

# Chapter 12

## Outsourcing and collective bargaining in the recent crisis: implications for employment in multinationals

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### 1. Introduction

The chapter investigates the effects of crisis-related collective bargaining on different contractual groups in four subsidiaries of two multinationals (MNCs) in Germany and Belgium. Several studies have highlighted how collective bargaining played a major role in the recent economic and financial crisis in safeguarding jobs (Glassner and Keune 2010). However, little attention has been paid to its effects on different groups of workers, although different approaches towards different contractual groups of workers may be expected within the context of increasing labour market fragmentation (Holst 2014).

We use the term ‘crisis-related collective bargaining’ to emphasize that local negotiations on flexibility and security for different groups of workers were held in economically difficult situations, with both bargaining parties under pressure. ‘Concessions’ on pay and working conditions reflected the desperate attempt of local unions to save jobs in response to MNC ‘social dumping’ and benchmarking strategies (Pulignano 2015). However, as the European Trade Union Confederation (ETUC 2010:3) stated, ‘concession bargaining risks to cause a renewed increase in inequalities’. Hence, it is crucial to understand the social processes entailing these workplace inequalities. This involves studying the effects (rather than just the causes) of crisis-related collective bargaining on different contractual groups of workers (temporary and permanent workers) and comparing them within and across countries. The study uses both company-level factors (for example, skills and such company-contextual features as technology) and country-/European-level structural factors

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1. This is a jointly written chapter and both authors equally contributed to it; names are in alphabetical order.

(for example, national collective bargaining and framework agreements at EU level) as variables explaining the effects of crisis-related bargaining for different groups of workers.

The chapter uses in-depth comparative case study analyses of four subsidiaries of two multinational companies (MNCs) operating in the metal sector in Belgium and Germany,<sup>2</sup> looking at the period from when the crisis hit the plants until their economic recovery. We explicitly examine crisis-related collective bargaining and its outcomes for different contractual groups of workers. Comparing companies in two countries is informative, since we can investigate whether the crisis produced similar or different effect within and/or across countries. Furthermore, it enables us to assess whether and to what extent a country's institutional system mediates crisis effects. Comparing Germany and Belgium is interesting, since both countries feature different union traditions and systems of workplace representation despite their coordinated nature.

Drawing on a rigorous comparison of four MNC subsidiaries in Belgium and Germany, the study offers two contributions. Firstly, it contributes to the debate on understanding how workplace inequalities are produced. In particular, it argues that inequalities are the product of social imbalances and examines the conditions (i.e. a more or less encompassing collective bargaining system, the presence or absence of European Framework Agreements, the high or low skill level of the workforce) under which those imbalances occur. In so doing, the chapter adds to the literature debates which see workplace inequality either as imposed unilaterally by management or as the effect of unions focusing on their core membership. Secondly, and more specifically, by looking at the aforementioned conditions under which crisis-related collective bargaining leads to more positive or less positive outcomes for different groups of workers, the chapter contributes to providing relevant policy-related insights specifically for trade unions.

The chapter is structured as follows. We start by examining the role of collective bargaining during the crisis, before moving on to compare the

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**2.** The data was collected between autumn 2011 and autumn 2012. The analysis is based on 25 semi-structured interviews with strategic and operational HR managers and works councilors and trade unionists (at workplace- and sector-level). Moreover, documentary material such as company-level agreements, annual reports or relevant newspaper articles complemented the primary data collected.

relevant crisis-related measures adopted in Germany and Belgium at different levels. Having explained research design and methodology, we present the empirical findings and engage in a comparative analysis.

## 2. Collective bargaining in the recent crisis

In the context of the US recession in the 1980s concession bargaining described a company's strategy to cope with structural changes in the economy - the result of intensified international competition, a growing pace of technical progress and cost pressures (McKersie and Cappelli 1982). In exchange for such concessions, US unions could push for more security in several cases, for example through no-layoff policies or income protection schemes (Cappelli 1985). In this respect, concession bargaining was considered as a way to exchange labour cost moderation for improvements in job security in economically difficult times.

Likewise, the recent crisis has not left the collective bargaining landscape untouched. In the initial crisis years, workers and employers in the private sector often tried to jointly cushion its effects in a way that allowed increased security for both. When the long-term character of the crisis became clear, more extensive measures were required to safeguard employment (Eurofound 2012). Workplace actors, for instance, bargained on wage reductions or freezes, cutting back benefits, or paying lower starting wages (Carley and Marginson 2011). When the effects of the crisis got harsher and unemployment rose, employers found it easier to impose higher flexibility, while unions were able in some cases to negotiate employment guarantees in exchange (Marginson *et al.* 2014).

