

## CHAPTER 3: Industrial relations in Member States<sup>(1)</sup> receiving financial stability support

*Greece, Ireland, Portugal, Spain and Cyprus faced a severe debt and fiscal crisis, with weak economic growth and large increases in unemployment. All five countries implemented far-reaching reforms, including to industrial relations systems, but social dialogue did not always play a prominent role in the design and implementation of such reforms, and in many cases consensus proved elusive. With the goal of linking wages better to company-level productivity levels, measures have been taken that decentralised wage bargaining. The effect of the reforms on the quality of social dialogue will need to be carefully monitored.*

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### 3.1. Introduction

Starting in 2010, first Greece and then Ireland faced a severe debt and fiscal crisis. In 2011, the debt crisis spread to Portugal, with Spain's and Cyprus' financial sectors being affected in the course of 2012. While all these countries experienced weak economic growth and increasing unemployment, Ireland, Spain and Cyprus were also experiencing a banking crisis. To address these acute challenges, all five countries have implemented far reaching structural reforms and fiscal consolidation programmes. The rationale is to rein in the sources of debt and deficit, to restore stability in the banking sector and market confidence, and subsequently create the conditions for a return to growth and employment creation.

In Cyprus, Greece, Ireland and Portugal, governments were priced out of international bond markets and requested financial stability support to fund their public sector and to recapitalise financial institutions. These loans came with conditionalities, so that policy reforms were the subject of official agreements between governments and the EU/IMF<sup>(2)</sup>. Spain received a specific form

of temporary financial assistance from the European Stability Mechanism (ESM) to repair its financial sector, where the reforms implemented have been negotiated by the government and monitored by the European Commission in liaison with the ECB and the European Banking Authority (EBA). In addition, the IMF supported the implementation and monitoring of the programme with advice and regular reporting.

In these reform programmes, the details of which were decided by the Member States, the industrial relations system itself, or at least some of its elements, received specific attention. Reforming collective bargaining was seen as part of the solution to address external imbalances and achieve a recovery. Such reforms were a core element of what have been termed "internal devaluation strategies" and "employment friendly reforms" aimed at restoring national competitiveness. Regaining cost competitiveness is considered an essential prerequisite for achieving a sustainable economic and jobs recovery. The effect on national industrial relations institutions was significant: sectoral collective bargaining, tripartite cooperation mechanisms, wage setting institutions and rules

governing industrial conflict were all subject to reforms (Visser, 2013).

Collective bargaining coverage fell between 2008 and 2013 in Greece, Spain, Portugal and Ireland (see also chapter 1). In some cases the reforms accentuated long-term institutional changes in industrial relations systems, such as the decentralisation of collective bargaining to firm level. At the same time, some of the reforms directly resulted from crisis responses devised by the governments concerned, either through unilateral action or on the basis of agreed concrete measures to give some assurances to the international lenders, such as reducing the minimum wage, relaxing employment protection legislation and cutting (or freezing) wages and jobs in the public sector.

In the past years, social dialogue played a significantly less prominent role in the design of structural reforms and fiscal consolidation plans than it did during the first phase of the crisis (2008-2009). During the earlier period, crisis responses involved a significant amount of policy concertation between government and social partners, and often drew upon national tripartite institutions to achieve this (see Industrial Relations in Europe 2010; ILO, 2013a; Eurofound 2014b; chapter 1). In the later phase of the crisis, faced with the necessity to implement specific reforms very quickly in order to stabilise the fiscal and economic situation, there was little scope or time for consultation and consensus-building with national social partners. Though governments and the representatives of the international lenders aimed to consult social partners, this was not always the case, nor was it always possible, as shown by the findings in this chapter.

<sup>(1)</sup> Cyprus, Greece, Ireland, Portugal and Spain.

<sup>(2)</sup> EU/IMF in this context refers to European Commission (EC), European Central Bank (ECB) – both of them acting on behalf of the EU euro area Member States – and the International Monetary Fund (IMF). It is largely an inter-government arrangement to address the fiscal crisis in Europe, namely in those EU euro area Member States under an Economic Adjustment Programme.

The policy response was therefore perceived by social partners, especially trade unions, as undermining the functioning of social dialogue and its legitimacy as an instrument for discussing reforms in these countries. Even if the European Commission continually stressed the importance of social dialogue and of the respect for national circumstances and practices, the practical result was an unfavourable setting for social dialogue, leading to increasing conflict between the social partners and between trade unions and public authorities. This was illustrated by the complaints to the ILO and the Council of Europe as well as by the very critical assessment by the European Parliament of the respect of social rights under the EU/IMF programmes.

This chapter examines industrial relations developments in the five countries under study by drawing upon the findings from the Commission-ILO Joint Project on 'Promoting a balanced and inclusive recovery from the crisis in Europe through sound industrial relations and social dialogue' (see Box 3.1). It also draws from ILO research on crisis countries and from recent Eurofound publications on the crisis. The chapter starts with a description of the key features of national systems of industrial relations in the countries under consideration, prior to the crisis, focusing on the tradition of social pacts and collective bargaining, and how these were used to negotiate the convergence requirements of the Economic and Monetary Union (EMU). Second, the chapter analyses the reform trajectories after the crisis and the implications for national systems of industrial relations in the private and public sector. Third, the chapter discusses the various responses of the social partners to the implementation of these reforms. The final section concludes by analysing the implications for the future of industrial relations in the countries under study.

### Box 3.1 ILO-European Commission Joint Project on 'Promoting a balanced and inclusive recovery from the crisis in Europe through sound industrial relations and social dialogue'

In 2012 the ILO and the European Commission embarked on a joint research project in order to build on ILO research initiated since 2008 and earlier Commission publications (see European Commission, 2013a), in the framework of the Global Jobs Pact adopted by the International Labour Conference (ILC) in June 2009. This project was part of the work programme under a three-year partnership agreement signed between the two institutions in September 2011. The core aim was to analyse the impact of fiscal consolidation policies on labour market institutions and industrial relations in the Eurozone periphery, and to assess the role of social dialogue in the adjustment process.

The project placed a special focus on countries under the Commission/ECB/IMF structural adjustment programme (Greece, Ireland, Portugal, and later on Cyprus), in addition to Spain which received EU assistance to repair its banking sector. National studies aimed at documenting industrial relations developments, and subsequently served as background material for a number of policy building seminars. These seminars took place between in 2012 and 2013 in Athens, Dublin, Lisbon and Nicosia, and brought together national policymakers, social partners, experts from other participating countries, and representatives from the Commission, ECB, IMF and ILO. They enabled governments and social partners to discuss the merits of strengthening the social partnership process as a key component of an economic and jobs recovery. In addition, the seminars identified urgent areas for ILO technical assistance that led to a number of follow-up activities.

The seminars facilitated dialogue between national constituents and social partners from other countries on issues related to the crisis. However they also portrayed an urgent need for policymakers to ensure a greater commitment to policy coherence, in order to strengthen tripartite social dialogue on economic and social developments. The project's conclusions on the trajectory of reform in the countries concerned will continue to inform the debate on the general policy direction of industrial relations systems in the context of the global economic crisis.

## 3.2. Industrial relations developments prior to the economic and financial crisis

It is important to note that Greece, Portugal and Spain all share a number of similar characteristics and thus have been classified by the literature as belonging to the 'Southern European social model' (Visser, 2004; Karamessini, 2008; Molina, 2014). These common features include high levels of industrial conflict, highly politicised and internally divided labour movements, union density rates close to the EU average, with the exception of Spain, and medium levels of centralisation and coordination of collective bargaining. Historically, Ireland and

in certain respects Cyprus have displayed many characteristics of the Anglo-Saxon model of industrial relations, which include voluntarist labour relations, low levels of worker participation and a strong dependence on the state's regulatory framework for industrial relations (Von Prondzynski, 2001).

Further, a defining feature of the politics of adjustment to the EMU and domestic industrial relations reforms throughout the 1990s and early 2000s in Ireland, Spain, Portugal and Cyprus was the negotiation of tripartite social pacts and agreements, among governments, unions and employers (see chapter 1). This process of negotiated reform took place in various European countries, but Ireland, Spain, Portugal and Cyprus stood out in the literature because they did

not have the established collective bargaining arrangements characteristic of coordinated market economies (CMEs), in which governments engaged routinely with unions in policy concertation. (Visser 2013, Culpepper 2002). Scholars who observed these processes found that social pacts were adopted by 'weak governments' that required the support of the social partners to legitimize difficult labour market and industrial relations reforms (Baccaro and Lim, 2007; Baccaro and Simoni, 2008; Avdagic et al 2011). The process of involving trade unions was conceived as one of the most likely strategies for successfully mobilizing societal support for adjusting to the convergence criteria in the run-up to EMU in the 1990s, particularly in southern European countries who lacked the institutional pre-conditions for coordinated wage restraint, and were therefore more prone to inflationary tendencies (Höpner 2014, Johnston & Regan 2014).

### 3.2.1. Social pacts and tripartite social dialogue

From 1984-2009 **Portugal** produced 17 tripartite social pacts as a result of a long standing tradition of social dialogue which already began in the early 1980's, when there was a need to stabilize a young democracy (Ramalho, 2013). The initial pacts in 1990, 1992, 1996 and 1999 were conditioned by the imperatives of EMU convergence, and focused on a national based incomes policy. These agreements were born out of the standing committee for social concertation (CPCS), which was created in 1984 by a government that was negotiating with the IMF and seeking entry to the European Economic Community (Naumann and Campos Lima 1997). By 2000 the income policies actively managed to bring down inflation and enabled Portugal to qualify for EMU membership (Campos Lima and Naumann 2011). Later pacts in 2001, 2002 and 2005 focused on privatizing pension provision, improving occupational training, and enhancing

health & safety legislation. In 2008 the Socialist (PS) government initiated a new industrial relations reform agenda via the '*Pact on the Reform of Labour Relations, Employment Policy and Social Protection*'. This was followed by a similar tripartite agreement in 2008 aimed at liberalizing employment protection, although one of the major trade union confederations did not sign. The new labour code was implemented in 2009. During this period, the national parliament considered the inclusion of trade unions as part of the national strategy in adjusting to the EMU.

The trajectory of reform was similar in **Spain**. Social pacts were born out of the attempt by political parties in government to stabilize the parliamentary transition to democracy. The empowerment of trade union and employer associations to engage in collective bargaining was considered a pre-requisite for economic modernization, particularly in the late 1980s. During the mid-1980s there was a lull in tripartite agreements because of intra-trade union fragmentation (Royo 2002). The commitment to join the European exchange rate mechanism in 1989 and reduce unemployment and inflation, however, led to a new unity of action among trade union confederations. New practices for hiring and dismissals were introduced in 1984 through a tripartite agreement, yet this gave rise to the segmentation and dualism of the labour market that persists today (Molina and Rhodes 2011; Molina 2014).

The rapid spread of temporary fixed-term contracts ensured wage moderation but weakened the incentive for employer investment in skills and vocational training. Social pacts collapsed again in the early-1990s as a result of the crisis. Social conflict between the government, employers and trade unions led to unilateral regulation of the labour market and to two general strikes in 1992 and 1995. Yet social dialogue was revitalized in 1997, largely on a bipartite basis through the agreement for 'collective bargaining and labour market (Molina

and Miguélez, 2013). A number of tripartite pacts were signed thereafter in order to re-centralize industrial relations, extend bargaining coverage and make labour market reform a priority in public policy. Historical discontinuities in the Spanish system can be attributed to the late and weak institutionalization of tripartite social dialogue, and the strong influence of the political orientation of the government on the use of and scope for tripartite agreements.

