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The Extension of Collective Agreements in Europe

Collective agreements and their functions

Collective bargaining plays a key role in industrial relations in the EU, which is underlined by the Charter of Fundamental Rights of the European Union: "Workers and employers, or their respective organisations, have, in accordance with Community law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action" (Charter of Fundamental Rights of the European Union of December 2000, Article 28). In this context, collective agreements are agreements concluded between single employers or their organisations on the one hand, and organisations of workers such as trade unions on the other. These agreements establish the content of individual contracts of employment and regulate relationships between the parties (Eurofound 2013). In general, these agreements establish a large number of working conditions including wage levels or minimum wages but also many other issues such as working time, fringe benefits, training, health and safety, promotions, contract types, severance pay, bonuses, grievances, etc. (Martins 2014). Usually collective agreements are concluded at company or at industry level. At industry level collective agreements establish common working conditions among the participating companies and may also be called multi-employer agreements.[1]

Different functions are connected with collective agreements (Traxler 1998) that differ between the involved parties - the employees and employers:

For employees

- Protective function: to protect the employee against more powerful employers and to ensure decent working conditions
- Voice function: to allow the expression of grievances and aspirations by the employees towards the employer
- Distributive function: to provide a share in the economic progress for the employees

For employers

- Peace function: to maintain social peace and to ensure the legitimacy of managerial control[2].

Moreover multi-employer bargaining gives employers so called cartelising effects, as wages are taken out of the competition among the involved companies. Multi-employer bargaining may also reduce transaction costs in comparison to negotiations on the individual firm level (Traxler 1998; Haucap, Pauly and Wey 2001). Additionally, collective agreements can have effects on the state as well: free collective bargaining and therefore a strategy of non-interference in the collective bargaining process by the state may relieve the state from the burden of intervening in a policy area with high conflict potential (Traxler 1998).

Two principles of collective agreements are important to mention. Firstly, in multi-employer or industry agreements, only the companies involved in the bargaining process or organised in employers' associations are covered by the agreed collective agreement. However, and secondly, all employees in the covered companies are affected and not only those who are members of a union. This principle is a legal *erga omnes* provision that most European countries have imbedded in their national law or in countries that do not have *erga omnes* provisions (Germany, Bulgaria, Lithuania, Sweden and United Kingdom) agreement provisions are generally applicable to all employees within the workplaces covered (Schulten 2012; Eurofund 2015a). Hence, according the first principle, there are mechanisms in most European countries that enable the state to extend the impact of collective agreements to all companies within one industry. These mechanisms are called the "Extension of collective agreements".

The extension of collective agreements in Europe

In many countries, wage levels and working conditions set in collective bargaining contracts negotiated by a limited set of employers and unions are subsequently extended to all the employees and employers in an industry by the state. As a result, these agreements also

[1] For an overview of collective bargaining systems, frameworks and practices in the EU please see: Eurofound (2015a).

[2] In Germany for example, the peace function means that strikes are not allowed during a valid collective agreement contract.