Concession bargaining has important implications for company-level employment relations. Firstly, by linking labour costs to job security, concession bargaining puts pressure on workers and contributes to undermining wages and working conditions by enabling deviations from higher-level agreements through bargaining decentralization. Marginson (2014) sees accelerated bargaining decentralization as one of the main outcomes of the recent crisis. Secondly, by implying a trade-off between flexibility and job security, it links company-level bargaining to a company's economic situation. This creates a dilemma for unions because they need to choose between safeguarding employment or maintaining wage levels and benefits and thereby running the risk of the plant being closed (Pulignano *et al.* 2013).

Although a lot is known about collective bargaining in crisis times, the effects produced for different groups of workers have hardly been investigated. Labour markets have changed from a system of formerly strong internal labour markets protecting core employees towards a more fragmented system in which employment regulatory institutions have become weaker and organizations utilize the wide range of available contractual arrangements (Grimshaw and Rubery 1998). Following Grimshaw *et al.* (2001:29), ‘deregulation has allowed managers, even within a single organization, to consider and adopt different employment policies and practices as *solutions* for different groups of workers’. Hence, we can expect that workplace-level actors engaged in bargaining in crisis times may use different approaches for different groups of workers, with different effects on their jobs and working conditions.

### **3. Anti-crisis measures adopted in Germany and Belgium**

Various collectively bargained measures cushioning the social effects of the crisis were available at workplace level in Belgium and Germany, two countries characterized by multi-employer bargaining systems. However, differences regarding the linkage between sector and company levels can be observed (Marginson and Galetto 2014). Because of the limited use of opening clauses and the restricted capacity for company-level deviations countries characterized by ‘delegation’ (Belgium) could react to the crisis in a way preserving the encompassing nature of the bargaining institutions, and thereby better able to resist downward pressure on wages and working conditions. By contrast, in countries featuring ‘derogation’ (Germany) from sector-level provisions through opening clauses, it was more difficult to counteract employer pressure for collective bargaining decentralization and for wage moderation and more flexible working conditions (Glassner and Keune 2012). This difference is reflected in the specific way collective bargaining was used in both Germany and Belgium as a mechanism through which the state, trade unions and employers were able to mitigate the effects of the crisis at different levels.

Generally speaking, higher-level agreements defined the framework for further company-level negotiations. In Belgium, a two-year inter-sector agreement was concluded in December 2008, aimed at simultaneously balancing companies’ competitiveness, maintaining high levels

of employment and supporting workers' purchasing power (Eurofound 2009). It increased financial benefits for those in *temporary unemployment* and thus stabilized their income without increasing labour costs for companies. Moreover, many sectoral agreements specified modest wage increases (Glassner *et al.* 2011). In Germany, sector-level agreements were frequently further detailed at company level. Most importantly, previously guaranteed wage increases in sectoral agreements could be suspended at company level on crisis grounds, leading to wage moderation. Furthermore, a one-year employment guarantee for those *working short-time* was implemented in the metal sector (Glassner *et al.* 2011).

Different statutory measures were available to prevent mass layoffs. In Germany, *short-time working* (*Kurzarbeit*) can be used in the case of a substantial drop in production volumes, subject to management and works council agreement. Weekly working hours can be reduced to zero for a limited period for part of or the entire workforce. The intention of *short-time working* is thus to prevent layoffs and offer companies the possibility to retain workers with critical skills in crisis times. The workers concerned are paid for the hours worked in the company, while the German Federal Employment Agency pays 60/67 per cent (without/with children) of the difference between the normal and actual wage level. The mechanism can normally be used for six months, though this timeframe was extended several times during the crisis to safeguard employment over longer periods. Finally, *short-time working* did not apply to temporary agency workers prior to the crisis, but was temporarily introduced for them from February 2009 until the end of December 2010. The question of extending the scheme indefinitely to agency workers has since been under discussion in Germany.

In Belgium, statutory short-time work was introduced and could be applied after concluding company-level agreements independent of the sector. Moreover, *temporary unemployment* (*tijdelijke werkloosheid/chômage économique*) provisions were enhanced for companies in economic difficulties. Employment contracts can be partly or wholly suspended for limited periods, with the affected workers entitled to unemployment benefits paid by the National Employment Office (70/75 per cent of the last income without/with family). Before the crisis, *temporary unemployment* only applied to blue-collar workers, but the system was extended to white-collar employees in 2012. In addition, the system of *time credits* (*tijdskrediet/credit-temps*) allowing time-off (for

example, for further education or family life) was used to keep workers employed (Vandaele 2009; Eurofound 2009). Finally, in 2008, unions and employers agreed to extend *temporary unemployment* to workers on fixed-term and agency work contracts.

