

Chapter 26

Slovenia: organised decentralisation in the private sector and centralisation in the public sector

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Slovenia is a small country, with 2.1 million inhabitants, belonging to the group of ‘post-communist’ countries. The key segments of its relatively strongly export-oriented economy are machinery and transport equipment, manufactured goods and chemicals and related products (OECD 2015:7). The development of its current collective bargaining system can be traced over two distinct time periods. The first ranges from 1991, when Slovenia became an independent country, until 2004. Traditionally, the Slovenian bargaining system, as it emerged during the 1990s, was characterised by a high degree of centralisation, with the national and the industry level as the two most important levels at which negotiations took place. The high degree of bargaining centralisation was an integral part of a corporatist arrangement that was based on a political exchange between the social partners, trade unions and employers, and successive governments. Two other key features of the Slovenian system during this first period were the existence of strong unions with a well-developed capacity to mobilise and an exceptionally high bargaining coverage of almost 100 per cent.

The second period starts in 2004 with Slovenia’s accession to the European Union (EU) and continues today. In addition to Slovenia’s EU entry, this second period includes

Table 26.1 Principal characteristics of collective bargaining in Slovenia

Key features	2000	2016/2017
Actors entitled to collective bargaining	Unions, Chamber of Commerce (based on obligatory membership) and other employers’ organisations	Unions, Chamber of Commerce (based on voluntary membership) and other employers’ organisations
Importance of bargaining levels	General agreements for private and public sector	Industry level in private sector, general agreements and centralisation through unified payment system in the public sector
Favourability principle / derogation possibilities	Limited possibility	Increasing possibility
Collective bargaining coverage (%)	100	78.8
Extension mechanism (or functional equivalent)	Yes	
Trade union density (%)	40	20
Employers’ association rate (%)	100	n.a.

Source: ZKolP (2006), Broder (2016: 41), CRANET (2004; 2014), authors’ calculations.

two other milestones that heavily influenced the development of collective bargaining: the country's joining the euro zone in 2007 and, one year later, the start of the global economic and financial crisis, which hit the Slovenian economy hard. After 2004, the interplay of a range of exogenous and endogenous factors made it more difficult to uphold the system of political exchange, which eventually broke down. This second period therefore saw a gradual transformation of the bargaining system – see Table 26.1. The key developments in collective bargaining were marked by different trends within the private and the public sector, which drifted apart. While in the public sector bargaining remained centralised, in the private sector it shifted to the industrial level. Further closely related features of the transformation are the fall in bargaining coverage to 79 per cent and the falling membership of both unions and employers' associations.

Industrial relations context and principal actors

To understand the nature of the gradual changes of Slovenia's collective bargaining system, it is important to look at its broader historical and political context, even more so because the Slovenian system of industrial relations, which stabilised in the mid-1990s, was strongly affected by the heritage of Yugoslav socialism. As early as the 1950s this variant of 'real socialism' was based on dismantling the centrally planned economy and transforming it into a more market-oriented socialist system. Compared with other socialist countries at the time, the entire Yugoslav system was relatively open and involved in systematic exchanges with Western markets. Of all the federal units, Slovenia, which was Yugoslavia's most economically developed and western-most republic, was involved in such exchanges most intensively. One result of the Yugoslav heritage is the powerful position of unions and their exceptional mobilizing capacity. The unions' position in the transition period can be traced to the fact that in Yugoslav socialism workers' councils exerted a strong influence on decisions in companies, which enjoyed a comparatively high degree of market autonomy and were self-managed. Workers' councils existed alongside the official union structures and constituted a relatively autonomous mechanism for articulating workers' interests at the micro-level; as the voice of the employees within the official economy, they had no counterpart in such a developed form in other systems of 'real socialism'. They basically functioned as a sort of company unions within the former Yugoslav system. When, towards the end of the 1980s, their formal rights were significantly reduced, they started, in the context of the growing strike wave that occurred at that time, to form a micro-structure of the emerging union movement.

The unions' power and mobilizing capacity manifested themselves, for instance, in a successful general strike in 1992, which not only blocked an announced general wage freeze, but also contributed to the fall of the centre-right government that had declared the freeze. In the following years, union power, the resumption of economic growth since the mid-1990s and a succession of centre-left governments, in power between 1992 and 2004, created favourable political and economic framework conditions for the establishment of a corporatist regime. This regime was essentially based on a system of political exchange, in which the unions agreed to a policy of wage restraint as a tool to