Table 1

Mechanisms for extending collective agreements by the state

Country	Extension mechanism	Frequency of use
Austria	The legislator has provided for an official procedure called an extension order, whereby a collective agreement can be extended to include employment relationships of essentially the same nature, which are not covered by an agreement. But in Austria it is compulsory for companies to be member of employers' associations, which can be seen as a functional equivalent, resulting in high collective bargaining coverage.	Uncommon but functional equivalent in place
Belgium	The obligatory nature of a sectoral collective agreement can be extended by Royal Decree. In this case, the agreement will be binding for all employers covered by the bipartite structure within which the deal has been concluded, and contrary provisions cannot be made in individual employment contracts. This procedure is initiated at the request of the sectoral joint committee or by an organisation represented in the committee.	Very widespread
Bulgaria	The Labour Code provides for the extension of collective agreements by ministerial decree. According to the Labour Code, 'when the collective agreement at sectoral or branch level is concluded between all the representative organisations of workers and employers in the sector or industry, at their joint request the Minister of Labour and Social Policy may extend the application of the contract or of its individual clauses in all enterprises of the sector or industry'.	Uncommon
Croatia	Extension of the application of a collective agreement is stipulated in the Labour Act. The Minister may, at the request of all parties to a collective agreement, extend the application of a collective agreement concluded with an employer's association or a higher-level employers' association, to an employer who is not a member of the employer's association or higher-level employers' association that is a signatory of this collective agreement. The Minister will agree if there is a public interest for extension of a collective agreement and if the collective agreement was concluded by trade unions which have the highest number of members and an employer's association which has the highest number of workers, at the level for which it is extended.	Uncommon
Cyprus	Collective agreements apply to signatory parties' members only, whereas in Cyprus there is neither legal provision for mandatory extension of the collective agreements, nor is there a functional equivalent. In relation to wage indexation that applies to the outcomes of collective bargaining, all employees are covered, regardless of whether they are a member of a trade union.	No extension mechanisms
Czech Republic	The extension of a collective agreement to another employer is possible under certain conditions. The Ministry of Labour and Social Affairs possesses the relevant powers to ensure agreements are extended, based on a proposal made by both contractual parties to the agreement, provided that the conditions determined by law are met. There are no voluntary mechanisms of extension.	Uncommon
Denmark	There are no extension mechanisms in Denmark regarding collective agreements.	No extension mechanisms
Estonia	It is possible to conclude extended collective agreements that extend to the other parties who are not a signatory to the collective agreement (the scope of the enlargement is determined by a collective agreement). Such extended contracts may be the subject of pay, work and vacation conditions, and concluded by the association or federation of employers' and workers' union or federation, or employers' and workers' confederation.	Uncommon
Finland	According to the principle of general applicability, which has been in force since the 1970s, sectoral level collective agreements are generally binding and thus also apply to unorganised employers and employees in the sector. In 2001, the so-called confirmation procedure for universally binding collective agreements came into force. A special commission under the Ministry of Social Affairs and Health confirms the general applicability of the agreements. A sector-level agreement is generally applicable if it can be considered representative of the field in question.	Very widespread
France	Extension mechanisms are used extensively. This practice means declaring the terms of a collective agreement, negotiated between the representative organisations within a subsector, compulsory for all the employees and employers in that subsector. In order to extend a collective agreement, social partners have to ask the Labour Ministry to make a ministerial order.	Very widespread
Germany	Collective agreements can be extended either under the Collective Agreements Act or under the Posted Workers Act. Under the former, the federal as well as the regional labour ministers may extend an agreement if the extension is approved by a bipartite wage committee. Under the Posted Workers Act, the federal labour minister may react to a plea by the collective bargaining partners and extend a sectoral agreement to the national level. The number of extensions strongly decreased over the 2000s. Sectoral agreements can be extended if the extension is 'in the public interest'; previously, they had to cover at least 50% of the sectoral employees to be eligible for extension.	Uncommon
Greece	There is no longer any extension mechanism for collective agreements. An extension mechanism existed until 2011. The collective agreements are now binding only for the members of the signatory parties.	No extension mechanisms
Hungary	Collective agreements concluded at sectoral level can be extended by resolution of the minister responsible for employment policy. The Sectoral Dialogue Committees as well as the signatory sectoral social partners can initiate the binding extension. An extension is an administrative procedure after due consultation with national social partner confederations and the relevant line minister, as stipulated by Act, and the resolution of the minister can be challenged at the Labour and administrative courts.	Uncommon
Ireland	There is no existing extension mechanism in place. Joint Labour Committees, which form employment regulation orders, could, potentially, put an extension mechanism into effect.	Uncommon
Italy	Collective agreements cannot be extended by legislation. The constitutional obligation of employers to pay a 'fair wage' has been a strong functional equivalent of a legal extension mechanism, because judicial practice has traditionally identified minimum collectively agreed wages as a reference for assessing the fairness of wages.	No extension mechanisms but functional equivalent in place
Latvia	In compliance with Latvian law, a general agreement entered into by an organisation of employers or an association of organisations of employers is binding for members of the organisation or the association of organisations. If the organisation concluding an agreement employs over50% of the employees or generates over 60% of the turnover in a sector, a general agreement is binding for all employers of the relevant sector and applies to all of their employees.	Uncommon
Lithuania	Lithuania's Labour Code provides for the possibility to broaden the scope of application of sectoral collective agreements. In general, a sectoral collective agreement applies only to the members of the employer organisation that has signed the agreement, or to those companies that have joined the employer organisation after an agreement has been signed. However, if the provisions of an agreement are important for the sector or occupational groups in the sector, the Minister of Social Security and Labour may extend its application to the entire sector, occupational groups or particular services in the sector. A sectoral agreement's provisions will only be extended if a request has been submitted by one or more of the trade unions or employer organisations that have negotiated the agreement.	Uncommon
Luxembourg	Sectoral collective agreements initially cover only those companies that belong to the employers' associations which have signed the agreement. However, social partners can ask the government to extend them to the entire sector. The large majority of collective agreements is negotiated at company level.	Very widespread
Malta	There are no extension mechanisms relating to collective agreements in the Maltese system.	No extension mechanisms
Nether-lands	Sectoral collective agreements may be declared generally binding for a maximum of two years, or five years if they regulate joint funds (pensions or training). Only certain types of provision may be made generally binding. A distinction is made between 'normative' (or substantive) clauses and 'obligation' (or procedural) clauses in collective agreements. Normative clauses regulate issues such as pay, working hours and other terms and conditions of employment, and may be extended by the minister to cover all employers and employees in the sector concerned, whether or not they are members of one of the signatory parties. Obligation clauses, on the other hand, set out the mutual rights and obligations of the contracting parties in relation to the implementation of the agreement and may not be made generally binding: an example is a 'peace obligation' clause. Some companies voluntarily follow sector agreements, without being bound by those agreements.	Very widespread

