

Chapter 2

Transnational collective bargaining in national systems of industrial relations

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Introduction

With collective bargaining increasingly being conducted against a background of market internationalisation, the role of collective bargaining as a mechanism for determining wages and working conditions within the scope of a single country has changed. The key function of collective bargaining was to remove inter-company competition from wage-setting, using instead multi-employer bargaining, i.e. bargaining between labour unions and employers' associations at national and/or sectoral level. Market internationalisation and the increased international mobility of (large) companies have however rendered the 'cartellisation function' of wage bargaining obsolete (Traxler 1998: 208). Collective bargaining by national labour-market interest organisations remains largely concerned with a national bargaining agenda despite growing Europeanisation and transnationalisation in the economic sphere in such forms as the Single European Market, the European Monetary Union (EMU), and the globalisation of financial markets. At the same time, observers agree that economic integration has become de-coupled from social integration, with growing tension between market-driven transnationalisation and the development of a social dimension within the EU, conceived as 'asymmetric integration' (Scharpf 1996).

Two main factors account for the growing asymmetry of Europeanisation. First, EU enlargement has not only increased disparities in terms of wages and working standards but has also reconfigured EU industrial and labour relations. A 'polarisation' of industrial relations in Europe has emerged, with multi-employer bargaining systems remaining predominant in the 'old' EU15 (with the exception of the UK), while

single-employer bargaining prevails in the ‘new’ Central and Eastern European Member States (with the exception of Slovenia) (European Commission 2006 and 2008). This is of particular relevance as multi-employer bargaining and the consequent high collective bargaining coverage rates (i.e. the share of workers in the total labour force covered by a collective agreement) are the most important features of an inclusive industrial relations system. This contrasts with an exclusive system in which single-employer bargaining predominates, leaving a large part of the labour force not covered by collective agreements (Traxler 1998, European Commission 2006 and 2011). Second, decisions of the European Court of Justice, including the notorious *Laval* and *Viking* cases, are tilting the balance in favour of market freedoms and against social rights, enhancing the interests of multinational companies and capital owners at the expense of organised labour (Dølvik and Visser 2009). Inter-governmental decision-making processes aiming at ‘positive’, i.e. ‘market-correcting’, integration and the creation of a legal framework for the Internal Market are however most often blocked by majority decision-making rules and diverging national interests (Scharpf 2010).

The Europeanisation of industrial and labour relations has taken the form of an uneven integration process, resulting in the emergence of a multi-level system of various arenas of action for European and national social partners (see for instance Glassner and Pochet 2011). The rise of multinational companies (MNCs) and the establishment of transnational employee representation bodies such as European Works Councils (EWCs) have increased the incidence of negotiations at transnational company level. However, no fully integrated system of European industrial relations with different levels of strongly interlinked actions has yet emerged (Keller and Platzer 2003; Marginson and Sisson 2006).

Leading labour and business organisations engage in ‘European’ social dialogue at cross-industry, multi-sectoral and sectoral levels, coming up with European framework agreements, autonomous agreements or joint recommendations and opinions. Social dialogue at cross-industry level has however lost much of its initial impetus, drawing to a standstill in recent years (Degryse 2011). Sectoral social dialogue, likewise, has developed unevenly, despite the increasing number of social dialogue

committees.¹ Compared to European social dialogue at cross-sectoral level², European sectoral social dialogue is considered as a ‘soft’ regulatory mechanism resulting mainly (with some exceptions³) in non-binding agreements, declarations, codes of conduct and guidelines.⁴ While more binding agreements have been signed in the second half of the 2000s (Degryse and Pochet 2011), the effectiveness of European social dialogue at both the intersectoral and sectoral levels as an instrument for regulating wages and working conditions is, generally speaking, rather limited (Keller and Platzer 2003; Marginson 2005). More important though is the fact that wage setting is formally excluded from European social dialogue as wage bargaining is an exclusive competence of national social partners.

In the European Monetary Union (EMU), with the possibility to increase national competitiveness by currency devaluations abandoned in the Eurozone and the adoption of the Stability and Growth Pact that puts limits on expansive fiscal and budgetary policies, labour costs became an important parameter for adjusting economic imbalances (De Grauwe 2009). This in turn fuelled trade union fears that competitive pressures on wages and working conditions would intensify. To avoid competitive wage setting and social dumping, trade unions across Europe, both at the intersectoral⁵ and sectoral level, have begun to coordinate their bargaining policies transnationally in view of the EMU. The metal sector has been at the forefront of coordinating collective bargaining policies across borders (Gollbach and Schulten 2000).

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1. Up till the beginning of 2011, 40 European sectoral dialogue committees has been created since 1998, the year when ‘European’ structures for sectoral social dialogue were formally established.
 2. The framework agreements on parental leave (1996), part-time work (1997) and fixed-term contracts (1999) were adopted as Council directives.
 3. Exceptions are the working time agreements for seafarers and in the railway transport sector (1998) and the civil aviation sector (2000), together with the agreement on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector (2005), all of which were adopted as Council directives.
 4. For an overview of developments in European social dialogue see chapter 3.
 5. Unions in Belgium for instance responded to the introduction of the law on the ‘Promotion of Employment and the Preventive Safeguarding of Competitiveness’ that stipulated that average wage increases in Belgium should not exceed those in the neighbouring countries, by setting up the so-called ‘Doorn Group’, consisting of union confederations from Belgium, the Netherlands, Luxembourg and Germany. In the ‘Doorn Declaration’ (1997) unions agreed to promote wage increases offsetting price increases and ensuring the participation of workers in productivity gains.

Other European Trade Union Federations (ETUFs) have also established structures for the cross-border exchange of information on wages and other issues such as working time and training as well as such wage-setting instruments as ‘wage guidelines’ that stipulate wage growth above price increases and in line with productivity developments (Dufresne 2002; Dufresne and Mermet 2002; Leisink 2002; Schulten 2003; Marginson 2005; Glassner 2009; Glassner and Pochet 2011).

At the level of multinational companies, EU legislation – such as Directive 2002/14/EC establishing a general framework for informing and consulting employees in companies in the EU and the European Works Councils Directive (94/45/EC) for the information and consultation of employees in (groups of) ‘Community-scale undertakings’, including the recast EWC Directive (2009/38/EC) – provides a basic transnational framework for employee participation. However, although not explicitly provided for by law, EWCs were negotiating agreements – often together with European and/or local trade unions – with the management of multinational companies. The importance of such transnational company negotiations between MNC management on the one side and EWCs and/or local and supra-national trade unions on the other has increased (see for instance Marginson and Sisson 1996, European Commission 2008).

Chapter 5 highlights developments in transnational collective bargaining at MNC level.

The emergence of transnational company agreements and their character in terms of the issues covered and their coverage is driven by a multitude of factors. Firstly, national industrial relations structures and practices indirectly affect both the negotiating conditions of micro-level social partners at MNC locations and the implementation of such agreements. Secondly, the emergence of multinational companies as transnational-level bargaining partners impacts the power relations between the bargaining parties, with threats of relocation by MNC management strengthening their bargaining power vis-à-vis labour. In addition, workers’ bargaining power is often hampered by lacking or weak structures for transnational representation, coordination and mobilisation. Thirdly, MNCs as transnational bargaining partners are generally only weakly, if at all, embedded in national legal-institutional industrial relations systems and are thus highly autonomous in their bargaining

strategies. Therefore, company policies are decisive for the incidence and outcomes of transnational company bargaining.

This chapter is structured as follows. In section 1, the concept of ‘collective bargaining’ in terms of its national and transnational dimension will be defined. Section 2 aims at providing a basic categorisation of national bargaining and employee representation systems in order to explain variations in collective bargaining practices and outcomes across Europe. Important features of collective bargaining and employee representation systems such as the collective bargaining coverage rate, workplace representation channels, trade union density at the aggregate level and at the workplace as well as collective bargaining rights of employee representation bodies in companies are of relevance in this respect. The main implications of the rise of MNCs as transnational bargaining actors are presented in section 3. The final section concludes by highlighting the implications of the rise in transnational company negotiations for both national bargaining systems and the development of a European industrial relations system.

