees)
SY	Suomen Yrittäjät, (Federation of Finnish Enterprises)
TUPO	Tulopoliittinen ratkaisu (tripartite, centralised agreements)
TT	Teknologiateollisuus (Technology Industries Federation)
TVR	Työttömyysvakuutusrahasto (Unemployment Insurance Fund)
VTML	Valtion työmarkkinalaitos (Office for the Government as Employer)

Chapter 11
France: the rush towards prioritising the enterprise level

Catherine Vincent

Compared with other European countries, collective bargaining was set up belatedly in France, in 1950.[1] In the following decades, by the general use of administrative extension of collective agreements, industry-level bargaining emerged as the main pillar of French industrial relations. The role of the state, however, remains one of the most peculiar features of the French collective bargaining system, the strength and spread of which have never relied on the existence of strong and encompassing bargaining parties, but on support from the state, particularly in the form of extension procedures and the statutory minimum wage. Political intervention both reflects and maintains the loose

Table 11.1 **Principal characteristics of collective bargaining in France**

Key features	2000	2016/2017
Actors entitled to collective bargaining	– at national level, representativeness granted by the government to five trade unions – at national level, representativeness granted by the government to three employers' organisations – in enterprises without a union, possibilities to bargain with elected representatives or mandated employees	– for unions, representativeness based on workplace election criteria (10% at enterprise level; 8% at industry and national levels) – for employers' organisations, a criterion based on membership – in enterprises without a union, drastic extension of the possibilities to bargain with elected representatives or mandated employees
Importance of bargaining levels	– erosion of industry level but still the reference, particularly in SMEs	– increase of company agreements, less coordination between bargaining levels
Favourability principle/derogation possibilities	– strict favourability principle among levels – possibilities to derogate from labour code on working time only	– compulsory division of certain topics among levels – for other topics, priority to workplace level
Collective bargaining coverage (%)	98	98
Extension mechanism (or functional equivalent)	Very frequent extension by the Ministry of Labour	
Trade union density (%)	8	8/11.2 (2013)
Employers' association rate (%)	74	75

Sources: Appendix A1 and Pignoni (2016); author's own comments.

1. The first law establishing a collective bargaining system dates back to 1936. Because of the outbreak of the Second World War, but also the hostility of employers toward unionism, the law was not implemented. The 1950 law consolidated the 1936 terms.

links between the social partners. As a result, the key role of state intervention and a long-standing mutual distrust between employers and trade unions explain the relative weakness of the French collective bargaining system.

From the mid-1980s, there was an early development, compared with most continental European countries, towards the decentralisation of collective bargaining to company level through a series of issues on which derogations were possible, but the system remained coordinated by law and the favourability principle (Tallard and Vincent 2014). In the past two decades, however, employers have chosen to privilege company bargaining and to weaken the constraints imposed by law or by sectoral bargaining, but industry has remained an important level for determining employment and working conditions. The 2016 and 2017 reforms introduced a reversal of the hierarchy of norms and conferred more autonomy on company bargaining. This overhaul of collective bargaining will certainly hasten the decline of the regulatory heft of industry agreements.

Industrial relations context and principal actors

The broader industrial relations context of collective bargaining in France is heavily shaped by the strong and interventionist role of the state, which at different points in time has served different purposes. Historically, four stages of state intervention can be distinguished. By the turn of the twentieth century, the state was using legal intervention to offset the organisational weaknesses of both unions and employers (Rosanvallon 1988; Pernot 2010). In addition, the historical legacy of a highly domestic-oriented economy with low industrial concentration may be seen as hindering the emergence of strong and centralised unions. In keeping with France's well-known republican tradition within which the government is responsible for protecting workers and their individual rights, a very detailed and broad Labour Code was set up in the first half of the twentieth century, mainly regarding working time and health and safety. Granting individual rights and benefits directly to employees, however, undermined the unions' role in collective bargaining development (Goetschy 1998).

In a second step, after the Second World War, the state attempted to incorporate trade unions and employers' organisations in the formulation of social and welfare issues by treating them as partners, albeit often only in an advisory capacity. This tripartite concertation formed the basis of an implicit 'Fordist compromise' (Boyer 1985) in which unions left the determination of work norms and organisation in the sphere of production to management in return for a share in the fruits of economic progress, as rising productivity brought higher wages. In these years of rapid economic growth, the extension procedure, along with the technical support provided by the Ministry of Labour enabled the entire workforce within industries to enjoy the benefits that had been negotiated by unions and employers' organisations. The Law on collective agreements (Loi relative aux conventions collectives de travail) of 1971 laid down a genuine right to collective bargaining for workers and legalised the threefold space in which collective agreements were signed: interprofessional national level, industry level and company level, in descending order of priority. In other words, the most favourable clause prevailed over any other, less favourable one from the employees' perspective:

in other words, derogation *in mejus* or the favourability principle. Although collective bargaining could legally take place at three levels, from the 1950s to the 1980s industry-level bargaining was the most common level at which collective agreements were negotiated; company-level bargaining took place only in large companies.

This compromise collapsed in the early 1990s because of a shift away from industry to the service sector and the rise of unemployment and precarious forms of employment. From the 1980s and 1990s, the French economy underwent a number of transformations that led to talk of the 'deindustrialisation' of France (Demmou 2010). The share of French industry in GDP declined from 24 per cent in 1980 to 18 per cent in 2000 and as low as 12.6 per cent in 2011. Between 1980 and 2007, industrial sectors lost 36 per cent of their workforce. Furthermore, market services have also been boosted by a trend towards outsourcing by industrial firms, as well as the use of temporary workers, which now account for around 8 per cent of industrial employment.[2] Among many other factors, this evolution is due to the restructuring and financialisation of French multinational companies, which have shifted their centre of gravity towards international markets.

Meanwhile, as a third kind of state intervention, neoliberal policies have gradually been implemented, although a number of welfare safety nets have been retained. These changes have gone hand in hand with a decline of trade union structural power (Pernot 2017). Since the Auroux Law of 1982, annual bargaining on wages and working time has been compulsory in any company hosting one or more unions; even so, no settlement is required. The law also strengthened the rights of unions and employee representatives at workplaces. At the outset, company-level bargaining was regarded positively by trade unions as a way of invigorating workers' participation and enabling union delegates to better defend and represent employees' concerns. Contrary to prior expectations, during the following three decades, the role of industry level bargaining changed as it faced competition from the company level as a venue for establishing norms. Derogations from statutory working time were introduced and other compulsory topics added at company level from the 2000s. Nevertheless, coordination among the different levels was still guaranteed by the favourability principle.