#### **4. Features of the investigated MNCs and their subsidiaries**

*Auto* is a US-American manufacturing MNC employing 130,000 staff (mainly low- to medium-skilled blue-collar workers). It uses a low level of technology to supply standardized components mainly to the automotive industry. Although *Auto* has a leading market position, it faces global competition and thus needs to be flexible and cost-competitive. Consequently, the use of different contractual arrangements has increased. The German plant uses its agency workforce mainly for simple production tasks, with agency and permanent workers working side by side. In the Belgian plant, fixed-term workers work mainly in production alongside the permanent workforce (see Table 1). *Auto* was particularly hit by the crisis in 2009 after all pre-crisis orders had been fulfilled, and the lack of new orders led to a declining work volume. The European and Northern American operations were most affected, while developing markets were hardly hit at all. Overall, *Auto* remained profitable during the crisis, though profits were unevenly distributed.

*Machine* is a European MNC active in power generation and transport with about 92,000 employees, half of whom are blue-collar and for the most part highly skilled. The investigated transport division develops and manufactures high-tech, customized products. Though these differ across sites, the workforces' skill profile is similar. Because of growing competition, internal adaptability had to be strengthened and labour costs reduced through contractual flexibility. *Machine* uses agency workers to perform relatively simple production-related tasks, and external contractors (mostly high-skilled engineers) are actively involved in product development and R&D (see Table 1). *Machine* entered the crisis in 2010 with order intake dropping by almost 40% in Europe and North America. Although its operations in emerging markets were profitable, substantial restructuring was carried out in Europe.

With both companies featuring different workforce skill levels related to the technology used, this allows us to assess the extent to which such

Table 1 Plant characteristics

	Auto Germany	Auto Belgium	Machine Germany	Machine Belgium
Country of origin	USA		Europe	
Total workforce	130,000		92,000	
Technology	Low technology		High technology	
Skill profile	Mainly low- to medium-skilled		Mostly high-skilled	
Employee representation	Works council, European Works Council (no EFAs in place)		Works council, European Works Council (EFA on training and mobility in place)	
Workforce	1,700	2,500	2,600	1,000
Blue-collar/ white-collar workers	850 / 850	1400 / 1100	1300 / 1300	150 / 850
Trade unions	IG Metall	ACV-CSC, ACLVB-CGSLB, ABVV-FGTB	IG Metall	ACV-CSC, ACLVB-CGSLB, ABVV-FGTB
Union density	80%	95%	75%	95%
Employment contracts in the plant	75% permanent, 20% agency, 5% fixed-term	80% permanent, 20% fixed-term	80% permanent, 10% agency, 5% fixed-term, about 5% external contractors	80% permanent, 10% agency, 10% external consultants
Company-level agreements on contracts	20%-quota on temporary agency work	20%-quota on fixed-term work	10% fixed-term and 10% agency workers – in some departments extendable to 30%	20%-flexibility quota (fixed-term and agency workers)

company-level differences are reflected in the outcomes of crisis-related collective bargaining.

While both multinationals operate in the manufacturing sector and have a European Works Council (EWC), *Machine* is the only one to have a European Framework Agreement (EFA) on training and mobility practices, negotiated within the framework of transnational restructuring. The four plants feature high levels of unionization and use about 20% flexible labour, enabling comparisons across contractual groups. At *Auto*, the permanent and temporary staff worked side by side, performing the same tasks, while at *Machine* the two tended to be segmented. Hence,

the differences between the two companies – both of which were hit hard by the crisis – allow us to examine whether company-level factors played a role in the way *Auto* and *Machine* dealt with the crisis. For instance, high-tech companies like *Machine* may be more interested in skill retention and providing an attractive work environment even in times of crisis, since the specific skills of its workforce are not readily available on the labour market. By contrast, companies like *Auto* employing a predominantly low-skilled workforce may tend to lay off employees to cope with the short-term effects of the crisis because it is relatively easy for them to find new staff on the labour market when new orders come in.