1. Defining the concept of collective bargaining

There is no uniform definition of ‘collective bargaining’ applicable at both national and transnational levels. In general, ‘collective bargaining’ implies a high degree of variability and heterogeneity with regard to the actors entitled to negotiate, bargaining levels, whether there is an obligation to bargain, the issues covered, whether collective agreements are legally binding and whether they can be extended. In addition, national differences with regard to the functions and competencies of micro-level social partners further contribute to the ambiguity of the concept of collective bargaining. For instance, in such countries as Germany, Austria, Italy and the Netherlands, works councils are entitled to negotiate works agreements at company level. This so-called co-determination role makes works councils an important bargaining agent at enterprise level in such countries. At the same time, transnational negotiations between supranational actors such as EWCs, European and Global Trade Union Federations and the management of MNCs have gained in importance. It is however important to note that such transnational framework agreements do not address wages or working time, the core issues of national social partner organisations, and should

therefore not be regarded as an equivalent to national level agreements achieved through collective bargaining.

European Works Councils play an active and increasingly important role in negotiations at MNCs, with 71 agreements signed by EWCs⁶ registered by March 2011 (ETUI 2011a). However, only a minority of the EWCs established in 914 companies (as of March 2011) actually take part in local negotiations at MNC locations in different European countries. Although EWCs constitute a structure for coordinating collective bargaining between locations in different EU countries, they have not been ‘activated’ for this purpose to any major extent by local trade unions. As Hancké pointed out in his study of the automotive sector, EWCs have been largely ineffective as tools for transnationally coordinating local negotiations (Hancké 2000). The limited role of EWCs becomes even more evident when it is considered that the automotive sector represents a traditional stronghold of union organisation. Other authors arrive at a more positive assessment of the role of EWCs in transnational collective bargaining. Arrowsmith and Marginson (2006), for instance, identified a ‘context-setting’ role of EWCs in local negotiations at MNCs in the car manufacturing sector. Here, EWCs were able to influence the bargaining agenda in negotiations with management due to their ability to collect data on comparative costs and performance at different plants. In general, however, the limited access to comparative information on labour costs and productivity at different locations is one of the main obstacles to an effective mobilisation of EWCs for the transnational coordination of MNCs’ wage and HRM policies.

Despite the limited role of EWCs in supporting negotiations on pay and working conditions in MNCs, their importance as parties in the negotiation of joint texts and framework agreements (summarised under the term ‘transnational company agreements’, see chapter 5) in MNCs has grown considerably (e.g. Marginson and Sisson 1996). Unlike collective agreements, which address such key issues as wages and working time, transnational company agreements focus on ‘soft’ issues. Transnational agreements concluded between management and Global Union Federations (GUFs) – often referred to as ‘International Framework

6. We refer to so-called ‘substantive agreements’ concluded between EWCs and management on specific *topics*, omitting agreements establishing EWCs.

Agreements' ('IFAs') – deal with issues of global scope such as the implementation of ILO core labour standards (e.g. Schömann *et al.* 2008). Agreements concluded between MNC management and EWCs and/or ETUFs (also labelled 'European Framework Agreements' – 'EFAs') mainly cover issues of European scope, such as environmental issues as part of corporate social responsibility, transnational guidelines for the company's HRM policies, restructuring and health and safety (e.g. Telljohann *et al.* 2009).⁷

However, varying functions, competencies and the degree of embeddedness of European works councils in national trade union and collective bargaining systems account for differences regarding the substantive and procedural character of such agreements. Whereas the first aspect concerns the bargaining agenda of micro-level social partners, the latter one refers to the implementation of transnational agreements. Despite the acknowledged importance of transnational company negotiations, no concrete action has yet been undertaken by the Commission to establish a legal framework for transnational company negotiations (see chapters 6 and 7). The – as yet 'optional' – 'European framework for transnational collective bargaining' (COM(2005) 33 final), which aims at increasing the social partners' capacity to negotiate voluntary agreements with transnational scope at the sectoral and company level, is strongly shaped by the various national, European and international social partners' actions rather than providing a structure streamlining collective bargaining at MNC level. Conceived as a 'soft law' arrangement with a focus on 'voluntariness', the 'optional framework' strongly depends on the institutional features and social practices of social partners. Since supra-national social partner organisations are made up of national members, their specific – and often nationally bound – notions, traditions and practices influence transnational company negotiations. The following section gives an overview of the national collective bargaining arrangements and traditions and the different notions of company- and (inter)industry-level responsibilities such as information, consultation and co-determination.

7. In some cases the distinction between 'European' and 'International' Framework Agreements is blurred because agreements are signed by both GUFs and EWCs.

2. Categorising national differences in EU industrial relations

In the vast majority of EU Member States collective bargaining, i.e. negotiations between trade unions, employers and their organisations, is a multi-level process that takes place at national, sectoral and company level. In general, national-level agreements provide a basic framework for the determination of pay and working conditions at the sectoral and/or company levels. Here these are further defined taking into account the specific situation the sector and/or company. Coordination between different bargaining levels varies between countries, depending on the legal-institutional prerequisites that ensure the compliance of lower-level bargaining agents with provisions negotiated at national or sectoral level (Traxler *et al.* 2001, Traxler 2003). These procedural differences in collective bargaining imply that bargaining agendas are dependent on the bargaining level. For instance, in countries such as the Netherlands, Italy and Germany, works councils are entitled to negotiate on pay and pay-related issues, either in general or – as in the case of Germany – under certain conditions.

The embeddedness of collective bargaining in the national setting of industrial relations makes it necessary to take a closer look at the wide range of different national collective bargaining structures and practices. To reduce complexity and allow the elaboration of commonalities and typical, country-specific characteristics, Member States are categorised on the basis of the labour relations typology initially developed by Ebbinghaus und Visser (1997) and now further developed (in European Commission 2008: 47ff.). This typology includes a range of indicators relating to industrial relations regimes. The most relevant ones are the predominant arrangements for collective bargaining in the private sector, i.e. multi- or single-employer bargaining (See Table 1 in the Annex), union density (see Figure 1, Annex), collective bargaining coverage (see Figure 2, Annex) and the system of employee representation, including the presence of trade unions and similar bodies for employee representation at the workplace (see Figure 3, Annex). Five groups of countries are distinguished, each described in its own sub-section: the Nordic countries (Section 2.1); Central-Western European countries, with the Germanic model of worker participation at the core (Section 2.2); the Southern European countries, with France as a special case (Section 2.3); the Anglo-Saxon model found in the UK,

Ireland, Malta and Cyprus (Section 2.4); and the transition economies in Eastern Europe (Section 2.5).

The sub-sections are structured as follows; First, overall important features of national industrial relations such as the organisational strength of unions, collective bargaining coverage and the prevailing bargaining system (single- vs. multi-employer bargaining) are summarised. Secondly, the functions of national systems of plant-level employee representation with regard to information, consultation and co-determination are presented.

2.1 The Nordics: Sweden, Denmark, Finland and Norway

National industrial relations and collective bargaining systems

Nordic corporatism is characterised by strong social partners, a strongly institutionalised participation of organised labour in decision-making, and multi-employer bargaining (see Table 1 in the Annex). Trade union density rates are among the highest in Europe, reaching 70% in Sweden, Denmark and Finland in 2008 (see Figure 1, Annex). In Norway union density is lower, at 55% in 2007 (Visser 2009). Collective bargaining coverage rates, measured as the percentage of workers covered by a collective agreement against the total number of workers, range between around 90% (in Sweden) and above 70% (in Norway) (European Commission 2011, Visser 2009). In all Nordic countries bargaining coverage remained stable over the period from the late 1990s to the late 2000s (*ibid.*).

