



This project is co-financed by the European Union and the Republic of Turkey.

IMPROVING SOCIAL DIALOGUE IN WORKING LIFE

Bipartite, Tripartite, Tripartite-Plus Social Dialogue Mechanisms and Best Practices in the EU Member States

Prof. Dr. E. Murat Engin

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Abbreviation List

CCEC	Common European Companies Committee
CEE	Central and Eastern Europe
CEEP	European Centre of Public Enterprises
CSR	Corporate Social Responsibility
EC	European Community
EEA	European Economic Area
EIFS	European Industry Federations
Eurofound	European Foundation for the Improvement of Living and Working Conditions
EFA	European Framework Agreements
ETUC	European Trade Union Confederation
EU	European Union
EWCs	European Works Councils
IFAs	International Framework Agreements
ILO	International Labour Organisation
MoL	Ministry of Labour
NDSI	Spanish Economic and Social Councils
SDC	Social Dialogue Committee
TCAs	Transnational company agreements
TEPs	Territorial Employment Pacts
TFEU	Treaty on the Functioning of the European Union
TPDs	Territorial partnership dialogues
UNICE	Union of Industrial and Employers' Confederations of Europe
UNDS	Spanish Economic and Social Council
UNICE	Union of Industrial and Employers' Confederations of Europe

Foreword

Social dialogue is a core value, and a key objective of the International Labour Organization (ILO). The Ministry of Family, Labour and Social Services also recognizes the value and importance of social dialogue in both policy making and implementation in Turkey. Social dialogue has a proven track record in producing sustainable solutions, including in times of crisis and recovery from crisis. It takes many forms, ranging from simple sharing of information to the negotiation of binding collective agreements or social pacts at the national level. It may involve only the representatives of employers and workers in either private or public sectors, or it may include government representatives as well in tripartite social dialogue. It sometimes occurs in formal institutions at national or regional levels but may happen equally in more informal ways at enterprise or local levels.

Recognizing the value of social dialogue, the International Labour Organization for Turkey provided technical support to the Ministry of Family, Labour and Social Services to implement a project entitled 'Improving Social Dialogue in Working Life' within the framework of EU Instrument of Pre-accession Funds. The overall objective of this project is to improve social dialogue at all levels.

This study is one of a series of comparative research papers commissioned by the project, which aim to document and analyse different tripartite, tripartite-plus and bipartite social dialogue mechanisms in use in other countries, especially focusing on good practices in the EU countries. To that aim, social dialogue systems in different countries, and the correlation between the social partners' representative capacities and effectiveness of social dialogue mechanisms is analysed to improve social dialogue in Turkey.

We wish to acknowledge the contributions made by a number of people to the research process, first and foremost, the report's author, Mr. Murat Engin, who is Prof. Dr. in Galatasaray University. We extend our sincere thanks to the Ministry of Family, Labour and Social Services, as well as by staff of the ILO units in Geneva which are responsible for providing technical support to the project, namely the Social Dialogue and Tripartism Unit (DIALOGUE) and the International Labour Standards Department (NORMES) and Project Management Team in ILO Office for Turkey for their contribution to content and editing of the report.

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Executive Summary

I. Objective

Social dialogue signifies the mechanisms that enable representatives of employers and of workers, and, sometimes, of other stakeholders to take a part alongside government governments in the determination and application of the economic and social policies. Social dialogue mechanisms become prominent as an important element for the sustainability of free market economy in the representative democracy as well. The improvement and institutionalization of social dialogue has a direct relationship with the representative capacity of social partners at each level.

The objective of this report is to document and analyse different tripartite, tripartite-plus and bipartite social dialogue mechanisms in use in other countries, especially focusing on good practices in EU countries. It should be noted that, during the crisis (2008-2012) and post crisis (2012-2015) periods, social dialogue varied widely between EU Countries due to their economic contexts, political conditions and national institutions. In other words, there is no standardized form of social dialogue in EU. Social dialogue therefore has to be analysed in the context of each country's national dynamics in order to understand what forms of social dialogue constitute "good practice" and why this is the case.

In line with this objective, we will analyse social dialogue systems in different countries and the correlation between the social partners' representative capacities and effectiveness of social dialogue mechanisms to improve social dialogue in Turkey.

II. Methodology and Analytical Framework

In this study, a comparative legal review of the social dialogue mechanisms in selected EU member states has been carried out. While examining bipartite and tripartite social dialogue mechanisms and good practice examples, secondary sources such as ILO working papers, The Foundation of Improvement of Working and Living Conditions in Europe (Eurofound's) publications on latest work life developments, articles in academic journals and books and statistical databases were used. Development of social dialogue during the crisis and post-crisis periods and good practice examples in the EU countries were particularly addressed since they serve as a laboratory for critical assessment of the evaluation of social dialogue mechanisms at a time of economic and social upheaval. A few interviews were also conducted with social partners and academicians.

The aim of reviewing good practices is to formulate recommendations for the improvement of social dialogue mechanisms at different levels in Turkey, identify applicable and realistic solutions, and especially determine the initiatives to be taken by the Ministry of Family, Labour and Social Services under current circumstances.

The foundation of social dialogue mechanisms at different levels is the dialogue and collective bargaining between the employee and employer at the workplace. Social dialogue elements at the work place such as the determination of powers of actual worker representation institutions shaped through a democratic election and representative powers and authority of trade unions at the workplace, for which freedom to join is fundamental, have all been shaped in the Western European countries through years of evolution.

Although every single EU country has its own social dialogue culture and institutions, social dialogue processes are broadly similar in these countries. Especially in Western European countries, there are processes that begin at the workplace and enterprise level, then get shaped by collective bargaining at different levels between the workers' and employers' organizations and are finally completed through a tripartite social dialogue which brings social partners and the State together.

Despite differences in detail, the culture of European social dialogue faced its biggest challenge during and after

the 2008 economic crisis. Spain, Greece, Portugal and Italy, which were heavily affected by the economic crisis, were exposed to political instability and forced to take austerity measures requested by Troika (the tripartite committee led by European Commission with European Central Bank and International Monetary Fund). Such examples give us the opportunity to examine the way national social dialogue processes respond to the crisis. A review of the social dialogue processes in Western European countries such as France and Germany, which were affected by the economic crisis relatively lightly, will also enable us to obtain comparative data.

Therefore, social dialogue mechanisms in Spain, Greece, Portugal, Italy, Germany and France are primarily examined in this study.

Besides that, an examination of social dialogue processes in ex-eastern bloc countries (Czech Republic, Slovenia, Slovakia, Bulgaria, Lithuania, Poland etc.) since they became EU Member States might be useful regarding the purpose of the study considering that has no long history in these countries in these countries. However, some of these countries (e.g. Slovenia) showed a successful development in the field of social dialogue.

III. Definition of key terms and concepts

Social dialogue: Social dialogue is defined by ILO to include all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy.

Social partners: 'Social partners' is a term to refer generally to trade unions/workers' and employers' organizations.

Representativeness: The concept of representativeness refer to the legitimacy of each one to represent the interests of its respective membership (workers or employers) in negotiations at different levels. It refers to key elements such as electoral success, organizational strength in terms of membership and the capacity to negotiate with social partners.

Tripartite social dialogue: Tripartite social dialogue means consultation and cooperation between public authorities and social partners in order to discuss public policies, laws and other decision-making processes in the economic and social spheres. Depending on each country's traditions, national tripartite social dialogue comes in a variety of forms, such as economic and social councils, labour advisory councils and similar institutions for cooperation at the policy level.

Tripartisme plus: The term "tripartism plus" refers to situations where the traditional tripartite partners choose to open up the dialogue and engage with other civil society groups, to gain a wider perspective and consensus on issues in and beyond the world of work.

Bipartite social dialogue: Bipartism refers to when two parties – one or more employers and/or one or more employers' organizations, and one or more workers' organizations – exchange information, consult each other or negotiate together, without government intervention.

Work councils: Work councils are consultative bodies for representative communication between a single employer and the employees, institutionalized in a single workplace and/or enterprise in order to exercise the right to information and consultation of the employees,

Collective bargaining: All negotiations which take place between an employer, a group of employers or one or more employers' organizations on one hand, and one or more workers' organizations on the other, to:

- (a) Determine working conditions and terms of employment; and/or
- (b) Regulate relations between employers and workers; and/or
- (c) Regulate relations between employers or their organizations and one or more workers' organizations

Collective bargaining is a process of negotiation between employees' and employers' organizations and trade unions aimed at concluding agreements to arrange wages, working conditions, leave, benefits, and other aspects of workers' compensation and work life.

Labour dispute: Labour dispute means a conflict between an employer and its employees concerning the terms or conditions of employment, or the association or representation of those who negotiate or seek to negotiate the terms or conditions of employment.

IV. International Labour Organization's Perspective on Social Dialogue

Since its foundation in 1919, the International Labour Organization (ILO) has promoted cooperation between employers, workers and governments to bring about social justice. These three partners take part in all discussion and decision-making processes of the International Labour Organization with a view to the establishment of "universal and lasting peace" and the promotion of decent work for all. This tripartite structure is a feature of ILO, making it unique within the United Nations system.

Effective and meaningful tripartite cooperation at the national level is just as important as it is at the international level. For this reason, not only does the ILO Constitution provide a clear role for both employers' and workers' organizations in relation to the adoption and supervision of international labour standards (i.e. Conventions and Recommendations), but ILO Conventions and Recommendations also provide a role for them in implementation at the national level. There are also specific Conventions and Recommendations promoting tripartite consultation at the national level.

The International Labour Conference of ILO adopted three important international labour standards that promote tripartism. These are the Tripartite Consultation (International Labour Standards) Convention of 1976 (No. 144), Tripartite Consultation (Activities of the International Labour Organization) Recommendation of 1976 (No. 152), and the Consultation (Industrial and National Levels) Recommendation of 1960 (No. 113). All three instruments promote dialogue among the government and the representatives of employers and workers.

From ILO's perspective, right to association and right to collective bargaining constitute the foundation for social dialogue. Accordingly, workers and their organizations play a vital role in social dialogue. Freedom of association and the effective recognition of the right to collective bargaining are two fundamental principles that are essential for the democracy as well. Social dialogue is indispensable for protecting and promoting the interests of workers, extending democracy and human dignity in workplace. It is also a well-tested instrument for managing social and economic change while maintaining consensus and stability in the society.

V. Social Dialogue in the European Union

The preamble of the Treaty of Rome describes one of the European Commission's tasks in the social field as to promote close cooperation among Member States with regard to the right of association and collective bargaining between employers and workers. However, this provision was put into practice after many years. In 1992, Social Dialogue Committee (SDC) was established as the main forum for bipartite social dialogue at the European level. Meanwhile, the Single European Act created the legal basis for the development of a 'Community-wide social dialogue'. In October 1991, European Trade Union Confederation (ETUC), Union of Industrial and Employers' Confederations of Europe (UNICE) and European Centre of Public Enterprises (CEEP) adopted a joint agreement which called for mandatory consultation of the social partners on the preparation of legislation in the area of social affairs and a possibility for the social partners to negotiate framework agreements at Community level. This request was acknowledged in the Agreement annexed to the Maastricht Protocol on Social Policy. Incorporation of the Agreement on Social Policy into the EC Treaty following the entry into force of the Treaty of Amsterdam finally allowed for a single framework to apply to social dialogue within the EU.