## **5. Crisis-related collective bargaining and its effects on different groups of workers**

### 5.1 The case of Auto

*Auto*'s German plant had faced severe economic difficulties in 2004, and as a consequence several flexibility practices had been negotiated to help cope with the initial crisis phase. A working-time corridor of 28–42 hours depending on production volume was introduced based on the sector-level agreement provision that derogations from the 35-hour week were possible if management and the local works council agreed. Furthermore, there was a 20 per cent agency work quota to react more flexibly to changing volumes. As a result of these measures, *Auto*'s German plant was profitable. However the lack of incoming orders drastically decreased the workload in late 2010. Management and the works council immediately agreed to reduce weekly hours for all blue-collar and half of the white-collar staff to the negotiated minimum of 28 hours. However, three months later, the two parties had to negotiate further 'adjustment mechanisms' to counteract incurred losses. *Short-time working* – which allowed jobs and skills to be retained simultaneously – was implemented for permanent workers in most production-related and some administrative departments. As a consequence, the workers concerned faced income losses since unemployment insurance only provided partial compensation. Furthermore, management sent almost all agency workers back to their agency and did not renew fixed-term contracts because of the lack of work. They were able to take this decision without the works council, since the latter only has codetermination rights when temporary workers are hired, not when they leave. Thus, the works council could not formally intervene.

‘The situation in the crisis was indeed difficult. Apart from our ordinary employees, we had also 500 temporary workers – agency and fixed-term – about 350 in production. Only few of them were kept on since their skills were required. The others were made redundant.’ (Works councillor, *Auto Germany*)

Hence, temporary workers – the first to leave – were instrumental in safeguarding the core workforce’s jobs. Only the few agency workers with critical skills remained in the plant’s workforce, though they were still employed via agencies and thus remained in a vulnerable position.

*Auto’s* Belgian plant had to cope with a 70 per cent decline in production volume in 2009. Management wanted to react immediately through *temporary unemployment* for almost all permanently employed blue-collar workers. However, as temporarily suspending these workers’ contracts would have meant a loss of income, the unions refused to give their necessary consent.

‘We cannot accept our company demanding workers to make concessions with regard to their wages when they are doing okay overall – that’s impossible, that’s not conceivable.’ (Unionist, *Auto Belgium*)

The unions demanded that the wages of the workers concerned be topped up so as not to incur any financial penalty through *temporary unemployment* and asked for a training budget to use the ‘time-off’ to invest in the workforce’s skills. Management – in need of the union’s consent – quickly agreed. As a result, the unemployment insurance paid most of the wages of those concerned, with *Auto* topping them up to maintain initial levels. Additionally, various training courses were offered, giving the permanent workforce the possibility to upgrade skills. Thus, the permanent workforce’s working conditions remained stable in the initial crisis phase. Management also intended not to renew any fixed-term contracts to react to the declining workload and rising cost pressure. However, a workplace-level agreement on ‘employment paths’ for temporary workers negotiated between management and the unions ruled that fixed-term contracts were the mode of entering the company and were to be upgraded to permanent contracts after one/three years (white-collar/blue-collar workers). The agreement could be temporarily suspended under special circumstances, but the unions refused to accept the immediate interruption of its application. As a result, management and unions reached a compromised, with those 40 employees who had been there

long enough receiving a permanent contract and thus becoming part of the core workforce. The other fixed-term workers, however, had to leave when their contracts expired and were thus the first victims of the crisis.

‘We lost 20% of our workers in the crisis. They were all on fixed-term contracts that were not extended. There was hope because *Auto* brought people back, but this didn’t last and today there is a hiring freeze.’ (Unionist, *Auto* Belgium)

These initial measures proved insufficient to cope with the scope of the continuing crisis. In Germany, additional measures were negotiated in mid-2011, while *short-time working* was still in place. Management demanded concessions from the workforce to safeguard the plant, and the works council – under pressure from management, fearing the loss of jobs as in the 2004 crisis and lacking the security offered by a strong sector-level agreement – felt it had to give in to safeguard jobs. Agreements were thus concluded in three areas. Firstly, internal mobility was fostered by redeploying employees in other departments. For instance, production workers with computer skills were sent to administrative units to give support there. Likewise, management established cooperation agreements with other companies in the region to send its staff there for some time. This ‘leasing’ measure was encouraged by the sectoral agreement, but its success was limited since the whole region was affected by the crisis. Generally, the higher internal mobility decreased employees’ level of discretion regarding their job content as they could be moved from one position to another based on company needs. Secondly, working time for production workers became more flexible. The shift system for instance became directly linked to production volumes and could thus change within days. This also meant that workers had to cope with more weekend and night work in times of high workloads, leading to a decreased level of employee control over their working time. Finally, an extensive early retirement scheme offered workers the possibility of leaving the company at the age of 55 on relatively favourable conditions, granting financial stability to those leaving. This put pressure on the older core workers, though only 5% of them left. In sum, the works council agreed to higher levels of flexibility and conceded on working conditions to safeguard the core workforce’s jobs.

