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Negotiating flexibility and security in multinationals in Europe: the case for extending European Framework Agreements

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Policy recommendations

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Trade unions, when confronted by management with threats of redundancies, often concede flexibility in exchange for immediate job security. It is desirable, alongside such instances, to develop within the unions a stronger commitment to shaping flexibility into more sustainable forms of security for the workforce. How this is to be implemented depends very much on the extent to which unions engage, for bargaining purposes, in cross-border networking and coordination. Extending the negotiation of European Framework Agreements (EFAs) on security – more specifically training, requalification, career progression and competence development for the workforce – is crucial since this form of bargaining enhances unions' capacity to negotiate employment security in situations of economic difficulty. Moreover, establishing EFAs as agreements negotiated by the European Trade Union Federations (ETUFs) at the transnational level in Europe is a means of spreading across countries the

positive gains achieved in local negotiations where unions are strong to other local subsidiaries where unions may find it more of a struggle to negotiate on employment protection issues.

Introduction

The internationalisation of multinationals leads to new challenges in the sphere of local, national and transnational employment regulation. This Policy Brief presents lessons from comparative research on collective bargaining on flexibility (i.e. working time, task adaptability, job mobility, wage, type of contract) and security (i.e. training, life-long learning and career programmes, job guarantees) conducted in multinational subsidiaries in Europe. It summarises the research evidence of the conditions under which trade unions' negotiation on flexibility and security at the level of the subsidiary may produce different outcomes, the aim being to draw policy implications for unions. The level and types of labour market flexibility and security that are prevalent in any given national case are to an important extent influenced by external market factors as well as company-level features. The interactions between these factors within distinct institutional settings concur to shape local union bargaining power over flexibility and security. Flexibility and security at the level of the firm are thus an outcome of negotiation, not merely a Human Resource Management strategy as has been argued by Rydell and Wigblad (2011).

The outcomes of local bargaining with regard to flexibility and security within multinational subsidiaries in Europe are introduced in the first section. These outcomes are influenced by the interplay of market competition, the nature of the product and the type of international integration characterising the multinational in question. The second section discusses how unions strategically engage in negotiating flexibility and security within subsidiaries, while also examining the important role played by EFAs in the negotiation process. Cases show that support from the ETUFs in the development of transnational coordination and networking not only helps in establishing contacts amongst employee representatives and local unions

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but also provides the basis for collective bargaining on a transnational level while at the same time reinforcing local trade union power.

Empirical evidence is based on fieldwork conducted in 2011-2012, in two EU- and two US-based manufacturing multinational subsidiaries in Germany, Belgium, Italy and the United Kingdom. The multinationals varied in terms of form of international integration (vertical or horizontal), nature of the product market (standardised or differentiated), and degree of market competitiveness (see Table 1).

Local bargaining over flexibility and security compared: distinctiveness of multinationals and diversity of “trade-offs”

Firm, market and union strategies: the “trade-offs”

Bargaining over flexibility and security at the subsidiaries of multinationals is influenced by the interplay between the degree of market competitiveness and firm-level characteristics (Pulignano and Keune 2014). These features influence the degree of local autonomy that conditions the unions' local capacity to make strategic use in bargaining of their institutional and political resources. More local autonomy allows local unions and works councils to participate in the definition of the extent and the type of flexibilisation, which means to trade flexibility for improved security, or to reject further flexibilisation and instead strengthen security. The unions have a wider scope for negotiation in multinationals that are subject to weak competitive forces and that produce differentiated products. Local autonomy is limited in companies that face strong competition and engage in the production of standardised (similar) products. Specifically, tight market competition and

standardised products set limits on local actors' negotiating discretion insofar as they serve to enhance the control of the headquarters over the subsidiary. Conversely, under low market competition and differentiated products unions have relatively more leeway, in the bargaining process, to achieve local accommodation with management.