Tripartite agreements at the national level were also the defining feature of the **Irish** industrial relations systems prior to the Eurozone crisis, sharing many similarities with the **Cypriot** system. Both countries inherited the adversarial labour relations regime that is also characteristic of the United Kingdom, and have well established mechanisms for tripartite cooperation. In particular, in 1960, when Cyprus was declared an independent republic, the industrial relations framework began to develop, where the implementation of almost all policies regarding industrial relations was and remains the result of social dialogue between the government, the employer organisations and the trade unions.

During the 1980s in **Ireland**, employers, unions and government sought, through social dialogue, to reform industrial relations through establishment of centralised bargaining aimed at wage restraint. In 1987 the Irish state and social partners re-centralised collective bargaining through a series of National Partnership Agreements and implemented a succession of national tax-based incomes policies to control inflation. The 1987 and 1992 social pacts, in particular, were aimed at enhancing national competitiveness through wage moderation, low corporate taxes, industrial upgrading and structural reform of the semi-state sector labour market. This trend of wage moderation continued with the tax-based income policies in 1996 and 1999, which facilitated strong export-led growth (Regan 2012).

The social pacts concluded after the entry into the EMU lacked however the ability to control inflation. Wage pacts proved incapable of acting as a counter-cyclical restraint on the credit expansion and capital-inflows associated with the single currency, a phenomenon that could also be observed in Spain. On the contrary, the social pacts in 2003 and 2005 instituted a pro-cyclical wage policy regime that proved unsustainable. These agreements were based on a *quid pro quo* of permanently increasing public spending whilst reducing income taxes. At the same time, the social pacts accepted the need for a flexible labour market, with Ireland often considered to have the second most flexible labour market in Western Europe after the UK.

Despite fairly adversarial industrial relations in **Greece** following the country's return to democracy in 1974, social dialogue became an important feature in the early 1980s, namely through the establishment of tripartite bodies at the national level, such as the Supreme Labour Council, and the involvement of social partners in the public employment service (OAED) (Kravaritou, 1994; ILO, 2014b). This was later strengthened during the process of EU integration, which in 1994 led to the establishment of the main national tripartite social dialogue institution – the Economic and Social Committee (OKE) – and achievement of tripartite consensus on the entry into the EMU.

In practice, consultations took place on an ad-hoc basis and produced limited success. A tripartite 'confidence pact' was negotiated in 1997 – the only tripartite agreement produced by social dialogue in the last 20 years – on issues such as wage moderation. However, topics of major disagreement<sup>(3)</sup> between the social partners were generally not referred to in the agreement (Mouriki,

2001). In 2000, tripartite consultations were initiated again but a lack of consensus between the social partners led the government to unilaterally adopt legislation on labour market reforms. Similarly no agreement could be reached on the reform of social security in 2001 and 2002, leading to a reform bill introduced by the Government in June 2002 (ILO, 2014b). So it would seem that weak tripartite consultations between the government and the social partners are nothing new in today's present crisis. However, Greece has a strong tradition of bipartite social dialogue at the national level. Regular bargaining rounds between "peak-level employers' and workers organizations on the national minimum wage and a wide range of institutional issues have operated as functional equivalents to social concertation" (Karamessini, 2008: 8).

With the partial exception of Greece, tripartite cooperation became the default condition of public policy in how the five Member States under study adjusted to the fiscal sustainability criteria of EMU, as well as to competitiveness challenges (Avdagic et al 2011, Baccaro and Simoni 2008; see also chapter 1). This tripartite cooperation translated into strong institutions aimed at reducing conflict among different interests in the labour market. In turn these forums of policy concertation provided all actors with the capacity to negotiate and implement social pacts, which significantly enhanced the capacity of government to introduce contested economic reforms (see Table 3.5 for an overview of these bodies) (Avdagic et al 2011).

### 3.2.2. Wage setting mechanisms

In **Portugal and Spain**, wage setting predominantly took place at the industry or sectoral level. The Spanish system, underpinned by principles stemming from the 1980's Worker Statute, relied

on the following basic principles which include: the legitimacy to participate in bargaining; 'ultraactividad', where collective agreements remain valid for an unlimited period of time after expiry; and statutory extension mechanisms<sup>(4)</sup>, (Izquierdo, Moral and Urtasun, 2003). As in the present crisis, attempts were made in the 1990s to encourage greater decentralisation most notably through the inclusion of opt-out clauses for companies experiencing economic difficulty. Negotiations took place predominantly at the industry and provincial level where more than 50 per cent of workers were covered by collective agreements (Izquierdo, Moral and Urtasun, 2003). At company level, unions remained relatively weak and collective bargaining agreements with employers were not widespread.

In Portugal there was also a long tradition of sectoral or multi-employer level bargaining which can partially be explained by the large proportion of micro-sized companies<sup>(5)</sup> that often lack capacity to negotiate on their own accord (Ramalho, 2013: 3). Additionally, the collective bargaining system was characterised by frequent use of administrative extensions to non-affiliated workers and employers, in order to compensate for traditionally low levels of employers' and trade union density, and ensure protection of those who are not members of representative organisations.

There was also a heavy reliance on the 'favourability principle', and legal provisions which allow collective agreements to stay in force until they are replaced. The Labour Code of 2003 tried unsuccessfully to promote greater flexibility. But instead, the reform led to a drastic fall in the number of collective

<sup>(3)</sup> One area of disagreement was more flexible forms of employment, which in 1998 were introduced by the Government through legislative action, provoking labour protests.

<sup>(4)</sup> This automatically allows collective bargaining agreements to have general applicability in line with the *erga omnes* principle

<sup>(5)</sup> The majority of Portuguese companies (around 95 per cent) are micro-size companies with less than 10 workers (Source: National Institute of Statistics (INE)).



agreements in 2004, and was partially abandoned in 2006<sup>(6)</sup> (Ramalho 2013: 8). As a result the dynamics of collective bargaining remained poor; “collective agreements ...have become out of date in relation to the evolving labour law and less and less adapted to a more rigorous economic environment” (Ramalho 2013: 4).

In **Greece and Ireland** the most important bipartite and tripartite wage negotiations historically took place at the national cross-industry rather than the sectoral level. In Greece national level agreements set the basis for wage and working conditions through the use of the favourability principle – lower-level agreements could only be concluded if they ensured better working conditions for employees. Negotiations at the company level only occurred in the state sector (Kritsantonis 1992:624, Visser 2013: 33). Unlike other EMU countries there was little indication of decentralisation of collective bargaining since the 1990s (Zambarloukou 2006: 217, Visser, 2013: 33), a fact regularly cited as showing the need for industrial relations, labour market and public sector reform.

Other features of the Greek system included the possibility of the Minister of Labour to extend collective agreements to non-unionised employees, the indefinite length of collective agreements, unilateral recourse to arbitration and the presence of so-called ‘associations of persons’ (ILO, 2011:13). These ‘associations’ were first introduced in 1982 with the role of ensuring worker representation for a specific time-bound purpose only. Furthermore, they were not considered as fully-fledged

trade unions since they had a limited duration (maximum of six months) and could not sign collective agreements, nor could they avail of the protection offered to trade union members (Carley et al., 2005). All of these features have undergone drastic changes since the onset of the crisis, as will be discussed in the next section

Between 1987 and 2009 Ireland re-centralised collective bargaining, leading to the conclusion of eight social pacts. These set headline rates of pay for unionised companies and allowed for derogation clauses in the case of firm-level competitiveness constraints. There was no sectoral level or other multi-employer bargaining framework in Ireland. Company level bargaining did take place in the unionised sectors of the economy, which were predominantly made up of traditional industry and the semi-state sectors (Erne 2013, Regan 2012, O'Donnell, Adshead and Thomas 2011:89; Visser 2013: 29). In addition the labour court set minimal pay rates for the low paid sectors via ‘registered employment agreements’ (REAs), which were traditionally used to legally extend collective agreements across the low paid sectors of the economy. But they also covered the construction and electrical contracting sectors. Similarly Employment Regulation Orders (EROs) covered the pay of employees in hotels, restaurants and retail outlets. These agreements were negotiated by joint labour committees (JCLs) which were composed of both employer and trade union representatives who generally set wage floors that are 8 per cent above the national minimum wage (Regan, 2013: 12).

In **Cyprus**, collective bargaining has been traditionally decentralised since the bulk of collective labour agreements were concluded at the enterprise level though there are negotiations at sectoral level too (tourism, construction, leather goods, clothing, and other manufactured products) (Yannakourou and Soumeli, 2004).

### 3.2.3. The public sector

In the wake of the crisis, the public sector became a focus for the reform efforts, because all five countries faced a complex challenge of pursuing fiscal consolidation and enhancing the effectiveness of public services at the same time. In 2008, the general government wage consumption bill (as a share of GDP) was above the European average in each of these countries (European Commission 2014b). In the run-up to the crisis, expenditure on public wages had increased particularly strongly in Greece, Ireland, and Cyprus<sup>(7)</sup>. Moreover, in all five countries, public wages in 2006 and 2010 were significantly higher than those in the private sector, even when taking into account the different composition of the labour force in the two sectors (European Commission 2014b). (For additional information on the public sector, see European Commission 2013a and Box 1.1 in chapter 1).

Traditionally, there are three different wage setting mechanisms in the public sector. Wages can be formally determined through collective bargaining between the government and public sector unions or in de facto negotiations between the state and the unions and then decided by the government. Wages can also be determined unilaterally by the government or public authority where the unions play an advisory role, which has recently become a trend since the onset of the crisis. Prior to the crisis, there was a strong tradition of free collective bargaining between the state as employer and public sector unions, especially in Ireland and Cyprus. In Ireland, collective bargaining coverage in the public sector was above 90 per cent, primarily because government as employers implemented the national wage agreements. In Greece, Spain, and to a certain extent Portugal, wages for all or part of public sector employees were de facto negotiated by unions and

<sup>(6)</sup> Labour Code of 2003 adopted new provisions on the relation between legal provisions and collective agreements, allowing for collective agreements to establish less favourable conditions than those prescribed by the law. In addition, it adopted a set of provisions intended to favour the regular replacement of old collective agreements by new ones. If they were not renewed, then after a period of time those agreements would become invalid (sobrevigência).

<sup>(7)</sup> See the relevant economic adjustment programmes (European Commission 2010, 2011a, 2011b, 2013c)

public authorities, even if they were later implemented by a formal decision of the government, which therefore retained the final say.

In many European countries there were two related trends in public sector collective bargaining and wage determination in the two decades prior to the crisis: 1) decentralisation of pay negotiations; and 2) the partial replacement of automatic, collective, seniority-based pay and career systems by more selective and discretionary systems (Bach, and Bordogna, 2013). The main objective was “to enhance flexibility of pay and conditions in response to local or sectoral labour market conditions and organizational needs and to provide workforce incentives by performance-related pay and other bonus schemes.” However, not all countries followed this trend. For instance, in Ireland the contrary happened. The public sector became more centralised, to such an extent that minor issues such as the working hours of school principals became part of the national wage agreements.