Nordic countries typically feature two-tier systems of centralised collective bargaining where national and sectoral framework agreements are supplemented by company agreements covering such topics as vocational training, work organisation, company-level social security and employability/workability. In general, the Nordic bargaining systems are characterised by a high degree of efficient inter-level articulation, with legally binding rules set in higher-level agreements for implementation at company level. The flexibilisation and de-centralisation of wage-setting became an important instrument for responding to companies' needs during the economic crisis (Glassner and Keune 2010, Glassner *et al.* 2011).

National employee representation bodies

Although the Nordic systems of organised labour are often classified as highly centralised (e.g. European Commission 2011: 23), enterprise unionism is a typical feature of industrial relations structures in these countries. Contrary to the continental model of dual systems of employees' interest representation, unions play a prominent role in the unitary or 'single-channel' systems of consultation and co-determination in the Nordic countries. The wide-ranging involvement of unions in company-level collective bargaining increases the range of tasks and responsibilities of unions in company negotiations. Thus, highly controversial topics involving distributional conflicts over pay, profits and jobs are to be found on the bargaining agenda of company unions (Dølvik 2007). In contrast to the highly conflictual labour relations of the Anglo-Saxon systems, company bargaining in the Nordic countries takes place under a peace obligation, a crucial precondition for high-trust labour relations. According to survey data⁸ (see Figure 3, Annex), the density rate for workplace representation in the Nordic countries is the highest of all EU Member States (i.e. 86% in Sweden, followed by Finland (81%) and Denmark (67%).

Main functions of employee representation bodies

Information and consultation: In Sweden's single channel system of representation only trade union members have to be informed and consulted. Likewise, in Denmark the top-level social partners, i.e. LO on the union side and DA on the employer side, signed an agreement (2004) that all employees in a company have to be consulted about representation. Representation of employee groups not affiliated to LO should be possible if there is consensus about such a representation (European Commission 2006). In Norway both trade union and other elected representatives have to be informed (Hall and Purcell 2011). It is important to note that in the Nordic countries national and sectoral collective agreements provide higher standards for information and consultation than legal provisions.

8. European Social Survey 2002/2003: Technical Report. London: Centre for Comparative Social Surveys, City University.

Co-determination: Company-based employee representation bodies have considerable co-determination competences in economic and social matters. In Sweden, where participatory rights are among the strongest in the EU, ‘co-determination’ is perceived as a decision-making instrument *both* by *unions* and *employers*. This is particularly the case in arising disputes, where employers perceive co-determination as an obligation to negotiate with the local or national union (European Commission 2006).

Collective bargaining: In the single-channel systems of Sweden and Norway only unions are entitled to conduct collective bargaining at enterprise level, while in Finland and Denmark this right can be conferred on unionised employee representatives elected by the workforce, i.e. shop stewards. The Nordic systems of collective bargaining are considered as highly effective with regard to the coordination of bargaining across sectors and between bargaining levels, and empirical evidence points to the higher governance capacity of single-channel systems of employee representation (e.g. Traxler *et al.* 2008b). This is due to the fact that in dual channel systems different bargaining agents at the enterprise level, i.e. unions and works councils, may interpret provisions and clauses set in (inter)sectoral agreements in a different way. Such ambiguities even arise in fully unionised works councils (Traxler *et al.* 2008b: 424.). Thus, highly articulated multi-employer bargaining systems in combination with single-channel systems giving exclusive bargaining rights to unions are most effective in ensuring a process of organised decentralisation of collective bargaining (Traxler 1995).

2.2 Central-Western Europe: Belgium, the Netherlands, Germany, Austria and Slovenia

National industrial relations and collective bargaining systems

Industrial relations in the Central-Western European countries share important commonalities. Multi-employer bargaining at the central and/or sectoral level is predominant (see Table 1, Annex). Social partners are regularly consulted and involved in public policy-making in various policy fields including working time and working conditions, training and lifelong learning, measures aiming at the reconciling work and family life, and social security. Of these European countries, collective bargaining is most centralised in Belgium and Slovenia. Although national agreements in the form of social pacts between unions,

employers and the state play an important role in the Netherlands, wages are negotiated at industry level. In Austria and Germany the sector is the principal bargaining level whereby the metal sector agreement sets the pattern for agreements in other sectors, including private and public services (Traxler *et al.* 2001, Traxler *et al.* 2008a).

Organised labour in Central/Western Europe is generally weaker than in the Nordic countries, and union density varies greatly between countries. In 2008 the union density rate in Belgium exceeded 50% and was around 40% in Slovenia, while in the Netherlands and Germany it was below 20% - and thus even lower than the weighted average for the EU27 (i.e. 23.4%) – and around 30% in Austria (Figure 1, Annex).

In Austria – due to companies' obligatory *Wirtschaftskammer* (Chamber of Business) membership⁹ – and in Belgium coverage rates reach almost 100%. In Slovenia bargaining coverage remains above 90% despite the abolishment of mandatory Chamber membership in 2006, while in the Netherlands coverage remains at 80%. In Germany, the trend towards an 'erosion' of bargaining coverage in the second half of the 1990s (see for instance Hassel 1999) slowed down in the 2000s, with the coverage rate slightly exceeding 60% in 2008. The resumption of the – since the early 2000s very limited – practice of extending collective agreements to companies not affiliated to an employers' association entitled to conduct collective bargaining (see Table 1, Annex) is considered an important way of stabilising the bargaining system (Bispinck *et al.* 2010). Over the past years trade unions have been increasingly involved in negotiating minimum wages in various sectors, which are then introduced by decree of the Labour Minister on the basis of the 'Posted Workers' Act' (also see Table 1 in the Annex).

National employee representation bodies

The Central-Western European model of employee representation is dominated by dual channel systems with works councils as central

9. The Chamber of Business is the most important signatory party to collective agreements on the part of employers in the private sector and organises companies in almost all sectors, crafts and industries. Collective agreements are legally binding for the member companies of the *Wirtschaftskammer*, that is, virtually all companies in Austria. As a consequence, bargaining coverage is almost 100%.

representation bodies. Works councils are the only statutory body of workplace representation in Germany, Austria, Slovenia and the Netherlands. In Belgium works councils are usually composed only of unionists. Although works councils are *de lege* independent of unions in the former group of countries, the unionisation rate of works councils is relatively high. For instance, in Germany around 70 % of elected works councils were unionised in 2006 (WSI 2006). Employees are formally represented in managerial bodies, i.e. supervisory boards in Germany and other countries such as Denmark. The presence of trade unions in employee representation and similar bodies is highest in Belgium and Slovenia at around 65%, Austria and Luxembourg (around 60%) and comparably lower in Germany, at around 50% (see Figure 3, Annex).

Works councils and management negotiate employment conditions in certain areas of regulation specified in 'higher-level' (i.e. national or sectoral) collective agreements. Furthermore, they tailor norms and conditions set in higher-level agreements to the particular conditions and requirements existing within the company. The norm-setting power of micro-level social partners derives also from the existence of a general 'peace clause' banning collective action while a collective agreement is in effect (Müller-Jentsch 1999).

Main functions of employee representation bodies

Information and consultation: Informing works councils on economic, financial and social matters at local or plant-level is mandatory in the Central-Western European countries. In Belgium such information has to be provided for the entire company. In Austria, Germany, Belgium and the Netherlands information rights in practice go beyond financial and business matters. Mandatory consultation rights exists for a number of issues such as mergers, business transfers, mass redundancies, training measures and the introduction of new technology.