Bipartite, Tripartite, Tripartite-Plus Social Dialogue Mechanisms and Best Practices in the EU Member States

Social dialogue is defined in the Articles 152, 154 and 155 of the Treaty on the Functioning of the European Union (TFEU). These articles draw a framework for European social dialogue and set basic principles for its functioning.

Article 152, which was introduced by the Lisbon Treaty, further strengthened the role of social dialogue by providing that, not only the Commission but the Union as a whole is committed to promoting the role of the social partners. It also highlights the importance of the Tripartite Social Summit.

Article 154 lays the basis of EU social dialogue. It points out the Commission's task to promote consultation with social partners and take any relevant measure to facilitate social dialogue. It states that the Commission must promote the consultation of management and labour at the EU level and provide balanced support for both sides of industry. According to Article 154 of TFEU, the Commission must consult with social partners before taking any action in the field of social policy. Social partners may then choose to negotiate among themselves an agreement on the subject of the consultation and stop the Commission's initiative. During this negotiation process, social partners may conclude an agreement and ask the European Commission to submit a proposal to the Council for the agreement to be implemented by the Council. In addition, they may prefer to implement the agreement they have agreed upon among themselves in accordance with their own specific procedures and practices and the laws of the Member States.

The Commission regularly publishes a list of European social partner organizations, which are consulted under Article 154.

Article 155 allows social partners to enter into all sorts of contractual relations, including agreements, and their autonomous implementation. It also provides social partners with the opportunity to request legislative implementation of their agreement by means of a Council Directive.

Bipartite social dialogue is a fundamental component of the European social model that gained full recognition in the EU Treaty with the Amsterdam reform. Bipartite social dialogue is the autonomous dialogue between employers' organizations and workers' organizations and it refers to discussions, consultations, negotiations and joint actions involving the two sides of industry. Social partners (representatives of management and labour) are able to contribute actively in designing European social policy and legislation.

Bipartite social dialogue, which is the key of EU's social integration, has three levels:

Cross-industry: It brings together both sides of industry at the EU level to discuss issues relating to the whole economy and the labour market in general. Some cross-industry results of this process are the adoption of framework agreements on parental leave (1995), part-time work (1997) and fixed-term work (1999), which were implemented via Council Directives.

Sectoral: Both sides of industry discuss on sector-specific issues. Since 1998, sectoral social dialogue has also developed strongly. Sectoral social dialogue produced three European agreements on the regulation of working hours for seafarers (1998), on the regulation of working hours for mobile workers in civil aviation (2000) and on certain aspects of the working conditions of mobile workers assigned to interoperable cross-border services in the railway sector (2005). These agreements were implemented via a Council decision. The agreement on teleworking concluded in May 2002 was implemented for the first time in accordance with the procedures and practices specific to the social partners and the Member States.

Company level: Main forums are European Works Councils (EWCs) based on an EU Directive adopted in 1997 (and revised in 2009) with the main aim to provide employees with information and consulting with them on transnational matters. More than 60 EWC transnational company agreements have been signed on topics such as restructuring, corporate social responsibility (CSR), equality and health and safety.

Besides bipartite social dialogue, tripartite social dialogue involves the European institutions (Commission, and where appropriate, Council and European Council) as well as the social partners. This takes place within the Tripartite Social Summit as well as in other settings and allows for discussions on diverse policy areas, such as macroeconomics, employment, social protection and education and training.

Since the economic and financial crisis started, social dialogue has increasingly suffered when crisis measures were implemented, being weakened by its decentralisation and a decline in bargaining coverage and state intervention in the area of wage policy. In order to overcome the crisis, the Commission undertook the task in 2014 to re-launch and strengthen the dialogue with social partners.

VI. Findings of the Comparative Study and Recommendations

Focusing on the effectiveness of national social dialogue processes in the EU member states during and after the economic crisis of 2008, this study's main finding is that a well-functioning social dialogue process requires strong relations of trust between social partners, and to the extent relations of trust are preserved, they are highly instrumental for a country to recover from a serious economic crisis.

On this issue, particularly the bipartite social dialogue has key importance. A comparative analysis of national social dialogue processes reveals that the bipartite social dialogue constitutes the backbone of social dialogue almost in every EU Member State depending on the social dialogue at workplaces where democratic representation has started. Where appropriate conditions are ensured, the bipartite social dialogue provides flexible and effective results in coping with the crisis as well as help maintain or resume the tripartite social dialogue. In countries that have well-functioning bipartite social dialogue processes, the tripartite social dialogue is also functional; otherwise, it is observed that tripartite social dialogue processes are not effective and interrupted.

This work also reveals that the social dialogue is a process that starts at the workplace, expanding bottom up through democratic representation mechanisms; and that successful social dialogue processes start with democratic representation at workplace and culminate in agreements and pacts at national level.

It is also concluded that countries where workers have high levels of participation in organisational decision-making are also those countries where new technologies are embraced easily and which have high competitive advantage. It is not a coincidence that the countries which most successfully recovered from the crisis also had the workplace social dialogue mechanisms.

It is understood that framework agreements and social pacts are the most important instruments at national level that strengthens and maintains the relation of trust between social partners. Laying down binding, concrete and effective provisions, framework agreements and social pacts play key roles in formulating national social policies. Framework agreements that are concluded by the umbrella organisations of workers and employers and cover a certain sector or multiple sectors constitute the regular platform of discussion and agreement for bipartite social dialogue. Social pacts that cover the entire country with the participation of the political power are the concrete results of the tripartite social dialogue and effective social policy instruments.



Chapter 1. National Social Dialogue in Selected EU Countries

1.1. Social Dialogue During Difficult Times: Social Dialogue During the Economic Crisis and its Role in the Exit Phase

The years that followed the 2008 economic crisis witnessed challenging situations experienced by some EU members due to the heavy financial consolidation programs imposed by the European Central Bank, IMF and European Commission and the austerity requests against crisis. These financial aid programs and austerity measures initially targeted social policies of these countries and thereby the national social dialogue mechanisms of these countries were affected directly. In the countries controlled by these financial aid programs and having social and political difficulties in return, tripartite social dialogue disappeared completely or at least was interrupted and negotiation and dialogue with the governments became difficult for the social partners. However, after 2012, tripartite social dialogue changed for the better.¹

A simple distinction based on the exposure ratio of the countries that are affected by the economic crisis, is not enough to explain the functionality of the tripartite social dialogue mechanisms. Comparative studies on social dialogue during times of economic crisis reveal that tripartite social dialogue is formed depending on the internal dynamics of each EU country, political approach to social dialogue and characteristics of customs and organizations of social dialogue, and therefore there are crucial differences between countries that cannot be reduced to a distinction based on economic crisis.²

In fact, the phenomenon of economic crises provides an important opportunity to see how national social dialogue mechanisms function in troubled times in line with national characteristics. Therefore, we shall analyse Spain, Italy, Portugal and Greece which were affected by the economic crisis the most and where tripartite social dialogue was interrupted, as well as countries such as Germany and France where tripartite social dialogue continues on a strong basis under two separate titles.

On the other hand, as shown below, in all the countries we have examined, tripartite and bipartite social dialogue are in an organic relationship. As is seen in the following parts of our review, it is revealed dramatically that the prerequisite for a successful and continuous tripartite social dialogue depends on bipartite social dialogue and even when tripartite social dialogue results in failure, this deficiency is compensated by bipartite social dialogue. For this reason, in our study, tripartite social dialogue in each country is addressed together with bipartite social dialogue.

1.2. Social Dialogue in EU Countries Severely Affected by the Economic Crisis

1.2.1. Spain

a. Tripartite Social Dialogue

Spain, where workers and employers have demonstrated the ability to take initiative during troubled times, is an important example to focus on.

In Spain, tripartite social dialogue had collapsed due to the heavy pressure of the financial consolidation policies, which were being implemented since the beginning of the economic crisis. Despite the efforts made since 2013, when the economic recovery began, it was stated that tripartite social dialogue was still weak and generated very little results.

The collapse of tripartite social dialogue can be explained with economic and political conditions. It is stated that the external debt crisis, severe financial and austerity measures resulting from the heavy pressures of EU organizations,

¹ From 2008 to 2010, many Governments adopted neo-Keynesian policies together with the social partners. Molina, Oscar; Guardiancich Igor, 2017. Comparative overview: National trajectories and good practices in social dialogue, p. 1.

² Molina/Guardiancich, Comparative overview, p. 4.

legislative amendments such as the labour market reform, collective bargaining reform and structural policies being implemented unilaterally by political powers without consulting with any social partners, rule out the space for tripartite social dialogue. In short, financial austerity measures have narrowed the space for tripartite social dialogue, resulting in exclusion of the social dialogue from social policies during the period of making general economic policies.³

In response to the failure of tripartite social dialogue, workers' and employers' organizations have taken initiative to sustain tripartite social dialogue and have been working hard to establish dialogue with coalition governments which were in a tight squeeze. These joint initiatives of the workers and employers are explained by the need to protect democratic legitimacy. Political powers being under the rule of EU Institutions led to the questioning of the existence of political parties and their legitimacy and in parallel to the loss of confidence in the democratic system, unions also had their share of being criticized by the public. While people's confidence in these unions before the economic crisis was very high, it is understood that the loss of this confidence in the post-crisis period forced these unions to act.⁴

As a result of the efforts delivered before the government by the workers' and employers' organizations under the pressure of democratic legitimacy, some steps have been taken to establish the confidence between the social partners and these efforts were continued. For example, in January 2011 a social pact on employment and pension rights was signed between social partners and the government. One example is the signing of the declaration of intent by employers' organizations, workers' organizations and the government in July 2014. Another example is the narrow social pact on activation policy for the long-term unemployed signed in December of the same year.