### 3.3. Industrial relations developments during the crisis

The focus of this section is to document industrial relations reform in Greece, Ireland, Portugal, Spain and Cyprus in the second phase of the economic and financial crisis from 2010 onwards. However, one of the main difficulties in this analysis involves differentiating between what occurred as a result of the crisis and what can be described as continuing long-term trends, for example the universal decline of trade union density over the past decades, shrinking bargaining coverage or the on-going decentralisation of collective bargaining (see chapter

1). Nonetheless, this section attempts to document the major changes that occurred or were accelerated within the context of the crisis, and in doing so will focus on four main areas: tripartite social dialogue, bipartite mechanisms, measures for wage setting, and the public sector. Table 3.1 gives a summary of the main transformations in the industrial relations systems of the five countries under study, comparing the period immediately before and since the crisis.

As stated earlier, from the onset of the international financial crisis Greece, Ireland, Portugal and most recently Cyprus received extensive financial stability support from the IMF, EC and ECB. In 2012, Spain received financial assistance from the European Financial Stability Facility (EFSF) to support the recapitalization of its financial sector. As a result each of these countries implemented far-reaching structural reforms and fiscal consolidation programmes. Since 2013, Ireland and more recently Spain have successfully completed their financial assistance programmes, which according to the IMF, have both substantially met the vast majority of policy conditions (European Commission 2013d; 2014a). In Cyprus, the economic adjustment programme negotiated with international lenders focused on the reform of the financial sector, the taxation system and social protection. There is little indication that Cypriot industrial relations institutions, especially collective bargaining have been altered so far. However the tight timelines and depth of the reforms is placing a strain on these institutions.

At the start of the global crisis in early 2008, collective bargaining played a significant role in many EU Member States in forming a negotiated response to the economic downturn (see Industrial Relations in Europe 2010; ILO 2013a: vi). From 2008 to mid-2010 labour and

management in countries with coordinated collective bargaining institutions, such as the Netherlands and Germany, tended to develop solutions based on shared agreement, which benefited both sides and helped to facilitate the adjustment processes, thereby mitigating the worst effects of the crisis on workers and firms. In the countries under review, however, social dialogue processes were soon overwhelmed by the magnitude and speed of the crisis.

Generally speaking, over the last five years there has been a shift away from social pacting toward parliamentary legislation. In particular, social pacts have been conspicuous by their absence in those countries who previously required them most, and who are now in difficulty: Spain, Ireland, Portugal, Cyprus and Greece (Armingeon and Baccaro, 2012; Culpepper & Regan 2014). National governments in all these countries, with the exception of Portugal to a certain extent have increasingly opted to implement industrial relations and labour market reforms unilaterally rather than through social dialogue. A combination of defensive unions (who may have a had a strategic interest in not being associated to painful reforms), discussions and agreements with the EU/IMF, pressure of financial markets and the changing problem-load facing national governments explains this change in industrial relations.

The extent of the Eurozone crisis itself problematizes the capacity for a negotiated adjustment through tripartite social pacts. This is somewhat surprising, however, when one recognizes that the core problem facing national governments in Ireland and southern Europe throughout the 1990s was satisfying EMU criteria through fiscal consolidation and wage moderation (Hancké and Rhodes, 2005; Hassel, 2006; Avdagic, 2010). Industrial relations reform has been central to

Table 3.1. Summary of changes in Southern European and Irish industrial relations

	<b>Tripartite concertation</b>	<b>Collective dispute settlement</b>	<b>Extension of collective agreements</b>	<b>Wage-setting (private)</b>	<b>Wage-setting (public)</b>
Spain 1990s–2009	Long tradition of tripartite social dialogue but fragmented due to its late and weak institutionalization	Bipartite agreements on extra-judicial conflict resolution enhance autonomous resolution	Statutory extension	Statutory minimum wage; Increasing autonomy (bipartite agreements)	Extension of collective bargaining conditional on state budget
Spain 2009–2012	2010 measures implemented by Government without consultations, or without a preceding agreement in 2010/12; conclusion of tripartite pact in 2011 on labour market reforms	Unilateral changes enable a greater role for arbitration	No change	Unilateral approval of opting-out from higher level wage increases and changes in wages by the employer	Unilateral imposition of pay cuts and freezes
Portugal 1990s–2009	Long tradition of social tripartite dialogue stemming from 1980s, 17 social pacts produced between 1984–2009	Conflict resolution mostly through the judicial channel	Statutory extension but social partners retain the initiative	Indirect state intervention in wage bargaining; sporadic direct intervention	Increasing autonomy; recognition of collective bargaining
Portugal 2009–2012	Two tripartite agreements for competitiveness and employment (2011/12); social partners' views not considered on matters beyond these pacts	Little change: system still predominantly based on arbitration	Limits on the extension of collective agreements	No significant change	Unilateral imposition of pay cuts and freezes
Greece 1990s–2009	Fragmented and of an ad hoc nature, the first main national institution for tripartite social dialogue (OKE) was established in 1994; just one social pact signed in 1997	Increasing autonomy (arbitration and mediation extended)	Statutory extension possible on initiative of Ministry of Labour	Indirect state intervention in wage bargaining; sporadic direct intervention	Pay determined by government after consultation with trade unions
Greece 2009–2012	Lack of genuine dialogue with social partners during reforms process; unilateral reduction of minimum wage through legislative decree	Compulsory arbitration is likely to become more important	Limits on the extension of collective agreements on the agenda, but not yet approved	Companies allowed to deviate from terms established at higher levels	Unilateral imposition of pay cuts and freezes
Ireland 1990s–2009	Strong tradition of social partnership. Seven national wage agreements negotiated between 1987–2008	Conflict resolution through the voluntary arbitration mechanisms of the state: labour court, labour relations commission	No extension, national wage agreements are voluntary and act as headline benchmark	Indirect state intervention, statutory minimum wage, registered employment agreements (REA) and employment regulations orders (ERO)	Strong recognition of collective bargaining, full coverage and implementation of national wage agreements
Ireland 2009–2012	Collapse of social partnership, no tripartite social dialogue mechanisms	Reform and amalgamation of conflict resolution bodies	No extension	Unilateral cut in the minimum wage in 2010 (reversed in 2011), emergency financial legislation to override the non-payment of wages act	Unilateral imposition of pay cuts, followed by two bipartite agreements on public sector reform

Source: Adapted from Molina, O. (2014). Self-regulation and the state in industrial relations in Southern Europe: Back to the future? European Journal of Industrial Relations, 0959680113516404.

social pact agreements over the past 25 years, and all were aimed at pursuing wage moderation. This was in recognition that wage flexibility is one of the most important instruments available to governments within EMU to improve national competitiveness. One could therefore argue that in responding to the crisis national governments, in theory, should have more not less of an incentive to engage with social partners, as a social pact aimed at structural reform could send a positive signal to markets and European creditors that competitiveness is a priority for all national actors.

The unprecedented pressure on the fiscal capacity of these governments limited the possibilities to liberate funds and to engage in a quid pro quo with the social partners. For Cyprus, Greece, Ireland, and Portugal, the EU/IMF programme has helped shape much of the policy response. The assurances given to the international lenders in these countries have narrowed the options available to domestic policy-makers. While they were adjusted to each countries' specific situation, they tended to increase the priority accorded to wage flexibility, the flexibilisation of employment protection legislation, and cuts in state expenditure. Still, the policy responses did not rule out the possibility of tripartite social pacting (see later), and underlined the need for social dialogue.

In terms of reform content, the trajectory of industrial relations reforms in the aftermath of the crisis, outlined below, continues the political trend set by the pre-EMU social pacts. In all of the case studies – with the exception of Greece – the social partners previously agreed to reforms on labour market flexibility, wage moderation and de-centralising industrial relations. The social partners in these countries – and indeed in other countries with higher average incomes and employment rates – accepted these as a requirement to adjust to

the convergence criteria for entering EMU in the 1990s, as well as to competitiveness challenges. The significant and major difference since 2009 is a change in the process through which these labour market reforms have been implemented. Under pressure from the loss of market confidence, the pace of reforms had to be accelerated dramatically, leaving little time for their preparation and for social dialogue.

### 3.3.1. Tripartite social dialogue: processes and outcomes

The Memoranda of Understanding (MoU) agreed between the governments of Greece<sup>(8)</sup>, Ireland<sup>(9)</sup>, Portugal<sup>(10)</sup> and Cyprus<sup>(11)</sup> and the EU/IMF all refer to the explicit need for consultations with the social partners in the implementation of the national reform programmes, and some make explicit reference to tripartite agreements. In Spain, the government also consulted the social partners about the course of reforms. In practice however, the social dialogue process proved very difficult especially in view of the worsening economic and labour market situations in the countries, as the examples below suggest.

In Greece, tripartite social dialogue suffered a number of setbacks. The Economic and Social Council (OKE), which is a constitutionally guaranteed body founded in 1994, and the sole nationwide platform through which the social partners can promote dialogue, saw its role reduced and its resources curtailed. While the OKE provided a number of opinions on issues during the crisis,

including on the reform programmes, its views were often not reflected in adopted policy measures (OKE, 2012; ILO, 2014b)<sup>(12)</sup>.

During the period 2010–2012 the Minister of Labour initiated dialogue with the social partners on labour market reforms three times. However, the social partners expressed their regret that a more formal process of effective social dialogue did not take place on these occasions, which meant they were unable to contribute to an economic reconstruction strategy (Dedoussopoulos et al., 2013: 61). In late 2011, the government instigated a tripartite dialogue with the aim of preserving employment and boosting competitiveness, including discussions on the minimum wage. However the inability to reach a shared consensus led the government to unilaterally reduce the minimum wage and reform collective bargaining through legislation (European Commission, 2012a: 38; ILO, 2014b). Nevertheless a renewed emphasis has been placed on national social dialogue institutions in the later years of the crisis with the reactivation of two bodies which were dormant, namely the National Committee for Employment and the National Committee for Social Protection. The latter has issued several opinions related to crisis-induced reforms, including on draft reform laws.

The tripartite social dialogue process in Ireland appears to have become more limited in the aftermath of the crisis. Following the collapse of the national partnership agreement in 2009, the National Economic and Social Council (NESC) have noted that government officials have been heavily engaged in consultations with the EU/IMF, and far

<sup>(8)</sup> [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2010/op61\\_en.htm](http://ec.europa.eu/economy_finance/publications/occasional_paper/2010/op61_en.htm)

<sup>(9)</sup> [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2011/op76\\_en.htm](http://ec.europa.eu/economy_finance/publications/occasional_paper/2011/op76_en.htm)

<sup>(10)</sup> [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2011/op79\\_en.htm](http://ec.europa.eu/economy_finance/publications/occasional_paper/2011/op79_en.htm)

<sup>(11)</sup> [http://ec.europa.eu/economy\\_finance/publications/occasional\\_paper/2013/op149\\_en.htm](http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/op149_en.htm)

<sup>(12)</sup> In general, the OKE has stressed the importance of measures aiming at tackling the budget deficit while simultaneously ensuring social cohesion, putting emphasis on addressing bottlenecks in the business environment, focusing on supporting social policies, addressing the evasion of tax and social contributions, and strengthening social dialogue (Source: ILO, 2014b).



less with the domestic social partners. The Council criticised that, where such engagement did occur, it tended to be bilateral, rather than through collective or inclusive negotiations. NESC itself has played minimal role in the policy response.<sup>(13)</sup> The NESC was created in 1973, and became the birthplace of several major central partnership agreements between 1987 and 2007 (Regan, 2013). It is an agency directly mandated to propose economic reforms to the Prime Minister's Office. Since the onset of the crisis, the Department of Finance has reasserted itself over the process of policy coordination, especially in light of the memorandum agreed with the representatives of international lenders (Regan, 2013: 17). Nonetheless, the NESC remained active in providing of opinions and reports on measures for economic recovery, particularly in the areas of energy and social housing. The latter, has been welcomed by the government and aims to influence the formulation of a new social housing strategy (NESC, 2014).