In Belgium, problems were caused because *temporary unemployment* provided protection exclusively to blue-collar workers. Hence, solutions to overcome the absence of a protective scheme for white-collar staff

had to be found. In mid-2009, management and unions jointly decided to encourage white-collar workers to use their *time credit* (as recommended by the state), a scheme available under Belgian law. Employees can reduce working hours, and the state pays an allowance to partially compensate for the loss of salary. To encourage uptake, unions demanded that an additional allowance be paid to partly close the income gap. Management – in need of the unions’ support to promote the uptake of *time credit* – agreed. Many white-collar workers took *time credit*, as it allowed them to take time off without big cuts to their salary. Finally, internal mobility was strengthened, meaning that employees could be temporarily moved to other departments when they had the appropriate skills. This was also viewed as on-the-job training and thus as a way of multi-skilling the workforce. Compared to the German plant, the crisis measures adopted in Belgium were less drastic, since unions successfully worked to safeguard the permanent workforce’s jobs and working conditions.

Altogether, the aforementioned measures helped *Auto* to overcome the crisis. The German plant’s situation improved as new orders increased in early 2013, leading to the termination of *short-time working*. The ability to use the scheme for 24 months helped to substantially limit the plant’s losses and thus prevented plant closures or forced redundancies.

‘Flexibility is certainly a crucial factor for the survival of the plant. An agency work level of 15-20% seems to be necessary for the well-being of the company and the permanent staff. Of course it is the agency workers who suffer from that situation. In the end I think that both the instruments of our government and the ones that we agreed on were crucial for securing jobs.’ (Works councillor, *Auto* Germany)

The Belgian plant recovered faster, since new orders came in a year after the onset of the crisis. This ended *temporary unemployment*, but revealed an immediate lack of staff, meaning that the company had to seek to rehire workers whose contracts had expired.

‘In 2009, we terminated hundreds of temporary contracts, month after month, but in 2010, business increased very sharply, and we needed staff. We managed to hire back less than 300 people – 300 temporary contracts that we had just terminated.’ (HR Manager, *Auto* Belgium)

## 5.2 The case of Machine

*Machine's* German plant entered the crisis in 2010, when order volumes plummeted. Management sent half of the plant's agency workers back to their agencies, and the remaining half left within weeks. Hence, they were the first to be affected by the crisis. Those agency workers were low- to medium-skilled, performing auxiliary functions in production and administration. The works council – lacking codetermination rights on this issue – was informed, but not consulted. From a management perspective, letting agency workers leave was an easy way to rapidly reduce costs. The works council could not formally oppose, but at the same time, letting them leave potentially assured the jobs of *Machine's* core workforce.

'In the crisis most works councils were quite happy that only agency workers were made redundant. There is nothing worse for a works council than for the core workforce to be targeted by management.' (Works councillor, *Machine* Germany)

In 2010, several large-scale orders were cancelled at *Machine* Belgium, leading to a drop in workload. Compared to the more production-oriented German plant, the Belgian branch was focused on research and product development, i.e. with a smaller share of production activity (mostly prototyping) and a lower number of (medium- to high-skilled) blue-collar workers, mostly hired via work agencies. As in Germany, management wanted to reduce its agency workforce, but there were workers with critical skills among them. Hence, management offered permanent contracts to those ten high-skilled agency workers, while the other medium-skilled ones had to leave. Unions were not in favour of this, but could not formally intervene due to the absence of a corresponding company-level agreement. Thus, agency workers were the first ones to leave due to the crisis.

'When things got bad, the company told us 'we have to dismiss people'. And the first ones to be dismissed are those on temporary contracts. Most temps haven't got any career perspective at all here. This workforce is there when needed. If not needed, it's over.' (Works councillor, *Machine* Belgium)