Co-determination: Far-reaching co-determination rights exist in all five Central-Western European countries (European Commission 2004). Areas in which works councils have co-determination rights (with regard for instance to daily working hours, reductions/extensions of normal working hours in the company, the introduction of technical devices to monitor workers' behaviour and performance, remuneration schemes, the setting of piece-rates) are stipulated by law. One of the

most important preconditions for a strong co-determination practice is that management provides works councils with full information at an early planning stage, giving works councils adequate opportunity to participate in decisions on economic and social matters.

Collective bargaining: Dual channel systems with a strong works council influence predominate in Austria, Germany, the Netherlands and Slovenia. In Belgium, local unions (i.e. the union delegation or an official of the trade union represented at the company) are the most important shop-floor bargaining actors. In the Netherlands, negotiations frequently focus on pay and pay-related issues such as bonus payments. In Austria, Belgium and Slovenia micro-level bargaining agents are usually not mandated to negotiate pay in company or works agreements. In Germany and Austria, the distinction between *collective agreements* concluded between unions and employers (most frequently with employers' associations and only in few cases with a single company) and *works agreements* concluded between a company's management and the works council is of importance. Works agreements are limited in scope and apply to certain issues specified in collective agreements, and are often used as a way of implementing exemptions / exceptions from higher-level agreements. The practice of including 'opt-out clauses' in (inter)sectoral collective agreements, allowing companies to temporarily suspend pay rises or to pay wage rates less than those agreed on in times of economic 'hardship' has gained in importance in recent years (WSI 2010). However, such opt-out clauses are hardly used in Belgium and Austria (Keune 2011). Although bargaining governability and inter-level articulation in the multi-employer bargaining systems of the Central-Western European countries are considered to be relatively high, a certain degree of ambiguity with regard to the interpretation and implementation of norms set in higher-level agreements is inherent in dual channel systems (e.g. Traxler *et al.* 2008b). Unions in these countries are generally more critical about transferring bargaining rights to company-level actors, afraid of losing control of decentralised bargaining and outcomes negotiated by works councils which are sometimes not affiliated to unions (Bispinck and Schulten 2003 and Bispinck *et al.* 2010).

2.3 The Southerners: Italy, Spain, Portugal, Greece and France

National industrial relations and collective bargaining systems

Industrial relations regimes in Southern Europe are characterised as ‘polarised’ or ‘state-centred’ (Ebbinghaus and Visser 1997). State influence in wage-setting, social and employment policies is strongest in France. In Italy and Greece collective bargaining is ‘sponsored’ by the state (i.e. the state supports and participates in negotiations), whereas in Spain and Portugal bipartite central-level bargaining between organised labour and business predominates (Traxler *et al.* 2001, Traxler 2002). Wages in southern Europe are usually negotiated by social partners at sectoral level, though in Spain and Italy the regional level also plays a role. Wage determination, in particular in the latter two countries, is carried out in a two-tier system, with basic pay being negotiated at industry level and effective pay set via local or company bargaining. In France, wage setting is most decentralised (i.e. mainly at company level), with sectoral wage agreements only negotiated in a few sectors such as metalworking. However, the increase of the statutory minimum wage imposed by the government is considered as a guideline for wage bargainers at non-central levels.

Organised labour in Southern Europe is weak compared to the Nordic and Central-Western European countries, both with regard to trade union involvement in public policy-making and organisational strength. Union density remains low (see Figure 1, Annex): in 2008 slightly above 30% in Italy, around 20% in Greece, Portugal and Spain and below 10% in France. The widespread practice of declaring collective agreements generally binding for all employers in a certain sector (or in a group of sectors as found in Spain and France) in Southern Europe, with the exception of Italy (see Table 1, Annex), helps to maintain bargaining coverage rates. In Italy the ‘fair wages’ principle enshrined in the constitution and enforced by labour courts is considered a functional equivalent to the statutory extension of collective agreements. Coverage rates are highest in France (around 90%), Spain and Italy (above 80%). In Portugal and Greece bargaining coverage is above 60%, whereby coverage declined by around 10 percentage points in Portugal between the late 1990s and the late 2000s (see Figure 2, Annex).

National employee representation bodies

In the French, Spanish and Portuguese systems of dual channel representation, works councils complement trade union representation. In contrast to Spain where both unions and works councils are allowed to conduct company-level collective bargaining, representative unions have the exclusive right to bargain at company level in France and Portugal. In the Italian dual channel system trade unions are the dominant employee representation bodies. The two main bodies are 'RSUs', i.e. trade union representation bodies directly elected by all employees, or, where these do not exist, RSA's (trade union delegations) (European Commission 2006). In Italy, the so-called 'cobas', i.e. non-union employee representation committees, are particularly widespread in the public sector. The workplace presence of trade unions or similar employee representation bodies in Southern European countries is highest in Italy and France at around 65%, comparably lower in Greece and Spain at around 40%, and lowest in Portugal at 34% (see Figure 3, Annex).

In Spain, Italy and Greece a hierarchy exists between higher-level collective agreements and company agreements. Portugal is the only country where specific provisions negotiated at enterprise or plant level prevail over general norms (European Commission 2006). In France, the introduction of the 'Fillon law' (2004) changed the previous hierarchy of collectively negotiated norms, allowing lower-level agreements to deviate from standards stipulated in higher-level agreements unless such is explicitly forbidden. In practice though, company-level bargaining parties very seldom make use of this provision (Keune 2011).

Main functions and practices of employee representation bodies

Information and consultation: Statutory requirements for informing and consulting employees exist in all Southern European countries. Any additional information and consultation rights going beyond those stipulated in the EU directive are based on collective agreements in Italy, Portugal and France. Information and consultation rights on issues going beyond the financial aspects of company policies, such as restructuring, are most far-reaching in France and Spain.

Co-determination: The co-determination competences of employee representation bodies in Southern Europe are traditionally limited (European Commission 2004: 23). In Italy for instance works councils

participate solely in the management of social works and the resolution of conflicts and grievances.

Collective bargaining: The collective bargaining rights of micro-level social partners are most far-reaching in Italy and Spain where they include wage setting (European Commission 2004). In the framework of the Italian and Spanish two-tier systems, negotiating wages is an important competence of company-level bargaining parties. It should however be noted that, in line with the bargaining hierarchy, employee representation bodies are not allowed to renew *national* collective agreements at company level. Micro-level social partners are generally not entitled to conduct collective bargaining on *wages* in Portugal and France (European Commission 2004). Exceptions to this rule are temporary situation-dependent exemptions from rates and standards set in national or sectoral agreements, or, as in the case of France, where no sectoral agreement exists. However, empirical evidence for Italy, Spain and France indicates that company-level bargaining parties very seldom make use of such (Keune 2011).

2.4 The Anglo-Saxon system: United Kingdom, Ireland, Cyprus and Malta

National industrial relations and collective bargaining systems

Industrial relations in Ireland, Malta and Cyprus were strongly influenced by the liberal pluralist model of industrial relations originating in the UK (Ebbinghaus and Visser 1997), in which collective bargaining and labour relations are based on the principle of ‘voluntarism’. With collective agreements not legally binding, their implementation depends on the social partners. Labour legislation is fragmented, referring more to such general social rights as gender equality and non-discrimination. This means that EU labour legislation exerts a comparatively strong regulatory function on these countries’ industrial relations systems.

UK industrial relations underwent fundamental changes in the late 1970s and early 1980s, when collective bargaining at national and industry level was dismantled by statutory restrictions on trade union organisation and recognition as well as industrial action. Decentralisation was even more pronounced on the employers’ side, with employer associations, if existing at all, playing only a very marginal role in collective

bargaining. Since the early 1980s collective bargaining has been conducted almost exclusively at company level whereby individual contracts negotiated between management and individual employees are the predominant mechanism for setting wages and working conditions. In Ireland and Cyprus, multi-employer bargaining predominates (see Table 1, Annex). Recent developments in Irish collective bargaining indicate a shift from the national to the industry and increasingly to the company level. With pay bargaining becoming more conflictual during the economic crisis, inter-industry negotiations broke down in late 2009. Top-level Irish social partners later agreed to voluntary guidelines for company-level collective bargaining.