The core institution for conflict resolution in Ireland, the Labour Relations Commission (LRC) has seen its role increase rather than decrease in importance. In a context of rising unemployment, wage cuts and heightened workplace conflict, the LRC was central to the negotiation of two public sector agreements (the 'Croke Park' and 'Haddington Road' agreements; see below).

In Spain, the initial stimulus packages implemented by the government during the first phase of the crisis, 2008–2009, involved significant participation by the social partners. However, since 2010 and with a renewed focus on labour market reform, there have only been fragmented consultations. Fiscal consolidation measures were introduced

without consultation of the social partners in 2010.<sup>(14)</sup> The Government enacted two labour market reforms in 2010 and 2012<sup>(15)</sup> without a preceding agreement by the social partners (ILO, 2014c). However when the government engaged with the social partners in an effective social dialogue it did reach balanced and comprehensive outcomes as shown by the Tripartite Economic and Social Agreement for Growth, Employment and Sustainability of Pensions (2011), which covered labour market issues such as old age pensions, youth unemployment and the reform of collective bargaining.<sup>(16)</sup> According to Molina and Miguélez the piecemeal and fragmented approach to social dialogue has severely limited its effectiveness (Molina and Miguélez, 2013: 20), although most recently there has been an effort to revitalise tripartite dialogue through the 2014 "Agreement on proposals for tripartite negotiations to strengthen economic growth and jobs".

Portugal is the only country under analysis where tripartite social dialogue continued during the crisis. Two tripartite agreements formed the basis of the major changes introduced in labour law and industrial relations under the MoU (Ramalho, 2013).<sup>(17)</sup> These agreements were negotiated within the Committee on Social Concertation (CPCS), an independent body of the Economic and Social Council, which played a prominent role in implementing, monitoring and evaluating

the measures in the most recent pact on "Commitment for growth, competitiveness and employment". It should be noted however, that neither of these tripartite pacts were signed by the most important workers' organisation, the General Portuguese Workers' Confederation (CGTP), which had already refrained from signing several tripartite agreements in the past (Royo, 2002; Karamessini, 2008: 516). On a broader scale, the social partners were not consulted on any of the measures taken outside of the tripartite pacts, such as policies for stimulating the economy, investments, the tax system, and active employment policies, although to a large extent this was already the pattern before the crisis. (Ramalho, 2013: 18). However, as far as labour market reforms are concerned the government demonstrated willingness to achieve tripartite consensus with the social partners.

While the resilience of tripartite social dialogue in Cyprus remains to be tested, the social partners have raised concerns that previously strong mechanisms are coming under strain given the strict timeframe of the memoranda of understanding with the EU/IMF (ILO, 2013b). Tripartite cooperation between government and social partners has always been firmly established in the economy despite its lack of legal underpinning. The formulation and implementation of almost all proposals and policies regarding industrial relations was and remains the result of tripartite consultations, which take place in the labour advisory board. (Yannakourou and Soumeli, 2004) For example, in 2012, a tripartite agreement was reached in order to ensure the continuation of the wage indexation system, while also allowing temporary exemption for companies facing economic hardship.<sup>(18)</sup> However the

<sup>(13)</sup> For example, unlike the earlier social partnership agreements, the Public Sector Agreements formed in response to the crisis were not preceded by preparation of an agreed over-arching analysis in NESC.

<sup>(14)</sup> The first fiscal consolidation plan was called Plan for Immediate Action 2010.

<sup>(15)</sup> The crisis period saw three major efforts to reform the labour market, namely through the 2010 Labour Market Reform (Royal Decree Law 35/2010 of 17 Sept. 2010); through the 2011 Economic and Social Agreement for Growth, Employment and the Sustainability of Pensions (Royal Decree Law 1/2011 of 1 Feb. 2011); and through the 2012 Labour Market Reform (Royal Decree Law 3/2012 of 10 Feb. 2012).

<sup>(16)</sup> This pact also covered active labour market policies, research and development and industrial and energy policy.

<sup>(17)</sup> The first agreement was signed on 22 March 2011, titled "Acordo Tripartido para a Competitividade e Emprego" and the second on 18 January 2012, titled "Compromisso para o Crescimento, Competitividade e Emprego".

<sup>(18)</sup> The most important points of the agreement are the continued payment of the cost of living allowance (ATA) and payment of wage and benefit increases as set out in the current sectoral and enterprise level collective agreements. However, any enterprises facing serious problems due to the financial crisis will be able to postpone paying wage increases until the end of December 2013.

MoU introduced in 2013 subsequently required reform of this system, through measures such as a reduction in the frequency of adjustments (Eurofound 2014a: 14). The implementation of these measures will be pursued through tripartite agreement<sup>(19)</sup>.

### 3.3.2. Bipartite social dialogue mechanisms

The discontinuities in tripartite social dialogue stand in contrast to the vitality and resilience of bipartite social dialogue throughout the crisis, most notably in Greece, Spain and to some extent in Ireland, where a number of significant bipartite agreements were concluded. Nonetheless, the collective bargaining coverage declined significantly in all countries as a result of the reforms to the industrial relations systems, notably extension mechanisms. In Spain two bipartite inter-professional agreements were concluded between the national organizations of workers<sup>(20)</sup> and employers<sup>(21)</sup> during the peak of the debt crisis (2010–2012) (see box 3.2), hence continuing a practice initiated in 2002 (Molinas and Miguélez, 2013). In Portugal the contrary happened, tripartite social dialogue continued but bipartite social dialogue and collective bargaining became increasingly difficult as a result of state intervention especially through the reform of extension mechanisms and the freezing of minimum wage. However, these shortfalls were later recognized by the government through the creation of a tripartite Labour Relations Centre, aimed at promoting collective bargaining and monitoring policy instruments

#### Box 3.2 Collective bargaining during the crisis in Spain

Despite disagreements at the tripartite level, employers' and workers' organisations maintained their commitment to bipartite negotiations during the crisis, although not always producing comprehensive results on all key areas. In 2010, a Bipartite Inter-Confederal Agreement on Employment and Collective Bargaining 2010–2012 (AENC I) was concluded, with the support of the government, building on enhancing internal flexibility and allowing negotiated adaptation and restructuring measures through collective bargaining agreements.<sup>(24)</sup> Based on AENC I, tripartite negotiations were carried out with a view to reforming collective bargaining, but they were not conclusive. In 2010, the Government adopted a reform of the legal framework for collective bargaining unilaterally (Molina and Miguélez, 2013).

Further, in the midst of the aggravated crisis, the bipartite partners concluded a new Inter-Confederal Agreement on Employment and Collective Bargaining 2012–2014 (AENC II) in January 2012. The purpose of this document was to show the government the common ground between employers and workers on a range of issues affecting the labour market. It included proposals for the organised decentralisation of collective bargaining, i.e. within the framework provided by sectoral agreements. However, in the exceptional circumstances, the government introduced the 2012 labour market reform as a unilateral measure, since it viewed the bipartite agreement as insufficient to tackle the problems of the Spanish labour market. Both employers' and workers' organisations objected to this action.

Source: ILO (2014c).

<sup>(24)</sup> Resolution of 11 February 2010; Banco de España num. 46, 22 February 2010.

for employment and vocational training (ILO, 2014c: 68)<sup>(22)</sup>.

In **Greece** the crisis saw the conclusion of several national general collective agreements (NGCAs) over the crisis period,<sup>(23)</sup> yet the status of these was gradually weakened as a result of legislative changes introduced in 2012 following the breakdown of tripartite negotiations on national minimum wage. The NGCA that was concluded in May 2013 was not signed by the

largest employers' confederation (SEV) on the grounds that it lacked legal substance and substantial content, particularly due to its inability to regulate minimum wage (Dedoussopoulos et al., 2013). However a major positive step in the collective bargaining scene followed on 26 March 2014, when a new NGCA was concluded after three rounds of negotiations. This agreement enjoys participation of all key partners, including the SEV, and addresses a wide range of labour market related issues including vocational training and fight against discrimination at the workplace (ILO, 2014b). Bipartite social dialogue also saw the formulation of an important joint plan of action which aims to reactivate tripartite consultation mechanisms; an effort that has been fully recognised by the government.

Following the discontinuation of national-level tripartite partnership in **Ireland**, social dialogue saw a shift back to bipartite collective bargaining at company and

<sup>(19)</sup> See Cyprus National Reform Programme 2014 [http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014\\_cyprus\\_en.pdf](http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_cyprus_en.pdf)

<sup>(20)</sup> The two main union confederations in Spain are Comisiones Obreras (CCOO) and Unión General de Trabajadores (UGT).

<sup>(21)</sup> The main employers' organization in Spain is the Confederación Española de Organizaciones Empresariales (CEOE), which incorporates the confederation for small and medium enterprises, Confederación Española de la Pequeña y Mediana Empresa (CEPYME).

<sup>(22)</sup> The Labour Relations Centre was officially established on the 22 August 2012, reflecting a compromise achieved in the "Strategic Agreement for Consultation 1996–1999" which was subscribed by most of the social partners that compose the Standing Committee on Social Conciliation.

<sup>(23)</sup> These included a two-year National General Collective Labour Agreement by GSEE, and the SEV, the Hellenic Confederation of Professionals, Craftsmen and Merchants (GSEVEE) and the National Confederation of Hellenic Commerce (ESEE) to cover the period January 2008–December 2009. It was followed by another NGCA valid from January 2010 to December 2012, and extended pending the conclusion of a new deal up to 15 May 2013.

sectoral levels. This led to two separate systems of collective bargaining to govern industrial relations during the crisis: the Croke Park and Haddington Road agreements for the public services (see below), and the IBEC-ICTU Protocol for the orderly conduct of industrial relations and local bargaining in the private, unionised sector. The IBEC-ICTU Protocol is based on a strategy to sustain employment when companies face economic difficulty (Regan, 2013).

### 3.3.3. Wage setting institutions

Greece, Portugal, Ireland and Spain have all introduced significant changes to the legal regulation of collective bargaining, mainly through the promotion of decentralised wage setting to firm level. In Cyprus, collective bargaining has been traditionally decentralised with the bulk of collective labour agreements concluded at the enterprise level. This did not change during the crisis.

As a general policy, the promotion of decentralised collective bargaining is expected to allow firms to adjust to changes in the economic environment and to reduce downward wage rigidities by bringing negotiations closer to the enterprise reality (Schulten, 2013). For example in Greece this has taken the form of a shift away from occupational or sectoral level bargaining towards company level bargaining, which has been facilitated through the increased use of opening clauses. Other measures include the suspension of extension mechanisms, changes to the automatic continuation of collective agreements upon expiry, and a reduction in the duration of collective agreements (Eurofound 2014). However, a distinction must be made between organised decentralisation, where the process takes place in a framework agreed by the social partners at higher levels, and unorganised decentralisation, where there is an absence of any overall bargaining coordination (Traxler 1995).