The significant increase in company-level bargaining was triggered by a change in the outlook of employers' organisations in the late 1990s, when they discovered the charms of company bargaining, within the framework of which they can take advantage of trade union weakness. The overhaul of collective bargaining finally occurred in May 2004, when a right wing–led government introduced a limited reversal of the hierarchy of norms. Decentralisation of the collective bargaining system has been reinforced since 2004 by successive legislative reforms, introduced by both right-wing and left-wing governments. Industry-level bargaining remains the determinant level for labour regulation in SMEs, while large companies have taken the opportunity of greater autonomy and relaxation of centralised labour market regulation on working time. The priority given to the company has slowly eroded solidarity among workers in the same industry and has resulted in a bargaining system that is less and less coordinated (Rehfeldt and Vincent 2018).

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2. Temporary work is classified among services, whereas most temporary contracts are in industry.

The onset of the 2008 crisis had the effect of briefly reactivating a policy of tripartite concertation, first started by the right-wing governments under the Sarkozy presidency and continued by the Socialist president elected in 2012, François Hollande. These tripartite summits, however, were placed under threat of legislative action and framed by government 'roadmaps' whose features were often very close to the employers' demands. Last but not least, these negotiations frequently revealed deep disagreements among the trade unions.

Finally, to counter poor economic performance over the past few years, state intervention has shifted towards a clear supply-side policy to promote growth. Dissatisfied with the pace of structural reforms and in order to meet the demands of the country-specific recommendations within the framework of the 2015 European semester, the Socialist government ended up imposing an overhaul of collective bargaining without concertation. The Labour Law (Loi Travail) bill of 2016 led to numerous strikes and mass demonstrations organised by a coalition of General Confederation of Labour (Confédération Générale du Travail, CGT), the General Confederation of Labour-FO, commonly called FO (Confédération Générale du Travail-Force Ouvrière, CGT-FO) and some autonomous and student unions over a period of four months. To win the support of the French Democratic Confederation of Labour (Confédération Française Démocratique du Travail, CFDT) the announced reversal of the 'favourability principle' was limited to working time and overtime pay, paid holidays and weekly rest. The bill was finally adopted by the Parliament in August 2016.

During the presidential elections of 2017, candidate Emmanuel Macron announced that he would speed up labour law reform. Once elected, in order to avoid long debates in the parliament and possible demonstrations, a framework law (*loi d'habilitation*) was passed in Parliament by a majority of the new presidential party, authorising the government to execute its reform project through government decrees (*ordonnances*). These were issued in September 2017, after one-to-one formal consultations with unions and employers' organisations. A twofold overhaul emerged from texts, clearly devised by and for companies: a transformation of industrial relations on a scale unprecedented since the Auroux law concerning the collective bargaining system and workplace representation; and a step forward in labour market deregulation, including a ceiling on damages in cases of complaint and the weakening of dismissal regulation. The employers' organisations clearly supported the ordinances, whereas all the unions were firmly opposed.

As far as collective bargaining is concerned, in line with the 2016 Labour Law, the Ordinance on the strengthening of collective bargaining (Ordonnance relative au renforcement de la négociation collective) has generalised shared competencies between the law, industry level and company agreements. Moreover, the leading role that the government claimed to give to company agreements has resulted in the removal of the 'favourability principle' and the facilitation of collective bargaining in SMEs without unions. The government's imposition in spring 2016 of a Labour law and the latest Macron ordinances reshaping both the labour market and collective bargaining suggest a shift to a more 'top down' hardening of social policy (Pernot 2017).

Within this broader industrial relations context, the principal actors on the employee side are the five pillar organisations, which were granted 'nationally representative' status by the government until 2008, and since then through representativeness elections (see below). The three main organisations are the CGT, CFDT and FO. The first two account for 65–70 per cent of trade union members; FO brings the figure to 80 per cent (Pernot 2017). In addition, there is the small French Christian Workers' Confederation (Confédération Française des Travailleurs Chrétiens, CFTC) and the sectoral organisation representing managerial employees, the French Confederation of Management-General Confederation of Professional and Managerial Staff (Confédération Française de l'Encadrement-Confédération Générale des Cadres, CFE-CGC). In all French confederations the national industry level organisation is called a federation (*fédération*). Two more recently established organisations, the National Unions of Autonomous Trade Unions (Union Nationale des Syndicats Autonomes, UNSA) and the Trade Union 'Solidaires' (Union Syndicale Solidaires, USS) are not recognised as representative at an interprofessional level, but they are representative in a number of industries, thus enabling them to participate in industrial bargaining.

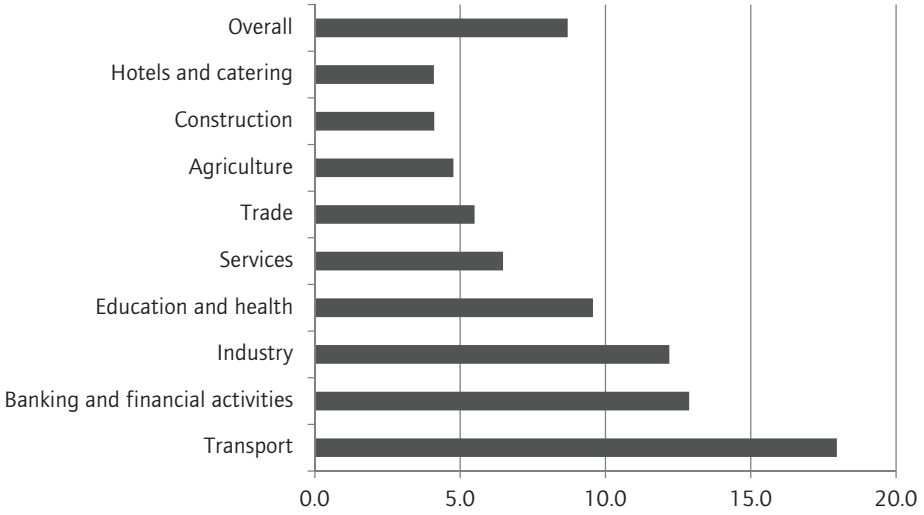
Trade union membership statistics have always exhibited lower rates in France than in other European countries, barely reaching 20 per cent even in the late 1960s. The oil shocks and recession of the 1970s further narrowed the base and trade union membership has been constantly low since then, at a mere 5 per cent in the private sector and roughly 15 per cent in the public sector. The rate was recalculated for 2013 using new surveys.[3] Union density is now considered to be 11.2 per cent: 19.8 per cent in the public service and 8.7 per cent in the private and voluntary sector (Pignoni 2016). In the latter, the industrial breakdown highlights that union membership remains robust in traditional industries (Figure 11.1).