curb inflation in return for being granted access to political decision-making processes. This corporatist arrangement was also supported by the employers, as wage restraint, together with the incremental devaluation of the national currency helped them to ensure their competitive advantage in international markets. The two institutional foundations of this system of political exchange were, on one hand, the Economic and Social Council (Ekonomsko-socialni svet, ESS), which was established at the macro-political level in 1994 and, on the other hand, a highly centralised system of collective bargaining, which after 1995, in the context of economic growth and relatively high inflation, ensured the successful implementation of moderate wage policies (Mišič 2002: 31). The highly centralised bargaining system was in turn based on two general collective agreements: one for the private sector, concluded in 1990, and one for the public sector, concluded in 1991. Both agreements were affected by the basic rights stemming from the Employment Act (Zakon o temeljnih pravicah iz delovnega razmerja, ZTPDR 1989), and by the Employment Relationships Act (Zakon o delovnih razmerjih, ZDR 1990), which were in force until 2002 when the new Employment Relationships Act (ZDR 2002) and the Collective Agreements Act (Zakon o kolektivnih pogodbah, ZKOlP 2006) were adopted. The general provisions of the ZKOlP also apply to collective bargaining in the public sector. The exception is the normative, substantive part of public sector collective agreements that refers to pay, which is regulated by the Public Sector Salary System Act (Zakon o sistemu plač v javnem sektorju, ZSPJS 2009) (see below). The ZDR was amended several times and defines the absolute minimum of rights. The ZKOlP defines which actors are eligible for collective bargaining, the procedure for entering into a collective agreement and its contents, as well as the hierarchy of bargaining levels.

In Slovenia, the favourability principle is fundamental to labour law. This principle entails the general rule that laws and higher agreements determine minimum standards that can be elaborated or determined more favourably for the worker by a contract at a lower (collective and individual) level (Kresal Šoltes 2011: 173–75). A collective agreement can only establish rights that are more favourable to the worker than the rights contained in the law (*in favorem*); exceptions to this rule are possible if stipulated by law.¹ The principle applies to the relationship between a collective agreement and a law, an agreement at a higher level and one at a lower level, between an agreement and an employment contract, and an agreement and an employer's general act. Furthermore, collective agreements at the company level play an important role in Slovenia. The ZKOlP stipulates that the employers covered by the collective agreement at the industry level must respect all rights defined by law and by the industry agreement. The same applies to general acts of the employer or employment contract. If the employer is not bound by the industry agreement, the company collective agreement, employer's act or employment contracts must regulate the rights of workers more favorably, without deviations from the ZDR-1. Company agreements may only regulate rights more favorably for workers.

1. The ZDR-1 of 2013 defines the cases in which collective agreements can define rights differently; in these cases, derogation is also possible. Similarly, the ZDR -1 also lays down that the industrial collective agreement can stipulate rights that are more favourable for the members of the trade union that is the signatory of the collective agreement.

Some industrial agreements do not enable downward derogations, and others in which derogation is possible stipulate permissible cases, pose time limitations and make it conditional on the existence of a representative union. According to the Representativeness of Trade Unions Act (Zakon o reprezentativnosti sindikatov, ZRS in 1993), representativeness can be acquired by unions in an industry that are part of union confederations if their members make up 10 per cent of all employees in the industry; if a union operates independently, then it is considered representative if its members make up 15 per cent of all employees. The Ministry of Labour decides on representativeness: based on the declared share of members, which the unions submit to the Ministry, the latter determines their representative status. Once the status is granted, the membership data are no longer checked.

The most important interest organisation on the employer side is the Chamber of Commerce and Industry of Slovenia (Gospodarska zbornica Slovenije, GZS). It was based on compulsory membership until 2006, when voluntary membership was introduced. Early voluntary employers' organisations were established in Slovenia already in the mid-1990s, due mainly to the contemporary international organisations' criticism of compulsory membership in the GZS. At that time, those voluntary organisations did not play a major role in collective bargaining. Later, their autonomy and role in bargaining have increased, but the GZS remains the main negotiator on the employer side. Considering the union confederations, the largest are the Slovenian Association of Free Trade Unions (Zveza svobodnih sindikatov Slovenije, ZSSS), the Confederation of Public Sector Trade Unions (Konfederacija sindikatov javnega sektorja Slovenije, KSJS) and the Confederation of Trade Unions of Slovenia Pergam (Konfederacija sindikatov Slovenije Pergam, Pergam). Of these three, ZSSS, which is anchored mainly in the private sector, is the largest confederation, covering around 40 per cent of all unionised workers (Broder 2016). Within ZSSS, the largest affiliated union is the Trade Union of Metal and Electrical Workers of Slovenia (Sindikat kovinske in elektroindustrije Slovenije, SKEI), which has its strongest presence in export-oriented companies in the metalworking industry. KSJS is the largest confederation in the public sector, with the Education, Science and Culture Trade Union of Slovenia (Sindikat vzgoje, izobraževanja, znanosti in kulture Slovenije, SVIZ) as its largest affiliate.

Level of collective bargaining

In the mid-1990s, a highly centralised collective bargaining system was established in Slovenia as a central tool for implementing a policy of wage restraint. After the country joined the European Union in 2004, however, developments in the private and the public sector started to diverge from one another. While in the private sector bargaining became decentralised, with industry as the dominant level of negotiation, in the public sector steps were taken to maintain and complement the centralised bargaining system over wages and other terms and conditions of employment. After entering the euro zone in 2007, the changed political and economic framework conditions undermined the political consensus on which the system of political exchange had been based. Eventually this involved the end of the policy of wage moderation and a reorganisation of collective bargaining, shifting to a relative decentralisation of

negotiations towards the industry level in the private sector. This change in the system can be traced to three factors.