### Changes to extension mechanisms

The extension of sectoral agreements is an important measure for ensuring collective bargaining coverage. In **Portugal**, where industrial relations has been heavily characterised by the use of administrative extensions, these procedures have been fundamentally modified. In May 2011, the government decided to stop the practice of extending sectoral collective agreements. In addition, the MoU required the freeze of extension until a quantitative criterion was put in place regulating the extensions of collective agreements. In 2012 with Resolution 90/2012, extension was subjected to a quantitative criterion: signatory firms must now employ at least half of the workers in the branch, geographical area, professional category or type of company in order to avail of an extension (Ramalho 2013). This is a criterion also present in other EU countries. However as the Portuguese economy is dominated by micro-enterprises, with limited capacity to engage in collective bargaining, there has traditionally been a reliance on sectoral or multi-employer bargaining, with extension mechanisms used as way to ensure the wide coverage of agreements (ILO, 2014a). In June 2014, the Portuguese government eased the criteria for extension: employers' organisations who count at least 30% micro, small or medium-sized enterprises among their members are exempt from having to represent at least 50% of employment in the respective sector (Resolution 43/2014). These changes modify the reform of the extension mechanism introduced in 2012. However, their impact on the labour market, notably on lower-productivity firms, remains to be seen.<sup>(25)</sup>

The result of the 2012 reform has been the adoption of significantly fewer extensions, with just 12 extension ordinances

published in 2012 in contrast to 116 adopted in 2010. A similar trend was recorded concerning the share of workers covered by collective agreements (see chapter 1).

In **Greece**, the enactment of Law 4024/11 gives the Minister of Labour the possibility to suspend the extension of sectoral and professional collective agreements for the duration of the financial assistance programme (2012–2015) (Dedoussopoulos et al., 2013). No extensions have been issued since 2012 as a result. The law also releases companies that are not members of an employer's organisations from the obligation of implementing sector agreements. According to recent research by Eurofound, 'this has had a widespread impact among small companies, which have rapidly taken up the opportunity to negotiate company agreements with unspecified 'associations of persons', with less favourable provisions than those of the relevant sector agreement' (Eurofound 2014a: 11). In 2012, associations of persons concluded 72.6% of all agreements at enterprise level.

The difference in bargaining procedures and results between these 'associations' and enterprise unions is reflected in wage concessions, where two-thirds of all agreements concluded with associations of persons have reduced wages to the amended minimum wage; in contrast to 33 per cent of agreements reached at enterprise level by trade unions, which managed to retain previous wage levels (Dedoussopoulos et al., 2013, p. 58). This suggests that changes to the collective bargaining legislation are likely to have facilitated wage reductions.

The suspension of extension mechanisms are impacting on the membership of representative organizations as visible in both Portugal and Greece, where employers' organisations fear the new limits will weaken member's interest in remaining affiliated to the organisations (Ramalho 2013; Dedoussopoulos et al., 2013: 46).

<sup>(25)</sup> This new criterion does not link extension to the representativeness of negotiating parties, but to the composition of employers' association.

## Opening and opt-out clauses

In Greece, Spain and Ireland (in certain sectors only) the possibility of derogation procedures through the use of opening or opt-out clauses primarily reflects legislative changes (Eurofound, 2014a). In **Greece**, various legislative acts have been implemented since 2010 in order to bring collective bargaining closer to enterprise level. For example, law 3845/10 led to the abolition of the favourability principle explained above by introducing the possibility of lower-level agreements to derogate from specific provisions in higher-level agreements. Subsequently, law 4024/11 made deeper modifications to this system by stipulating that enterprise-level collective agreements shall prevail in case of conflict with higher level agreements. Yet, enterprise agreements still do not have precedence over the NGCA which sets minimum conditions for employment (apart from minimum wages) (ILO, 2014b).

In **Spain** the 2010 Reform (Royal Decree Law 35/2010) was introduced to support a number of changes to collective bargaining aimed at increasing flexibility (Molina and Miguélez, 2013: 23). This Reform Law enlarged the capacity of collective agreements at the company level to introduce internal flexibility by favouring greater adaptability to economic circumstances and widened the scope for the non-application of higher-level agreements on wages and other working conditions at company level. Following this, in June 2011, the government implemented a Royal Decree Law on Urgent Measures to further Reform Collective Bargaining, which was aimed at giving priority to firm level collective bargaining. Building on the June 2011 Decree Law, the 2012 reform introduced a hierarchy of priorities aimed at assessing whether enterprise-level agreements should prevail over higher-level agreements.<sup>(26)</sup> This priority of

enterprise-level agreements applies to a number of essential issues including clauses on wages. Other issues include compensation for overtime; working time and distribution of working time, incl. holiday planning; adaptation to the system of professional classification; and measures to promote the work-private life balance.

In **Ireland** wage setting in certain low paid sectors is governed via Registered Employment Agreements or Employment Regulation Orders (see above). In 2011 legislation was introduced to allow for the possibility of derogation on grounds of economic difficulty. Furthermore, these wage setting systems have since been declared unconstitutional by the Supreme Court on grounds that the 1946 Industrial Relations Act did not provide 'principles and policies' to guide the Labour Court and Joint Labour Committees on how to exercise their power (Eurofound, 2014a: 12; Regan, 2013: 12).

Conversely in **Cyprus**, the derogation procedures for companies in economic difficulties had already been introduced as the result of several sectoral agreements concluded from 2009 onwards, well before the assistance programme (Eurofound, 2014a: 9).

In **Portugal**, attempts to bring collective bargaining closer to the enterprise level were introduced through modifications of the Labour Code in 2012, which stipulated amongst other things an "organised decentralisation" of collective bargaining (Law 23/2012) (ILO, 2014a: 68). This included granting more favourable conditions for works councils to conclude firm-level agreements subject to delegation by trade unions.<sup>(27)</sup>

## Changes to automatic continuation of collective agreements on expiry

In **Greece** the structural programme adopted in February 2012 under Law 4046/2012 replaced the possibility of indefinite collective agreements by a minimum time validity of one year and a maximum of three years (Dedousopoulos et al., 2013, p. 47). Similarly, the 'after-affects' of collective agreements, has been reduced from six to three months. If no new agreement can be concluded during this grace period, all terms of the expired agreement will cease to apply, except terms on base salary, maturity as well as child, education and hazardous work allowances (ILO, 2014b).

In **Spain** the government put an end to the principle of 'ultraactividad' (Law 3/2012 of 6 July 2012), which previously allowed for the indefinite extension of expired collective agreements. The 2012 Law now limits this to a maximum of one year in the absence of a new agreement.<sup>(28)</sup> The objective of this reform was to encourage the social partners to engage in negotiations. In practice however, it may also create gaps in collective bargaining regulation in cases where agreements cannot be reached and there is no higher-level agreement in place. The modification entails a change in previous power balance between trade unions and employers in the negotiating table (ILO, 2013 c). Employers' had claimed that the principle of *ultra-actividad* had imposed excessive rigidity on the labour market, which was particularly harmful in times of crisis

In **Portugal**, the structural programme called for an independent review on the survival (*sobrevigência*) of contracts that are expired but not renewed (art 501 of the Labour Code). Until 2003 a collective agreement could not expire, it could only be cancelled if all its signatory parties

<sup>(26)</sup> Royal Decree Law 3/2012 of 10 February 2012, which was proclaimed to Law 3/2012 of 6 July 2012 (Ley 3/2012, de 6 de julio, de medidas urgentes para la reforma del mercado Laboral); modifying Art. 84 of the labour law (Estatuto de Trabajadores).

<sup>(27)</sup> According to the new legislation, workers' councils can negotiate at plant level in firms with at least 150 employees (compared with 250 before the reform).

<sup>(28)</sup> If no agreement is signed at the end of this period, workers will be covered by a higher-level agreement.



agreed or if it was replaced by an agreement between the same signatories. The Labour Code of 2003 had introduced the possibility of expiry without replacement by a new agreement. (This was followed by technical revisions of the Law in 2006). A further revision in 2009 introduced a reduction of the survival period and created a new regime for agreements with a survival clause. In August 2014, following agreement with the social partners (excluding CGTP), a new law was adopted in Parliament (Law 55/2014 of 25 August). The law reduced the survival of collective agreements that had expired and not been renewed from 18 months to one year. Secondly, the law reduced the time needed for a collective agreement that makes their expiry depend on the existence of a new agreement to enter in a period of survival. The time is reduced from 5 to 3 years since the last time the agreement was published or after one of the parties expressed its interest in ending the agreement.

### What are the effects of the above-mentioned reforms?

Though it is difficult to draw definite conclusions regarding the impact of the above-mentioned reforms, existing data suggest an erosion of sectoral or multi-employer based agreement. This can be observed in the decline in the number of higher-level collective agreements and associated collective bargaining coverage rates in Greece, Portugal and to a lesser extent in Spain. In Portugal, nearly 300 collective agreements were registered in 2008, the number of agreements fell to 170 in 2011 and a mere 85 in 2012. This evidence suggests that while measures have had the effect of reducing the role of sectoral or multi-employer agreements, they did not result in an increase in enterprise-based agreements in Spain and Portugal (ILO 2014a: 69). In Greece, there was an increase in the number of company-level agreements since 2010, with a peak in 2012. Yet, in terms of bargaining coverage, this did not fully compensate for the decline in higher-level agreements and the changes to the extension mechanism.

**Table 3.2 Number of collective agreements concluded and registered**

Higher level agreements									
	2005	2006	2007	2008	2009	2010	2011	2012	2013
Greece	-	-	-	-	-	79	45	29	24
Spain	1423	1428	1418	1448	1366	1177	780	-	-
Portugal	179	176	187	200	164	166	115	46	-
Company level agreements									
Greece	-	-	-	-	-	227	170	975	409
Spain	4353	4459	4598	4539	4323	2990	2143	-	-
Portugal	73	68	64	95	87	64	55	39	-

Sources: UGT (2012), Molina and Miguélez (2013), Ministry of Labour, Social Security and Welfare, Greece.

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The result of the above trends is that wages and working conditions are increasingly determined by direct negotiation between management and individual workers (ILO, 2014a: 69). In Greece, evidence suggests that the reduction in wages specified in individual contracts were far greater than those displayed in collective agreements concluded at enterprise level by both trade unions and associations of persons (Dedoussopoulos et. al, 2013). A similar trend has been observed in Spain, although less marked.<sup>(29)</sup> According to a review conducted in Greece by the Bulletin of Labour Legislation (DEN) in May 2013, out of a total of 272 occupational or sector collective agreements, 233 have been terminated and only 33 (12 per cent of the total) have been renewed (Dedoussopoulos et. al, 2013).

### 3.3.4. The public sector

In efforts to reduce public expenditure, the public sector wage bill, as a key component of government spending, underwent far-reaching modifications during the economic and financial crisis. The evolution of the economic crisis into a sovereign debt crisis in 2010 reduced

government resources from lowered tax income or other sources of revenue, and higher expenditures in support for financial sector and stimulus packages led to increases in public debt in Cyprus, Greece, Ireland, Portugal and Spain (ILO, 2014d: 6).