With single employer bargaining prevailing, meaning in turn low employer densities (around 60% in Ireland, Malta and Cyprus and below 40% in the UK), collective bargaining coverage rates are low, ranging from around 50% in Cyprus, around 40% in Ireland and Malta to 34% in the UK (see Figure 2, Annex). Although multi-employer bargaining prevails in Ireland, at least up to late 2009 when national negotiations failed, a lack of provisions for extending collective agreements contributed to the decline in bargaining coverage (by around 10 percentage points) in the period between the late 1990s and late 2000s (European Commission 2011). Trade union densities are lower than in the Nordic and most of the Central-Western European countries, with rates ranging from around 50% in Cyprus and Malta to around 30% in the UK and Ireland in 2008 (see Figure 1, Annex).

National employee representation bodies

Although the British system of micro-level industrial relations is often described as ‘conflict-orientated’, the principle of voluntarism is widely recognised by employers, employee representatives and unions. However, the practice of company- or plant-level collective bargaining varies widely between industries and occupations (see for instance Grainger and Crowther 2007) and a company’s country of origin (e.g. trade union recognition tends to be more widespread in Japanese than in US-based MNCs, *ibid*). Empirical evidence shows that trade union recognition dropped by almost 50 % in manufacturing and private sector services between 1980 and 2004 whereby trade union presence – although declining – is still relatively strong in the public sector (Blanchflower *et al.* 2007). In Ireland and the UK single-channel employee

representation systems exist. In the Irish system for a long time only trade unions were entitled to represent employees on the shop-floor, though in recent years non-union representation bodies have gained in importance. Similarly, UK legislation also includes provisions for the election of non-unionised employee representatives (European Commission 2006). Before the implementation of the EU directive no guaranteed rights of employee information and consultation existed, and only trade unions recognised by the employer were entitled to represent employees.

Main functions and practices of employee representation bodies

Information and consultation: Before the transposition of EU Directive 2002/14/EC, statutory rights for employee representation were absent in the UK and Ireland, with the exception of specific information and consultation rights in cases of collective redundancies and, as provided by European legislation (Directive 2001/23/EC), for the transfer of undertakings. It should also be noted that, in line with the voluntary nature of Anglo-Saxon labour relations, the establishment of workplace employee representation structures is triggered by employee requests for an employer to negotiate the introduction of such structures and is not introduced automatically. Such ‘negotiated agreements’ for information and consultation arrangements are not subject to the minimum statutory standards stipulated in European labour law in the voluntary system of industrial relations in the UK. According to the legislation on employee information and consultation that came into force in 2005 in the UK, statutory minimum requirements apply only where negotiations under statutory procedures fail (Hall and Purcell 2011).

Due to the voluntary character of the Anglo-Saxon system of employee participation, information and consultation practices are strongly shaped by company-specific communication and participation patterns and traditions. Bodies for employee representation such as works councils and Joint Consultative Committees (JCCs), the latter also including management and trade union representatives, are often used for consulting employees on issues such as company pensions, work organisation as well as the company’s financial situation and productivity developments – though on a purely voluntary basis. The emergence of union-related information and consultation structures is however endangered by declining trade union representation at the enterprise level. For instance,

according to the Department for Business Enterprise and Regulatory Reform in the UK a mere 46.6% of workplaces had some sort of trade union representation in 2008 (Prosser 2009, see also Figure 3 in the Annex). Employer recognition of shopfloor unions is slowly decreasing, though varying across sectors (Millward *et al.* 2000, Kersley *et al.* 2006). Union recognition is highest in the public sector and lowest in the private services sectors. In Ireland and Cyprus the presence of unions and other workers' representation bodies is only slightly higher than in the UK (53% and 50%, respectively), and in Malta it is the lowest of all EU Member States (10%).

Co-determination and collective bargaining: In contrast to the Nordic and German-style systems of employee participation, no employee co-determination tradition exists in certain company policy areas in British and Irish labour relations. Though such bodies as JCCs do sometimes negotiate voluntarist workplace 'partnership' agreements between employers and unions in the UK, they are rarely concluded in Ireland (Dobbins 2009). Although the focus has been on national-level collective bargaining in Ireland since the late 1980s, negotiations between management and workplace trade union representatives has been recently gaining in importance in the aftermath of a break-down in national bargaining in the course of the economic crisis (see section above). Company-level bargaining covers such issues as pay, working time, terms and conditions of employment, pensions, sick pay and work organisation. In the UK the company or plant level is the most important one for negotiating wages and working conditions in the private sector. Though collective agreements are not legally binding and their implementation is dependent on the willingness of bargaining parties to implement them, when provisions set forth in collective agreements are incorporated into individual labour contracts they become legally enforceable. Collective agreements covering issues other than pay and working time are not widespread (Prosser 2009).

2.5 The transitional economies in Central-Eastern Europe (CEE)

Industrial relations and collective bargaining

Industrial relations in the Central and Eastern European countries (CEE countries) exhibit a considerable degree of heterogeneity and thus cannot not be clearly categorised. However, they still need to be classified

in one single group, as – according to Kohl and Platzler (2007: 617) – they cannot be clearly assigned to any other of the European models. Slovenia is the only CEE country where industrial relations show similarities to the Austro-German system, leading to the country being listed under the Central-Western European countries (see section 2.2). In all CEE countries the state plays a key role in labour relations (Kohler and Platzler 2007), with single-employer bargaining predominant (see Table 1, Annex). Slovakia is a borderline case. Here, (inter)sectoral structures for multi-employer bargaining do exist but decentralisation tendencies, often fostered by the state, have given rise to company-level bargaining (Cziria 2011, European Commission 2011).

The weakness of both organised labour and business in CEE countries is indicated by low organisational density rates, ranging from around 30% in Romania to around or below 20% in the Czech Republic, Bulgaria, Slovakia, Hungary, Latvia and Poland and to below 10% in Lithuania and Estonia in 2008 (see Figure 1, Annex). With single-employer bargaining predominant, collective bargaining coverage rates are below the EU27 average (60%) – with the exception of Romania (around 70%), where employer density is comparably high –, ranging from around 40% in the Czech Republic, Slovakia, Poland and Hungary, to around 30% in Bulgaria, and to around or below 20% in Latvia, Estonia and Lithuania (Figure 2, Annex).

National employee representation bodies

Workplace representation of employees varies widely among the CEE Member States. Single-channel systems prevail in Estonia, Latvia, Poland, the Czech Republic and Lithuania. Union dominance of workplace representation used to be strongest in Poland, though due to recent legal changes works councils are now allowed to exist as single-channel representation in non-unionised companies. In companies with one or more management-recognised trade unions, works council members are elected by the unions. The establishment of works councils correlates strongly with trade union shopfloor presence. In non-unionised companies setting up a works council is often hampered by management resistance. The Polish system of employee representation was modelled on the workplace representation structures of the Czech Republic and Lithuania, where works councils are allowed to exist as the single channel of representation but cease to exist when trade union

representation is established within the company (European Commission 2006).

Empirical evidence indicates that the presence of bodies collectively representing workers in companies is comparably low in CEE countries (see Figure 3, Annex). The rate for the presence of unions and similar employee representation bodies is lowest in Poland and the Baltic countries (20 - 30%), and only slightly higher in Hungary (around 35%). In Slovakia and the Czech Republic the rates are 50 and 44% respectively. According to more recent figures, the presence of collective employee representation bodies at workplace level is declining in all CEE countries (including Slovenia) for which data is available (Kohl 2008).