First, the transfer of monetary policy competences to the EU meant that Slovenia lost the possibility of improving competitiveness by devaluation. Consequently, the pressure for so-called 'internal devaluation' (Streeck 2014) increased, leading to calls for flexibilisation of the labour market and reduction of public sector costs. Against this background, the existing system of centrally agreed wage moderation lost the support of the employers because they believed that bargaining at lower levels would ensure greater competitive advantages. At the same time, the new policy of 'internal devaluation' reduced the unions' prospects in the political exchange of maintaining social security for supporting wage moderation. The previous incomes policy was thus basically abandoned and bargaining turned increasingly into concession bargaining.

Second, a less supportive political environment endorsed neoliberal reform policies pursued by the new centre-right government in 2004, which announced the introduction of a flat-rate income tax and initiated a new round of privatisations, which combined with a strong inflow of cheap money from the rest of Europe led to massive management buyouts. The following centre-left government, faced with the global financial and economic crisis, increasingly turned to unilateral measures, thereby losing support not only from the social partners but also from the broader public. The government raised the minimum wage by 23 per cent in an effort to obtain the unions' support for further structural reforms of the labour market and the pension system in 2010. Because the unions refused to support the reforms and, at the same time, the employers had already withdrawn from the social dialogue because of the unilateral increase of the minimum wage, the conflict caused a political crisis, with the fall of the government and several years of political instability.

Finally, the crisis and the crisis management based on severe austerity measures plunged Slovenia into a double-dip recession. The high unemployment prompted further reforms aimed at labour market flexibilisation. In 2013 the government therefore adopted a new Employment Relationships Act (*Zakon o delovnih razmerjih, ZDR-1 2013*) and Labour Market Regulation Act (*Zakon o urejanju trga dela, ZUTD-A 2013*). The crucial results of the labour market reform, adopted with the cooperation and agreement of all social partners, were the liberalisation of the regime for dismissals and somewhat improved regulation of some types of non-standard employment, such as fixed-term employment. The later was almost immediately substituted by a strong increase in new forms of precarious work, such as bogus self-employment and agency work. The entire trend gradually shifted the power balance in favour of the employers.

All these factors changed the parameters on which the entire collective bargaining system had been based since the early 1990s. These incremental changes potentially undermined the regulatory capacity of collective bargaining in Slovenia. Nevertheless, decentralisation in the private sector was relatively organised because it was basically directed by legislative changes based on the consensus of the social partners within the ESS. The key driving force of the shift in collective bargaining to the individual industry levels in the private sector was GZS, which refused to enter into a general

collective agreement for the private sector in 2005. The underlying motivation was the potential threat in light of the changed economic and political framework conditions after Slovenia's access to the EU and the European Monetary Union. GZS claimed that the earlier single payment policy would not be flexible enough to allow for industry- and company-specific responses to the new competitive pressures.

Another factor that contributed to the employers' increased interest in more flexible bargaining arrangements is the structural change in the private sector during the transition period, which altered the interest structure of the employers' side. Key developments in this respect are the significant drop in the number of large companies in the private sector, which fostered the trend of de-unionisation, and, the growing importance of multinational corporations, especially in the export-oriented industries. Together with employers in the trade sector, especially retail, the employers in the export industry are the key initiators of further labour market flexibilisation, such as the liberalisation of the dismissal regime, and influential proponents of lowering taxes on companies.² Ironically, the abandoning of the general agreement for the private sector in 2005 was followed by the temporary reinforcement of the previous restrictive wage policy. In the context of the massive inflow of cheap money and growing inflation, a new Social Agreement (2007–2009) was concluded, indicating an attempt to return to the practice of political exchange between the social partners and the government. In line with this turn, and due to the high inflation in 2007, just before the global economic crisis started, the general collective agreement for the private sector (KPPI 2008) was again concluded in 2008, primarily regulating work remuneration. Since then, it has no longer been possible to conclude a new one for the private sector, with the same content and extent as collective agreements before 2006.

The industry as the dominant level of collective bargaining in the private sector was confirmed by the most recent social agreement for 2015–2016. Examples of important industry-level agreements in the private sector are the Collective Agreement for Slovenia's Trade Sector (Kolektivna pogodba dejavnosti trgovine Slovenije) and the three collective agreements for the metallurgical and electrical industry. The existing Collective Agreement for Slovenia's Trade Sector³ was concluded by the ZSSS-affiliated Trade Union of Workers in Slovenia's Trade Sector as the only representative union in this sector, the Slovenian Chamber of Commerce (Trgovinska zbornica Slovenije, TZS), the Association of Employers of Slovenia (Združenje delodajalcev Slovenije, ZDS) and GZS in 2014. Subsequently, other non-representative unions with members in this industry have acceded to the agreement. Furthermore, in 2005 the Collective Agreement for Iron and Non-Ferrous Industries, Foundries and Electrical Industry of Slovenia was divided into three separate collective agreements: the Collective Agreement for the Slovenian Metal Industry (Kolektivna pogodba za kovinsko industrijo Slovenije),

2. In 2016, in the framework of a mini tax reform, the tax burden on labour was lowered, while the tax burden on capital, the rate of tax on the income of legal persons, was raised. The demands of ZSSS were an even more progressive tax system, reduced taxation of wages and the 'thirteenth salary' and increased taxation of profit, which is the least taxed in Europe. It effectively amounted to only 11.4 per cent. The government increased the rate of tax on profit from 17 per cent to 19 per cent, and introduced a more progressive tax system, raised net wages and reduced taxation on Christmas bonuses and 'thirteenth salaries'.