### Impact on employment

From the onset of the sovereign debt crisis, the structure of public sector employment in Cyprus, Greece, Ireland, Portugal and Spain has seen radical changes, which have also been observed in other EU countries such as the United Kingdom, Romania and the Baltic States. In Greece employment was cut by 8 per cent in 2010, followed by plans for a reduction of up to 150 000 jobs at the end of 2015<sup>(30)</sup>. Similarly in Cyprus, a reduction of 5 000 posts has been foreseen over the next five years (ILOb, 2014: 9). Greece and Portugal have also set stricter replacement ratios (usual one hire for two) when replacing employees upon retirement. In Greece, all recruitments were suspended in 2010, while the replacement ratio was set at one hire for 10 exits in 2011 and at one hire for five exits through 2012–2016 (Karamessini, 2014).

<sup>(29)</sup> In Spain, a change in data related to registration of collective agreements makes assessment difficult.

<sup>(30)</sup> See Greek National Reforms Programme 2014, [http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014\\_greece\\_en.pdf](http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_greece_en.pdf)



In addition to job cuts and employment freezes a substantial number of public service jobs have been outsourced. This has led to a rapid increase in the number of temporary contracts in the public sector. Countries such as Portugal have modified the status of public sector employees, allowing fixed-term contracts to develop.<sup>(31)</sup> Ireland has expanded the use of internships and unpaid job bridge schemes.

### Impact on wages and working conditions

The process of fiscal adjustment has also had a significant impact on wage setting in the public sector. Changes have been implemented in various ways, either through a basic wage freeze or cut, as was the case in Cyprus, Greece, Ireland, Portugal and Spain, or through the suspension of bonuses previously enjoyed by public sector employees, such as the thirteenth and fourteenth month payments in Greece and Portugal. A number of non-monetary benefits have also been removed or cut, such as for meals in Portugal or for sick leave in certain regions of Spain (Vaughan-Whitehead 2013: 26).

Public sector wage cuts were structured progressively, meaning that higher public sector wages experienced a larger reduction – also in relative terms. EUROMOD simulations by Avram at al (2013) for Greece, Portugal and Spain suggest that public sector wage reductions (2008-2012), while reducing disposable household income on aggregate, were among the more progressive measures of the adjustment programmes in terms of their distributive impact. For Ireland, (Nolan et al 2012, Callan et al. 2012) came to similar conclusions.

**Table 3.3: Impact on wages, employment and social dialogue in the public sector**

	Cuts in employment	Cuts in wages	Social dialogue agreements and conflicts
Cyprus	Reduction of 5 000 posts over the next five years.	10 per cent for new entrants in 2013; freeze for two years.	Lower frequency of adjustment for wage indexation system adopted through tripartite agreement in 2013; suspension of COLA until 2016.
Greece	Employment decreased by 10 per cent in 2010; 150 000 more cuts by the end of 2015, corresponding to a further 20 per cent reduction.	15 to 30 per cent in 2010, followed by 17 per cent on average in 2012. Almost complete abolition of thirteenth- (paid in December) and fourteenth- (Easter and summer) month payments.	Continuous waves of general protests and strikes but also for all public sector occupations and sectors.
Ireland	Reduction of 24 750 staff over 2008 levels.	10 per cent for new entrants; cuts between 5 per cent and 15 per cent in 2009; 4.5 per cent on average in 2010.	Public sector agreement 2010–14 in March 2010 for some public sector reforms, but no further wage cuts and no compulsory redundancies; Industrial peace maintained. Agreement renegotiated in 2013 to reduce public service costs by further EUR 1 billion.
Portugal	–9.5 per cent in public administration in 2005–10, followed by a recruitment freeze.	Freeze of nominal wage in public administration in 2010. Further nominal cut of 3.5 to 10 per cent in 2011. In 2012 suspension of thirteenth and fourteenth-month payments (for holiday and Christmas bonuses) for middle and high wages.	Series of strikes/ protests both at national and public sector level.
Spain	–18 000 in public administration in 2010, recruitment freeze in 2012 and targeted cuts on open ended contracts	–5 per cent in 2010; Frozen in 2011 and 2012; Result: –10 per cent real wages in 2010–2011. Same in autonomous regions.	2010 agreement on wage increase in public sector broken by government; Increased conflicts.

Sources: European Commission (2013a: 147–149), ILO(2014d: 9), Eurofound (2014a).

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<sup>(31)</sup> In Portugal new short-term contracts for nurses have been established with an hourly salary of €2 less than in 2011

In most cases, the wage reductions were introduced without consultation with the representatives of public employees. The lack of social dialogue or of consensus in the reform process, coupled with the suspension of a number of provisions that encouraged collective bargaining in the public sector, have gone hand in hand with a worsening of working conditions in many countries. Job cuts seem to have also led to work intensification with longer hours in many services for remaining public sector employees, while overtime rates have been frozen or cut, as in Greece and Portugal. The demand for public services has remained the same or even increased, in areas such as health and education however reduced expenditure has lessened the material and human resources available to carry out the services (European Commission, 2013a: 149).

### Impact on social dialogue in the public sector

Negotiations and consultations with the representatives of public employees have been limited in the face of such significant quantitative adjustments to reduce the budget deficit. Most measures have taken the form of unilateral wage cuts, employment freezes and the opting out of previously negotiated collective agreements. This was the case in Spain, for example, where the 2009 agreement on wage increases in the public sector was unilaterally broken by the government, and accompanied by an average wage reduction of 5 per cent through legislative decree.<sup>(32)</sup> In reaction to this and to a number of other measures intended to cut public deficit, public sector workers held a strike on 8 June 2010, which according to the unions brought together 75 per cent of workers (EIRO, 2010).

The exception to the general pattern was **Ireland**, where two successive

social partner agreements on the public sector were reached. The Croke Park Agreement marked an important public sector response to the crisis, and was negotiated through the Labour Relations Commission in 2010 after the tripartite social partnership negotiations failed in 2009. The core features of this agreement included no more pay cuts for public servants in return for industrial peace, reform of bonus payments, a recruitment freeze in health and education, and new pay and conditions for new entrants to the public service (Regan, 2013). However, government attempts to renew the agreement were overwhelmingly rejected by public sector workers for fear of an additional 7 per cent cut to the public sector wage bill, in light of deteriorating public finances. This led the government to negotiate a series of bilateral agreements with individual unions, under an overarching structure known locally as the Haddington Road Agreement. This new Public Service Stability Agreement 2013–2016, has avoided additional wage cuts but will lead to a cut in public service costs by an estimated EUR 1 billion, where further reductions will be applied to public salaries above a certain threshold, together with widespread reform of practices (EIRO, 2013a).

Throughout Europe, public sector reforms have triggered a wave of demonstrations and strikes by public sector employees. These have often been joined by other social groups, but in most cases had limited impact on altering the direction of fiscal consolidation programmes (European Commission, 2013a: 149; ILO, 2014d: 23). Extended social unrest has been prominent in countries where the adjustment was large and where social dialogue failed throughout the reform process, as in Greece and Spain. Contrary to this, industrial action and social unrest seem to have been mitigated in the countries where the government has managed to organise more effective tripartite consultations, as in Ireland.

## 3.4. Response of the social partners

Given the reforms to industrial relations systems in the five countries under review, this section covers the reaction of the social partners to this context. It considers trade unions' recourse to courts and international institutions as a strategy to challenge the content of reform measures. Finally, the section analyses the reforms' impact on workers' and employers' organisations strategies and structures.

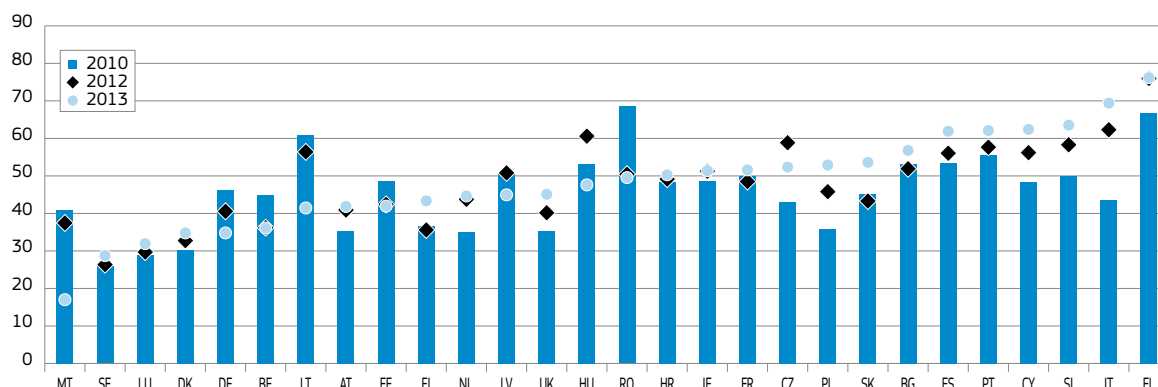
### 3.4.1. Industrial action and conflict

The attempt to reform labour market legislation and social protection schemes led to a rapid increase in industrial action, street protests and even riots (European Commission 2013a: 150). The protests were most extensive in countries in which the most restrictive policies were implemented, such as Greece, Portugal, and Spain. Several of these strikes emerged in the public sector. Besides demonstrations by employees in health (doctors, nurses) or in education (teachers) there have also been, for the first time, demonstrations by other public sector workers, such as the police (for instance, in Greece) (European Commission 2013a: 150; Vaughan-Whitehead, 2013). There have been demonstrations at national level, but also at the local level and in specific sectors or professions in a number of countries, as detailed below.

While this evidence suggests an increased frequency of strikes in countries under temporary financial assistance, a deficiency of strike data before makes it difficult to provide a full picture. Internationally comparable data on industrial conflict is generally difficult to obtain and often unreliable. Recent research by the European Trade Union Institute (ETUI) on working days lost due to industrial action suggests that national authorities do not focus on

<sup>(32)</sup> High-ranking officials saw their salaries cut by between 8% and 15%. Those on lower pay suffered losses of between 0.56% and 7%.

Chart 3.1 Social unrest index 2010-13



Source: ILO research department.

collecting data on industrial action. In particular, crisis-hit countries like Greece, Italy and Portugal have postponed or halted their data collection entirely (ETUI, 2014). Nonetheless, in **Greece**, the Labour Institute of GSEE was able to report 445 strikes and work stoppages in 2011, which included several nationwide strikes covering many sectors (EIRO, 2013b). In September 2012 a general strike against fiscal consolidation measures took place. This was followed by major public sector strikes and protests throughout 2013, which did not diminish in 2014 where another general strike took place with the participation of teachers, seamen and train workers (Wearden, 2014). Similarly in Portugal, four general strikes organised by the largest trade unions (UGT and CGTP) have taken place since the onset of the crisis. In addition many sectoral strikes in the transport sector have occurred, as well as massive demonstrations often without the formal involvement of trade unions (Ramalho, 2013: 18).

In **Spain**, data suggests that there has been a rise in industrial action in response to fiscal consolidation measures implemented by the government. Four general strikes took place within the period 2010–2012. In addition, strikes were organised in specific sectors. Days

lost due to *general strikes* have clearly increased during the crisis period: from 8 500 days in 2009 to 60 220 days in 2012 (ILOSTAT, 2013; Molina and Miguélez, 2013).

Remarkably in **Ireland**, given the extent employment crisis there was very little industrial action recorded. There were only eight strikes in 2011, with 3 695 days lost – one of the lowest rates in the OECD (Regan, 2013).