Main functions and practices of employee representation bodies

Information and consultation: In the CEE countries the EU information and consultation directive is transposed via both statutory provisions and collective agreements, with the exception of Bulgaria where the establishment of employee information and consultation bodies is based exclusively on statutory requirements (Hall and Purcell 2011). Information on *de facto* information and consultation practice going beyond statutory provisions in CEE countries is scarce (e.g. Hall and Purcell 2011, Hülsmann and Kohl 2006). However, there is some evidence that the quality and timeliness of information is particularly poor with regard to such issues as companies' product and investment strategies as well as performance. Typically, consultation takes place to a much lesser extent than information (Hall and Purcell 2011).

Co-determination and collective bargaining: The involvement of employee representatives and local trade unions in corporate decision-making is very limited in Central and Eastern Europe. Only in Hungary and Slovakia does the law confer co-determination rights on works councils and similar employee representation bodies. In the case of Slovakia works councils are under certain conditions also entitled to negotiate wages (European Commission 2004). In the majority of CEE countries however the right to collective bargaining at enterprise level is conferred exclusively on trade unions, with the exception of Estonia where workers' representatives can be authorised to conduct collective bargaining in non-unionised companies. However, in practice company-level collective bargaining is limited, dependent on trade union presence

and strategies at enterprise level. As a consequence, trade unions participate in company-level bargaining mainly in large companies, while trade union representation in SMEs is marginal (Kohl 2008, Hall and Purcell 2011).

The weakness of both unions and in particular employers in terms of organisation and representativeness and the lack of a legal and institutional framework for autonomous collective bargaining has inhibited the establishment of bargaining practices and their institutionalisation within the industrial relations systems. As a consequence, trustful relations between unions and employers, a prerequisite for effective collective bargaining and social dialogue, did not evolve in most of the CEE countries. The unions' limited bargaining practice also negatively affects their perception by employees and the latter's propensity to join unions. Workers in countries with exclusive collective bargaining systems (i.e. where single-employer bargaining is predominant and bargaining coverage is low) are often not aware of the rights and advantages offered by collective agreements (Hülsmann and Kohl 2006).

3. MNCs as bargaining parties: effects on national and transnational industrial relations

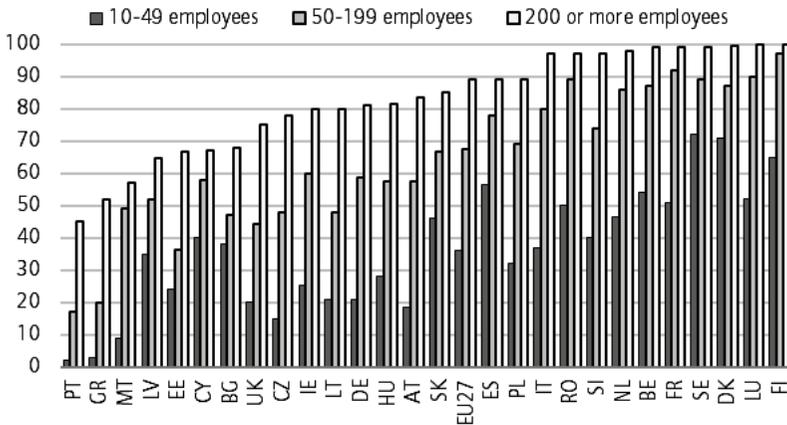
In addition to national differences, collective bargaining coverage, union presence and the existence of company-level employee representation bodies vary with company size. Since no complete and comparative data on collective bargaining coverage rates by company size are available for the EU-27, trends in the relationship between MNC bargaining coverage and aggregate coverage rate are estimated (see Table 1). Leaving aside those countries characterised by almost full coverage of workers across sectors¹⁰, MNC bargaining coverage tends to be higher than or equal to the national aggregate rate, with the exception of Estonia and Latvia where the MNC coverage rate is lower than that at the national level.

Table 1 Trends in collective bargaining coverage: MNCs and national aggregate

Higher for MNCs than for domestic companies	BG, CZ, ES, IE, LT, MT, NL, SE, SK, UK
Same for MNCs and domestic companies	CY, DE, DK, EL, FI, HU, LU, NO, PL, PT
Lower for MNCs than for domestic companies	EE, LV
Virtually whole economy covered	AT, BE, FR, IT, SI, (RO)

Source: Marginson and Meardi 2010.

Figure 1 Coverage of institutional employee representation, by country and company size



Source: Eurofound 2009.

Likewise, the frequency of institutional employee representation bodies increases with company size (see Figure 1). The gap between representation in small (i.e. companies with 10 to 49 employees) and large companies (with more than 200 employees) is particularly wide in Austria, Germany, the Czech Republic and Lithuania. Strikingly, variations in employee representation in large companies are comparably low; with

10. Romania is a borderline case, with bargaining coverage estimated to be around 70% in 2008 according to another source (European Commission 2011) and no information available on the difference between MNC coverage and the national aggregate.

80% or more workers covered by such bodies in 18 out of the EU-27 countries. Greece and Portugal are the only countries where 50% or less of the workforce in companies with more than 200 employees are reported to be covered by formal representation bodies.

Effects of MNC policies on collective bargaining and trade union strategies

Although institutional conditions in large multinational companies are more favourable for workers in terms of formal representation and collective bargaining coverage than in small companies, the high degree of international mobility of MNCs, their lack of embeddedness in national industrial relations systems, their political influence as employers of large labour forces and, as a result, their highly credible potential to threaten states with relocation are tilting the balance of power between labour and business further towards the latter. Furthermore, trade unions have to negotiate with individual transnational companies instead of employer organisations. MNCs pursue particularistic interests, seeking agreements tailored to their needs instead of taking collective, sectoral (or national) interests into account, as is the case with employer associations. The mismatch between structures and practices within MNCs and in national collective bargaining is particularly pronounced in the multi-employer bargaining arrangements (Marginson and Meardi 2010) prevailing in the majority of EU countries (see Table 1, Annex). Alongside organised labour, supranational trade unions and employee representation bodies have to aggregate the differing, and sometimes contrasting, interests of members and workers from different countries.

Thus, for MNCs and trade unions or formal employee representation bodies entering into negotiations, the strategic considerations of management are decisive. At the organisational level management strategies are aggregated in company policies on HRM and employee voice. Representation and voice practices - such as union recognition, direct or indirect (i.e. institutional) forms of employee participation - are typically shaped by the industrial relations system of the MNC's country of origin (Marginson and Meardi 2010). Other factors such as the extent of international integration of MNC operations and the degree of product standardisation also affect management preferences for industrial relations practices (ibid.).

Effects of MNC participation on national-level collective bargaining

Although in the majority of EU countries large multinational companies are more frequently covered by collective agreements than SMEs (see Table 2), a number of individual MNCs conclude separate agreements, even in countries where multi-employer bargaining prevails. It is important to note that, in contrast to IFAs and EFAs, collective agreements concluded by MNCs are usually national in scope. Generally speaking, such MNC agreements tend to provide for higher standards of pay and working conditions than those stipulated in sectoral agreements, in particular in the Central and Eastern European countries and in Southern Europe.

MNCs have been the source of innovative collective bargaining, not only by addressing new issues, but also by opting out from sectoral agreements. In some countries MNCs have been promoting changes in industrial relations, most often in terms of increased flexibility in wage-setting, working time and other conditions. The introduction of performance-related pay systems and flexitime arrangements are two of the most important innovations in collective bargaining.

Other MNC bargaining practices are however negatively impacting national industrial relations structures. Opting out from sectoral agreements is a strategic option used by certain MNCs in countries where extension practice is limited. Likewise, switching to sectoral agreements stipulating less favourable conditions for workers in MNCs operating in more than one or overlapping sectors has been observed in Central-Western and Southern European countries (Marginson and Meardi 2010). Although the majority of MNCs tend to belong to employer associations, non-membership or membership of a national rather than sectoral employer organisation contributes to the erosion of sectoral collective bargaining. Furthermore, some MNCs are recognising unions in existing plants but refusing to do so in newly established ones. Such ‘double breasting’ strategies are most frequently pursued in MNC subsidiaries in the UK, Ireland and the Baltic countries (*ibid.*).