Source: Eurofound (2011), Eurofound (2015a) and Eurofound (2015b). (See also the DICE Database table: http://www.ifo.de/w/LHGzu4qC)

apply to employees and employers who were not represented by the social partners signing the agreement (Eurofound 2011). Those extensions ensure common working conditions within the whole industry, and not only among the participating companies. In the majority of EU member states, mechanisms exist to make collective bargaining agreements legally binding in a certain sector or in the entire country. But the mechanisms differ concerning the conditions that apply and the frequency of usage. Hence, there are also countries with no extension mechanisms. Table 1 offers an overview of the extension mechanisms in Europe and the frequency of their use.

The legal extension mechanisms mainly vary by three factors: who takes the initiative, whether there are minimum requirements, and how frequently they are used (Eurofound 2011). For the EU member states where it is possible to extend collective agreements, such extensions are normally implemented by the Ministry of Labour. In some countries, this happens quasi-automatically; for others, it is done at the request of one or both social partners. Usually, there are specific conditions that must be met before a collective agreement can be extended. For those mechanisms where minimum requirements are provided, these are mostly thresholds of representativeness for the contracting parties. Such preconditions for extension are provided in Latvia, Portugal and Slovenia and until 2014 in Germany as well, for example. In some countries, extension mechanisms are widespread; in others, they are used only occasionally or very limited. In Belgium, Finland, France, Luxembourg, Netherlands and Spain the extension mechanisms are very frequently used. In the case of Spain, the extension is automatic and laid down in the Labour Code without the need of an extending act by the state. In Greece, this practice was also widely spread until 2011, and then legislation was changed so that no extension mechanism by the state exists anymore. In the case of Portugal, collective agreements can now be extended by a decree issued by the Ministry of Labour. Until the crisis, this was a common practice in many industries. A restrictive change in the regulation of extension decrees in 2012 following the Memorandum of Understanding between the Portuguese government and the Troika (the EU, the International Monetary Fund and the European Central Bank) reduced extensions to a very low number (Eurofound 2015a). For Portugal, the OECD even recommended to abolish the extensions at all (OECD 2012). Countries, in which the legal possibility of the state extending collective agreements exist, but is rarely used include Austria, Bulgaria, Croatia, Czech Republic, Estonia, Germany, Hungary, Ireland, Latvia, Lithuania, Norway, Poland, Portugal, Slovak Republic and Slovenia. In Germany, for example, the number of extensions strongly decreased over the 2000s. But, in 2014, the German government relaxed the strict quorum for extension and strengthened the criterion of collective agreements being in the 'public interest'. In seven member states is there no legal procedure for extending agreements at all – Cyprus, Denmark, Greece, Italy, Malta, Sweden and the United Kingdom. But one has to acknowledge, that in the case of Austria and Italy although no extension mechanism exists or hasn't been used very much, there are functional equivalents in place that lead to a high coverage of collective agreements. In the case of Austria this results from employers' obligation to be members of the Chamber of Trade and Commerce, which is the collective bargaining partner from the employers' side. In Italy employees not covered by collective bargaining agreements can claim for coverage at court. Table 2 summarises the usage of the extension of collective agreements by the state in Europe.