Moreover, multinationals can either follow a vertical route to the cross-national integration of their operations – when each site performs a distinct part of the production process in a vertically integrated chain – or they can be horizontally integrated – when similar subsidiaries perform essentially the same roles in different countries to serve customers on the local market. Vertical integration can potentially moderate the adverse impact of product standardisation and a high level of market competition on the unions' capacity to bargain by reinforcing interdependencies across the different production units along the value chain. Under horizontal integration, each subsidiary is a perfect substitute in the value chain and this reduces local discretion and forces the unions to accept high flexibility as a feature inherent in the production relationships with customers. Thus, when the multinational is vertically integrated, subject to high competition and producing standardised goods, the unions are likely to negotiate 'short-term' employment guarantees for the workforce in exchange for greater flexibility. Conversely, by keeping vertical integration constant, with differentiated products and a less competitive market situation, unions are potentially better positioned to bargain for long-term employment guarantees. They can moderate the degree of flexibility they are prepared to concede, while obtaining long-term employment protection guarantees.

While the structural constraints represent a significant conditioning factor of bargaining outcomes, the strategic capacity of unions can be enhanced also through institutional means (Benassi 2013). Specifically, the use of EFAs by unions, within Manu3 and Manu4, as an institutional resource in local bargaining has contributed to

Table 1 Case characteristics

	Manu1	Manu2	Manu3	Manu4
MNC	American		French	
Workforce worldwide	Nearly 130,000	24,000	100,000	Nearly 70,000
Sites worldwide		114	>200	>250
Production worldwide coverage	70 % Europe, Africa and Middle East; 30% North and South America, Asia	80 manufacturing - 10 distribution facilities; 14 engineering and technical centres Europe, North America and Asia Pacific.	100 countries including Europe	56 countries Europe and North America
Average unionisation in the investigated plants	80%	85%	68%	47%
Integration	Vertical	Horizontal	Vertical	Horizontal
Product	Construction machines	Emission and ride control systems	Transport, power generation and transmission	Defence, security, ground transport, space and aerospace
Product market	Homogeneous	Homogeneous	Diversified	Diversified
Flexibility/security outcomes	Balanced trade-off with concession	Unbalanced trade-off towards the employees	Balanced trade-off without concession	Unbalanced trade-off towards the employers

reinforcing the unions' participation in the shaping of flexibility into long-term employment security. Conversely, the absence of EFAs in Manu1 and Manu2 contributed to the unions settling for the second best option, namely, the exchange of flexibility for short-term job guarantees.

Below we summarise, for each company case study, the ways in which different market- and firm-level contexts influenced union bargaining power over flexibility and security. We also illustrate the strategies implemented by unions in order to act upon those structural conditions and the effects produced by those strategies in terms of flexibility and security. We highlight, accordingly, the role of EFAs in maintaining local union strength and thereby helping them to negotiate local-level long-term employment security with management. This effect is particularly apparent in those situations where, because of the comparatively lower local union density rate, we would have expected lower union bargaining power over the content and outcome of the negotiation (Brown 2008). At the same time, we observe that, in cases where EFAs were not negotiated, even the most powerful local unions, with high local density rates, were forced to succumb to the pressure for flexibilisation exerted by management.

Manu1: "Balanced trade-off with concessions"

Manu1 is a vertically integrated multinational producing standardised products in a highly competitive market. The local unions' response to the threat of relocation was concession bargaining, exchanging flexibility (to the benefit of employers) against security (for employees). The result was a *balanced trade-off with concessions*. This happened within a local context where the threat of relocation concurred to restrain the union capability to act autonomously at the level of local bargaining and oppose the headquarters' decisions. The outcome for the workers is temporary short-term security. This is reflected in the domestically negotiated and implemented arrangements. In Germany, with 80% union density, works councils accepted overtime, a 10% wage reduction, short-time working schemes, and agency work, in return for investment and employment guarantees. Similarly, in Belgium (also 80% union density) and in Italy (88% union density), the unions negotiated working time reductions (1-2 days), job rotation and temporary lay-offs, to increase flexibility while retaining job security. Finally, in the UK (70% union density) working time reduction (from a 39- to a 35-hour working week) and working time accounts were used, together with a 10% pay cut and the use of temporary employment measures and voluntary redundancies, in order to save jobs.