3. All abovementioned collective agreements can be found in the Official Gazette of the Republic of Slovenia.

the Collective Agreement for Slovenia's Electrical Industry (Kolektivna pogodba za dejavnost elektroindustrije) and the Collective Agreement for the Metal Products and Foundry Industry (Kolektivna pogodba za dejavnost kovinskih materialov in livarn Slovenije). A special feature of all three agreements is the unified union representation: for all three narrower industries they were concluded by SKEI. It is precisely such unified representation of workers that ensures a high level of coordination among these three industries. The situation was as follows in 2017: there was no national general agreement for the private sector and the key bargaining processes took place at the industry level, at which 26 collective agreements were concluded.

In the public sector, the system of centralised collective bargaining has endured, with a 'central platform' or framework for collective bargaining, labelled the Public Sector Salary System Act (Zakon o sistemu plač v javnem sektorju, ZSPJS), which ensures a high degree of coordination. The collective agreement for the public sector was concluded in 1991 and then amended several times. In 2002, the ZSPJS was adopted, providing a single payment scale, composed of 65 grades, for all public sector employees; it specifies that salaries shall be composed of a basic wage, additional payments and a part related to workers' performance. The ZSPJS covers the civil service, the military, the police and the entire school and health care systems. Nevertheless, the ZSPJS was still unclear due to the many narrower regulations and collective bargaining; it enabled industrial or professional unions to independently bargain with the corresponding ministers about individual additional payments. This created great disparities in the wages of individual occupational groups. In 2008, before the crisis reached Slovenia, a new ZSPJS was therefore adopted, intended to increase its transparency and to enable the long-term stable management of public finances. In line with the new ZSPJS, a new collective agreement for the public sector was signed, complementing the first one of 1991, in 2008. The new agreement defines nine broader wage groups, including 65 payment grades for typical positions in sub-sectors, considering personal and job-related criteria, such as level of education, the complexity of the position and responsibility for the work performed. A further 16 collective agreements exist for various industries in the public sector. In addition to these higher-level national and industry-level agreements, there is a range of company-level agreements in the public and private sectors.⁴

After the global economic crisis started and austerity measures began to be enforced, pressures on public sector employees began to intensify. In 2010, the government decided to terminate the collective agreements in the public sector. The Minister of Public Administration demanded that the public sector unions agree to the proposed austerity measures regarding wages for 2011 and 2012; otherwise the collective agreements were to be terminated because failure to do so would endanger the passing of the budget. No agreement was reached, so the government rescinded the terminations and adopted the Intervention Measures Act that extended non-payment of the performance-related bonus for public employees, froze payments for promotion, set the holiday allowance at a lower level and limited the funds for increased workloads for two years. The pressure on public sector employees culminated in spring 2012 when the government announced

4. Those are not included in the register of collective agreements at the Ministry of Labour, Family, Social Affairs and Equal Opportunities, so it is not possible to determine their exact number.

a 15 per cent pay cut in the public sector. A general strike of public sector employees ensued, after which the Fiscal Balance Act was adopted. After this Act was passed, there were no large-scale dismissals of public sector employees, but it did enforce a general 8 per cent pay cut across the entire public sector.

Extent of bargaining

In the 1990s, a consequence of the corporatist arrangement with highly centralised collective bargaining as a tool to implement a policy of wage moderation was an unusually high bargaining coverage of almost 100 per cent. After Slovenia's accession to the EU in 2004, the changing political and economic framework conditions led to a significant drop in bargaining coverage to 79 per cent in 2016. This overall figure masks different developments in the public and private sectors – see Table 26.2. While due to the single payment system coverage in the public sector is still 100 per cent, the rate in the private sector decreased to 73 per cent.⁵ One important factor contributing to the fall in coverage was the decision of the centre-right government in 2006 to adopt legislation that transformed the GZS into an organisation with voluntary membership. A key consequence of this changed status has been a substantial drop in membership. Recruiting and retaining members became a more important issue for the GZS, which began to adhere more closely to the interests of the immediate membership; this is known as a 'logic of membership' (Streeck and Kenworthy 2003). This automatically radicalised the bargaining positions of the employers. For instance, in the transition to voluntary membership, the TZS, with members in commerce, including retail and similar services, dissociated from the GZS; the TZS is also based on voluntary membership and is a key negotiator in commerce. Due to these changes, collective bargaining started to be exposed to occasional blockades, especially during the crisis when cutting costs became the employers' key priority (Glassner et al. 2011). To cut costs, employers massively terminated collective agreements, thereby reducing workers' rights. In the period after 2014, as economic growth picked up again, the social partners began to renew terminated collective agreements. In 2017, the only collective agreement that remained terminated is the one for the chemical and rubber industry.