The effects of extending collective agreements

Extending collective agreements very frequently leads to high collective bargaining coverage. The collective bargaining coverage, as the percentage of employees covered by collective agreements, varies greatly

Table 2

Overview of the usage of extending collective agreements by the state

Automatically or very widespread	Possible, but uncommon or rare	No extension mechanism in place
Belgium, Finland, France, Luxembourg, Netherlands, Spain	Austria[1], Bulgaria, Croatia, Czech Republic, Estonia, Germany, Hungary, Ireland, Latvia, Lithuania, Norway, Poland, Portugal[2], Romania, Slovak Republic, Slovenia	Italy[1], Cyprus, Denmark, Greece [2], Malta, Sweden[3], United Kingdom

[1] In Austria and Italy legislations exist that have somehow the same effect like extensions by the state (see Table 1);
[2] In Greece until 2011 and in Portugal until 2012 the use was very widespread;
[3] Voluntarily extensions by employers are very common.

Source: Author, based on Eurofound (2011), Eurofound (2015a), Eurofound (2015b) and Schulten (2012).

across the European countries, from coverage rates below 40 percent (Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Republic and United Kingdom) to coverage rates of 80 percent and more (Austria, Belgium, Denmark, Finland, France, Italy, Netherlands, Portugal, Slovenia and Sweden). The reasons for high coverage rates cannot be seen only in the extension of collective agreements by the state, in Denmark and Sweden, for example, no extension mechanism exists, but the high proportion of employees in unions provide for high collective bargaining coverage. Moreover, countries in Europe have different rates of employers' organisations density, or percentages of employees working in companies organised in employers' associations, which also has an effect on collective bargaining coverage. Table 3 shows the proportion of employees in unions, the employers' organisation density and collective bargaining coverage and the use of extending collective agreements by the state. One can see, that there are three ways for reaching a high collective bargaining coverage: firstly, through a high proportion of employees in unions (Denmark,

Table 3

The determinants of collective bargaining coverage

	(1) Proportion of employees in unions (in %)	(2) Employers' organization density (in %)	(3) Extension of collective agreeements by the state	Collective bargaining coverage (in %)
Austria	28	100	Uncommon or rare	95
Belgium	50	82	Very widespread	96
Bulgaria	20	50	Uncommon or rare	30
Cyprus	55	63	No mechanism	52
Czech Republic	17	41	Uncommon or rare	38
Denmark	67	68	No mechanism	80
Estonia	10	25	Uncommon or rare	33
Finland	74	70	Very widespread	91
France	8	75	Very widespread	98
Germany	18	58	Uncommon or rare	57
Greece[1]	25	44	No mechanism	65
Hungary	12	40	Uncommon or rare	33
Ireland	31	60	Uncommon or rare	44
Italy	35	56	No mechanism	80
Latvia	13	41	Uncommon or rare	34
Lithuania	10	14	Uncommon or rare	15
Luxembourg[2]	41	80	Very widespread	50
Malta	51	60	No mechanism	61
Netherlands	20	85	Very widespread	81
Norway	52	65	Uncommon or rare	70
Poland	15	20	Uncommon or rare	30
Portugal[1]	19	38	Uncommon or rare	92
Romania	33	60	Uncommon or rare	36
Slovak Republic	17	31	Uncommon or rare	35
Slovenia[3]	27	60	Uncommon or rare	90
Spain	19	75	Very widespread	70
Sweden	70	82	No mechanism	88
United Kingdom	26	35	No mechanism	29

(1) Before 2011/2012 the extension of collective agreements by the state was very widespread; (2) The collective bargaining coverage in the private sector is shown. In the public sector the coverage rate is 100 percent. No overall coverage rate available; (3) In Slovenia membership of the Chamber of Commerce and Industry - which stands for membership of the employers' association - was obligatory until 2006.

Source: Author, based on Worker-participation.eu, ICTWSS Data base, Eurofound (2015a) and Eurofound (2015b).