Manu2: "Unbalanced trade-offs to the detriment of workers"

Manu2 is a multinational operating within a standardised product market and expanding through horizontal integration in a highly competitive market. The company uses a just-in-time production system, compelling it to operate in geographical proximity to the customer. The immediacy between the supplier and the customer results in strong flexibility pressures on employees because

of the need for constant adaptation to customer production requirements. While security for employees may also be significant, it will be partial nonetheless, being strongly dependent on the extent to which the supplier guarantees delivery performance to customers. As such, the union has a relatively restricted capacity to oppose the headquarters' demand by negotiating locally with management. The result is an *unbalanced trade-off to the detriment of workers* because in the bargaining process employers tend to gain in flexibility relatively more than what employees are able to retain in terms of security. In the German subsidiary (85% union density), the works councils were forced to negotiate and accept a high level of flexibility. Although some concessions are not to be ruled out – unpaid overtime of one hour a week was locally negotiated as a means of saving jobs – flexibility is imposed by the use of just-in-time production. The contractual relationship between supplier and customer presupposes the flexibility of the former. In Belgium (85% union density) and Italy (almost 88% union density), local unions were pushed to accept higher levels of temporary work and fixed-term contracts as a means of responding to customers' production fluctuations without incurring higher costs. Similarly in Britain (93% union density), temporary work increased and was combined with a 10% pay cut.

Manu3: "Balanced trade-offs without concessions"

Unions and works councils had relatively greater autonomy to reach accommodation with management on local production methods and to participate in shaping flexibility in a manner that would foster long-term employment security. The result was a relatively high level of protection for workers independently of the company demand for flexibility (*balanced trade-offs without concessions*). This is not only because of the structural characteristics of the subsidiary (i.e. production of a distinctive product within a market characterised by entry barriers). The negotiation of an EFA in 2010 made national best practices on mobility and training-related issues for employment guarantees available right across the European workforce. The EFA thereby provided an institutional resource of which local unions could make strategic use in times of crisis to bargain for high levels of security within individual affiliates. The ETUF played a crucial role in developing the transnational union coordination of bargaining and in ensuring communication among employee representatives and trade unions. In this way, they created the conditions for the signature of the EFA by the ETUF at the level of the sector. Distinctive domestic practices incorporated into company-level agreements illustrate the positive effects of the EFA on local negotiation. In Germany (75% union density) works councils negotiated locally on internal mobility to keep workforce capacity in line with expected demand, and to rely on the transfer and rotation of expertise across different plants when production peaks occurred. Similarly, unions in the UK (45-50% union density) were able to negotiate locally on job rotation to safeguard jobs, while in Italy (45-50% union density) and Belgium (almost 95%) unions bargained for competence developments to ensure capacity of the workforce to guarantee mobility training.

Manu4: "Unbalanced trade-off to the detriment of employers"

The horizontal integration, high product specialisation and entry barriers entail job guarantees independently of whether flexibility is reduced or increased in the firm. In terms of subsidiary autonomy this implies a relatively high union capacity to influence local negotiation. The outcome is an *unbalanced trade-off to the detriment of employers* because employees achieve gains in security independently of what management demands in terms of flexibility. Two European agreements in 2009-2010 facilitated such an outcome. They were aimed at using employee retention mechanisms, such as requalification and inter-plant mobility in case of restructuring. These agreements served as resources for unions to renegotiate security solutions with management and compensate for an otherwise hostile structural context. For instance, in June 2012, the Belgian subsidiary went through a heavy restructuring process because of a reduction in orders linked to the economic crisis. The headquarters threatened the local unions with 30% collective redundancy. The union response was to refuse concessions. This was possible because they were able to use the EFA to retain employees by extending its effect at the plant level, thereby avoiding concessions. Likewise, on the basis of a 30% local union density, the Italian unions resisted the headquarters' demand to increase the use of project-work and agency workers. Strengthened by the content of the EFA and backed up by the discretion it enjoyed at the local level, the Italian union arranged an *ad hoc* company-level agreement on the use of an overtime bonus to avoid further increases in collectively agreed flexibility. Similarly, in Britain – with 30% union density – local unions negotiated new terms and working conditions for the skilled agency workers. In Germany, finally, the works council rejected management's request to pay for surplus hours in the workforce's working-time accounts, as this would have amounted to an increase in working hours (paid overtime).

Unions' strategy and the role of EFAs

Comparison between Manu1 and Manu2 shows that even the most powerful local unions are likely to succumb to the flexibilisation pressures of a multinational that can easily use benchmarking to threaten the unions with a move to a different location if its demands are not met. Thus, the resources unions can mobilise in isolation, within each domestic context, are a necessary but not sufficient condition for responding to the challenges of transnational corporations. When confronted with hostile company environments, as the Manu1 and Manu2 cases show, in the best of situations unions often respond to the management's threat of downsizing by locally conceding flexibility in return for medium-short term security. Conversely, in Manu3 and in Manu4 even the relatively weakest local union was able to negotiate on workforce retention measures even in a situation of management threat of closure. Moreover, the relatively weak unions within a single affiliate were able to benefit from the positive gains achieved by the stronger unions in local negotiation within the other affiliate belonging

to the same multinational. Hence, in Manu3 and Manu4 we see a higher capacity on the part of the unions to locally shape flexibility into sustainable long-term security for the workforce than we do in Manu1 and Manu2.