Before the December 2015 election, which was held in an environment of political uncertainty, workers' and employers' organizations created a working committee to prepare proposals for negotiations with the next coalition government. In doing so, they have shown that they were ready to negotiate with any government and that they were aiming to restore the trust relationship. However, despite all the efforts of workers' and employers' organizations and signals of economic recovery, it is stated that tripartite social dialogue is still weak and does not produce results except for exceptional cases.⁵

It is claimed that the collapse of tripartite social dialogue due to strict financial measures risked the future of Spanish Economic and Social Councils (NDSI). Indeed, despite the oppositions of trade unions and employer organizations, Economic and Social Councils have been abolished as part of austerity packages in several Autonomous Communities, including Madrid, La Rioja, the Balearic Islands, Castilla La Mancha, Cantabria, Asturias and Valencia on the grounds that they have very low impact on policy making processes.⁶ In addition, because of the obligation to consult NSDs before the legislative amendments, the usage of urgent procedures (e.g. royal legislative decrees) for which consultation is not required increased. Despite the recession of NDSI in general, some of its opinions have had a significant impact on social policies in Spain. For example, in the case of the opinion on the proposal to reform the pension system issued in September 2013, all three actors in the Council unanimously condemned the attempt by the Government to end the adjustment of pensions to inflation. This opinion had a strong public impact because of the opposition by employers' organizations to the proposal made by the centre right Government. Lately, there have been attempts to revitalize its role. To this end, NDSI prepares reports on important socio-economic issues at its own initiative. However, there are no official initiatives to improve political support for social dialogue.⁷

b. Bipartite Social Dialogue

Although governments have failed in reviving the tripartite social dialogue, inversely proportional to this failure, workers' and employers' organizations have successfully developed bilateral social dialogue. They have succeeded

3 Molina/ Miguélez, Post-crisis social dialogue in Spain: The calm after the storm, ILO ,2016, p. 257.

4 Molina/Miguélez, Post crisis, p. 261-262.

5 Molina/Miguélez, Post-crisis, p. 266.

6 Molina/Miguélez, From negotiation to imposition: social dialogue in austerity times in Spain, ILO, 2013, Working paper ; No.51, p. 25.

7 Molina/Miguélez, Working Paper No.51, p. 26.

in maintaining the order of collective bargaining throughout the difficult economic and political conditions in the country. It is especially important for the bipartite social dialogue to be permanently established between workers' and employers' organizations since it enables the social partners to stand against economic and political instability.⁸

Moreover, as in other EU countries, bilateral social dialogue has shown this success in Spain at a time when the power of sectoral collective bargaining has been broken by legal regulations such as the Labour Market reform of 2012 and when collective bargaining has evolved from the sector / business line level to the company level.

The aim of the 2012 reform, which was adopted by the government's unilateral initiative, was the "decentralization" of collective bargaining. The reform has increased the ability of employers to unilaterally regulate employees' working conditions, as well as allowing employers to opt out of sectoral contracts by unilateral decisions without considering sectoral collective bargaining in company-level collective bargaining. Thus, the regulatory power of company-level collective agreements have been increased while the regulatory power of sectoral collective agreements was being phased out. The reform also included some other elements that smoothed the regulatory and protective power of collective bargaining and reduced the burden of workers. However, as a result, the 2012 reform increased tensions between the social partners and, in some cases, brought the collective bargaining to a standstill. This legal amendment during the crisis weakened many employers' collective bargaining power. Direct result of this development was not only the decrease in the number of workers covered by sectoral collective bargaining agreements but also the decrease in the number of workers under any collective bargaining contracts.⁹

It is noteworthy that despite the radical changes in sectoral and enterprise level collective bargaining after seeing the results of reforms in 2012, not only the workers' organizations but also the employers' organizations continued to share the strategy of strengthening the regulatory role of sectoral contracts, defending a multi-level collective bargaining system while developing social dialogue.

The inter-sectoral peak agreement signed among the sectors, which was first made by workers' and employers' organizations in 1997, has institutionalized bipartite social dialogue at the sectoral/business level. The peak agreement of 1997 initiated a new period of strengthened social dialogue in Spain and created or consolidated bipartite institutions at the sectoral level, including employment observatories, conflict resolution mechanisms and lifelong learning strategies.¹⁰ In addition, topics such as wage policy, which concerns the sector in general, or regulations on flexibility, in which the discussions were not possible at lower level collective bargaining, have been discussed at sectoral level.

Bipartite social dialogue between the workers' and employers' confederations has led to the formation of the "Inter-sectoral Agreement on Employment and Collective Bargaining" (AENC) along with the collapse of tripartite social dialogue after the economic crisis and this cooperation has continued successfully to this day.

These contracts, signed by workers' and employers' confederations and covering all sectors, generally include general guidelines for ensuring coherence between wage increase criteria, flexicurity in relation to job security, and collective bargaining agreements at different levels.

The first of these contracts (AENC I) was signed in January 2010. This agreement covered years 2010-2012 and topics such as the conversion of fixed term contracts into contracts of indefinite duration, operational flexibility, teleworking, wage increases for the years 2010-2011 and 2012 were discussed. In addition, principles for reforming collective bargaining have been determined.¹¹

During the 2012 reform period, when the power of sectoral collective bargaining agreements was broken, the second

8 Barsoris Spain, p. 17.

9 Molina/Migueluez, Working Paper No. 51, 22; Barsoris Spain, p. 5-6.

10 Barsoris, Spain, p. 17.

11 Molina/Migueluez, Working Paper No. 51, p. 23.

inter-sectoral peak contract (AENC II) for the years 2012-2014 was concluded. In this agreement it was suggested that a wage policy pact should be implemented on the basis of the determination that the Spanish economy was losing its competitive power due to wage policies. The most important aspect of AENC II was that it clearly supported the generalization of company-level collective bargaining agreements on one hand and, on the other hand, it strived to keep company-level collective bargaining under the provisions of sectoral contracts.

Accordingly, sectoral agreements should provide the coordination between collective bargaining at different levels and strengthen the role of collective bargaining at the company level. In addition, the peak contract obliges the collective labour contracts at various levels to include resilience plans in terms of fees, working hours and job descriptions. Thus, it aimed at facilitating intra-enterprise flexibility, protecting employment and regulating the labour market in the long term.¹²

It is stated that the third peak contract (AENC III) for the years 2015-2016 and 2017 was negotiated under very difficult economic and political conditions and the parties could sign the contract after long-lasting negotiations because of their inability to come to terms in wage increases. It also recommended that regulations on flexicurity be included in collective agreements in order to protect existing jobs.¹³

It is understood that the intersectoral agreements concluded between workers' and employers' organizations since pre-crisis period in Spain concentrate upon the wages, restricting of external flexibility and thus, strengthening job security. In terms of wages, it was observed that peak contracts and wage determination criteria were developed and a wage control policy was applied. This was exemplified by the AENC II, which sets the European Central Bank's (ECB) inflation forecast as a key criterion for the revision of wages.

It was observed that, with the purpose of strengthening employment security, efforts have focused on provisions that regulate flexibility in terms of work and job descriptions and therefore efforts were made to limit external flexibility tools such as temporary agency work instead of workers who fall under collective bargaining agreements. Thus, the peak contracts have played a major role in regulating multilateral collective bargaining and have contributed significantly to increasing employment security.

What is more important than these technical aspects of the peak contracts is that the Spanish bipartite social dialogue could be successfully sustained despite the negative political and legal conditions and has shown the determination to regulate the social policy of the country by substituting tripartite social dialogue.

This success of bipartite social dialogue is explained by its strong institutionalization in the pre-crisis period and by the strong commitment of both workers' and employers' organizations to bipartite social dialogue and the collective bargaining system of the country. It is indicated that bipartite social dialogue is a decisive feature of industrial relations in Spain and continues to be a source of stability in collective bargaining.¹⁴

1.2.2. Italy

a. Tripartite Social Dialogue

The National Council for Economy and Labour (CNEL), which was established for social purposes in Italy in 1957 and is composed of representatives of government, workers, employers and independent employees and associations, is an advisory body that is responsible for issuing opinions to government and local administrations in economic and social matters and presenting reports to the parliament on the issues of employment market, collective bargaining and social policy.

¹² Molina/Miguelez, Working Paper No. 51, p. 24.

¹³ Molina, Miguelez, Post crisis, p. 34.

¹⁴ Molina/Miguelez, Post crisis, p. 266, 277.

This institution's duty is mainly limited to consultation, and tripartite social dialogue in Italy does not have a formal institutional structure. Parties of workers' and employers' have widespread influence on social policy and it is largely at the initiative of the government and relevant ministries.

Participation of broad and widespread social partners is, on the basis of a variety of policy areas, mainly on a special basis at the initiative of the government and the relevant ministries. Participation of workers and employers in the political process also occurs in the form of listening in parliamentary committees.

The lack of a formal and continuous tripartite dialogue mechanism has always been regarded by the social partners as a weakness and demands a stronger relationship with the government.

Tripartite social dialogue was not established or effective in the crisis measures taken in the years following the 2008 economic crisis. Social partners have broadly participated in discussions on economic and social measures to be taken against corruption, but tripartite dialogue processes have not yielded any results. Crisis measures such as the creation of the Wage Guarantee Fund, taking measures for austerity in the public sector, freezing wages, suspending collective bargaining agreements, reforming the pension system and narrowing the scope of job security have been implemented via unilateral decrees of the government.

For example, the government, which was under economic and financial pressure, has enacted pension reform without starting a consultation process, and has just announced the reform content to the social partners only a day before the legislation.

This was justified by the fact that political climate was not appropriate, as well as the disagreements between the three largest workers' organizations and their inability to reach a consensus with the government. The negative attitude of the government continued to adversely affect the economic crisis and social dialogue in the following years. In the period of the Berlusconi government, from 2008, which was the beginning of the crisis, until the end of 2011, the unilateral attitude of the government made it extremely hard to reach any agreement. In the following technocratic government during the 2011-2013 period, no cooperation was developed, even if it was consulted with the social partners. In the coalition government established after 2013, once again it was stated that the tension between the parties in the coalition did not allow for social dialogue.

b. Bipartite Social Dialogue and Collective Labour Relations

Collective agreements at different levels in Italy, in which the three largest workers' confederations and member trade unions of these confederations are involved, cover 85% of the total workforce as of 2010.¹⁵

The industrial relations system in Italy is traditionally based on industry-wide bargaining and supplementary decentralized agreements, mostly at company level. This bargaining structure, based on industry-wide and decentralized agreements, allows for extensive bargaining coverage and comprehensive national standards through sectoral agreements. In addition, the company-level bargaining helps accommodate the differences between large and small enterprises, as well as between the country's North and South regions.

In order to balance the weakening of the general protection granted by sectoral agreements, trade unions have always stressed the importance of promoting company-level bargaining as a means of making collective agreements more flexible and adaptable to local conditions and of ensuring better worker protection. This also represented a crucial goal for employers to increase flexibility and competitiveness.

However, in 2009, the employers' association Confindustria's demand for even more decentralization of collective bargaining in order to give greater importance to company level bargaining has led to a serious disagreement among confederations. Two major workers' confederations CISL and UIL took a similar position, arguing that it is important to make the system more flexible so that it can respond better to the large variety of positions that individual companies may be in.

¹⁵ <https://www.worker-participation.eu/National-Industrial-Relations/Countries/Spain/Collective-Bargaining>

These issues were discussed at length by the three confederations in 2008 in an attempt to find a common position, but without success. As a consequence, since the beginning of 2009, there have been a series of agreements, sometimes involving all three confederations, sometimes just CISL and UIL, aiming to provide a framework for negotiations.

The Law, which rearranged the legal framework of sectoral and company bargaining in 2009, entered into force with the consent of two workers' confederations, the employers' organization and the government with the exception of a workers' confederation (CGIL).