By contrast with trade unions, the participation rate of management representatives in employer-led organisations is fairly high, standing at 75 per cent in 2012 (Table A1.G). Between 1998 and 2004, however, a survey by the Ministry of Labour reveals a weakening participation rate, largely explained by morphological distortions in the industrial base: the loss of factories, operational facilities and manufacturing potential, and the rapid expansion of services.

There are three representative employers' organisations. The Movement of French Enterprises (Mouvement des entreprises de France, MEDEF) is the peak organisation, intending and aspiring to represent all businesses of all sizes and all sectors. Two other organisations contest this aspiration and consider MEDEF as expressing the interests only of large companies. Despite this contestation MEDEF is the central employers' organisation and participates in social negotiations. The two smaller organisations

3. Providing the headcount of trade union members is a tedious task. Until 1994, union membership was assessed on known or estimated union dues, mainly based on a union's own statement, which tend to be exaggerated. From 1997 to 2013, the calculations were based on two direct surveys of individuals published by INSEE (National statistical institute), which was used as a reference in international comparisons. The Ministry of Labour and INSEE have provided a new calculation based on the Working Conditions Survey, which found that previous figures have been underestimated. Both surveys provide a member count, but none specifies which union the employee belongs to.

Figure 11.1 **Union density by industry in 2013, France (%)**



Source: Dares-DGAFP-Drees-Insee, enquête Conditions de travail 2013, Pignoni 2016.

are the Confederation of Small and Medium-Sized Enterprises (Confédération des Petites et Moyennes Entreprises, CPME) and the Union of Local Businesses (Union des Entreprises de Proximité, U2P). CPME aims to organise small companies beside and sometimes against the MEDEF. At the same time it is fairly dependent and does not stand out during the negotiations with trade unions. The U2P is sometimes very opposed to the two abovementioned organisations and at times has an inclination to side with the trade unions in some areas, probably because small employers feel close to and hardly different from their employees. Retail and building industry craftsmen are most widely represented in this union.

Extent of bargaining

Despite one of the lowest rates of union density, the French bargaining coverage rate is among the highest among the OECD countries: 96 per cent in the private sector and 98 per cent in public enterprise. First and foremost, it is worth noting that there is no real collective bargaining in the public service in France even though it accounts for almost 20 per cent of the total employed workforce.[4] In France's long-standing administrative and legal culture, employment in the public service is characterised

4. The public service includes three branches: (i) the state civil service includes central government departments and their decentralised administrations across the territory, as well as public administrative institutions, for example the agency in charge of monitoring the unemployed (Pôle emploi); with just over 1 million workers, the Ministry of Education is the largest public employer; (ii) local authorities share areas of intervention at three geographical levels: the regions, the counties and the municipalities; (iii) public service hospitals include public health and medico-social institutions.

by a separate status, unilaterally granted by the state and detailing its civil servants' rights and duties. Industrial relations in the public service are specific. Since 1946, the full right of association, except for the armed forces, and the right to strike, except for military personnel, the police, magistrates and prison guards, have been constitutionally protected with special regulations. By contrast, until 2010, there was no scope for collective bargaining. The 2010 Law on social dialogue renewal (Loi sur la rénovation du dialogue social) acknowledged and generalised collective bargaining but renewal remains incomplete. The law did not confer legally binding status on agreements, as only their legislative or regulatory implementation grants them normative scope. Bargaining rights are still fairly weak and, regarding wages, under the unilateral control of government (Vincent 2016).

The high coverage level results from two factors. First, collective agreements apply to all employees of a company covered by them, regardless whether or not they are trade union members. Second, and above all, bargaining coverage has been broadened by extending the contents of sectoral agreements to all the employers in a similar activity, with or without registered membership in an employers' association. According to this administrative procedure, legally implemented since 1936, the extension of an industrial agreement must be made by one or both contracting parties through an explicit application. The only requirement is related to the bargaining parties' representativeness (see below) and does not rely on the coverage of the agreement, as in the Netherlands (see Chapter 21). The Ministry of Labour can also launch the procedure on its own initiative. When examining the application for extension, the Ministry of Labour ensures the validity of the signing of the text, its conformity with the applicable legislation and the presence of mandatory clauses. This review of legality may lead to the exclusion of certain provisions. The Ministry of Labour takes the final decision on extension after consulting with the National Collective Bargaining Commission (Commission Nationale de la Négociation Collective, CNNC), which is composed equally of representative peak-level trade union confederations and employers' organisations. In practice, nearly all industrial agreements are extended. In 2016, almost 10 per cent of extension decrees excluded some provisions of the extended agreements, but no extension was refused.

Notwithstanding the general use of extension mechanisms, collective bargaining has spread only slowly: in the early 1980s, 80 per cent of employees were covered by an agreement. The expansion of bargaining was achieved under state pressure, through the Labour administration's deliberate policy. Taking advantage of the 1981 reformist political change, a strong impetus was given to extending bargaining coverage, mainly at industry level. As a result, industry bargaining flourished during the 1980s and 1990s, even though some agreements covered only a few thousand or even fewer workers. Most of the new industrial agreements signed in the 1980s, particularly in services and trade, were at a minimum, with standard provisions that were not very advantageous compared with the Labour Code. The duration of collective agreements depended on the terms agreed by the signatories, except on compulsory bargaining topics. In 2015, 97 per cent of industries covering more than 10,000 employees had signed at least one agreement.

Table 11.2 **Number of industrial agreements in France covering more than 5,000 employees (2015)**

Total		Metal industry		Construction	
Number of agreements	Employees covered	Number of agreements	Employees covered	Number of agreements	Employees covered
299	14,073,000	68	1,629,700	57	1,196,500

Sources: Ministry of Labour DGT (BDCC).