These initial measures were insufficient to cope with the intensifying crisis. In Germany, management did not renew fixed-term contracts, and only a few of these workers – those with scarce skills – were offered

permanent contracts. The works council did not have to be consulted because of the absence of co-determination rights in this respect. Terminating the contracts of external contractors, however, was not considered an option by management even though these high-skilled engineers were relatively costly. Similar to agency workers, they were not directly hired by *Machine*, and therefore, it would have been relatively easy to terminate their contracts. However, their skills distinguished them from the agency workforce. Meanwhile, the works council demanded employment guarantees for the plant's remaining workforce while management wanted something in exchange. This led to the two parties agreeing to use up hours in the staff's working-time accounts as a precondition to introduce *short-time working*. The consequence was that the core workforce had to sacrifice hours saved for instance to go on sabbatical or take early retirement, and to cope with a loss of income due to *short-time working*. Management also demanded greater internal mobility and the works council felt it had to consent in order to safeguard jobs. At that time, the work councils were able to use the European Framework Agreement (EFA), negotiated between *Machine's* European headquarters and the European Metalworkers' Federation (EMF) in 2010. Under it, workers were sent to other German or even foreign plants for short periods when their profiles fitted. Hence, the EFA made national best practices on mobility and training-related issues available for use at *Machine's* European subsidiaries. The EFA was used by the works council as an institutional resource during the crisis to promote job security in the German subsidiary (Pulignano 2014). Inter-plant mobility was voluntary, but employees were afraid of losing their jobs if they did not agree to it. Hence, functional flexibility and mobility were demanded from all employees, negatively impacting discretion on job content and work location.

'We have no problems with flexibility at all as long as the jobs of the employees are secure. We know that companies have to be able to react to developments on the markets.' (Works councillor, *Machine* Germany)

However, further headcount reductions were demanded by management to cut labour costs, leading to the negotiation of generous voluntary redundancy and early retirement schemes. More than 300 workers accepted the offers within six months. Since the plant was located in an economically strong region, the prospects of finding work again were good. Almost two years later, new orders came in and soon after, new agency workers were hired.

In Belgium, further measures to react to the declining workload had to be implemented. Using *temporary unemployment* was no option, as it only applied to blue-collar workers. As in Germany, management and unions decided to strengthen cross-border internal mobility in accordance with the previously negotiated EFA, sending employees to other plants in the neighbouring countries on short-term assignments, and thereby safeguarding jobs. This measure was considered as intercultural on-the-job-training, though it only applied to a specific group of employees with good language skills. Furthermore, the unions proposed using the *time credit* scheme as encouraged by the state, but management refused to grant extra financial incentives since companies cannot force employees to take it up. Management demanded a headcount reduction and the unions agreed based on the promise that it be done on a voluntary basis with generous severance payments, and most importantly that it stabilized the working conditions of the remaining workforce. Hence, those leaving the company enjoyed favourable conditions, while the remaining workforce did not experience any change in their working conditions. Furthermore, the classroom training budget for the lower-skilled workforce was cut and more emphasis put on on-the-job training. This hardly affected the permanent workforce, since low-skill tasks were mostly performed by agency workers. Finally, a few external contractors had to leave, though, as in Germany, the majority of the high-skilled and high-paid contractors were kept on since their skills were indispensable. When orders increased in 2012, the situation improved markedly and 100 agency workers were hired for the production department.

‘It has become common to have a “safety buffer”. As work decreases, we simply reduce our “extra” temporary staff. Of course, when the company fires someone, it doesn’t want to give severance payments, etc. It’s easy to fire a temp.’ (Works councillor, *Machine* Belgium)

## **6. What are the effects of crisis-related collective bargaining on different groups of workers?**

The interaction between institutional factors at national and European levels (i.e. collective bargaining and social dialogue structures) with company-level features (i.e. skill levels) explains the differences in the nature of crisis-related collective bargaining and its effects on contractual groups in different companies across and within countries. As

Table 2 The effects of crisis-related collective bargaining on different groups of workers

	Auto Germany	Auto Belgium	Machine Germany	Machine Belgium
Core workforce	Jobs protected; concessions on working-time flexibility and internal mobility; voluntary early retirement schemes	Jobs protected; working conditions almost untouched	Jobs protected; higher levels of internal mobility; voluntary redundancy and early retirement schemes	Jobs protected; working conditions almost untouched
Fixed-term workers	Contracts were not renewed	Most contracts were not renewed, but 40 workers got permanent contracts	Apart from few exceptions (skills), contracts were not renewed	–
Temporary agency workers	Had to leave	–	Had to leave	Those possessing critical skills got permanent contracts, the others had to leave
External contractors	–	–	Most of them were retained (skills)	Most of them were retained (skills)

illustrated in the previous section and in Table 2, temporary workers – who were already vulnerable before the crisis – were hit hard. The measures adopted to counteract the crisis in *Auto* and *Machine* point to safeguarding permanent workforces, using flexible staff as a buffer to achieve this. Our comparison of the two companies also reveals differences in both the nature and the outcomes of crisis-related collective bargaining. Specifically, *Auto* with its medium- to low-skilled workforce was characterised by more concession-oriented bargaining patterns while negotiations at *Machine*, employing predominantly high-skilled staff, were more consensus-driven.