At the same time, union density fell. It had stabilised at around 40 per cent in the 1990s, but started to decrease around 2005: union density then almost halved from 37 per cent in 2005 to 20 per cent in 2015 (Broder 2016: 41). In 2004, density exceeding 51 per cent of employees was found in two-thirds of companies with 100 or more employees, in manufacturing (64 per cent) and retail (60 per cent), and in half of the organisations in the public services sector (55 per cent). Ten years later the share of companies with a density rate of more than 51 per cent halved in manufacturing industry (32 per cent) and public services (26 per cent). In retail/trade services, the

5. The assessment of collective bargaining coverage in the private sector was based on a survey of the number of employees in industries with existing collective agreements. All persons with employment contracts (permanent, full-time or part-time, and fixed-term) are included. The coverage of this population in the private sector is around 80 per cent. Among the self-employed, excluding farmers, who make up 8.6 per cent of all employees and are not covered by collective agreements, the coverage of the entire employed population in the private sector is estimated at around 70–75 per cent.

Table 26.2 Share of workers covered by collective agreements, 2016

	Number of employees covered	Persons in employment	Share of employees covered
Public sector: general government	165,258	165,258	100%
Private sector and public companies	478,297	651,951	73%
All employees	643,555	817,209	79%

Note: The collective agreements apply to public companies as well - in line with the scope of the collective agreements.
Sources: SURS (2016), collective agreements and authors' calculations.

decline was the most drastic, to 17 per cent. In this industry, the share of non-unionised companies was 10 per cent in 2004 and tripled ten years later to 31 per cent, which is the greatest change and the highest share among all industries (CRANET 2004, 2014). The data illustrate that the biggest decline in density took place in industries with high shares of precarious employment, such as retail/trade services and has been less intensive in manufacturing industry and the public sector. Nevertheless, the decline in bargaining coverage is not strongly linked to the decrease in union density, as the contraction of coverage has been substantially less intensive due to the extension of collective agreements. The interplay of the high coverage and decline in union density, however, has gradually changed the dynamics and the quality of collective bargaining. The systematic fall in density is related to the shrinking mobilisation power of the unions, which has brought about substantive changes in collective agreements and even the conclusion of extra 'slim' agreements, for instance in private security in 2016. There are also cases in which, after a collective agreement expires, a new one is not concluded because the employers are not interested. This is what happened with the collective agreement for the chemical and rubber industry, in which, currently, company collective agreements for large and medium sized companies remain in force. Because companies in this industry generally perform above average, the standards the employers seek to enforce for the entire industry are too low and unacceptable for the unions. Because no party is willing to yield in the bargaining, a collective agreement has not been concluded.

Even before the adoption of the ZKoliP, the collective agreements at industrial and national level were regulated, so that they applied to all employers in the sector. In 2006, with the implementation of the ZKoliP, extension of collective agreements was introduced. This was the key mechanism used in light of the changed framework conditions after 2004 in order to retain a high level of bargaining coverage. Furthermore, collective agreements at the industry level are valid for the signatory parties of the collective agreement and their members. If a collective agreement is concluded by representative unions and associations of employers that employ more than half the workers in the industry they represent, then the Ministry of Labour can, on the initiative of one of the contracting parties, decide whether the collective agreement should be extended to all employers in one or several industries (Kresal Šoltes 2011: 261). If an individual employer is bound by several agreements of the same kind and level, then those provisions that are more favourable to the worker apply (Konjar and Poje 2008).

The extension of a collective agreement ends when the agreement is terminated but it can also be terminated on the proposal of one of the parties.

Of the 26 industry-level collective agreements that existed in 2016 in the Slovenian private sector 14 have been extended. Extended validity applies also to all agreements in the public sector, due to the ZSPJS and based upon the definitions in industry-level collective agreements. In the private sector, extended collective agreements include, for instance, the three already mentioned collective agreements for the metallurgy and electrical industry and an agreement for Slovenia's trade sector. In the first case, where union density is above average, and the union is well organised, the industry-level agreement is regularly renewed and, as a rule, maintains or improves the standards of the agreement, or both. In the trade sector, density is relatively low due to the high share of precarious employment. Despite this, in view of the current state of representativeness, the bargaining actors can conclude, and regularly renew, collective agreements, which are then extended to the whole industry.

According to the ZKoliP, a collective agreement can be valid for a fixed or an undefined period. Thus, for example, the Collective Agreement for Slovenia's Trade Sector of 2014 had a fixed end date of 31 December 2016. At the end of 2016, it was prolonged until December 2018. The Collective Agreement for the Metal Products and Foundry Industry of 2006 and the Collective Agreement for the Slovenian Metal Industry of 2015, however, are both open-ended. In both cases, the parties meet annually to check the adequacy of the agreements' provisions. The Collective Agreement for the Education Sector, which was concluded back in 1994, also has unlimited validity. Furthermore, to prevent adverse consequences and ensure the predictability and security of employment relationships, the ZKoliP also ensures that a collective agreement remains effective for a maximum of one year after it expires until a new one is concluded, unless otherwise agreed by the bargaining parties (Kresal Šoltes 2011: 240–41). The normative, substantive part of an agreement also continues to apply when a signatory disaffiliates from the association, but only for one year at most. During this period, the standards established by the normative part of the old agreement are used as a minimum that is enforced in all employment contracts, including new ones concluded in that period. Thus, for example, the Collective Agreement for Slovenia's Trade Sector specifies that, during such an interim period, but for one year at most, the standards of the old collective agreement shall apply. Similarly, the Collective Agreement for the Metal Products and Foundry Industry, as well as the Collective Agreement for the Slovenian Metal Industry specify that, after expiration, the standards (provisions of the normative part) shall be used for six months. If a collective agreement at the industry level is terminated, the agreements at the company level remain valid and provide the key elements for the calculation of wages and other forms of remuneration.