However, this consensus was disrupted by legislation introduced by the Berlusconi government in September 2011 containing further changes to collective bargaining arrangements. The legislation, included as part of a budget revision, permitted company agreements not just to agree worse terms than industry agreements, irrespective of what the industry agreements themselves said, but also to undercut the minimum terms set in national legislation on a range of issues. These issues particularly included working hours, flexible employment contracts, recruitment procedures, work organization and job classification and the introduction of new technologies.

All three union confederations and the employers' organization Confindustria saw this legal regulation as an attack on autonomous collective bargaining. As a result, in September they added an additional paragraph to the original agreement concluded in June, stating that they would stick with the deal they had signed. When the employers' organization acted together with workers' organizations against the legal regulation, this led to Fiat leaving Confindustria.

This metal sector agreement, which was Italy's most important industry agreement both in terms of the numbers covered and its wider impact, has always been an ongoing source of dispute between the confederations. The tension between metal sector unions has been increased by developments at the vehicle maker Fiat, Italy's largest industrial grouping. In January 2012, Fiat opposed Confindustria's decision not to make full use of the flexibility provided by legislation introduced in September 2011, left the employers' association Confindustria, and thus ceased to be covered by the national metalworking agreement. It has subsequently signed an independent company-level agreement with local unions.

In Italy, the greatest breaking point of decentralization was the Fiat crisis. The withdrawal of Fiat, the largest metal company, from Confindustria and out of sectoral collective bargaining in the metal sector posed a great risk to the collective bargaining at the national level.

During this period known as the Fiat crisis, these three confederations signed an agreement in an effort to improve their relationship. Signatories of this agreement which was executed in June 2011 declared that they perceive "development and extension" of company-level agreements as "a common objective" and they set out clear rules in this regard.

Following the fall of the Berlusconi government in November 2011, the technocratic government continued to promote decentralized bargaining, providing significant tax incentives to productivity-linked pay. In November 2012 under the auspices of the government, the employers and CISL, UIL and the UGL, although not CGIL, signed a productivity and competitiveness document. These proposed changes to the two-tier system of bargaining, giving a greater role to company-level negotiations.

The 2012 productivity and competitiveness document suggested that, in the future sectoral level agreements should provide more possibilities for negotiation at workplace/enterprise level on issues such as flexible working hours in order to improve productivity within companies, and that part of the inflation-linked pay increase at sectoral level "could be allocated to the workplace/enterprise level of negotiation."¹⁶

On 25 November 2016, a new national collective bargaining agreement on metal industry has been signed. The Agreement is the first to be jointly signed by the three main sectoral unions after a seven-year dispute. The Agreement sets out new rules for wage increase, which should amount to €51 per month by the end of 2019.¹⁷

¹⁶ Fulton (2015) Worker representation in Europe. Labour Research Department and ETUI, <https://www.worker-participation.eu/National-Industrial-Relations>

¹⁷ <https://www.eurofound.europa.eu/observatories/eurwork/articles/italy-latest-working-life-developments-q4-2016>.

As for the textile sector, a new national collective bargaining agreement, which covers about 420.000 employees, was signed on 21 February 2017 after 23 months of negotiations. Starting on April 1st, the agreement provides for a €70 wage increase over the next three years for workers on the middle pay grade. Increases will be adjusted at the beginning of every year according to the actual inflation rate computed by the National Institute of Statistics (Istat), up to a maximum of €90 over a three-year period. The agreement also provides for supplementary welfare measures such as private additional healthcare and sets out new rules on parental leave.¹⁸

1.2.3. Portugal

Portugal has a long tradition of social dialogue between the government and public organizations of workers and employers since the 1980s. Tripartite social dialogue consists of mandatory participation by the social partners in accordance with the Portuguese Constitution, regular meetings between the social partners and the government, and tripartite agreements, which are regularly decided over the years in the Standing Commission for Social Concertation. Draft laws are also being discussed in this commission. It has been stated that negotiating the draft laws with social partners has yielded very positive results over the years. Portugal also has a long tradition of collective bargaining agreements.

Portugal was heavily affected by the 2008 economic crisis. The Portuguese government, under heavy debt obligations, signed the Memorandum of Understanding on Specific Economic Policy Conditionality (MoU) with European Central Bank, International Monetary Fund and European Commission and undertook the duty to take financial and social measures in this memorandum.

Majority of the measures taken pursuant to the MoU have been enacted step by step and during this process, some of the measures deemed to be required have been rejected at the end of the consultation process with the social partners. Unlike the other countries that are under the control of three institutions, known as Troika, social partners have been actively involved in the process from the very beginning in Portugal. Measures issued in the MoU were first based on a tripartite agreement dated 22 March 2011, and each amendment to national legislation was again approved by the tripartite social dialogue mechanism.

All social partners, except for one of the workers' confederations, were actively involved in implementing austerity measures, amending labour contracts and collective bargaining laws as a result of discussions made in the Standing Commission for Social Concertation linked to tripartite agreement and then enacted. Thus, in Portugal, which had one of the most protective labour legislation in Europe before the crisis, amendments which were stipulated in the MoU, such as the restriction of unemployment allowances in terms of time and amount, simplification of termination, and extension of flexible working periods have been enacted through social dialogue.

However, in the following years, it was observed that tripartite social dialogue was beginning to fail. In 2011, workers and employers' confederations signed an agreement that supported the government's strategy to fight against the crisis. This time, in January 2012, they signed an agreement with the new government that supported its policy in the framework of "Memorandum of Understanding". These two agreements, however, failed because the government had to change again and the new government refused to comply with the terms of the agreement. In 2014, each of the three parties signed an agreement on the amount of minimum wage.

Failure of the comprehensive agreements signed in 2011 and 2012 and the very limited deal in 2014 were interpreted as the end of the period in which labour relations and employment policies were regulated through social dialogue.¹⁹

However, in the following years when the social dialogue had re-started, it was observed that the government that took the office in 2015, which made a commitment to the public to turn the page on austerity, committed to making

¹⁸ <https://www.eurofound.europa.eu/observatories/eurwork/articles/italy-latest-working-life-developments-q1-2017>

¹⁹ Portugal: Working life country profile, <https://www.eurofound.europa.eu/observatories/eurwork/>

social dialogue processes run at all levels and also compensating the previous years when social dialogue was ignored. As a matter of fact, at the beginning of 2017, the government and the social partners agreed on a tripartite agreement to make regulations on the issues of modernization of the minimum wage, collective bargaining and labour market, social cohesion and competitiveness. However, it is stated that, in response to the agreement between the government and labour confederations in terms of working conditions, regarding issues such as working hours and short-time employment contracts, employers' organizations remain distant and want to preserve the rules set by Troika.²⁰

1.2.4. Greece

In general, the Greek collective labour law is comprised of four types of collective agreements, which are the National General Collective Agreement (EGSSE), sectoral collective agreements, occupational collective agreements and enterprise (or company or firm) level collective agreements. Among these, the EGSSE²¹ is applicable to all the working persons in the country, regardless of union affiliation. EGSSE determines the minimum work standards including minimum wage.²²

Another characteristic principle of the Greek collective labour law is the so-called "favourability principle". According to this principle, which is embodied under the Law No. 1876/1990, sectoral, enterprise and occupational level collective agreements are not allowed to contain terms and conditions that are less favourable to workers than those set in the national general collective agreement (Article 3.2).

In Greece, labour organizations can be categorised under three levels. These are, local unions and associations of persons on the 1st level; federations and labour centres on the 2nd level and the confederation (GSEE) on the 3rd level.

Regarding tripartite social dialogue mechanisms in the country, these are the Economic and Social Committee (OKE) and the Organization for Mediation and Arbitration (OMED). OKE's primary duty is issuing "opinions" either on its own initiative or after receiving draft bills from the competent Minister or from Members of Parliament. OMED, on the other hand, is a dispute resolution mechanism. Through the services for mediation and arbitration, OMED contributes in the promotion of social dialogue by assisting negotiating parties in collective bargaining.²³

Greece has been most heavily affected by the economic crisis in 2008. The main characteristics of the 2008 economic crisis in Greece were a large fiscal deficit, a huge debt and the continued erosion of the country's competitive position.²⁴ Crisis affected mostly construction and related industries, commercial sector, retailing and tourism and hospitality sector.²⁵ Greek Government was not able to cope with the crisis alone and it decided to get support from the EU. Then, in 2010, the Government signed a Memorandum of Understanding (MoU) with the EU, IMF and ECB. With the pressure coming from these institutions, austerity policies have been applied. It is possible to say that the manoeuvrability of the Government was profoundly restricted during this period due to MoUs signed with the Troika.

After each MoU, the law has been amended in accordance with the demands of Troika. These amendments included measures such as reducing wages, prohibiting wage increases, facilitating collective redundancy, reducing paid leaves, and increasing indirect taxes.

Unfortunately, the attempt to establish the social dialogue during the crisis did not yield successful results in Greece. The Special Scientific Committee was created via a Ministerial Declaration in order to prepare a project on the new

²⁰ Portugal, Tripartite commitment on labour market and collective bargaining measures, <https://www.eurofound.europa.eu/observatories/eurwork/articles/portugal>

²¹ EGSSE is signed between Greek General Confederation of Labour, Hellenic Federation of Enterprises, Hellenic Confederation of Professionals, Craftsmen and Merchants, National Confederation of Greek Trade and Association of Greek Tourist Enterprises.

²² Patra, Eleni, Social dialogue and collective bargaining in times of crisis: the case of Greece, International Labour Office, Industrial and Employment Relations Department. - Geneva: ILO, 2012, Working Paper, No.38. p. 6.

²³ Patra, p. 11.

²⁴ Patra, p. 1.

²⁵ Patra, p. 4.

challenges on labour legislation and employment but it could not become effective. According to the President of the Scientific Committee, the Committee invited members of the major associations of workers and employers and tried to come up with widely accepted solutions. However, social dialogue on tackling the economic crisis as a whole did not really take place. In conclusion, social dialogue was weakened as the Troika imposed its choices.²⁶

Greek General Confederation of Labour, referred to the ILO regarding the measures taken by the Government without consulting to social partners in 2010, 2011 and 2012 and claimed that the right to collective bargaining of employees has been violated. As a response, the Government stated; *“the fiscal restrictions and the flexibility of industrial relations were considered as necessary in order to support the Greek economy as well as the sustainability and competitiveness of enterprises. These objectives were pursued by taking measures for the balanced safeguarding of workers’ rights as well”*. Upon complaints, the ILO Committee of Experts (CEACR) recommended that the government promote and strengthen the institutional framework for collective bargaining and social dialogue.²⁷

If we look at the current situation, in 2017, the Law No. 4472/17 put an agreement between the Government and its creditors (IMF, EU, European Central Bank, European Stability Mechanism) into effect. During this process, the social partners were invited only to the public hearing where the discussions were made about the amendments to the law.

The Law No. 4472/17, particularly containing cut-backs on employee rights, caused the reaction of both the employees and the employers. Some of the measures taken in accordance with this law are pension cuts, tax increases, facilitation of collective redundancy (removal of the confirmation of MoL),²⁸ mandatory extension of sectoral collective agreements, non-application of favourability principle, introduction of new causes (such as lack of continuity) for displacement of union representatives in the workplace and expansion of enterprises operating on Sundays. Labour and employer organizations along with SMEs organized broadly participated protests.