Co-operation and co-ordination across different unions and works councils in Manu3 and Manu4 have contributed to generating a process of internal negotiation which influenced the configuration of actors and the bargaining with local management, particularly on employment security. In Manu3 and Manu4, trade unions have become negotiating partners for agreements at the European level on aspects of security, such as training, requalification, career progression and competence development for the workforce. These agreements became strategic resources for the local unions during times of economic difficulty. They strengthened the union capacity to make proactive use of the local discretion to convert flexibility into long-term security programmes for the employees. Thus, the crucial question is not what is "the second best option" for unions when hostile environments constrain their capacity to guarantee job security ("making concessions"); it is, rather, how union and works councils can create around themselves the requisite infrastructures for providing support, when needed, in the negotiation of long-term security for the employees.

Findings illustrate that EFAs are the tools that trade unions need when confronted with management challenges relating to employment insecurity. Negotiation of EFAs is likely in those MNCs – as the cases of Manu3 and Manu4 demonstrate – that are characterised by relatively well supported structural contexts, inclusive of firm- and market-related conditions. These conditions open up space for local discretion that would, conversely, be difficult to develop in MNCs facing hostile environmental situations. However, we see that MNCs operating within hostile contexts are, paradoxically, better shaped to offer unions the capacity to exert transnational influence. For example, a union can better press for cross-country comparisons in precisely those MNCs where workers within different affiliates share similar working environments because of the standardised nature of the product, and where they can identify with a common employing organisation (Marginson 1992). As such, the crucial aspect here is the willingness of different local unions to bridge borders and operate in a spirit of coordination and solidarity.

However, the question still remains: why should local unions be interested in EFAs? As the Manu3 and Manu4 cases remarkably illustrate, negotiation of EFAs has the advantage of extending the content of the agreement to the different local affiliates within an MNC. It means empowering the local unions within multinationals to spread the positive gains of local negotiations where they have been relatively strong and successful to other local subsidiaries where, conversely, the attempt to conduct bargaining on employment protection has proved more of a struggle. Hence, how trade unions in Europe will be able to enhance their influence in negotiations on employment protection will depend not only on their national and local power but also on the extent to which, for bargaining purposes, they develop, within multinationals, their engagement in cross-border networking and coordination. In this respect the

coordination provided by the ETUFs is crucial in ensuring proper communication and framework conditions for the signature of EFAs and their success in a medium-to-long term perspective. EWCs, as existing infrastructures at the transnational company level, can facilitate contacts among employee representatives but they cannot substitute for the ample trade union infrastructure required for the transnational coordination of bargaining and which is a prerequisite, above all, for the signature of transnational collective agreements. In this respect, the study is aimed at raising awareness amongst local unions of the possibility of seeking transnational coordination from the ETUFs for the signature of EFAs.

Conclusion

Bargaining outcomes over flexibility and security among subsidiaries of multinationals can range from unions negotiating flexibility in exchange for short-term job security to unions participating in the shaping of flexibility to foster long-term security for workers. These outcomes are framed in the context where market and firm-level features play an important – albeit not determining – role. The unions' capacity to bargain for employment security, particularly in situations where the company is experiencing economic difficulties, depends on their local strength. It may be possible to guarantee temporary security solutions as the result of unions engaging in concession bargaining on flexibility. Although conceding flexibility in return for security leads to jobs – which otherwise would be at risk – being saved, concessions do not provide sustainable employment guarantees. As proved by evidence within hostile market and firm-level contexts, where the capacity of local unions to engage autonomously in local bargaining may be eroded by contingencies related to the environment, unions may find it useful to make use of cross-border networking to negotiate on training, career progression and competence development as a way of shaping flexibility into socially sustainable security. EFAs can be used for this purpose. This involvement allows workers in different subsidiaries to benefit from the positive gains achieved by other subsidiaries.

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