Security of bargaining

In Slovenia, security of bargaining, in the sense of support for unions to participate in the regulation of the employment relationship, depends on two main factors: their involvement in the tripartite ESS at the macro-political level and the legal provisions on

fundamental union rights that support their role in collective bargaining, such as the right to strike. Thus before laws are discussed and adopted in the National Assembly, they are dealt with by the social partners in the ESS. The ESS provides the institutional framework for the unions' involvement in the legislative process related to workers' social and economic rights. In the ESS workers are represented by the union confederations, the employers by the GZS and other employers' associations. Examples of important pieces of legislation based on direct tripartite negotiations in the ESS include the ZDR-1, the ZKolP, and the law on pension and disability insurance (Zakon o pokojninskem in invalidskem zavarovanju, ZPIZ). New procedural rules defining the functioning of the ESS were adopted in 2017, with the aim of further improving its functioning.

The second important source of bargaining security is the right to strike enshrined in the Constitution; it can be restricted by law in especially justified cases, but only if the public interest so requires (Kresal Šoltes 2011: 152). According to this constitutional guarantee, the possibility of restricting the right to strike is settled by collective agreements. As the ZKolP stipulates that collective bargaining negotiations are voluntary, the Constitution also provides unions with the right to freedom of association and with the right to strike, which is a precondition for the power to urge the employers to mutually define a set of issues that are relevant for workers' economic and social situation. More specific regulations on strike action and similar collective actions are laid down in the Strike Act (Zakon o stavki, ZStk), which was adopted by the federal parliament in the late 1980s and which is therefore the only law stemming from the former Yugoslavia that is still in force in Slovenia. The Act requires unions, or other groups of workers acting on behalf of the workers' interest, to announce a strike at least five days in advance by submitting a written strike decision, stating the demands, the starting date, the place of the strike and information on the formation of the strike committee. This obligation is regulated slightly differently for public sector employees, who must inform the employer ten days before the start of the strike. In organisations that perform activities of special public importance and are highly significant for military defence, the right to strike is restricted by conditions regulated by law or decree; a legal ban on strikes applies to the army. Thus, a minimum level of operation must be respected with the aim of ensuring the security of people and property, people's lives should not be endangered or the state's operation jeopardised. The strike decision and a statement on how the minimum level of work will be ensured must be prepared and submitted.

Labour law sources in the Slovenian legislation also include one-sided general acts of an employer, which cannot infringe on the constitutionally recognised autonomy of collective bargaining (Kresal Šoltes 2011). The ZDR-1 states that, prior to adopting proposals for general acts in which the employer seeks to prescribe the organisation of work or workers' responsibilities the employer must submit the proposals to the unions to obtain their opinion. If no union is organised at the employer, the employer's general act may prescribe rights that, pursuant to ZDR-1, may be regulated in collective agreements. Finally, another important element adding to union security is the minimum wage, which was introduced in 1995. The minimum wage is defined as monthly pay for full-time work and applies to all employees; part-time workers receive a proportionate share. The minimum wage is adjusted each January at least for the inflation of the previous year and determined by the Minister for Labour after

prior consultation with the social partners. The Labour Inspectorate supervises its implementation in practice.

Depth of bargaining

The processes and practices of collective bargaining are affected by the findings of analyses that show how the existing agreements are being implemented, where deviations from what was agreed occur, what are the impacts on the rights of employees and what new problems are being encountered. For instance, within ZSSS, the formulation of requests concerning content that should be included in industry-level collective agreements are based on the findings of ZSSS professional services. The demands regarding wages are based on comparative analysis and calculations concerning wage increases in line with inflation and the productivity growth of individual industries. The findings and proposals are discussed with the authorised representatives of its affiliated unions, namely with officials and union representatives from companies involved in negotiations. Based on this discussion, positions and demands are prepared for the negotiations.

To illustrate this, before negotiating the changes in the collective agreement for the commerce (retail) sector in 2017, the professional services in cooperation with the union representatives and regional organisations monitored and analysed the problems that occurred with individual employers. Prior to the negotiations, also the economic data on business performance, employment, wages and data on working time violations were analysed. Case law important for the collective agreement was also studied. Based on this information, a meeting of the union representatives, a narrower group, was convened, at which problems were discussed and proposals for amending the collective agreement were formulated. On this basis, the unions' legal and economic experts prepared a proposal for amendments to the collective agreement and wage increase. This proposal was approved by members of the national committee and forwarded to the employers. The employers' organisations discussed the proposal and within 30 days gave a response and named authorised negotiators. There were several bargaining rounds and after six months the wage increase, as well as a new higher payment for unfavourable working time, such as Sundays and public holidays, were agreed. Individual phases of the negotiating process are similar in other union organisations, as well in the employers' associations. After the negotiations, the industry-level agreement is signed by both parties, sent to the Ministry of Labour to be entered into the register and published in the Official Gazette of the Republic of Slovenia. The negotiations for concluding a collective agreement at any level are one of the permanent and repeated activities of the social partners in Slovenia.