On the other hand, despite the fact that the favourability principle has been removed; the parties came together and signed the National General Collective Agreement (EGSSE) in 2017. In EGSSE, both the employee and the employer parties have agreed on the following points:

- Combat against undeclared work pursuant to the recommendations of the ILO’s 2016 *Diagnostic report on undeclared work in Greece* and its *Roadmap for undeclared work 2016–2019*,
- Combat against racism, xenophobia and intolerance in the workplace,
- Approval of the National Strategy on Health and Safety at Work from the Hellenic Institute for Health and Safety at Work (ELINYAE), and agreeing to submit it to the government jointly for its adoption, and
- They agreed that if any of the legal restrictions on the contents of the 2010, 2011 or 2012 EGSSEs were lifted during the course of the present EGSSE, then they would begin negotiations to determine the pay terms of the EGSSE.²⁹

In summary, in Greece, the Government was forced to take measures without consulting the social partners due to its debts to the EU and IMF whereas the social partners, despite the fact that they were not properly taken into account since 2010, continued to sign the EGSSE and demanded from the Government that the authority to determine the minimum wage be given back to them. In other words, even though the tripartite social dialogue is not functional, efforts of both the employee and employer sides to keep bipartite social dialogue alive is still there.

26 Patra, p. 20.

27 ILO CEACR Case No 2820 (Greece), Report in which the committee requests to be kept informed of development - Report No 365, November 2012; http://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3087085

28 Before this amendment, an approval from MoL was required. MoL had right to reject collective dismissal request through 3 reasons, which are labour market conditions, the state of the enterprise and the interest of the economy. The said amendment established Supreme Court of Labour (ASE). Currently ASE evaluates collective dismissal requests, but this assessment only considers employers typical obligations such as inform and consult with the employees’ representatives. Additionally, submission of social protection plan is no longer required.

29 <https://www.eurofound.europa.eu/observatories/emcc-eurwork/articles/greece-parties-commit-to-national-social-dialogue-following-2017-national-general-collective>

Finally, even if the reaction of employees to the austerity measures is understandable, how to explain the similar reaction of employers? This is because employers' organizations believe that the crisis cannot be overcome by wage cuts or tax increases. They say that, in order to overcome the crisis, institutional reforms are required, the establishment of start-ups must be facilitated and technological improvements must be made. Yet, so far, wages are cut and indirect taxes are increased in accordance with Troika's requests. As a result, purchasing power has significantly decreased, especially small enterprises are forced to shut down and the unemployment rate increased at a rate that is much higher than the European average. In short, it is visible that the measures imposed by Troika created a vicious cycle in the Greek economy.

1.3. Social Dialogue in EU Countries Less Affected by Economic Crisis

1.3.1. France

a. Tripartite Social Dialogue

France has a social dialogue culture at all levels, a multi-layered and effective collective bargaining system and also tripartite and bipartite social dialogue processes secured by law. Managing to overcome the economic crisis relatively lightly compared to other Mediterranean countries, France displayed a remarkable success story between 2008 and 2015 in which the post-crisis social dialogue developed further and further.

In France, tripartite social dialogue is implemented in two forms. The first form is "social summits" and "social conferences", which are consultative mechanisms that convene irregularly at the discretion of the government and are not based on any legislative text. Although the purpose of Social conferences is to bring together the top representatives of both the government and social partners, it is indicated that they are unable to function effectively in determining social and economic policy.

On the other hand, many tripartite and tripartite plus consulting bodies such as the Economic, Social and Environmental Council, the Employment Advisory Council, the National Commission on Collective Bargaining, the National Council on Employment, Vocational Training and Orientation, operate regularly. It has been stated that the effectiveness of these tripartite dialogue bodies has increased significantly after the economic crisis, especially because the state representatives assigned in these organs were not politicians but high-level civil servants whose competencies and ethical values are known to everyone and therefore the dialogue became easier.³⁰

The main tripartite social dialogue mechanism that regulates employment relations rests on the national cross-sectoral collective agreements, which is the outcome of bipartite social dialogue at the highest level. It points out to the regulation of the national cross-sectoral collective agreement in Labour Code by law and delegated laws at the end of a process whose procedure steps are regulated by law.

According to the Act of 31 January 2007 on the Modernization of Social Dialogue, a government that wants to make legal changes in the fields of labour code and employment is obliged to start the negotiation process by informing the workers' and employers' organizations. Therefore, the law imposes a legal obligation on the government to initiate a negotiation with social partners.

Again, the law lays down three phases for the social partners to coordinate with the state.³¹

In the first phase, the Government informs employers' and workers' organizations about planned initiatives in the field of employment relationships, employment and vocational training. It provides them with background documents on these issues.

If the issue is one that is normally subject to a cross-sectoral agreement, these organizations may inform the Government that they wish to negotiate.

³⁰ Freyssinet, Jacques, Social dialogue in the shadow of the State in France, in: Talking Through The Crisis Social dialogue and industrial relations trends in selected EU countries, Geneva: ILO, 2017, p. 113-114, 125.

³¹ <https://www.mutuelle-miltis.fr/guides/>

If agreement is reached, the Government drafts a bill, in order to transpose the provisions of the agreement into a revised Labour Code. Nevertheless, the Parliament, which has sovereignty over the legislative process, is not obliged to respect all the terms of the agreement.

The second form of cooperation between the social partners and the state is the government's extension or direct enactment of the national cross-sectoral collective agreements.

After the 2008 crisis, social partners and the government particularly benefited from the three-phased social dialogue and legislation method as a way of coping with the crisis and between the years of 2008 and 2015, twenty-five cross-sectoral agreements have become statutory provision. Contractual issues may be regarded as the modernization of the labour market, providing the competitive capacity and employment security of enterprises, lifelong vocational training, unemployment insurance, compensation for partial unemployment, long-term part-time employment, employment of young people (employment assistance - training and internship in workplace - work holding), access to residence, overcoming work related stress, and increasing the quality of life at the workplace.

It is stated that the tripartite social dialogue process is not a method that the government must absolutely comply with. Benefiting from bipartite and tripartite dialogue is a process regulated under the initiative of the government. Government determines the issues to negotiate with the social partners on the basis of the policy it has designated, starts negotiations and in case the negotiations fail, the legislation is executed directly by the government. In other words, when the government needs more support for the steps it takes and needs to share responsibility, it first initiates an attempt to connect this issue to the cross-sectoral collective labour agreement. Although the relationship between the government and the social partners after the economic crisis has tensed up at some point, in general the crisis increased the necessity of working together by bringing the parties closer to each other.³²

As France has a strong tradition of unionism, collective bargaining and social dialogue, it is obligatory for organizations of workers and employers to have collective bargaining in the areas designated by law. These organizations are obliged to have collective bargaining on wages yearly, on benefits and vocational training once every three years, and on occupational classification once every five years. The aim of collective bargaining is not necessarily to reach an agreement, but to create a "negotiation dynamic."³³

It is especially remarkable after the crisis that the pressure of the governments on the social partners in favour of collective bargaining has increased. As a result of this pressure, the number of cross-sector contracts has increased to a large extent.³⁴

However, after 2015, the government's proposal to amend the Labour Code so as to introduce flexible employment arrangements and the amendments to facilitate the termination process have attracted the greatest reaction from the workers' confederations. When the government attempted to reach a common ground, it faced the reaction of the employers' organizations. Tripartite and bipartite social dialogue was interrupted by the conflict between the social partners and the government. This crisis experienced by social dialogue in France still goes on nowadays.

b. Bipartite Social Dialogue and Decentralization

Just as in other EU countries with multi-layered and extremely lively collective bargaining, it is seen that collective bargaining in France is moving from sectoral level to enterprise (company) level. Again as in other EU countries, this tendency also takes place in France at the initiative of employers who want to adapt employment conditions to local production and competition conditions. However, unlike other EU countries, the point that is specific to France is that this tendency is encouraged by different mechanisms by the state.

³² Freyssinet, p. 118.

³³ Freyssinet, p. 122.

³⁴ Freyssinet, p. 124.

For example, according to the regulations adopted in 2008, collective bargaining at the enterprise level became a legal obligation for some issues such as employment of elderly workers, equality between men and women and heavy working conditions.

With the cross-sectoral agreement dated 11th January 2013, a decision was made to improve the binding power of business level collective bargaining agreements and with collective bargaining at the enterprise level, it became possible for businesses having financial difficulties to reduce working hours and wages and change job descriptions and work places in order to protect their employment in return. This cross-sectoral contract was added to the Labour Code with the amendment of the law in the same year.

The state also provides financial support, such as contributions in social security premiums, in some cases where it is expected that employment will be positively affected, such as the setting of shorter working hours.

1.3.2. Germany

a. Tripartite and Bipartite Social Dialogue

It is seen that in Germany, which is slightly affected by the economic crisis overall and recovering in a very short time, unemployment rates have nevertheless fallen by 3% over the period of 2008 to 2015.

There is no institutional tripartite social dialogue mechanism at the national level in Germany. Nevertheless, in this country which has very strong and institutional workers' and employers' organizations, a collective bargaining agreement and a bipartite social dialogue tradition, the social partners have actively participated in the creation of government policies during the crisis. Strong employers' and workers' organizations that make extensive use of collective bargaining autonomy have allowed for three-way negotiations on "ad hoc" "crisis summits" organized by the government and various ministries. The immediate crisis measures taken by the government and the social partners together and the joint effort during the years 2008-2009 can be defined as Germany's most effective tripartite cooperation and crisis management success.

In fact, tripartite negotiations, which existed before the crisis, go on still today as well as it did during the crisis period. Workers' and employers' organizations point out that the ongoing "ad hoc" dialogue during the crisis was extremely effective in the success of the taking measures against the current and future crisis scenarios and that there is no need for new national social dialogue institutions due to this strong cooperation.³⁵

Despite the fact that it is not based on a legal and formal structure, tripartite dialogue in Germany is so successful that it can be explained by the positive attitude of the government and the power of bipartite social dialogue. The ad hoc tripartite dialogue is based on a system of industry associations based on the principle of free collective bargaining between employers' organizations and trade unions. Major sectoral collective bargaining agreements are good examples of successful crisis management. Workers' and employers' organizations that share the goal of eliminating collective redundancy have agreed on short-term work and flexible and adaptable collective bargaining to overcome the crisis.

In addition, there are important developments at regional level in the area of structuring formal social dialogue institutions in Germany. For example in 2011, Eastern State of Brandenburg established a standing tripartite social dialogue committee, which is the first formal social partner dialogue at state level.³⁶ The committee brings together the heads of the German Federation of Trade Unions (DGB), the regional employers' organization for Brandenburg-Berlin (UVB), and the collective bargaining partners from five sectors: metalworking and electrical, chemicals, hotel and catering, construction and retail. European Social Fund (ESF) financially supports the Committee. Committee's

³⁵ Lesch, Hagen; Vogel, Sandra: Germany's Response to the Global Economic and Financial Crisis, Talking Through the Crisis, Ed. Igor Guardiancich/Oscar Molina, ILO, p. 136.