Currently, there are more than 680 industries with valid collective agreements at national, regional or territorial level, but only 370 cover more than 5,000 employees (Table 11.2). In retail, for instance, the collective bargaining landscape is very fragmented, with 84 collective agreements, only 29 of which cover more than 5,000 employees. The 75 largest industrial agreements alone cover almost 80 per cent of employees.

The stated aim of governments in recent years has been to reduce the number of industries to 200 or so by merging existing industries, in the hope thereby of improving the qualitative content of agreements. This target was part of the 2016 and 2017 legislation. In the metal industry alone there are 76 territorial collective agreements, negotiated at the local, primarily county (*département*) level. For professional and managerial staff, there is a nationwide agreement. In June 2016, the Metal Employers' Federation (l'Union des Industries et Métiers de la Métallurgie, UIMM) and all five representative confederations signed a procedural agreement programming the merger and renegotiation of the whole collective bargaining system in the next two years.

Security of bargaining

Security of bargaining refers to the various factors that determine the trade unions' bargaining role. The French labour movement has traditionally been marked by trade union pluralism and fragmentation, inter-union rivalry, low union density and a paucity of financial and organisational resources (Pernot 2010). This reality underlines how the extent and stability of bargaining have never been based on unions' organising strength. The state has compensated for union weaknesses using four tools. First, it has granted special legal rights enabling unions to represent the interests of all employees and not only those in membership.[5] In that respect, until the late 1990s, representative unions had a quasi-monopoly in collective bargaining at all levels. The provision of services and collective agreements benefit all workers, industrial agreements apply even in companies where there is no union presence and there is no system by which employers can opt out.

Second, the right to strike is strongly constitutionally protected, with weak special regulations. In the private sector, the provision of minimum service is laid down for

5. For instance, 1946: prior authorisation by the labour inspector for the dismissal of employee representatives and union delegates; 1968: legal right to establish workplace branches and union workplace delegates.

those providing essential public services only, such as health or transport services. Beyond that, there is no obligation to inform the employer or to attempt to conclude an agreement before going on strike. There is also no regulation of the minimum or maximum duration of a strike. The right to strike applies to all employees, whether or not there is a union call for action and even when the majority of the employees are not involved. An individual can go on strike, however, only for reasons linked to employment and work conditions. Although the right to strike is an individual right in France, the unions' ability to mobilise more than just members and to force social and political demands and issues into the public arena used to be one of the main factors in the unions' structural power. This was based on their strategic locations in public infrastructure, particularly the CGT in energy and the railways. Their ability to bring the country to a standstill was demonstrated at various points, most recently in 1995 and 2003, when huge strikes paralysed part of the country's economic activity. In the past decade, strikes have become rarer and conflicts have tended to remain confined within companies, apart from the occasional major industrial action. The strike rate is still one of the highest in Europe, however, and was significantly higher in 2005–2014 than in the previous decade (Vandaele 2016).

Third, in order to increase their social and political influence, unions were granted a role in the administration of the welfare state, giving them legitimacy beyond the sphere of collective bargaining. In France, jointly managed institutions are a central approach to governance in the fields of social protection, unemployment benefit and training. All the social partners are devoted to it, including employers' organisations (Daniel *et al.* 2000).

Last, but not least, in order to level social inequalities and to compensate for a deficient bargaining process, a statutory national minimum wage was implemented by a 1950 Law revised in 1970. The government annually set the rate of the Growth-linked Interprofessional Minimum Wage (Salaire Minimum Interprofessionnel de Croissance, SMIC) according to strict rules, based on annual inflation plus half any increase in the gross hourly wage of blue-collar workers, albeit on a discretionary basis. Linkages between the SMIC and wage bargaining are fairly complex but the minimum wage increase more or less sets the pace for sectoral wage agreements (see below).

More recently, new rules for union representativeness and the validity of agreements have also sought to boost bargaining security. The extended possibilities to negotiate without unions have had more controversial effects. Paradoxically, these supporting measures have often proved detrimental by removing individuals' incentive to join unions, promoting a unionism based on the strength of a community of activists rather than on a mass membership, and ultimately encouraging further dependence on state support.

Regarding collective bargaining, representative contracting parties appear surprisingly stable. Until 2008, the government deemed five trade union confederations (CGT, CFDT, FO, CFTC and CFE-CGC) representative at the national level. Any federation affiliated to one of these nationally representative confederations had the right to participate in collective bargaining at industry and company levels. An agreement was

Table 11.3 **Union representativeness* in France (%)**

	Labour tribunals 2008	Works councils 2004/2005	Representativeness 2013	Representativeness 2017
CFDT	21.8	20.3	26.0	26.3
CGT	33.9	23.6	26.8	24.8
FO	15.8	12.6	15.9	15.6
CFTC	8.7	6.4	9.4	9.5
CFE-CGC	8.2	6.3	9.3	10.7

Note: * The election results are aggregated every four years by the Ministry of Labour for sectoral and interprofessional levels. The results were published for the first time in March 2013, and for the second time in March 2017.

considered valid as long as it was signed by just one of these representative unions. At the turn of the 2000s therefore the two major confederations, CGT and CFDT, promoted an overhaul of principles governing representativeness and the validity of agreements. The law on the renewal of social democracy and working time reform (Loi portant rénovation de la démocratie sociale et réforme du temps de travail of 2008) redefined the criteria for the representativeness of the different unions. Workplace elections now became the decisive criterion. In order to take part in collective bargaining, a federation has to obtain a minimum of 10 per cent of the vote in elections for works councils and 8 per cent at industry and interprofessional levels.

The picture is somewhat different at local level, where most collective bargaining takes place. CGT and CFDT maintain representativeness in almost all bargaining units. CFTC remains representative in only 203 industries. UNSA, however, gained representativeness in 88 industries and Solidaires in 35. In the metal industry, for instance, CGT and CFDT are representative in all 76 bargaining regions. The CFTC maintains representativeness in 20 regions only, and lost representativeness at national industrial level, except for managerial and professional staff, where the CFE-CGC has representativeness of 45.9 per cent. The diversity of the combinations existing at workplace level is even greater. Regarding the validity of agreements, a majority criterion was gradually introduced. Nowadays, any industry level and interprofessional agreement has to be supported by a majority of representative unions. Workplace agreements take effect once unions have gathered at least 50 per cent or more of votes.