Sweden); secondly, through a high employers' organisation density as a result of a compulsory membership for companies in employers' associations (Austria, Slovenia until 2006) and thirdly, through the extension of collective agreements by the state (Belgium, France, Finland, Netherlands, Portugal until 2012).

Yet other effects can be observed: if collective agreements are extended frequently by the state to the whole industry, companies tend to be a member of the employers' associations voluntarily in order to be able to take part in the bargaining process (Traxler 2004). This can be observed for all countries with a frequent use of extension mechanism (Belgium, France, Luxembourg and the Netherlands), where the employers' organisation density is between 70 and over 80 percent. Moreover, the incentives for workers to become union members are diminished by the prospect of an extension given the resulting scope for free-riding (Martins 2014). This can be observed in France, where the extension of collective agreements is quasi automatic, and union membership of eight percent is the lowest rate in Europe. In most other countries, in which collective bargaining is characterised by non-interference by the state via extensions, the employers' organisation density more or less determines the collective bargaining coverage (for example, in Germany, Malta and Norway).

But what are the economic effects of extending collective agreements, especially in the case of a very widespread usage resulting in high collective bargaining coverage? Firstly one has to acknowledge that by extending collective agreements, the state interferes in the collective bargaining process between employers and employees. But there are pros and cons concerning this mechanism. On the pro side, it is argued that the extension of collective agreements sets common working conditions within the same industry and therefore limits wage inequality and reduces gender wage gaps (Villanueva 2015). Therefore the main arguments in favour of extending collective agreements, or a high collective bargaining coverage in general, can be seen to strengthen the before mentioned protection and distributive functions of collective agreements. Moreover, the arguments in favour of collective agreements are similar to those used in support of minimum wages; namely that they raise living standards and promote a more balanced income distribution (Martins 2014).

However, several studies suggest that those benefits come at the cost of reduced employment levels, especially during recessions. The income losses of workers who are displaced because of a collective agreement extension can offset the wage gains among workers who keep their jobs (Villanueva 2015). The main arguments against the extension mechanisms evolve around two issues: firstly, collective agreements raise wages and set minimum wages in many cases; and secondly, competition is hindered by the strong cartelising effect of multi-employer agreements. Haucap, Pauly and Wey (2001) analysed the anticompetitive, and therefore cartelising effects, of generally binding wage agreements. It is shown that both employers' associations and unions may have a common interest in extending collective agreements, so that wages are increased to raise rivals' costs as well. Product markets competition can be limited by making new entries less profitable. Consequently, the above mentioned paper argues that coverage extension rules should be a subject matter of antitrust policy, for their labour market implications and also for their effects on product markets. Insider-outsider theory claims that big companies that are well-established in the market have a particular interest in extending collective agreements, as they enable the setting of certain collectively agreed standards that newly founded firms are unable to meet. As a result, new firms are discouraged from entering the market (Haucap, Pauly and Wey 2001; Schulten 2012). Moreover, two studies analyse the effects of extending collective agreements in Portugal (Martins 2014) and in France and Spain (Murtin, de Serres and Hijzen 2014) on employment. Both studies find a positive correlation between extending collective agreements and unemployment. In the case of Portugal, the authors found out that overall employment falls by two percent, and in the case of small firms, even by 25 percent after extending collective agreements due to reduced hiring and firm closure. These extensions were equivalent to setting fully-binding minimum wages for the companies.

Conclusion

Collective bargaining plays a key role in industrial relations in the EU and in this process collective agreements are concluded between employers or their organisations and the organisations of workers (trade unions) to establish the content of individual contracts of employment like wage levels and working conditions. Usually, multi-employer collective agreements only cover the companies that are part of the collective bargaining process. But in the majority of the European countries the state can extend the concluded agreements to the whole industry by special extension mechanisms, so that all

of the companies within that industry are covered by collective agreements. Countries, in which collective agreements are frequently extended are Belgium, Finland, France, Luxembourg, Netherlands and Spain. The effects of extending collective agreements, which corresponds to high collective bargaining coverage, are reduced wage inequality and gender wage gaps on the one hand. On the other hand, employment may be reduced due to the mechanism of extending collective agreements, as these extensions are equivalent to setting fully-binding minimum wages for the companies.

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