In the initial crisis phase, the local Belgian unions succeeded in keeping on a number of temporary workers, who were given permanent contracts and became part of the core workforce, while the German works councils could only stand and watch as most temporary workers left, as they

only have co-determination rights when temporary workers are hired.<sup>3</sup> Cross-country differences persisted when the crisis endured. While jobs and working conditions were maintained for the permanent Belgian workforces, their German counterparts had to concede on working conditions to safeguard employment. Different collective bargaining structures in Belgium and Germany as well as the differences in institutional mechanisms used to retain jobs in crisis periods explain cross-national differences.

Although Germany and Belgium both feature multi-employer bargaining systems, Belgium is characterized by ‘delegation’, while the German system allows for ‘derogation’ (Marginson and Galetto 2014), i.e. enabling company-level deviations if foreseen in the sector-level agreement. Such ‘opening clauses’ exist regarding working time and wages in the German metalworking sector. The resulting high degree of discretion was used by local management at *Auto*’s and *Machine*’s German subsidiaries to push for concessions on working conditions to safeguard jobs. The works councils could not make use of the procedural security offered by binding sector-level agreements to oppose such concessions, and also lacked ‘local’ institutional resources linked to co-determination rights. The fact that these rights did not cover the dismissal of temporary workers made it impossible for works councils to formally oppose management decisions. Hence, they were in a defensive position, unable to keep on temporary workers and stabilize the permanent workforce’s working conditions. Conversely, since deviations from sectoral agreements are hardly possible in Belgium, employers had no leeway to undermine standards set at higher levels. Therefore, Belgian company-level management was limited in the practices they could adopt in comparison to Germany (Pulignano *et al.* 2013), i.e. the unions could use sector-level agreements as a power resource to protect the regular workforces’ jobs and working conditions.

Nevertheless, the findings also illustrate inter-company differences. For example, in contrast to *Auto*’s German plant where all temporary workers had to leave, a few fixed-term workers and nearly all external contractors were retained at *Machine* Germany. Similarly, in Belgium

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3. Works council rights to intervene may be strengthened in the future, since the 2012 metal sector agreement encourages them to negotiate on temporary agency work at workplace level. Further information: <http://www.igmetall.de/tarifabschluss-sichert-faire-leiharbeit-10140.htm>

the local unions at *Auto* leveraged their consent to temporary unemployment to enforce stable working conditions for the permanent workforce, demonstrating the more concession-driven bargaining pattern. The unions used an earlier negotiated agreement on ‘employments paths’ to negotiate concessions to save some temporary workers’ jobs. Such concessions were absent at *Machine*’s Belgian subsidiary.

Looking at *Machine*, the findings illustrate the importance of the linkage between national and European information and consultation structures in association with the conclusion of an EFA on mobility and training in situations of transnational restructuring in 2010 as a relevant factor explaining the empirical outcomes. The EMF played a crucial role in developing the transnational bargaining coordination and in ensuring communication between employee representatives and trade unions at *Machine*. In this way, the conditions for signing the EFA at sector level were created. Distinctive workplace-level agreements adopted during the crisis illustrate the EFA’s positive effects on local negotiation. In both countries, local employee representatives negotiated on internal mobility to keep workforce capacity in line with expected demand, relying on the transfer and rotation of expertise across different plants when production peaks occurred (Pulignano 2014). In short, none of the measures adopted at *Machine*’s subsidiaries were the outcome of concessions, but rather the result of management and employee representatives compromising to find consensus-based solutions balancing flexibility and employment security. However, we observed cross-national differences within *Machine*. In Belgium, the EFAs contributed to empowering local unions to negotiate on retaining a number of temporary workers and to safeguarding the core workforces’ jobs and working conditions because of the more encompassing collective bargaining system. By contrast, the German works councils suffered from bargaining decentralization and felt they had to agree to management requests to safeguard employment. Hence, a trade-off between retaining jobs and conceding on working conditions evolved as an outcome for the German permanent workforces overall, implying that the job stability of the core workforce and the instability of temporary workers were complementary, increasing the gap between these groups of staff (Hassel 2014).