To offset the fact that non-unionised firms, mainly SMEs, could not bargain because of a lack of union delegates, the social partners advocated non-union negotiators. For trade unions, this could have been an opportunity for new settlements. In 1995, however, a National Interprofessional Agreement (Accord National Interprofessionnel, ANI) signed by the employers' organisations and CFDT, CGC and CFTC (but not CGT and FO) allowed company agreements to be signed in the absence of union delegates by employees specifically mandated by unions, or by elected employee representatives, such as works council members or employee delegates. Since the early 2000s, successive legislation has extended the possibilities for non-union representatives to negotiate in non-unionised workplaces. The Macron ordinances have drastically extended the scope

of the device. Three different regimes have been introduced, depending on the size of the non-unionised workplace.

(i) Where there are 20 or fewer employees and no employee representatives: the employer can propose an 'agreement' drafted unilaterally that must be approved by at least two-thirds of the workforce.
(ii) Between 20 and 49 employees: two possibilities are open without priority. Elected representatives can sign the agreement if they represent the majority of votes or it can be signed by employees mandated by a union.
(iii) Workplaces with 50 or more employees: the agreement can be signed by elected representatives, otherwise by mandated employees.

These new rules clearly indicate that the purpose of the ordinances is to further undermine the role of trade unions in collective bargaining.

Level of bargaining

As noted above, the industry level was dominant from the 1950s to the 1990s. Derogations from the Labour Code – on statutory working time – through industry or company agreements were introduced from the 1980s and 1990s. In 1993, however, François Sellier put forward the controversial thesis that the company level was the centrepiece of the French industrial relations system. Even if the changing pattern of collective bargaining has gradually delinked the central and the company levels, until 2004 coordination among the different levels was still ensured by the 'favourability' principle. In 2017, the Macron Ordinances replaced it with a compulsory division of topics among levels.

Wage-setting mechanisms are an illustrative example of the trend in the coordination between bargaining levels and state intervention. The statutory minimum wage (SMIC) provided gravitational pull for wage bargaining at industry level and set the pace for annual wage increases. Although the SMIC increase is state-imposed and not bargained, it has the same effect as centralised national wage agreements in other countries. This underlines the influence of state wage settlements in defining wage development and explains the similar pattern of real wage and productivity evolution over time (Husson *et al.* 2015). At industry level, union federations and employers' organisations have always negotiated minimum wages, which correspond to the wage floor for a given set of qualifications. Agreed wages granted to the lowest qualification levels often achieve compliance with the minimum wage only with difficulty. The industry-level collective agreement is the place for the determination of wage hierarchies, as it serves as a reference for extending increases throughout the wage scale. This regulatory capacity differs according to industry (Jobert 2003). In some industries, this is still central, as it creates real wage convergence in all companies: for example, in the construction and petrochemical industries, but also in industries composed of very small businesses, such as auto repair shops. In most other areas, particularly in the metal industry, employers' federations sought to negotiate industrial minimum wages that preserve some leeway on actual wages in large companies, either through company-level negotiations or

individualised compensation by means of profit sharing or employee savings. Industry-level actors are thus not the only stakeholders with a concern for wage policies, because room for manoeuvre is left for bargaining at company level. By the early 2000s, performance-related pay had progressively replaced general wage increases and brought about a form of wage management whose purpose is to adjust labour costs and offer incentives for higher performance (Castel *et al.* 2014). These individualising devices may be subject to negotiation in the company. The erosion of industry-level bargaining as a result of the decentralisation of bargaining towards company level and in the current context of wage moderation, however, is not specific to France (Delahaie *et al.* 2012).

The 2004 Law on lifelong vocational training and social dialogue (Loi relative à la formation professionnelle tout au long de la vie et au dialogue social) launched the first major reversal in the coordination between bargaining levels. Plant-level agreements could derogate from higher-level bargaining agreements, even with regard to less favourable provisions for workers, except in four areas: agreed minimum wages, job classifications, multi-employer vocational training funds and supplementary social protection. At the same time, three provisions made it possible to limit resort to such derogations. First, industry-level negotiators could 'lock up' other topics and exclude them from company-level derogations. Second, an industry-level joint committee could, in some instances, cancel derogations. Third, the law granted majority union federations the right to challenge the validity of derogating agreements signed in their enterprise.

In practice, the use of derogations remained limited. Three reasons explain the lack of success of derogations at company level. First, since 2004, because otherwise union federations would have refused to sign them, almost all industry-level agreements have blocked derogations. Second, the standards imposed at industry level are already the result of minimal compromises and leave little room for less favourable agreements. Last but not least, derogation agreements are not relevant tools for management. In large companies, as long as economic survival is not at stake, opening negotiations on derogation clauses sends a very negative message both for unions and employees. SMEs are less likely to sign their own agreements, whether or not they include derogations, because maintaining the reference to industry-level agreements seems less time-consuming and risky.

In the new collective bargaining architecture provided in the 2017 Ordinances, coordination between levels is no longer based on the 'favourability principle', but rather on the complementarities of bargained topics. Regarding competencies in standard setting, the division is as follows:

(i) Formally, the role of industry level agreements is reinforced since there are now 13 topics on which derogation is forbidden. This reinforcement has taken place at the expense of the law, however, and not at the expense of company agreements.
(ii) The industry level 'lock up' faculty, unlimited under the 2004 Law, has now been reduced to four areas, which mainly concern issues of occupational safety and disabled workers. The weakening of industry-level bargaining is evident here.

(iii) The primacy of company agreements concerns everything that does not fall into the two previous blocks, a considerable quantity. Returning to the example of wages, all remuneration rules are now governed solely by the company agreement, with the exception of agreed minimum wages, classifications and overtime premiums.