In **Cyprus** strike activity evolved from 1 034 days not worked in 2008 to 1 743 in 2009 and then dropped to only 200 in 2010, which is in part the result of rising unemployment. Figures again rose rapidly in 2011 to 4 712 days not worked, with the majority of these strikes in the public sector. In December 2011, trade union PASYDY called a number of strikes against fiscal consolidation measures and a proposed two-year salary freeze, which marked the first time in 10-years when all unions in the public and semi-public sector went out on strike. Industrial action continued into 2012, where both public and private sector workers protested against the violation of collective labour agreements, and the refusal of many employers to grant the wage increases agreed for 2012 (EIRO, 2013c).

Another possible measure of social conflict in a country is the Social Unrest Index, which takes a number of indicators into account, ranging from the level of confidence in the national government, to the degree of freedom in the country and the perception over the state of the economy (ILO, 2013c: 22)<sup>(33)</sup>. In comparison to the rest of the world, social unrest was recorded as the highest among EU countries – which increased by 12 percentage points, from 34 per cent in 2006/07 to 46 per cent in 2011/12. According to empirical analysis by the ILO, this increase is most likely to be due to the policy responses to the on-going sovereign debt crisis and their impacts on people's lives and perceptions of well-being (ILO, 2013c: 15).

In 2013, Greece, Cyprus, Portugal and Spain ranked among EU Member States with the highest level of social unrest, while Ireland ranked closer to the median (Chart 3.1).

<sup>(33)</sup> The Social Unrest Index is constructed using the following variables and corresponding weights: percentage of respondents reporting lack of confidence in their national government (0.35); percentage of respondents reporting that their standard of living was getting worse (0.2); percentage of respondents reporting dissatisfaction with freedom in their country (0.2); percentage of respondents reporting that their national economy was getting worse (0.2); and percentage of respondents with access to internet (0.05).

The increase in social unrest in crisis-hit countries has usually been attributed to the difficult economic environment, leading to mounting unemployment, poverty and social exclusion rates. In Portugal the main reasons for social tension were cited as the new tax policies and deterioration of living conditions rather than changes to the labour law (Ramalho, 2013: 19).

### 3.4.2. Impact on trade unions and employers' organisations

Since the 1980's trade union density has been on the decline in many European countries (see chapter 1), however the crisis has brought with it a "further weakening of trade unions due to losses in membership, in turn leading to decreased representativeness, a lack of success in public protests and a deinstitutionalization of the collective bargaining system" (Gonser, 2011, p. 409; Eurofound 2014b: 15). However in many cases the decline in trade union membership can be attributed to the rapid increase in unemployment, as in the case of Cyprus. Portugal's biggest trade unions also experienced a decline in membership. The General Confederation of Portuguese Workers (CGTP) and the General Workers' Union (UGT) lost a total of 154 912 members in between 2008 and 2012, with a simultaneous loss of 553 000 jobs (Eurofound 2014b: 16). More precisely, CGTP membership declined from 727 000 workers in 2008 to 614 088 workers in 2012. As for UGT, membership declined from 520 000 in 2008 to 478 000 in 2012.

According to Clauwaert and Schomann, the crisis has led governments to modify the rules on the representativeness of the national social partners: "the adoption of measures reviewing representativeness criteria for social partners and extending what used to be trade union prerogatives to other bodies of workers' representation" (Clauwaert and Schomann, 2012, p. 13; Eurofound 2014b: 16). For example

in **Greece** trade unions at firm level have traditionally encountered difficulty to establish themselves. To address the lack of firm-level trade union presence, recent reforms now allow associations of persons (comprising at least three-fifths of those working in a company) to negotiate firm-level collective agreements with the employer. Agreements negotiated by firm-level trade unions have priority over those by associations of staff. According to the ILO Committee of Experts<sup>(34)</sup>, these informal 'associations', who often have insufficient administrative capacity and lack independence, are said to be causing union fragmentation and creating obstacles to the involvement of the sectoral unions, since the conclusion of company collective agreements takes precedence. The provisions made through this Law (4024/2012) "overtly interfere in the structure and operation of trade unions and contravene the right of workers to collective representation by persons they feel have been democratically elected" (Lanara, 2012: 8).

In **Portugal** greater power has been granted to non-union representatives through the inclusion, in sectoral collective agreements, of conditions under which works councils can conclude firm-level agreements through the delegation of unions (ILO, 2014a: 103). There is the fear that this tendency towards negotiation at enterprise level in countries with long traditions of sectoral and inter-sectoral social dialogue, in a context of increasing labour market segmentation, may limit workers' effective access to collective agreements (ILO, 2103d: 16).

In **Spain**, "the reforms make the exercise of collective rights more difficult, thus undermining of the autonomy of the social actors" (Molina and Miguélez, 2013: 3). Some voices have blamed public sector unions as the cause for many of the problems in the labour market due to their alleged lack of representativeness

of the workforce<sup>(35)</sup> and dependence on public subsidies. As a likely consequence to this, measures approved by central government in the 2011 reform package reduced subsidies to trade unions and employers' associations by 20 per cent, in addition, limitations have been placed on public employees time-off to perform trade union duties (Muñoz de Bustillo and Anton, 2013: 526).

In the case of **Ireland**, "the withdrawal of the State from social partnership has exposed an underlying weakness of trade union and employer associations in coordinating their interests autonomously" (Regan, 2013: 16). According to Erne trade unions today are in crisis "struggling to cope with the drastic results of the crisis for their members. They have differed in their approaches, with some militant trade unions organising numerous general strikes, while others more or less reluctantly went along with unprecedented cuts of their members' wages and working conditions" (Erne 2011).

In general, crisis measures appear to have had little direct effect on employers' organisations, while many fear that the impact of the crisis on enterprise profitability and sustainability through weakened aggregate demand will reduce membership in employers' organisations. In Greece for example, the General Confederation of Greek Small Businesses and Trades (GSEVEE) reported the closure of 100 000 businesses in just two years, resulting in the destruction of approximately 500 000 jobs (EIRO, 2013d). This has also been the case in Portugal and Greece where employers' organisations have voiced concerns the reform of extension mechanisms, and the impact this could have on their membership status.

<sup>(34)</sup> Observation (CEACR) - adopted 2012, published 102<sup>nd</sup> ILC session (2013) Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

<sup>(35)</sup> According to the Quality of Working Life Survey 2010, union density was 18 to 19 per cent in 2010 (31.5 per cent) in the public sector, a figure in line with countries such as France (Muñoz de Bustillo and Anton, 2013: Footnote 12, p.516).

In Ireland, the main employers association, IBEC, have effectively closed down their industrial relations and collective bargaining unit, choosing to focus on a strategy of direct lobbying with the European Commission and government. In doing so, IBEC has launched a number of initiatives with the government to promote employment, such measures include providing support to vulnerable enterprises through the launch of an Enterprise Stabilisation Fund and an Employment Subsidy Scheme to help viable enterprises in trouble; assisting new graduates in finding work placements; and reducing the cost of doing business in Ireland by enhancing cost competitiveness across a range of business sectors (ILO, 2010).

Overall “the crisis has profoundly affected the positions of both employers and workers. It also affects the interaction between the two: the crisis has rapidly changed the economic and social context in which workers and employers cooperate, bargain and have conflicts” (Glassner and Keune, 2010, pp. 3–4, Eurofound, 2014b: 16).

### 3.4.3. Recourse to courts and ILO supervisory bodies

The lack of social dialogue or the latter’s failure to enable government and the social partners to find compromises over the reforms and fiscal consolidation policies have pushed the trade unions in some countries to attempt two other means of action in order to influence the course of reforms and/or to stop cuts of expenditures, especially cuts of wages and social benefits in the public sector: these are recourse to courts on the one hand, and lodging of complaints before the International Labour Organisation on the other.

#### Recourse to courts

Such recourse occurred in three countries, namely Greece, Portugal and Spain and led to different outcomes. In Portugal measures adopted in line with the Memorandum of Understanding were found unlawful and in breach of the country’s constitution on two occasions (ILO, 2014a: 106).

In other cases the Courts recognised the urgency of reforms, as in Spain, where the Constitutional Court rejected the trade unions’ claim of unconstitutionality against public sector wage cuts through Royal Decree-Law 8/2010. Instead they stressed the exceptional circumstances and urgency to take the said measures (ILO, 2014c).

Although not specific to the public sector, Greece’s Administrative Court recently declared the majority of labour market reforms as constitutional, with the exception of the elimination of unilateral recourse to arbitration (as of law 4046/2012).

#### Recourse to the ILO supervisory bodies

In a few cases the trade unions turned to ILO supervisory bodies, alleging violation of international labour conventions, ratified by the countries concerned. In the case of **Greece** this led to comments by the ILO supervisory bodies on the application of 12 Conventions, including the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), paying particular attention to public administration. While deeply aware that these measures were taken within a context qualified as grave and exceptional provoked by a financial and economic crisis, the Committee of

Experts found that there were repeated and extensive interventions by the state into free and voluntary collective bargaining and an important deficit of social dialogue. It highlighted the need to promote and strengthen the institutional framework for these key fundamental rights (ILO, 2011). The ILO supervisory bodies encouraged the government and the social partners to rapidly reengage in intensive social dialogue with a view to developing a comprehensive action for labour relations in the country.

In **Spain**, trade unions brought their case to the ILO supervisory bodies for review in response to the unilateral actions of the Government (described in box 3.1). The complaints concerned Royal Legislative Decree No. 3/2012 on urgent measures for labour market reform (later Act No. 3/2012) and the Royal Legislative Decree No. 20/2012 on measures to ensure budgetary stability and promote competition (later Act No. 20/2012). Key concerns included the legislation adopted by the Government, which differed significantly in parts from the bipartite agreement (ANEC II) previously agreed upon between the social partners, before the adoption of the legislation. This particularly related to rules on collective bargaining.

The supervisory bodies, while taking due note of the need to respond urgently to an extremely serious and complex economic crisis, emphasized the need for consultation of the most representative workers’ and employers’ organizations with sufficient advance notice of draft laws and draft Royal Legislative Decrees prior to their adoption. It also stressed the importance of ensuring that the essential rules governing the system of labour relations and collective bargaining are agreed, to the maximum extent possible, with the most representative workers’ and employers’ organizations (ILO, 2014e).



Table 3.4. Complaints to ILO Supervisory Bodies

	Greece	Spain
Date of complaint and complainant	Complaints against the Government of Greece presented by GSEE, ADEDY, GENOP-DEI-KIE and OIYE; supported by ITUC <sup>(1)</sup> . The complaints are contained in communications dated 21 October and 2 December 2010, 18 November 2011 and 16 July 2012.	1) Complaint against the Government of Spain presented by FSC-CCOO <sup>(2)</sup> on November 2011. 2) Complaints against the Government of Spain presented by CC.OO. UGT, CSIF, USO and many other national trade unions. Initial communication took place on 10 May 2012. <sup>(3)</sup>
Alleged Laws in violation of ILO Conventions	Laws 3833/2010; 3845/2010; 3863/2010; 3899/2010; 3896/2011; 4024/2011; and 4046/2012.	Royal Decree Law 8/2010 on public sector wages; Royal Legislative Decree No. 3/2012 on urgent measures for labour market reform (later Act No. 3/2012); Royal Legislative Decree No. 20/2012 on measures to ensure budgetary stability and promote competition (later Act No. 20/2012)
ILO Conventions under enquiry	No. 81, No. 87, No. 95, No. 98, No. 100, No. 102, No. 111, No. 122, , No. 138, No. 150, No. 154, No. 156 (ILO, 2011: 4).	No. 87, No. 98, No. 151 and No. 154
ILO Mission	ILO High-level mission took place in 2011 to collect information on the application of the above Conventions; and to gain a comprehensive understanding of the exceptional situation facing Greece.	-
Conclusions of ILO Committee on Freedom of Association on matters related to social dialogue	While taking the grave economic and financial situation into account, the Committee concluded an important deficit of social dialogue and the alteration of the institutional framework of key fundamental rights of freedom of association and collective bargaining.	1) The Committee – whilst highlighting the exceptional circumstances and complexity of the case – considered that collective bargaining was a fundamental right that should be given priority as a means of determining employment conditions of civil servants in the context of economic stabilization 2) The Committee emphasized the importance for consultation of the most representative workers' and employers' organizations with sufficient advance notice of draft laws and draft Royal Legislative Decrees prior to their adoption.