³⁶ Lesch/Vogel, p. 139.

main objective is to improve industrial relations and to increase collective bargaining coverage.³⁷ Since 2011, the Brandenburg Committee have been organizing meetings twice a year, which bring together the German Trade Union Confederation (DGB), the regional employers' organization for Brandenburg-Berlin (UVB), and the collective bargaining partners for the above-mentioned sectors under the moderation of Ministry of Labour.³⁸

German collective bargaining system is based on bipartite social dialogue and sectoral collective bargaining agreements. On the other hand, in accordance with the Works Constitution Act, business councils consisting of workers' representatives have the right to consultation and co-determination. The business council and business management are authorized to enter into workplace agreements (betriebsvereinbarung) for the issues allowed via the collective agreement.

Social partners express that participation in management and business councils on one hand and bipartite agreements and tripartite social dialogue mechanisms within the collective bargaining system on the other are consistent structures within themselves and that they have full confidence in these complementary social dialogue institutions.³⁹

However, as in other countries, the proportion of workers who fall under collective bargaining also tends to decline in Germany. This tendency, which started before the crisis, has been observed to be due to the fact that enterprises are looking for more movement area and trying to get out of the collective bargaining agreement although workers' confederations are maintaining their attitude of defending the sectoral collective bargaining order. In response to this tendency, trade unions have adopted a mutual concession strategy to stop the erosion that is within the context of collective bargaining. This strategy, called "alliances for jobs", means that the trade unions make some sacrifices on condition that they avoid termination of labour contracts or keep it at a minimum. During the crisis, parties in collective bargaining included flexibility in working hours, as well as any arrangements for flexibility in collective bargaining agreements. In particular, the intensive use of part-time and short-time working patterns has greatly facilitated the protection of employment rates.⁴⁰

1.4. Social Dialogue in Central and Eastern European (CEE) Countries

Social dialogue in Central and Eastern European countries is considered important due to the need for improving social cohesion in European Union and European Social Fund has financially supported several social dialogue projects carried out in these countries in order to strengthen social dialogue structures or improve collective bargaining.⁴¹

Since CEE countries have gone through tremendous economic and social changes during the last decade, they have similarities regarding social dialogue structure. Bulgaria, Croatia, the Czech Republic, Latvia and Lithuania share similar characteristics and while all of them have national social dialogue institutions, these institutions do not function properly.

However, there are some good examples on social dialogue in CEE Countries after the crisis period. For example in Slovakia, the Council for Solidarity and Development (RSR) was set up in 2012. It is an informal consultative body of the Government, which brings together officials from leading employers' and workers' organizations. Even though the RSR's role is only consultative, social partners are aware of the positive influences of these consultations on the Government's decision-making process. Each year, approximately four RSR meetings are held.⁴²

³⁷ Molina/Guardiancich, Comparative Overview, p. 15.

³⁸ Lesch/Vogel, p. 139.

³⁹ Lesch/Vogel, p. 137-138.

⁴⁰ Lesch/Vogel, p. 139-140.

⁴¹ Blaziene, Inga/Aumayr-Pintar, Christine: National capacity-building initiatives for social partners: Experiences in five EU Member States, Eurofound. p 4.

⁴² Molina/Guardiancich, Comparative Overview, p. 16.

On the other hand, trade union participation and sectoral collective agreements are rather low in these countries compared to the western counterparts.⁴³ Moreover, these countries suffer from common difficulties that we have to cope with in Turkey, too, such as the insufficient unionization in private sector as opposed to the public sector and the inadequate capacity of trade union managers.

1.4.1. Tripartite Social Dialogue

As mentioned above, all of the CEE Countries have national tripartite social dialogue institutions. For instance, National Council for Tripartite Cooperation in Bulgaria promotes cooperation and consultation on the issues concerning labour, social security and living standards thanks to the works of expert commissions. In addition, tripartite social dialogue in Bulgaria is empowered by National Economic and Social Pacts agreed between the trade unions, employers and the Government since 2006. However, during the economic crisis tripartite social dialogue has weakened in the country like it did in other CEE countries because of the clear division between the Minister of Labour and Social Policy's concerns on employment and Minister of Finance's proposed austerity measures.⁴⁴

Accordingly, we may assume that during the crisis periods governments prioritise financial stability over social protection and disregard the reactions of social partners. For example, in Czech Republic, National Anti-Crisis Plan adopted by the government was criticized by the social partners because they could not play a role in the Plan since it was submitted to the Chamber of Deputies only two days after being presented at the tripartite meeting.

In parallel, political instability and change of governments weaken tripartite social dialogue. Social partners lose their confidence in them during crisis periods. In Czech Republic, even though social partners agreed on a crisis plan called "Ways out of the crisis – 38 common measures of the Government, trade unions and employers", it could not be put into practice entirely due to the subsequent changes of governments.⁴⁵

In 2012, Slovakian Government abolished the Council for the Economic Crisis (RHK) and established a new tripartite plus body - Council for Solidarity and Development (RSR). It is an informal consultative body of the Government, whose permanent members are the Prime Minister, Deputy Prime Minister, Minister of Finance, and Minister of Labour, Social Affairs and Family. Representatives of trade unions, employers, churches, professional institutions and non-profit organizations also participate in the RSR meetings. In July 2015, the RSR discussed the action plan for strengthening the Slovak Republic as a legally consistent State.⁴⁶

1.4.2. Bipartite Social Dialogue

The CEE countries were able to find collective bargaining field only after the collapse of socialism and post-socialist period faced by the establishment of many workers' and employers' organizations. However, drastic economical changes (especially 2008 economic crisis) prevented social partners from sustainable development in collective bargaining. Among many reasons, privatization, the emergence of small and medium-sized enterprises (SMEs), globalization and the trend of enhancing flexibility on employment types can be listed as the main causes of weak union density in CEE Countries.⁴⁷

Regarding the collective agreement coverage in CEE countries, it does not cover more than one third of wage and salary earners in all countries, except for Slovenia (over 90 per cent), and only slightly more in the Czech Republic, Poland,

⁴³ Blaziene/Aumary-Pintar, p. 2.

⁴⁴ Guardiancich, Igor, Recovering from the crisis through social dialogue in the new EU Member States: the case of Bulgaria, the Czech Republic, Poland and Slovenia / edited by Igor Guardiancich; International Labour Organization, Decent Work Technical Support Team and Country Office for Central and Eastern Europe. - Budapest: ILO, 2012, p. 21-22.

⁴⁵ Guardiancich, p. 61.

⁴⁶ Cziria, Ludovit: Sustaining social dialogue through the crisis: The Slovakian experience, Talking Through the Crisis, Ed. Igor Guardiancich/Oscar Molina, ILO, p. 219-220.

⁴⁷ Guardiancich, p. 7.

and Slovakia (roughly 40 per cent). Furthermore, implementation of the collective agreements is also problematic due to the lack of sanction clauses in the agreements and the lack of coordination between social partners.

Because of the decentralization of collective bargaining caused by the economic crisis, company level agreements are growing in most CEE Countries. For example, besides the enlargement of sectoral level collective agreements in Bulgaria, company level agreements are still the most common type.

Collective agreement clauses in CEE Countries usually address minimum wage. Other important issues stipulated in collective agreements are job security, special working conditions such as night work or hazardous work, paid annual leave terms, vocational training and supplementary pension and health insurance. On the other hand, work stress, harassment in the workplace and gender equality are the topics, which are not frequently regulated, in collective agreements (as in the case of Czech Republic). During the 2008 crisis, collective agreements helped social partners overcome the economic problems that private sector faced. For example, in Poland several collective agreements at firm level and less commonly at sectoral level adopted the same anti-crisis solutions.⁴⁸

After 2012, the efforts for improving social dialogue in Lithuania considerably came through. On 21 February 2012, Ministry of Labour and Social Security, ESF and social partners agreed and implemented a programme called "Promotion of Social Dialogue". EU resources were allocated to promote social dialogue and strengthen the capacity of the social partners under the programme. Increasing social partnership at sectoral and territorial level was the main target. To achieve this goal, conclusion of 289 enterprise-level agreements and 12 sectoral-level agreements was planned. It was also envisaged to establish 46 tripartite and bilateral territorial councils and committees of the social partners, as well as 155 safety and health committees in enterprises. Following the implementation of this measure, 263 company-level agreements were concluded, 12 sectoral level and 21 territorial agreements were signed, and 44 tripartite and bilateral territorial councils and committees of the social partners were established – in addition to 151 health and safety committees in enterprises.⁴⁹

1.5. Overall Assessment: National Tripartite Social Dialogue and its Interaction with Bipartite Social Dialogue

In countries that are heavily affected by the economic crisis, interruption of tripartite social dialogue can be explained with their obligations to fulfil the demands of foreign financial institutions and the urgency of the government's commitment to these institutions. Inherently, social dialogue is a long process that requires time and effort. In times of crisis and depression, governments feel under pressure to make urgent decisions, prefer to take a quick initiative if they are unable to reach a satisfactory agreement within a reasonable time span in consultation with the social partners.

In countries such as Italy and Spain where government changes are often witnessed, political instability and the adoption of different policies by the changing governments lead to the interruption or a complete termination of the tripartite social dialogue. At the same time, this situation also takes away the trust relationship between the parties, and it has often been impossible to repair this trust relationship.

It can be said that the lack of trust can be found even today. Based on the interviews conducted within framework of this study on the unions and their answers, even in countries such as Belgium where social dialogue mechanisms are strong, labour unions state that social policies and laws are being shaped by the government and employers' organizations and that labour and their unions are being left behind.

Country comparisons confirm that the sustainability of tripartite social dialogue depends on the intent and characteristics of political power. What makes tripartite social dialogue fragile is that its being subject to the will of the political power and the asymmetric relationship between the government and the social partners. The extreme

⁴⁸ Guardiancich, p. 22-23, 49.

⁴⁹ Petrylaite, Daiva: Post-crisis social dialogue in Lithuania: The contentious path of social policy reform, Talking Through the Crisis, Ed. Igor Guardiancich/Oscar Molina, p. 177.

example for this situation is Hungary. Hungarian unions who have been interviewed state that social dialogue has officially stopped with the Orban government who has come to power in 2010. Hungarian unions also indicate that labour and employee unions are left out of the decision making mechanisms which makes the bilateral social dialogue dysfunctional. Extreme examples of Hungary and Germany reveal the importance of the political authority's inclination towards cooperation.

Based on the results of the comparative study on the EU countries and the short interviews, the most important factor which affects sustainable social dialogue adversely is the intention of the governments. Social dialogue practice either increases or decreases parallel to the cooperation tendency and the willingness of the government.

While Germany shows the strongest examples of bilateral and tripartite dialogue, Hungary shows the disabling of bilateral dialogue due to lack of trust and negative attitude of the government.