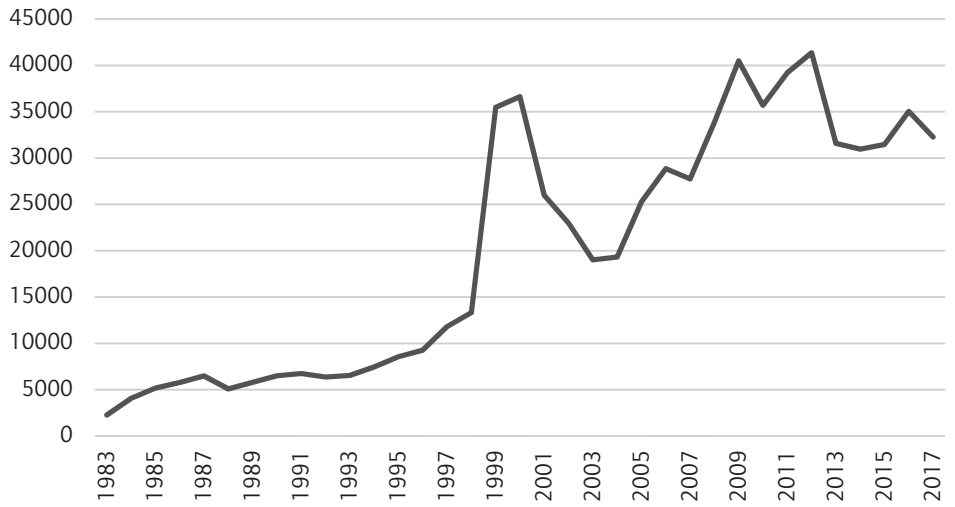
Looking further at each of the three bargaining levels, in France there has been a long-standing tradition of national interprofessional agreements (ANI) signed by the social partners in various fields: covering, for example, social protection, monthly pay for production workers, employment and training. To come into effect, most ANIs need to be transposed into legislation. The practice was enshrined in legislation only in 2007, in the so-called Larcher Law. Mirroring the European Treaty (Articles 154 and 155), the new procedure is designed to prevent the government from simply forcing decisions through in areas in which prior negotiations between social partners might be seen as bringing a more effective and democratic approach. Now, the law requires the government to hold dialogue on certain reforms before introducing the bill before Parliament, except in urgent circumstances. Since then, successive governments have turned this requirement to their advantage whether by exploiting the involvement of trade unions in order to push through their policies – including the ANIs on job security in 2008 and 2013 – or consultation prior to Macron Ordinances. They may also invoke force majeure, as in the cases of pension reform in 2010 and Labour Law in 2016. As they are tied to the vicissitudes of tripartite concertation, the number of ANIs signed annually varies considerably.

Regarding industry- and company-level bargaining, decentralised bargaining has not developed to the detriment of the former. Despite recent economic difficulties, which jeopardised the signing of agreements, as they undermined the opportunity for reciprocal concessions, analysis of the available statistics and quantitative reports highlights a remarkable stability in the number of collective agreements in recent years. Similarly, the actors involved in negotiating and signing agreements have not changed much, despite the extension of legal possibilities for negotiations with non-union representatives at the workplace.

Bargaining activity at industry level has been broadly stable over the past decade, with between 1,100 and 1,400 agreements signed each year, of which wage agreements comprise between 35 and 48 per cent, depending on the year. In 2013, the number of agreements fell significantly to around 1,000, a figure repeated in 2014 and 2015. This decrease can be explained mainly by the decline in agreements on wages due to low inflation and a very moderate minimum wage (SMIC) rise.

The number of workplace-level agreements increased substantially between the 1980s and the 2010s, from 3,900 in 1984 to 36,600 in 2015 (Figure 11.2). Industry and services are the two sectors with the highest number of workplace agreements signed by union delegates, accounting for 34.4 per cent and 37.7 per cent of the total, respectively, in 2015. Although the volume of agreements signed in these two sectors is very similar, service companies employ more than twice as many employees as industrial firms, 44.9 per cent compared with 17.7 per cent. Trade, accommodation, food and transport

Figure 11.2 **France: number of workplace agreements signed annually* (1983–2017)**



Note: * Including agreements signed by union delegates and employees mandated by trade unions.
Source: Ministère du travail (2017); author's calculation.

companies, which employ just under one-third of the labour force in the private sector, sign only 23.6 per cent of agreements.

In France, unlike many other countries, the crisis did not have a negative impact on the dynamism of company negotiations. On the contrary, the number of agreements concluded continued to increase each year, apart from a slight decline in 2014. This growth was due partly to the reactivation of crisis agreements, with or without conflict. Although France has not experienced massive use of temporary short-time working, as in Germany (see Chapter 12), 23,000 companies used such devices in 2009. The major car producers, such as PSA and Renault in particular, negotiated so-called competiveness/employment or short-time working agreements (see below). In 2015, negotiations took place in only 15 per cent of workplaces with more than 10 employees; however, these workplaces employed 61.9 per cent of the workforce (DARES 2017). Negotiations started in 84 per cent of workplaces with trade union delegates. Agreements were signed in 11.7 per cent of all workplaces and in 68.6 per cent of those with union representation, proving that, in SMEs, there is often no collective bargaining because there are no unions.

Figures published every year by the Ministry of Labour paint a picture of a country heavily engaged in collective bargaining at enterprise, industry and national level. The question remains whether this helps to produce social compromises.

Depth of bargaining

The way bargaining is organised and the content of the agreements reached depend on the level at which negotiations take place. Differences are far more important between workplaces than industries.[6]

Representatives of union federations lead industry-level bargaining, usually under the tight control of their confederation officers. More often than not, union members have the opportunity to influence the content of claims before a bargaining round starts. In the CFDT and CGT metal federations, for example, the representative in charge of wage bargaining organises an annual meeting with union delegates of the main metal companies in order to develop a proposal on wage rises. The federation executive committees are the final authority on the bargained text, but they generally consult lower levels and members beforehand, by means of a more or less formal vote.

The findings are much less simple at workplace level. As noted above, three types of actors can negotiate at the workplace: union delegates, works council members or employees mandated by a union. The vast majority of agreements, however, are still signed by union delegates, particularly on wages. In 2015, almost 85 per cent of all workplace agreements were signed by union delegates, 14 per cent by elected employee representatives and a few by mandated employees. Although France is one of the worst performing European countries in union membership, it ranks better (10th position) than Germany or the United Kingdom with regard to union presence at workplaces with 20 or more employees, which increased from 37.5 per cent in 1996 to 47 per cent in 2008 (Wolf 2008). This measure of union delegates' presence does not provide any information on their day-to-day practices. In many enterprises, unionists have little contact with union structures outside the company. Sometimes, union presence is confined to a single delegate, isolated from the organisation that is supposed to have chosen them (Dufour and Hege 2010). In fact, bargaining takes place in large companies only: in 2015, 36 per cent of workplaces with 50 to 100 employees had agreements, compared with 93 per cent for workplaces with more than 500 employees. Negotiations in smaller companies are often only pseudo-negotiations, in which union delegates simply accept the employer's offer. Genuine negotiations take place only in companies in which unions are strong enough, meaning the large ones.