Sources: ILO (2011) ; ILO (2012); ILO (2013e); ILO (2014e).

<sup>(1)</sup> The complaints are contained in communications from the Greek General Confederation of Labour (GSEE) dated 21 October and 2 December 2010, 18 November 2011 and 16 July 2012. The Civil Servants' Confederation (ADEDY), the General Federation of Employees of the National Electric Power Corporation (GENOP-DEI-KIE) and the Greek Federation of Private Employees (OIYE) associated themselves with the complaint and provided additional information in a communication dated 9 March 2011. The International Confederation of Trade Unions (ITUC) associated itself with the complaint in a communication dated 30 October 2010.

<sup>(2)</sup> The Citizens' Service Federation of the Trade Union Confederation of Workers' Commissions (FSC-CCOO).

<sup>(3)</sup> The complaint is contained in a joint communication dated 10 May 2012 from the Trade Union Confederation of Workers' Committees (CC.OO.) and the General Union of Workers (UGT). These organizations submitted supplementary information and additional allegations in communications dated 22 June, 30 July and 29 October 2012 (the last of these communications – on issues related to the public sector – was also signed by the Independent Central Workers' Union and Union of Civil Servants (CSIF), the Workers' Trade Union (USO) and many other national public sector trade unions.

### 3.5. Conclusion

This chapter analysed industrial relations developments in those EU Member States (Greece, Ireland, Portugal, Spain and Cyprus) receiving financial stability support in the context of the European response to the severe fiscal and banking crisis in the Eurozone. The analysis looked in particular at impact of the crisis

and policy response on industrial relations institutions and actors. The chapter shows that faced with an unprecedented economic crisis and under pressure due to the fiscal crisis, the five countries under study undertook far reaching fiscal consolidation programmes and a broad range of reforms, including labour market reforms, aimed at improving national competitiveness, restoring market confidence and

creating the conditions for a return to sustainable growth and jobs recovery.

With the exception of Greece, tripartite social pacts were the defining characteristic of industrial relations reform in all of the case studies, prior to the Eurozone crisis. Nonetheless, none managed to internalise and adapt to the need for increased adjustment capacity

in the context of the EMU and loss of exchange rate flexibility. Despite active attempts at aligning wages more closely with productivity and at making labour market more flexible, all of these countries experienced deterioration in the real exchange rate and growing divergences in the capital and current account.

While there may be some elements of continuity in policy, such as a trend towards labour market liberalisation and a more important role for the state in shaping industrial relations, the process and scope of reforms have fundamentally changed. For example, whereas some of the social pacts organised the decentralisation of collective bargaining in a coordinated framework of dialogue at different levels (national and/or sectoral), recent unilateral state action in the countries under study have frequently resulted in the uncoordinated decentralisation of bargaining, or even in the end to any bargaining, as evidenced by the decline in the collective bargaining coverage of the countries under study (see chapter 1).

In a majority of cases the labour market reforms and the adjustment measures pursued, especially those entailing cuts in wages and social welfare affecting the public sector, did not involve effective consultations and negotiations with the social partners, thus departing from a tradition of tripartite cooperation between government and social partners that had been used for adjustments in the run-up to EMU and in the pre-crisis period. Indeed, prior to the crisis in all of the case studies – with the exception of Greece – the social partners previously agreed to reforms on labour market flexibility, wage moderation and de-centralising industrial relations.

During the crisis, on the contrary, existing institutions for tripartite consultation appear to have been weakened – with the exception of Portugal for labour market reforms, and Ireland for public sector changes. The difference since 2009 is principally a change in the pace and

process of reform: the role of the state in industrial relations has increased significantly since 2010, as has the attention placed by the EU and international lenders on collective bargaining institutions and wage setting mechanisms. It could be noted, however, that the context was different: In the 1990s the disinflation policy concerned the aggregate inflation. In the recent crisis, in countries covered in the chapter, shifting relative prices and wages were key issues. It is arguably more difficult to achieve consensus on changing relative wages than on wage moderation.

Enacting urgent measures aimed at restoring competitiveness and stabilising financial markets often received a priority over the pursuit of consensus with the social partners, for which the crisis situation further limited the scope. Given the size of the required adjustments, social partners may have been reluctant to participate in the reform process. In a number of cases, trade unions turned to courts and international organisations to have their voice heard and to influence the course of reforms, which in the past was achieved through tripartite and bipartite social dialogue. Employers' organisations adopted a strategy of lobbying government and parliament to advance their interests, particularly in a context of reduced space for social dialogue and collective bargaining.

The reduced space accorded to social dialogue is perhaps surprising when considering that labour market, wage-setting and industrial relations institutions have all increased in importance with EMU. Well-functioning labour markets are a pre-requisite for future economic and employment growth. Unorganised processes of decentralisation, and a weakening of institutions for social concertation entail risks of weakening labour market self-regulation and tripartite governance, which are needed for the long-term return to sustainable economic growth. This would decrease the potential for these institutions to mediate conflict, distribute income, and

compensate interest groups for sacrifices made during the crisis.

As shown by the chapter, the awareness of the importance of institutions for social dialogue and tripartite cooperation in order to promote consensus with social partners has been recently reinforced. This is the case in Greece with the reactivation of two institutions, which were dormant, namely the employment council and the social protection council, both of which are tripartite. Also, the recent decision of the Greek Government to modify the practice in relation to authorising collective dismissals offers another example of such a change of government's attitude. Indeed, since early 2014 authorisation of collective dismissals submitted to the Minister of Labour by employers are referred to the supreme labour council, which enjoys a tripartite structure, for opinion. Before the change, such requests were dealt with only by the Ministry of Labour. In 2012, while the tensions were high, the Portuguese Government set up the Centre for Labour Relations, a tripartite labour market institution which was decided by tripartite partners already in the framework of the "Strategic Agreement for Consultation 1996-1999". Also, it increased the number of meetings of the Standing Committee on Social Concertation meant to maintain a permanent channel of communication with the social partners<sup>(36)</sup>. In Cyprus, tripartite partners emphasised the important role of the Labour Advisory Board in present times of economic and financial crisis (ILO-EC Seminar Nicosia, 13-14 November 2013), a tripartite institution, which proved important in times of economic prosperity and full employment.

In the public sector, consultations and negotiations with the organisations representing public employees, with the exception of Ireland, seem to have been rare in the countries under study.

<sup>(36)</sup> Annual Report on activities of the Economic and Social Council for 2011, 2012 and 2013 available on: <http://www.ces.pt/>

In some countries government withdrew from or broke agreements signed in lieu of attempting to renegotiate their adaptation to evolving economic circumstances. Whether this attitude reflects a cyclical (short term choice dictated by the exceptional economic circumstances) or a structural development in government's attitude towards social dialogue in the public sector remains to be seen. Nevertheless, there are some signs that in further post-crisis reforms, effective and comprehensive social dialogue between governments, in their role as employer, and organisations representing public employees could again gain importance over the unilateral determination of working conditions by government in the public sector.

A large portion of the policy reforms implemented in the countries under study targeted industrial relations institutions. With the goal of linking wages more closely to company-level productivity levels, wage setting was decentralised to firm level. However, in the five countries this is a problematic trend, given

that decentralisation in these cases is not taking place in a well-coordinated manner under the control of social partners. First, none of these countries have established work councils or inclusive negotiating systems at the company level, where unions and employers' capacity to negotiate agreements are generally weak<sup>(37)</sup>. Second, though the data remains scarce and partial, it suggests that decentralisation of collective bargaining is leading to a narrowing scope of bargaining as illustrated by the decrease the number of workers covered in countries such as Greece, Portugal and Spain. Developments in this regard will have to be monitored.

Within a broader reform agenda to boost education and training, improve product and service markets and the business environment with a view to sustain potential growth and job creation, the decentralisation of collective bargaining and wage setting is sometimes presented as an integral part of the only strategy to restore competitiveness, as it provides more flexibility for firms to adjust

to evolving economic conditions. A one-size-fits-all approach to decentralisation could put an end to multi-employer collective bargaining at least in the short term. However, one of the strengths of the European social model is its respect for the diversity of national industrial relations systems, which can produce positive outcomes in centralised bargaining with flexibility, just as well as decentralised bargaining with coordination. A proper involvement of social partners in a developed social partnership is important to ensure a culture of responsibility for the overall labour market performance in an increasingly open economy to coordinate adjustments efforts across the whole economy and improve the way the economy deals with shocks – that is particularly important in the case of monetary union where the coordination of nominal adjustment cannot take place by exchange rate policies. The consequences of the national reforms to collective bargaining and industrial relations and their effect on the quality of social dialogue will therefore need to be carefully monitored as Europe exits the crisis.

<sup>(37)</sup> The large proportion of micro-enterprises in many of the countries is also a factor in the limited capacity of employers at firm level to negotiate agreements, even if there were to be an interlocutor on the workers' side.

## ANNEX

Table 3.5. Institutions for tripartite and bipartite Social Dialogue

Country	Name of institution	Date of Creation	Structure	Mandate
Cyprus	Labour Advisory Board (LAB)	2006	Tripartite	The LAB functions under the auspices of the Ministry of Labour and regularly assigns specific subjects to tripartite technical committees that work together, according to their prescribed terms of reference. This mechanism was used during the EU harmonization process.
Greece	Economic and Social Committee (OKE)	Established in 1994 by the Law 2232/1994	Bipartite plus <sup>(1)</sup>	The OKE promotes social dialogue and provides opinions on issues of social and economic policy particularly before draft laws on the above policies are submitted to Parliament to become Greek law. The OKE may also, on its own initiative, express an Opinion.
Ireland	National Economic and Social Council (NESC)	Established by Statute on November 2, 1973	Tripartite plus	The NESC analyses and reports to the Prime Minister on issues relating to economic development, social justice and the framework for relations and negotiations between the government and social partners.
Portugal	Economic and Social Council (CES)	Established on August 17, 1991 by Law No. 108/91	Tripartite	The forum for consultation on economic and social policies is a permanent commission for social dialogue within the CES. It is particularly responsible for the elaboration of policies on wages, salaries and employment reports.
Spain	Economic and Social Council (CES)	Established on June 17, 1991 by Law 21/1991	Bipartite plus	The Council is a consultative instrument of the government and its mission is to give opinions on preliminary drafts of legislation/ royal decrees dealing with socioeconomic and employment matters or legislation dealing with the Council's own organisation.

<sup>(1)</sup> "Plus" indicates the participation of other organized groups of civil society, in addition to governments, trade unions and employers' associations, or the bipartite structure involving representatives of trade unions and employers' associations.

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