Again, country comparisons show that it is not actually important whether to have formal tripartite social dialogue institutions regulated by law or not, and the existence of formal institutions is not a main requirement for the tripartite social dialogue to be maintained, e.g. Germany.

On the other hand, in countries where the tripartite dialogue is interrupted, the efforts of the social partners to restore the dialogue with political power are truly remarkable. In countries under foreign economic inspection, whether or not they have formal dialogue mechanisms, tripartite social dialogue has not been completely abandoned, efforts have been and are still being made to restore it. Continuous daily efforts made for the restoration of tripartite dialogue in different countries since 2008 constitute an important determination example for Turkey.

Essentially, even if it does not come through, making effort is suitable for the purpose and the definition of social dialogue. Social dialogue, by definition, does not mean that a mere agreement is reached. As it is important to reach an agreement, social dialogue ultimately refers to the process of mutual exchange of views rather than the conclusion. It is possible to say that social partners and the government exchanging views, sharing knowledge and showing sincerity and openness in resolving disagreements have helped shaping country's social policy and in this sense the tripartite social dialogue has not completely disappeared in almost any country that we have examined. Continuation of the exchange of views between the social partners and the government serves to alleviate trust problems between them and minimize risks in troubled times.

How can we explain the continuation of the exchange of views at a minimum between the social partners and reluctant governments that are under political and economic pressure and see social dialogue as a waste of time in emergency situations?

The crucial conclusion of our examination made on the basis of the effect of the 2008 economic crisis on the social dialogue in EU countries is that somehow maintaining the tripartite dialogue in some of the countries necessitates the existence of strong and institutive bipartite social dialogue. In other words, the bipartite social dialogue established between workers' and employers' organizations makes the national tripartite social dialogue possible. In fact, bipartite dialogue can fill this gap largely in times the tripartite dialogue is interrupted or completely ended.

A comparative examination of the national social dialogue processes reflects the fact that bipartite social dialogue is the backbone of the social dialogue in almost every member of the EU. Further, we can argue that in the true sense, in countries, which are equipped with well-functioning bipartite mechanisms, tripartite social dialogue functions better.⁵⁰

Within national social dialogue mechanisms, centralized importance of bipartite social dialogue can be explained by the decisive power of collective bargaining in national social and economic policies. Determinative power of collective bargaining is directly related to the proportion of workers covered by the scope of collective bargaining.

⁵⁰ Molina/Guardiancich, Comparative Overview, p. 3.

Looking at the EU in general, it was observed that the rate of unionization of workers has decreased since 1980s, whereas the ratio of workers who are covered by collective bargaining at any level compared to the labour force is very high.

While the rates of unionization in EU countries, where bipartite social dialogue is particularly strong, range goes between as 7.9% in France and 17% in Germany, the percentage of workers covered by collective bargaining at any level is 56% in Germany, 40% in Greece, 73,1% in Spain, 80% in Italy, 72,3% in Portugal and 98,5% in France.⁵¹

Table 1. Collective Bargaining Coverage

Frequency		Annual								
Measure		Percentage of employees with the right to bargain								
Country	Year	2008	2009	2010	2011	2012	2013	2014	2015	2016
Austria	i	98,00	...	98,0	...	...	98,0	98,0	98,0	98,0
Belgium	i	96,0	...	...	...	...	96,0	...	96,0	96,0
Czech Republic	i	49,6	44,3	51,1	49,2	49,7	48,9	45,4	46,3	...
Denmark	i	...	82,0	83,0	...	...	84,0	...	84,0	...
Estonia	i	...	24,0	...	22,9	23,0	...	...	18,6	...
Finland	i	87,5	78,4	77,8	90,0	89,7	93,0	89,3	89,3	...
France	i	98,0	98,0	...	...	98,0	97,6	98,5	...	...
Germany	i	61,4	61,7	59,8	58,9	58,3	57,6	57,8	56,8	56,0
Greece	i	83,0	83,0	64,0	60,0	51,0	40,0	...	...	...
Hungary	i	...	26,9	27,3	26,4	26,4	25,5	22,8	...	...
Iceland	i	88,0	...	...	...	...	89,0	...	...	90,0
Ireland	i	...	40,5	...	...	...	...	33,5	...	...
Italy	i	80,0	80,0	80,0	80,0	80,0	80,0	80,0	80,0	...
Lithuania	i	...	20,7	20,4	19,8	19,4	15,3	15,3	14,8	13,8
Luxembourg	i	59,0	...	59,0	54,2	...	...	55,0	...	...
Netherlands	i	78,6	82,8	89,7	87,2	85,1	85,7	85,9	79,4	78,6
Norway	i	...	68,0	...	...	...	68,0	67,0	...	...
Poland	i	...	...	...	14,9	14,7	...	...	...	...
Portugal	i	85,9	84,1	76,7	75,7	73,3	74,5	72,7	72,3	...
Slovak Republic	i	40,0	40,0	...	35,0	...	30,0	...	24,4	...
Slovenia	i	92,0	92,0	80,0	75,0	70,0	65,0	65,0	65,0	...
Spain	i	78,9	80,9	73,9	77,0	77,0	71,1	80,2	76,9	73,1
Sweden	i	...	...	...	88,0	...	89,0	...	90,0	...
Switzerland	i	...	44,7	47,2	...	49,7	49,4	49,2	...	...
Turkey	i	7,3	7,7	7,0	5,6	5,4	6,5	6,6	6,7	7,0
Latvia	i	9,7	10,9	11,1	10,7	9,9	...	...	7,1	...

date extracted on 28 Feb 2018 13:11 UTC (GMT) from OECD.Stat

⁵¹ <https://www.worker-participation.eu/National-Industrial-Relations/>

Bipartite, Tripartite, Tripartite-Plus Social Dialogue Mechanisms and Best Practices in the EU Member States

Table 2. Trade Union Density

Frequency		Annual									
Series		Trade union density									
Measure		Percentage (%)									
Country	Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Austria	i	29.6	29.3	28.9	28.3	28.0	27.8	27.7	27.4	26.9	..
Belgium	i	54.5	54.9	53.8	55.1	55.0	55.1	53.8	54.2	..	..
Czech Republic	i	16.9	16.7	16.1	15.4	14.8	13.6	12.9	12.0	10.5	..
Denmark	i	66.2	68.4	69.2	70.1	69.8	69.3	69.3	68.6	67.2	..
Estonia	i	7.0	7.7	7.7	6.9	6.4	..	..	..	..	..
Finland	i	69.5	68.9	68.3	67.3	67.3	66.3	66.7	66.5	64.6	..
France	i	7.8	7.9	8.0	8.1	8.1	8.1	8.0	7.9	..	..
Germany	i	19.0	18.8	18.9	18.4	18.3	18.0	17.7	17.6	17.0	..
Greece	i	23.8	..	..	22.9	..	24.7	..	..	..	..
Hungary	i	14.4	..	..	..	11.8	..	10.2	9.4	8.5	..
Iceland	i	79.2	..	..	..	..	80.5	..	..	85.5	..
Ireland	i	31.4	32.3	34.2	33.2	..	31.5	..	..	27.2	..
Italy	i	33.4	34.7	35.5	35.8	36.3	36.8	36.4	35.7	34.4	..
Latvia	i	15.1	15.1	15.0	13.6	13.1	12.8	12.7	12.6	..	..
Lithuania	i	8.9	10.0	10.1	9.7	9.0	8.4	8.1	7.9	7.7	..
Luxembourg	i	36.5	..	35.1	..	35.3	..	34.1	..	..	..
Netherlands	i	19.3	19.2	19.3	19.3	18.8	18.2	18.1	17.7	17.3	..
New Zealand	i	21.4	21.5	21.4	20.5	20.3	19.4	18.5	17.9	17.7	..
Norway	i	52.5	53.4	53.6	53.3	53.1	51.8	52.5	52.5	..	..
Poland	i	15.1	14.6	14.6	13.6	12.7	12.9	12.4	..	..	..
Portugal	i	20.7	..	19.6	18.7	..	..	17.0	16.1	..	..
Slovak Republic	i	17.2	16.0	15.2	14.1	13.6	13.3	..	10.9	..	..
Slovenia	i	26.6	26.3	25.0	23.1	22.0	21.3	20.1	19.6	..	..
Spain	i	17.1	17.5	17.2	16.8	17.0	16.8	15.6	13.9	..	..
Sweden	i	68.8	69.7	69.3	67.8	67.4	..	..	66.8	..	..
Switzerland	i	17.5	17.3	17.6	17.0	16.6	16.6	16.1	15.7	..	..
Turkey	i	10.7	..	..	..	..	6.3	6.9	8.0	8.2	8.6
United Kingdom	i	27.0	27.0	26.8	26.5	26.1	25.4	25.0	24.2	23.7	..

Data extracted on 29 Jul 2018 20:20 UTC (GMT) from OECD.Stat

Regardless of the level of unionization, in some countries, collective bargaining covers almost the entire workforce beginning from the social dialogue in the workplace and this can be explained by the existence of a multi-layered bargaining structure from the enterprise level to the intersectoral and national level and the legal structure that secures it.

The legal basis of the decisive power collective bargaining has over national policies is that each country's law and the EU law in general and their constitutions in particular broadly define and protect the collective bargaining autonomy. In each EU country without exception, collective bargaining autonomy of employers' and workers' organizations is broadly recognized, multi-layered collective bargaining structure is legally supported and also centralized in the determination of social and economic policies. This legal basis, which gives social partners the authority to set autonomous rules independent of the state, is also accompanied by the fact that they should be responsible and liable to the society at the same time.

As seen in the case of Spain, it is important for workers' and employers' organizations to take the initiative to restart tripartite social dialogue and make continuous efforts to establish dialogue in each governmental change in response to the collapse of tripartite social dialogue and the public pressures. Social partners assume responsibility against political instability during times of crisis when the political powers face problems of legitimacy.

It is also remarkable that workers' and employers' organizations make a claim to the collective bargaining autonomy and react together against government policies that narrow this area of autonomy. For example in Italy, against the legal regulations made by the Berlusconi government for the benefit of employers such as working hours and flexible labour contracts, it is a crucial example that the employers' organization Confindustria explained that these legal amendments were an attack on collective bargaining autonomy and acted together with workers' organizations.

It is visible that the success of bipartite social dialogue is dependent upon two fundamental conditions. The legal condition is that the constitution and the legal system provide social partners with broad rulemaking autonomy and give them a key role along with the state in the determination of the national social and economic policy.

The legal order should allow for a multi-layered collective bargaining structure from enterprise-level to the national level, and in this multi-layered structure, workers' and employers' organizations should have the power to determine the sectoral, intersectoral and national bilateral agreements and the collective bargaining strategy of the country.

The material condition is that the multi-layered collective bargaining structure covers a wide proportion of the workforce and, indirectly, the society. The fact that collective bargaining affects large segments of the society imposes a duty and responsibility for workers' and employers' organizations. This duty is to develop trust between workers' and employees' organizations and, additionally, strengthen the consciousness and responsibility of these organizations to protect collective bargaining autonomy. The bipartite social dialogue mechanism that satisfies these conditions produces flexible and effective solutions to social problems in difficult conditions.