Neither the unions nor the employers' federations have detailed knowledge of the contents of company agreements. The union federations, of course, perform their own analysis and some have set up databases on company agreements. They can, however, obtain information only on companies in which their representatives are present and have to take the initiative to inform local federation structures about the negotiations and their outcomes. The national federations therefore have direct knowledge of company agreements only in relation to large multi-workplace companies that sign national agreements. Information is more complete on annual wage negotiations, on which the federations send out regular reminders to their activists to complete their

6. There is no systematic research on the issue of bargaining processes. The features presented in this section are based on the author's long-term research on bargaining practices and her numerous interviews with trade unionists.

databases. As the number of topics for mandatory bargaining has increased in recent years, it is becoming more and more difficult for the union federations to ensure exhaustive monitoring of negotiations. Many unionists complain that these mandatory negotiations exhaust local representatives, who lose time needed for putting the employees' daily demands on the agenda.

During the two past decades, MEDEF has encouraged managements to adopt an active HR policy at plant level. This shift in employer attitudes was stimulated by the institutionalisation of workplace bargaining during the 1990s, which led to a more participatory style based on quid pro quo bargaining. HR managers have put a wide range of measures on the bargaining agenda to increase flexibility, moves facilitated by the continuous relaxation of labour market regulations. Developments have included the use of more individualised and merit-based pay systems, and increased flexibility in work organisation. These new bargaining topics are often controversial between unions, and even inside individual unions. For representatives of federations, it is quite impossible to establish common rules for concession bargaining, because local activists must judge whether such a concession is compensated in a complex agreement by advances for employees in other areas. Some union federations take a more rigorous stance, refusing to accept concessions of any kind. In retail, for example, opening options on Sundays have been widened recently: derogations for Sunday opening are conditional on the conclusion of a company agreement, which provides compensation for employees or on a unilateral decision of the employer after a ballot among the employees. In this legal context, most department stores and specialised chains or retailers have attempted to reach agreements on this subject. The union federations have divergent positions on Sunday work. CFTC and, above all, CFDT make the signing of agreements conditional on the quality of the counter-offer to employees. Conversely, CGT and FO are against it in principle and give strict instructions on this issue to their union delegates. Checking these instructions is not always easy, however, and may sometimes end with the withdrawal of the delegate's mandate. Looking at other industries, only in very rare cases do union federations replace union delegates who sign a company agreement that is considered a breach of internal union rules. Nevertheless, in many cases, union delegates bargain under the employer's pressure to accept less favourable provisions.

The depth of the bargaining process depends on company size and organisational complexity. In many enterprises, trade unionists at grassroots level have cut themselves off from their federation structures and are gradually retreating into their company or establishment. When it comes to company agreements, local union representatives have considerable negotiating autonomy.

Degree of control of collective agreements

Two dimensions can be distinguished regarding the control of collective agreements: the regulatory compliance of the agreement and the effectiveness of its implementation.

To assess the first dimension, we need to go back to the extension mechanism. In this procedure, the main role of the Ministry of Labour is to check that agreed provisions

are consistent with legal rights. The state's intervention goes further, as since 1936 a special procedure has existed to support industry-level social partners to negotiate. In the event of difficulties or blockages in the bargaining process, they can make a request to a Mixed-joint committee (Commission Mixte Paritaire, CMP). The purpose of the CMP is to assist in the negotiation with the help of a third party's technical and legal competence. The CMP is composed of representative union and employer organisations in the industry concerned and chaired by a representative of the Ministry of Labour. The Ministry may initiate a joint committee in two cases: at any time, on its own initiative or when an employer or a trade union requests it. In 2016, 89 instances of industry-level bargaining were followed by a CMP, of which 38 took place in retail. As a result, industry agreements comprise strict and detailed regulations, which explains why there are few disputes about their interpretation.

The other dimension of assessing collective agreements concerns their implementation. The Labour inspectorate (Inspection du travail) ensures that the terms of agreements are applied within workplaces. Their action relies on trade unionists for information on violations. Given their presence in the French social landscape for over 60 years, collective agreements are a well-established institution that employers respect more often than not. Nevertheless, control mechanisms are shared between the Labour Inspectorate and the labour tribunals. Labour inspectors ensure compliance with labour legislation and, where applicable, draw up official reports to criminal courts. In the field of collective bargaining, they can only oversee the application of minimum wage provisions with criminal penalties. For the rest, they may just order the employer to regularise the situation, for example, by means of observations made to the employer, advice or warnings. The use of courts by labour inspectors is fairly rare. This tool is highly dissuasive, however, and weighs in their power of persuasion, allowing labour inspectors to prevail on employers to respect collective agreements. In practice, the effectiveness of the intervention by the labour inspectorate relies on the ability of union delegates to provide them with information. It is therefore especially through reporting that they can intervene to enforce collective bargaining.

Scope of agreements

Bargained topics are not predetermined and provisions discussed at each level are subject to agreement. Collective agreements deal with a wide range of topics, whatever their level. Since the 1970s, the topics of negotiation have diversified well beyond traditional wage setting.

Interprofessional national agreements only covered the joint-management (*paritarisme*) of social protection until the early 1970s. Joint institutions have managed employees' supplementary pension funds and the unemployment compensation scheme since the conclusion of national agreements in 1947 and 1958, respectively. This management method was extended to vocational training in 1971. At the same time, a new type of ANI emerged, led by the government and allowed by employers, as they were afraid of May 1968-style strikes. This form of tripartite concertation can be considered to be a kind of 'pre-legislation'. In the following decades, very few ANIs were signed, but in order

Table 11.4 **Breakdown of the topics of agreements in France (2015)**

% of industry-level agreements on:	
wages	34.6
procedure (including derogations)	26.4
training	23.2
retirement and supplementary health schemes	23.2
employment contract conditions	20.7
gender equality	16.7
% of company agreements on:	
wages	38.0
working time	24.0
employment	11.0
profit sharing, participation	19.0

Source: La négociation collective en 2015, Ministry of Labour.

to combat the social impact of the economic crisis the practice restarted in spectacular fashion in 2007. No fewer than 19 agreements resulting from, or affected by, the crisis were signed between January 2008 and October 2011 (Freyssinet 2011) concerning, among other things, labour market operations, short-time working, youth employment and training.