The most destructive effect of the growing relevance of MNCs as collective bargaining actors however is the rise of competitive bargaining, with the use of ‘coercive comparisons’ of labour costs and productivity levels between subsidiaries located in different countries. Supranational trade unions and employee representation bodies such as EWCs are often one

step behind MNC management with regard to the cross-border exchange of data on labour costs, wages and productivity. Furthermore, when labour markets are depressed, national unions tend to put national interests first, thereby ensuring the jobs of their own (potential) members and severely inhibiting any aggregation of interests by supranational union organisations.

Effects of MNC participation on transnational-level collective bargaining

Although the growing influence of MNCs on collective bargaining tends to be rather detrimental to national arrangements and practices, they might, seen from a more constructive perspective, contribute to the emergence of an additional layer in a multi-level system of ‘European’ industrial relations (Marginson and Sisson 2006). Although transnational company agreements are not collective agreements in the strict sense, as they do not address pay and working time, certain observers consider them a first step towards transnational collective bargaining (Ales *et al.* 2006). A cross-border harmonisation of standards and the promotion of common, transnational company policies deriving from transnational company agreements are effects observable in very specific areas. The adoption of codes of conduct on ‘corporate social responsibility’ is an example in this respect (Marginson and Meardi 2010). In the vast majority of cases however there is no guarantee of a transnational ‘harmonisation effect’. Instead, the implementation of purely voluntary and therefore not legally binding provisions negotiated in transnational framework agreements depends entirely on the willingness of the signatory parties to comply. Implementation procedures are only included in a minority of transnational agreements (Marginson and Meardi 2010). This leads trade unions from countries ensuring the legal enforceability of collective agreements to be reluctant to negotiate voluntary transnational agreements whose implementation is perceived as doubtful. In particular trade unions from countries characterised by highly coordinated and inclusive multi-employer bargaining systems (i.e. in the Nordics and Central-Western Europe) are very much against negotiations on key topics such as pay-related provisions, working time and work organisation at MNC level as they fear a dilution of their high national standards.

The rise of MNCs has undoubtedly fostered cross-border cooperation between unions and the transnational mobilisation of workers, often

supported and coordinated by ETUFs. Furthermore, a number of ETUFs have recognised the important role played by EWCs as signatory parties to transnational agreements (see section 1), intensifying their cooperation efforts with them. By strengthening mutual cooperation, EWCs and European sector-level unions could indeed play a much stronger role in countering threats of relocation and coercive labour cost comparisons and in monitoring transnational restructuring. Often enough, the potential of EWCs as strategic tools for cross-border mobilisation on various issues, including industrial action, and cooperation is still not largely considered by unions, meaning that relations between trade unions and EWCs are sometimes contentious, with unions trying to keep EWCs away from collective bargaining (Gennard 2009, Hann 2010).

Conclusions

Collective bargaining at the level of multinational companies and in the form of negotiations between employee representation bodies and MNC management has increased in importance since the early 2000s (Schömann *et al.* 2008, Telljohann *et al.* 2009, Marginson and Meardi 2010). Despite the acknowledged relevance of this issue, EU political actors have not yet addressed one fundamental shortcoming of transnational company negotiations, i.e. the fact that transnational framework agreements are not legally binding. A legal framework needs to be introduced, ensuring the enforceability of such agreements (Ales *et al.* 2006, Gennard 2009). Two main problems possibly burdening transnational company bargaining with regard to the substantive (i.e. topics addressed in negotiations) and procedural aspects of transnational agreements can be distinguished. First, in addition to the wide range of legal-institutional systems of collective bargaining and employee representation present in EU Member States, different conceptions and traditions of collective bargaining and the functions of employee representation bodies are affecting transnational company bargaining and inhibiting the effective implementation of agreements with a transnational scope. Second, with multinational companies gaining in importance in collective bargaining, the power balance between the bargaining parties is shifting. This all has an overall effect on transnational company bargaining.

With EU enlargement, the degree of heterogeneity of industrial relations structures and practices has further increased. One of the most important differences is between the decentralised collective bargaining systems with single-employer bargaining prevailing for the determination of pay and working conditions in the Anglo-Saxon countries and the majority of ‘new’ Member States and the more centralised, multi-employer bargaining systems existing in the Nordics and Central-Western European countries and – to a more limited extent – in Southern Europe. However, there are important differences between the Anglo-Saxon model and the ‘transition model’ of the CEE Member States that are also affecting transnational collective bargaining at the level of multinational companies. Collective bargaining on pay and conditions is an established practice in the UK where micro-level bargaining partners have gained notable bargaining autonomy. By contrast the social partners in Central and Eastern Europe are strongly dependent on the state. Although the state has a strong interventionist role in such areas as minimum wages, working time and the extension of collective agreements in a number of Western European countries, most of all in France, local unions are important actors in wage bargaining. In the CEE countries the role of local unions, works councils and similar employee participation bodies in negotiating pay and working conditions at the company level is limited due to missing institutional and organisational prerequisites for autonomous collective bargaining (see section 2.5). High union fragmentation and union confederations’ low degree of shopfloor authority weaken articulation between different levels of union organisation and make it difficult to bring interests together. The lack of collective bargaining practice and experience on the part of unions and works councils prevents them from playing a strong and active role in negotiations with MNCs.

Considerable national differences exist with regard to notions and perceptions of the information, consultation and co-determination role of works councils and employee representation bodies. For instance, works councils in Germany and the Nordic countries have far-reaching co-determination powers in a range of areas, whereas the co-determination rights of works councils in Southern and Eastern Europe and in the UK are limited or non-existent. These different competences and experience of works councils participating in negotiations with management can affect the power configuration within EWCs, dependent on which national ‘model’ is predominant. The distinction

between single- and dual-channel systems of employee representation is important in this respect. In countries with a single-channel system, micro-level negotiations are firmly linked to higher-level structures of union organisation and collective bargaining, providing a high degree of congruence with regard to the interpretation of substantive provisions and formal collective bargaining procedures and ensuring effective articulation between different bargaining levels. This contrasts greatly with dual-channel systems where bargaining governability is lower due to the lack of articulation between works councils and sectoral trade unions. This is particularly true in countries where works councils are entitled to negotiate wages within the framework of two-tier bargaining systems, as is the case in Italy and Spain.

The second fundamental factor affecting transnational collective bargaining is the emergence of MNCs as bargaining parties. MNC management enjoys a crucial advantage in collective bargaining with employee representation bodies, including EWCs, and national and supra-national trade unions. The imbalance in power between companies operating internationally on the one hand and labour movements that are strongly rooted in national industrial relations systems and labour markets on the other hand has detrimental effects on collective bargaining and the regulation of labour (Hyman 2001, Crouch 2004, Castells 1996). With the international mobility of capital much greater than that of labour, relocation threats by MNCs are often perceived as credible by organised labour. Such asymmetry in bargaining power affects both the substantive agenda of negotiations and procedural aspects of collective bargaining at transnational and national level.

Increasing market internationalisation together with price and cost transparency have reinforced the trend towards competitive cost and productivity comparisons across borders between an MNC's production sites or subsidiaries. This is leading to an increase in concession bargaining, even more so in times of economic recession, slack labour markets, and in sectors and regions subject to de-industrialisation and companies facing restructuring and reorganisation (Freyssinet and Seifert 2001, Haipeter 2009, Haipeter and Lehndorff 2009). More important though are the facts that MNCs are a driving force for bargaining decentralisation and flexibilisation, and that they make use of second-tier negotiations more frequently than domestic companies (Marginson and Meardi 2010). Alongside institutional factors such as trade union density and

the existence of a supportive legal framework for ensuring employee representation and participation at the workplace, decentralised collective bargaining is strongly determined by company-specific conditions. Management positions and policies on union access and recognition, their propensity to negotiate with collective labour representation bodies, and their cooperation with regard to the timely and complete provision of information are preconditions for the development of high-trust relations between management and local unions, works councils or similar employee representation bodies.