Degree of control

Degree of control refers, first, to the extent to which collective agreements set the actual terms and conditions of employment and, second, to the different mechanisms of controlling and monitoring the implementation of collective agreements. In Slovenia, the favourability principle ensures a high degree of control, as collective agreements

at the industry level define minimum rights and standards for the whole industry and these standards, in principle, cannot be worse than the standards defined by law. The degree of control differs between sectors and industries. In certain industries, the social partners regularly discuss problems and analyse the implementation of the collective agreement. There is no 'systematic checking' of the implementation of agreements, apart from court proceedings. In addition, their implementation is enforced through legal proceedings, through individual and collective labour disputes. Exceptions to the favourability principle are possible only in very limited circumstances defined by law. Previous ZDRs, for instance, only allowed for limited derogations of collective agreements from legal standards in specific areas, such as the notice period for small employers. However, the new ZDR-1 of 2013 has broadened such possibilities. For example, an analysis of collective agreements regarding work–life balance showed that, in most agreements, overtime work and the redistribution of working time are regulated as laid down by the law or worse (Kresal Šoltes and Kresal 2015). Hence, passage of the ZDR-1 meant that agreements provide fewer rights than before, or in the words of a union representative: 'Everything the law allows as an exception is used as a rule' (cited in Bembič and Stanojević 2016).

The increased possibility for downward derogations of collective agreements from statutory rights has decreased the degree of control, as more and more agreements make use of this possibility. Still, according to the ZDR-1, the use of this possibility is limited and made conditional on the existence of a representative union within the company. Thus, without a representative union, derogating from the minimum standards is not possible. The Collective Agreement for the Metal Products and Foundry Industry, for instance, defines the conditions under which derogations are allowed and specifies the duration of such measures. The agreement enables representative unions and employers to conclude a written agreement on derogating from the minimum standards stipulated by the collective agreement in the case of substantially poorer performance of the company or a recession in the industry, or both. The term of this agreement may not exceed six months.

Furthermore, the fulfilment of rights provided by law or collective agreement may be ensured through mediation, arbitration or judicial proceedings. Most collective agreements define the process of peaceful settlement of disputes, individual and collective labour disputes and arbitration proceedings. Disputes are typically settled before the courts, which are overburdened, and court proceedings are long. There are only occasional cases of disputes being mediated before court proceedings are initiated. Usually, the court procedure associated with mediation is encountered, meaning that the court first offers a peaceful solution to the clients. If this is not accepted the court proceeds. Mediation in disputes or disagreement before the commencement of court proceedings is still rare, not because they are limited, but because they are difficult to implement due to mistrust between the parties before the opening of court proceedings. Finally, the labour inspectorate supervises the implementation of laws, other regulations, collective agreements, general acts, wage and other elements of pay, the minimum wage, strikes and safety at work. The trade unions warn of irregularities and are focused on improving the effectiveness of the labour inspectorate.

Scope of agreements

According to Slovenian legislation, collective agreements are uniform: they contain an obligational or procedural and a normative or substantive part (ZKoliP 2006). The first part regulates the rights and obligations of the contracting parties. The normative or substantive part of the agreement regulates remuneration for work and all other personal remuneration and the reimbursement of costs related to work; it includes provisions on the rights and obligations of workers and employers when concluding employment contracts, for the duration of the employment relationship and concerning termination of the employment contract; on health and safety at work or other rights or obligations arising from relationships between employers and workers; and on ensuring the conditions for union activities.

A special subject of collective bargaining is the coordination of professional and family life. Very often, collective agreements provide measures to make it easier to balance work and family obligations: they provide the possibility of working from home, a restriction on posting workers to another town, additional days of annual leave and absence from work due to family obligations and the like. All these measures are traditionally regulated by collective agreements. They lack measures that would facilitate care for elderly family members, measures for gender balance, for example, measures encouraging the appointment of women to managerial positions and so on. A new trend in the scope of agreements in the private sector in the past decade is a marked increase in wage flexibility and differentiation. In 2006, a new payment system was implemented in the private sector. In this model, the fixed component of payment or the basic wage was low, as before, while the higher, variable component of the wage was, due to the indeterminate reward systems, often non-transparent and exposed to excessively arbitrary decision-making by company management. Within this basic trend, with its emphasis on the variable component of the wage, collective agreements at the industry level started to provide different definitions of the minimum basic wage, worker performance and adjustment of the lowest, basic wages (Poje 2016: 476, 480–81). Not only are there different payment systems in different industries, but they also differ among companies operating in the same industry.

Further complications in the way this differentiated payment model functioned emerged after the new Minimum Wage Act (*Zakon o minimalni plači, ZMinP*) was adopted in 2010. The act raised the minimum wage by 23 per cent, from €597 to €734 gross, to approximately 60 per cent of the median wage. Regarding the levels of the lowest basic wages, however, which are supposed to represent the lowest price of labour in individual groups on the payment scale, it occurs that in six out of the nine tariff groups on this scale the payments are set at a level below the statutory minimum wage (Poje 2016).⁶ While paid wages show a different picture, it is precisely the level of the lowest price of labour, which for two-thirds of the tariffs is less than the minimum wage, that makes the system non-transparent and also fosters its abuses.