Industry-level agreements lay down the regulatory system governing work norms on wages, terms and conditions of employment and working conditions. They are considered to be the 'law of the industry'. While wages are still the first bargaining topic, more qualitative agreements dealing with new issues, such as training, gender equality or supplementary health schemes, have developed in the past decade. The same trend towards broadening bargaining topics has developed at workplace level. While the number of agreements on employment and complementary health has remained constant, agreements on workplace gender equality or procedural agreements started to increase recently.

The shift in the level of bargaining has changed the link between the industry and company levels, but only in very large firms. Regarding wages, as mentioned above, the content of what is being negotiated under this topic, as well as procedures for determining wages, have been transformed significantly.

Above all, for the public authorities, company-level bargaining has become a way of managing employment (Fabre 2011). Trade unions are encouraged to participate in anticipating economic changes and their impact on employment as expected by manage ment. According to this 'commitment' logic (Didry and Jobert 2010), managements and unions develop common conceptual tools, share diagnostics and, as the case may be, a particular perspective on employment and staff mobility. Despite the fact that managing employment, an intrinsic element of human resource management within companies, has been admitted to bargaining, it remains a managerial prerogative, in the form of

'managerial social dialogue' (Groux 2010). In accordance with the same logic, large companies, major automakers in particular, have signed so-called 'competitiveness-employment agreements', which are a French version of concession bargaining. In these agreements, unions exchange guarantees on employment against the lowering of social standards laid down in past company agreements (see also Chapter 29). The most interesting of these 'competitiveness agreements' is the one signed by Renault in February 2013, in which the management made the commitment that it would not close down any site in France. The plan for 7,500 job cuts – 15 per cent of the French workforce – by 2016 was to be implemented through 'natural wastage' without forced redundancies or a voluntary leave programme. Car production would be increased from 500,000 to 700,000 in 2016. In exchange, three of the four representative union federations in Renault, CFDT, CFE-CGC and FO, but not the CGT, agreed to increase working time and to freeze wages in 2013, followed by wage moderation in 2014 and 2015, depending on the group's financial situation and economic performance.

For their part, trade unionists in large companies try to put new bargaining issues on the agenda. Wage bargaining is still an essential means for reducing inequalities and ensure fair distribution throughout the wage scale. In a period of wage moderation and worsening of workloads, however, they are pushing forward new themes in order to ease the strain on employees: quality of work conditions, work–life balance or innovative provisions on incompressible expenses, such as housing, energy and transport. On the issue of transport, for example, union delegates at Orange (telecom company) negotiate travel plans with their employers that reduce employees' fuel bills.

In many small companies, the rare agreements signed offer little benefit to employees and industry agreements remain the reference. Regarding recent and upcoming legal changes, however, and, in particular the introduction of ballots, the balance of power is increasingly unfavourable to trade unions in enterprises.

Conclusions

The decentralisation of collective bargaining has developed dynamically since the 1980s, without hampering the development of collective bargaining at the industry and cross-industry levels. Some differentiation is observable, however. Bargaining has been encouraged at all levels by legislation. It has had the effect of increasing the number of negotiated topics, initially limited to wages and working time. In industries strongly exposed to international competition and to the business cycle, the crisis stimulated the negotiation of new types of company agreement in order to secure employment. It is important to stress that none of these negotiations needed any legal encouragement on derogation. Contrary to all other forms of legal stimulation, regarding company-level derogation or bargaining in enterprises without unions, the various laws have not produced very significant effects in practice.

Combined with the trend towards decentralisation, the economic crisis has constrained collective bargaining, because employers seek to erode past union achievements by introducing more flexibility, especially on working time, more mobility and more

productivity, and also dampening wage dynamics. The unions for their part have set new priorities in order to obtain guarantees on employment and skills. This explains the growing number of collective agreements focused on employment and training. In recent decades, an incremental institutional process has resulted in less and less coordinated decentralisation. As a matter of fact, the recent reforms have utterly changed the French collective bargaining system. It remains to be seen whether this changes social actors' collective bargaining practices.

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All links were checked on 17 January 2019.

Abbreviations

ANI	Accord National Interprofessionnel (National Interprofessional Agreement)
CFDT	Confédération Française Démocratique du Travail (French Democratic Confederation of Labour)
CFE-CGC	Confédération Française de l'Encadrement-Confédération Générale des Cadres (French Confederation of Management–General Confederation of Professional and Managerial Staff)
CFTC	Confédération Française des Travailleurs Chrétiens (French Christian Workers' Confederation)
CGT	Confédération Générale du Travail (General Confederation of Labour)
CPME	Confédération des Petites et Moyennes Entreprises (Confederation of Small and Medium-Sized Enterprises)
CMP	Commission Mixte Paritaire (Mixed-joint committee)
FO	Force Ouvrière (CGT-FO, General Confederation of Labour-FO) commonly referred to as FO
MEDEF	Mouvement Des Enterprises De France (Movement of French Enterprises)
SMIC	Salaire Minimum Interprofessionnel de Croissance (Growth-linked Interprofessional Minimum Wage)
U2P	Union des Entreprises de Proximité (Union of Local Businesses)
UIMM	L'Union des Industries et Métiers de la Métallurgie (Metal Employers' Federation)
UNSA	Union Nationale des Syndicats Autonomes (National Unions of Autonomous Trade Unions)
USS	Union Syndicale Solidaires (Trade Union 'Solidaires')

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Collective bargaining in Europe: towards an endgame
Volume I

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This book is one of four volumes that chart the development of collective bargaining since the year 2000 in the 28 EU Member States. Although collective bargaining is an integral part of the European social model, it does not sit easy with the dominant political and economic discourse in the EU. Advocates of the neoliberal policy agenda view collective bargaining and trade unions as 'rigidities' in the labour market that restrict economic growth and impair entrepreneurship. Declaring their intention to achieve greater labour market flexibility and improve competitiveness, policymakers at national and European level have sought to decentralise collective bargaining in order to limit its regulatory capacity.

Clearly, collective bargaining systems are under pressure. These four volumes document how the institutions of collective bargaining have been removed, fundamentally altered or markedly narrowed in scope in all 28 EU Member States. However, there are also positive examples to be found. Some collective bargaining systems have proven more resilient than others in maintaining multi-employer bargaining arrangements.

Based on the evidence presented in the country-focused chapters, the key policy issue addressed in this book is how the reduction of the importance of collective bargaining as a tool to jointly regulate the employment relationship can be reversed. The struggle to fend off the neoliberal assault on collective bargaining in Europe is moving towards an endgame. The outcome is still open.

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