The increasing importance of transnational company negotiations as a rather implicit, informal or indirect form of transnational collective bargaining has been addressed by supranational union organisations. EWCs play a decisive - and increasing - role in transnational negotiations. For trade unions, strengthening cooperation with EWCs is mutually beneficial. EWC capacity for effective action is dependent on resources and services provided by trade unions. On the other side of the coin, EWCs are effective instruments for unions, promoting cross-border mobilisation and cooperation, including industrial action. A number of ETUFs have adopted guidelines for transnational company bargaining as a way of clarifying procedures, including mandates, for negotiations between EWCs and management.¹¹ Despite the manifold problems associated with transnational company bargaining, MNCs could develop into an important arena for employee representation and participation in internationalised markets, provided that both parties undertake to enforce agreements and ensure their full coverage. Within a 'European' multi-level system of industrial relations, transnational framework agreements may serve as an important tool for the transnational harmonisation of minimum working conditions, complementing national labour regulation and collective bargaining.

11. The European Metalworkers' Federation adopted an 'internal procedure for negotiations at multinational company level' in 2006. Similar rules and procedures were adopted by UNI Europa Finance (2006), the European Trade Union Federation: Textiles, Clothing, Leather (2007), the European Federation of Building and Woodworkers (2009), UNI Europa Graphical (2009), the European Federation of Public Service Union (2009) and the European Mine, Chemical and Energy Workers' Federation (2010).

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Annex

Table 1 Levels of collective bargaining, extension practice and minimum wages

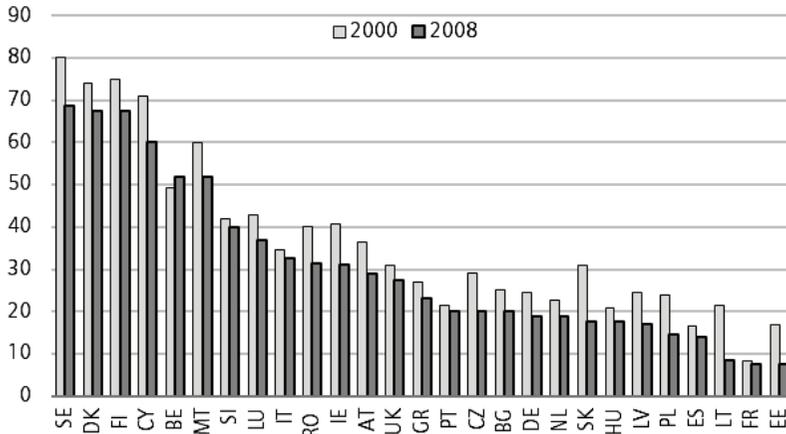
	Intersectoral	Sectoral	Company	Predominance of MEB ^a or SEB ^b	Practice of extending collective agreements	Statutory minimum wage regulation
AT		XXX	X	MEB	XXX*	(Yes)
BE	XXX	XX	X	MEB	XXX	Yes
BG		X	XXX	SEB	X	Yes
CY		XX	X	MEB		Partly
CZ		X	XXX	SEB	XX	Yes
DK	X	XXX	XX	MEB		No
EE		X	XXX	SEB	XX	Yes
FR		X	XXX	MEB	XXX	Yes
FI	XXX	XX	X	MEB	XXX	No
DE		XXX	X	MEB	XX*	Partly
GR	XX	XX	X	MEB	XXX	Yes
HU	X	X	XXX	SEB	XX	Yes
IE	XXX		X	MEB		Yes
IT		XXX	X	MEB	*	No
LV		X	XXX	SEB	XX	Yes
LT		X	XXX	SEB	X	Yes
LU		XX	XX	MEB	XXX	Yes
MT		X	XXX	SEB		Yes
NL		XXX	X	MEB	XX	Yes
PL		X	XXX	SEB	X	Yes
PT		XXX	X	MEB	XXX	Yes
RO	X	X	XXX	SEB		Yes
SK	X	XX	XX	SEB	XX	Yes
SI	XX	XX	X	MEB	XX	Yes
ES		XXX	X	MEB	XXX	Yes
SE		XXX	X	MEB		No
UK		X	XXX	SEB		Yes

Note: XXX = most important level, extensive extension practice; XX = important level, limited extension practice; X = existing but marginal level, marginal extension practice; 'Blank' = level is non-existent, no extension practice; '*' = functional equivalent to extension;

^a 'Multi-employer bargaining'; ^b 'Single-employer bargaining'

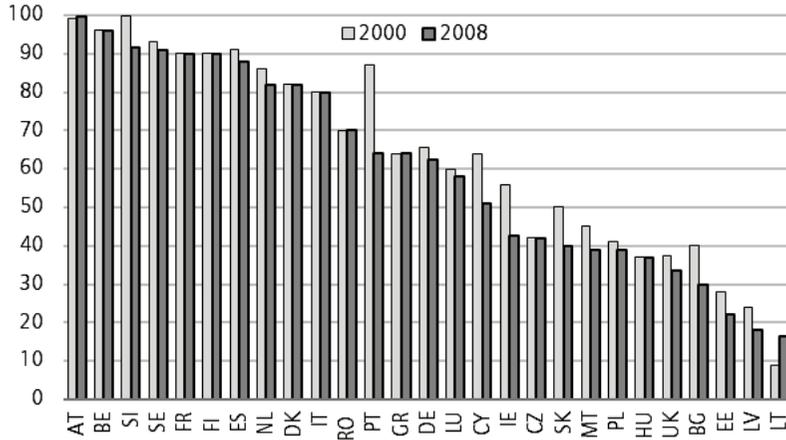
Sources: Marginson/Traxler 2005, European Commission 2004 and 2011, ETUI 2011b.

Figure 1 Union density by countries, 2000 and 2008



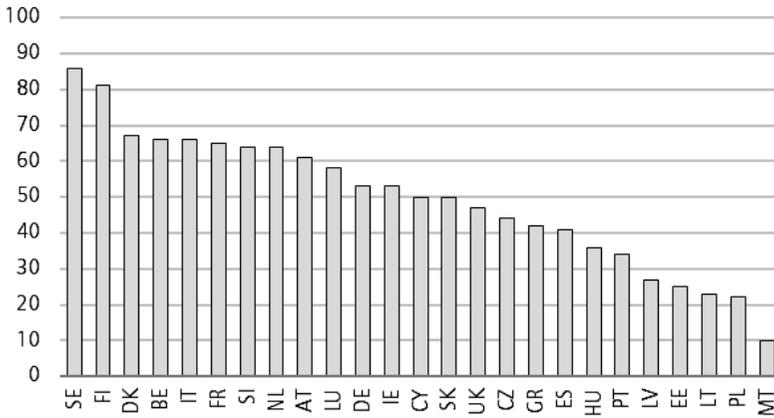
Note: Net union density as share of employed union members in the total number of dependently employed persons
 Source: European Commission 2011.

Figure 2 Collective bargaining coverage, 2000 and 2008



Note: Adjusted coverage rate as share of workers covered by any collective agreement at all in the total number of dependently employed persons
 Source: European Commission 2011.

Figure 3 **Presence of trade unions or similar employee representation bodies at the workplace**



Note: Share of workers in the total number of employees that agrees to the question 'Is there a trade union or similar organisation at your workplace?'

Source: Vandenberghe *et al.* 2007, European Social Survey, data refers to 2002-2003.