The institutional system, including European and national employment regulation, defined the framework under which crisis-related collective bargaining took place, though the outcomes of such negotiations were also shaped by the interaction with company-level contexts. *Auto* and

*Machine* differed mainly in terms of workforce skill levels. The specificity of skills could be leveraged by unionists at *Machine*, helping to keep on some temporary workers in both countries and also entailing a consensus-driven bargaining pattern. Consensus was also stimulated by the linkage between European and national levels, leading to greater autonomy for local unions to work with management to shape flexibility in a way fostering long-term employment security for different groups of workers. This was different at *Auto*, where unions used local institutional resources where they existed (Belgium) to enforce a degree of protection for the workers via concessions. Overall, the replaceability of skills at *Auto* in contrast to the scarcity of skills at *Machine*, within a context characterized by European and national employment regulation, mediated the effects of crisis-related collective bargaining, explaining the different bargaining patterns observed in both companies and their effects on different groups of workers.

## 7. Conclusion

The study's main objective was to investigate the effects of crisis-related collective bargaining on different contractual groups of workers in MNC subsidiaries in Germany and Belgium. It identified the conditions under which crisis-related collective bargaining led to more positive or less positive outcomes for different groups of workers. We explain the observed diversity in outcomes by referring to differences in the extent of bargaining decentralization and company-level specificities. Specifically, differences in employment regulatory systems – and collective bargaining in particular (i.e. derogation vs. delegation) – and company-level differences related to workforce skill levels (i.e. low- vs. high-skilled) as well as aspects of MNC employment governance at transnational level (i.e. the existence of a European Framework Agreement) explain the observed outcomes. The aforementioned factors mediated the effects of crisis-related collective bargaining, with decentralized bargaining proving to be particularly problematic in Germany where company-level deviations from sector-level agreements limited union capacity to maintain working conditions.

When the crisis hit the plants, the initial reaction was to let temporary workers leave. While the German works councils lacked codetermination rights to prevent this, their Belgian counterparts were able to get a number of temporary workers given permanent contracts. As the crisis

persisted, the Belgian unions were able to stabilize both the jobs and the working conditions of the permanent workforces, while the German works councils conceded on working conditions to safeguard those workers' jobs. In Belgium, the encompassing multi-level bargaining system hardly allowed for company-level deviations, creating a favourable environment for unions to stabilize jobs and working conditions alike. In this context, *Auto's* unionists engaged in concession bargaining to keep on a number of temporary workers on the basis of a previously negotiated agreement that served as a power resource. As the crisis persisted, they were able to stabilize the core workforces' jobs and working conditions in exchange for them agreeing to temporary unemployment. Conversely, at *Machine*, both temporary workers with indispensable skills and highly-qualified external contractors were kept on. This confirms the argument at the core of dualization literature, claiming that the effects of liberalization are filtered by the skill level (Emmenegger *et al.* 2012). However, our study adds to this by illustrating how, under specific conditions, unions can mediate the effects of dualization for both skilled and unskilled workers. In particular, it demonstrates that unions and management at *Machine* consented to several measures in accordance with the previously negotiated EFA and without engaging in concession bargaining. Overall, within a framework respecting the existence of systems of employment governance at transnational level, skills mediated crisis-related collective bargaining, leading to a more consensus-oriented pattern at *Machine*. However, because of the progressive use of company-level deviations in Germany, power was shifted from the sector- to the company-level, resulting in a weakening of works councils. This had worse consequences at *Auto*, where all temporary workers had to leave, and works councils had to endorse concessions on the permanent workforce's working conditions to safeguard their jobs. Conversely, at *Machine's* German plant, the high skill level and the presence of the previously mentioned EFA mediated the effects of crisis-related collective bargaining, with several fixed-term workers and nearly all external contractors being kept on and with negotiations more consensus-driven.

Overall, the chapter has demonstrated that the effects of crisis-related collective bargaining on groups of workers differed. Generally, permanent workers in all investigated workplaces enjoyed a certain level of protection, while most temporary workers had to leave. Findings also demonstrate that negotiated practices are not simply a function of the regulatory context, but also depend on the skill level of the workforce as an important company-level contextual variable, together with the

degree of coordination between information-consultation at European and local level. The interaction between the regulatory context and company-level factors also explains the observed variation in crisis-related collective bargaining – concession-driven at *Auto* and consensus-driven at *Machine*. In other words, even in crisis times, negotiations do not necessarily have to result in concessions. The study emphasizes that there is scope for unions to avoid concessions under certain conditions, even in economically difficult times. At the same time, the findings show that concessions can contribute to producing poor working conditions for different groups of workers in the long run. Therefore, they might not be the best path for unions to follow.

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