6. A minimum wage is set for full-time work and does not include allowances for night work, Sunday work, work on public holidays and overtime work.

Conclusions

In the period before entering the EU, highly centralised collective bargaining was the key instrument for enforcing a wage-restraint policy in Slovenia. In the 1990s, this policy was the main subject of the macro-political exchanges between the social partners within the then system of 'competitive neo-corporatism' (Rhodes 1997). Once Slovenia became a member of the EU and the euro zone, the gradual transformation of its collective bargaining system was marked by diverging trends in the private and public sectors. Bargaining in the private sector began to gradually decentralise: it generally takes place at industry level. In the public sector, the high level of centralisation was maintained and additionally protected by law. In 2008, right before the outbreak of the crisis, a single payment system was established in that sector. Collective bargaining for the entire public sector can only occur within the parameters of this system.

After joining the EU and the euro zone, the bargaining coverage rate decreased from almost 100 per cent to 79 per cent because of two diverging processes. On one hand, the change in the status of the GZS and the corresponding declining in chamber membership entailed a contraction of the coverage rate. In addition to that, in the same period, the unions also began to lose members. Due to these changes, a decline of the coverage rate was almost unavoidable. On the other hand, the introduction of the extension mechanism had a countervailing impact. When introduced, it started to operate as a functional substitute of the previous system. Accordingly, the big contextual changes, combined with the decreasing membership of the employers' and employees' organisations, have had a largely moderate effect on the collective agreement coverage rate.

Before the 2008 crisis, the legal regulation of collective bargaining allowed the possibility of limited derogation from the favourability principle. After the crisis, the legislation broadened these possibilities. In a system that is formally precisely regulated and chiefly based on the favourability principle, this has resulted in cracks enabling the increasing flexibilisation of wages, working time and employment regimes. Slovenian companies are using the delineated flexibility of the bargaining system, with its possibility of lowering standards, to help them compete in the market. Within the formally well set-up and uniform system, and considering unions' declining power, they can achieve more flexible labour and employment relationships. The problem is that, in doing so, they are thus also deconstructing the principle of the uniform regulation of employment relationships.

The relatively steep de-unionisation and the decline in the unions' power has been an important factor in 'loosening' the regulative capacity of the collective bargaining system in Slovenia. In other words, in the conditions of the union's falling bargaining power, the possibility of derogating from the favourability principle is tending to change into the ever-stronger practice of concession bargaining. Therefore, the continuing trend of de-unionisation could at some point cause a qualitative transformation of the fundamental functions of collective bargaining. If the weakening of unions continues and if the current conditions for obtaining the status of representativeness remain in force, a decline in the collective agreement coverage rate is also inevitable. Consequently,

the area of concession bargaining and the establishment of collective bargaining as a mechanism for legitimizing the systematic lowering of labour standards will expand. If union decline develops further, a change in the regime of representativeness cannot essentially affect this result. Lowering the conditions of representativeness can only influence the formal preservation of a high degree of coverage of collective bargaining within which weak unions will play a subordinate, marginal role; the tightening of the conditions of representativeness would limit collective agreement coverage only to narrow groups of employees. In both cases, the regulatory capacity of collective bargaining seen thus far would disappear.

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Zakon o urejanju trga dela (ZUTD), Uradni list RS, št. 80/10.

All links were checked on 5 April 2018.

Abbreviations

ESS	Ekonomsko-socialni svet (Economic and Social Council)
GZS	Gospodarska zbornica Slovenije (Chamber of Commerce and Industry of Slovenia)
KSJS	Konfederacija sindikatov javnega sektorja Slovenije (Confederation of Public Sector Trade Unions of Slovenia)
KSS Pergam	Konfederacija sindikatov Slovenije Pergam (Confederation of Trade Unions of Slovenia, Pergam)
SKEI	Sindikar kovinske in elektroindustrije Slovenije (Trade Union of Metal and Electrical Workers of Slovenia)
SVIZ	Sindikar vzgoje, izobraževanja, znanosti in kulture Slovenije (Education, Science and Culture Trade Union of Slovenia)
TZS	Trgovinska zbornica Slovenije (Slovenian Chamber of Commerce)
ZDR	Zakon o delovnih razmerjih (Employment Relationship Act)
ZDS	Združenje delodajalcev Slovenije (Association of Employers of Slovenia)
ZKoIP	Zakon o kolektivnih pogodbah (Collective Agreements Act)
ZMinP	Zakon o minimalni plači (Minimum Wage Act)
ZPIZ	Zakon o pokojninskem in invalidskem zavarovanju (Pension and Disability Insurance Act)
ZRSin	Zakon o reprezentativnosti sindikatov (Representativeness of Trade Unions Act)
ZSPJS	Zakon o sistemu plač v javnem sektorju (Public Sector Salary System Act)
ZSSS	Zveza svobodnih sindikatov Slovenije (Association of Free Trade Unions of Slovenia)
ZStk	Zakon o stavki (Strike Act)
ZTPDR	Zakon o temeljnih pravicah iz delovnega razmerja (Basic Rights Stemming from Employment Act)
ZUTD	Zakon o urejanju trga dela (Labour Market Regulation Act)