National tripartite social dialogue's success also depends on two conditions. The first condition is the high representativeness of the bipartite social dialogue partners and the second condition is the governments' will to establish a dialogue with the social partners. Government's intention to work with the social partners may vary. This variability may be due to the policies imposed by foreign economic control or political instability, such as those in Spain and Greece. However, it is understood that the most fundamental factor in the establishment and maintenance of tripartite social dialogue is the nature and stability of bipartite social dialogue.



Chapter 2. Best Practices in National Tripartite and Tripartite Plus Social Dialogue

2.1 General

Tripartite social dialogue means consultation and cooperation between public authorities and social partners in order to discuss public policies, laws and other decision-making. Depending on each country's traditions, national tripartite social dialogue comes in a variety of forms, such as economic and social councils, labour advisory councils and similar institutions for cooperation at the policy level. The use of terms such as 'agreement' and 'pact' (either in conjunction with 'tripartite' and 'social' or not) to define the consent at the end of decision-making process also varies across countries.

As for "tripartism plus", usually it refers to situations where the traditional tripartite partners choose to open up the dialogue and engage with other civil society groups, to gain a wider perspective and consensus on issues beyond the world of work.

The role of tripartite agreements or social pacts and the involvement of the social partners in national level policymaking is an important but also an extremely complex element of industrial relations systems. Tripartite cooperation may take place at different levels, and it may take the form of institutionalised cooperation or cooperation on concrete projects. It may be formal or informal and it changes over time and from country to country.

According to our comparative research, Germany and France are the most successful examples on tripartite social dialogue after the 2008 crisis. In both countries, permanence of tripartite social dialogue has been ensured and tripartite social dialogue has been applied for all legal measures taken during the crisis period. The difference between the tripartite dialogue mechanisms of the two countries is remarkable. In France, the government's dialogue with social partners is a legal obligation. It is obligatory for the government to communicate the points of discussion to the social partners, inform and consult with them before amending the law. If an agreement is reached as a result of this consultation process, the tripartite agreement will form a basis of the amendment. Even if an agreement is not reached, the government may still take the necessary steps to make the amendments.

In France, the requirement for the government to inform and consult with the social partners, even without an obligation to agree, may be considered as a best practice. As social dialogue means primarily sharing information and consultation with social partners rather than reaching an agreement, this procedure ensures consultation with social partners during not only ordinary times, but also during the difficult times.

Despite the absence of any legal obligation in Germany, it should be described as the most successful example of a tripartite social dialogue within the EU, with the parties taking initiative for the dialogue and maintaining it.

Although the national tripartite social dialogue nearly collapsed in EU during and after 2008, the exceptional success of the national tripartite social dialogue in France and Germany is an example of "best practice" in itself.

On the other hand, in countries that are severely affected by the crisis, even though the tripartite social dialogue fails to determine the national social policy, it is seen that "social pacts" which are aimed at narrow and concrete conclusions are passed on. Generally, social pacts, which are signed after hard and painful processes, can be seen as concrete examples of the fact that the tripartite social dialogue, at the end of the day, yield some positive results. For example, after six years of contention Slovenian social partners have signed the Social Agreement 2015-2016, which constitutes a very important improvement in tripartite social dialogue. The agreement covers areas such as finance, economic development, the public sector, healthcare, wages, and pensions as well as implementing the European cohesion policy, education and legal security.⁵²

⁵² Lukic, Goran: 2015 Annual Review of Labour Relations and Social Dialogue Slovenia, p. 6.

Apart from that, tripartite plus social dialogue mechanisms seem to have an impact on the enactment of EU directives, since some of EU Directives set an example of tripartite plus social dialogue.

2.2. Social Pacts

Social pacts essentially promote the possibility to unite different parties, which hold different positions over the main problems of social and economic policies by using negotiation tactics and reciprocal compromise.⁵³ As long as social partners and state share the same point of view, social pacts may serve as a way to prevent and to solve industrial conflicts or to combat the low unemployment rates and the social exclusion. In other words, since these instruments may help to assure social peace, State's functioning can be improved by social pacts policy. Also this former policy may reiterate economic and social policies accepted by the industrial relations actors.⁵⁴

Social pacts are not magical instruments and their conclusion and realisation embody many difficulties. Among others, the variations in economic and social conditions have a tremendous impact on the realisation or non-realisation of social pacts. Apart from these challenges, it is a fact that economic difficulties were the driving force for the conclusion of social pacts in the first place. However, each European country come up with different agreements after facing economic and/or social crises, hence there are various European social pacts in different "forms" which include the various issues regulated by such social pacts policy.⁵⁵

Regarding the terms used, it should be noted that there is no unanimous denotation of social pacts. These instruments can be called under different names such as social pact, social charter, social code, social rule, frame agreement, general agreement, procedural agreement, basic agreement and social partnership agreements, etc. In contrast with the variety of terms, the definitions of social dialogue or social pact are not clear despite the efforts of the doctrine.

Regardless of the lack of clear definition, it is almost certain that the conclusion of social pacts is a by-product of government's failure to implement public policies on its own, which results in the inclusion of social partners. On the other hand, the role of the state in the creation of a social pact varies from being the active mediator in the communication between social partners to the initiator and supporter of social pact negotiation processes. In a traditional sense, state's role may be interpreted and presumed as another signatory of social agreement but state's participation and contribution is a very significant factor in reality.

On another note, due to the diversification of economic and social issues addressed by social pacts, they are no longer a deal between traditional social partners (such as trade unions and employers' associations) but they also include a wide range of social organizations (NGOs). For instance, Irish social partnership have been holding negotiations with the environmental pillar, community and voluntary pillar as well as the trade union, business and employer organization, agricultural and farming organization pillars (the traditional social partners), the representatives of the government and the independent nominees since 1996. It should also be emphasized that the scope of social pacts goes beyond labour market regulations and covers not only economic problems but also social issues by resulting in a wider social compromise in the formation of social dialogue. As one can see in the Irish example in the early 1990s, Irish social pact also includes labour market policy matters and active local interventions undertaken for social issues such as: qualifications, local recovery, literacy, drug addiction etc.⁵⁶

2.2.1. European Social Pacts

Even though the economic and political framework has been rapidly shaped by the renunciation of Keynesianism and by the efforts the governments of Reagan and Thatcher to end the tradition of negotiated politics in most of Western Europe, the negotiations between governments and social partners have not been decreased. Despite differences

53 H Hassel, Anke, Policies and Politics in Social Pacts in Europe, *European Journal of Industrial Relations*, 2009, Volume 15 Number 1, p. 7.

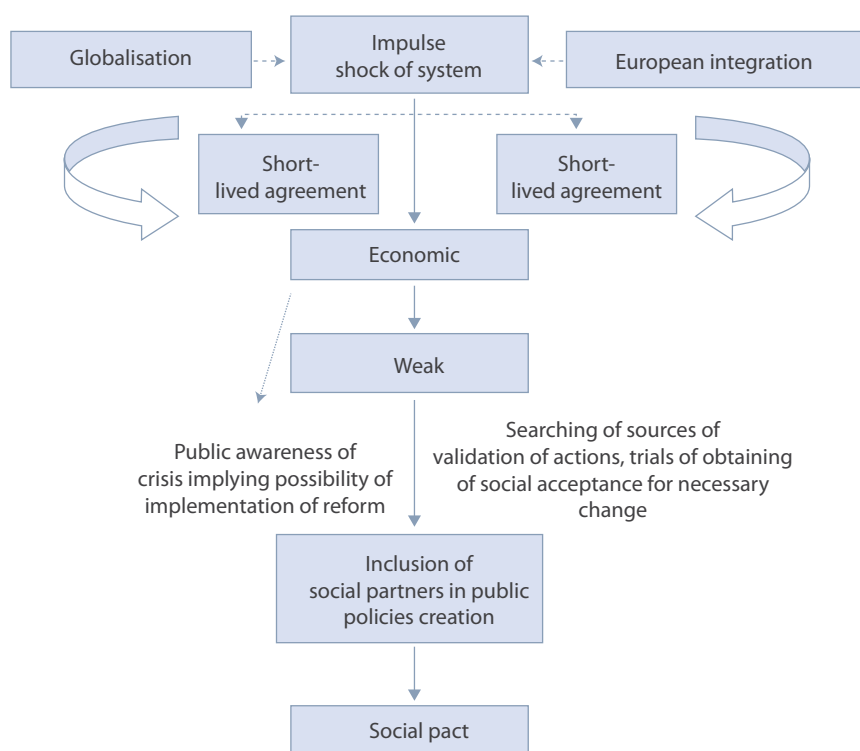
54 Kichewko, Karolina, "European Social Pacts Policy (The Netherlands, Ireland and Italy)", *Polish Political Science Review*, 2013, v.1, p. 87.

55 Kichewko, p. 88.

56 Kichewko, p. 89.

across countries, European countries manage to promote social dialogue. Accordingly, as the ‘social dialogue’ regarded as an integral part of the European social model, a negotiation-oriented political style has been developed at EU level.⁵⁷

Before starting to examine examples of European social pacts, one important question should be answered: What are the common factors which lead to the conclusion of social pacts in Europe? Even though the forms and contents of European social pacts vary from one country to another, we may conclude that economic and political crises, which distort social balance, are always the underlying reason of their results. This scheme below summarizes the creation process of social pacts:



Source: Kichewko, Karolina, “European Social Pacts Policy (The Netherlands, Ireland and Italy)”, 90.

Another important issue is the reason why weak governments seek to create a platform for social dialogue. When governments are unable to implement their policies due to various reasons such as low support in the elections or lack of legitimacy, broad social coalitions may help change negative circumstances. As a result of the lack of legitimacy, governments seek to balance their interests with the interests of trade unions. Social changes will follow as social partners and the government unite their resources for the same causes. Apart from political instabilities, economic crises and unemployment are important factors for creating an impulse for cooperation over social pacts.⁵⁸

Following this introduction, we will now focus on three Western European countries: the Netherlands, Ireland and Italy. The examples of Ireland and Italy are particularly important mainly because their governments have not only included trade unions in the process of adjustment to European monetary union, in contrast, they supported tripartite social partnership arrangements, regardless of the possible political cost in the following elections.⁵⁹ Before our assessment on each country’s social dialogue mechanisms, let us see the social pacts in each country in the following table:

⁵⁷ Hassel, Anke, Policies and Politics in Social Pacts in Europe, European Journal of Industrial Relations, 2009, Volume 15 Number 1, p 8.

⁵⁸ Hassel, p. 10, 13; Kichewko, p. 91.

⁵⁹ Regan, Aidan, Rethinking social pacts in Europe: Prime ministerial power in Ireland and Italy, European Journal of Industrial Relations, 2017, Vol. 23(2), p. 118.

Table-3: Social Pacts

Country	Social pact
Ireland	(a) Programme for National Recovery (1987-1990) (b) Programme for Economic and Social Progress (1991-1993) (c) Programme for Competitiveness and Work (1994-1996) (d) Partnership 2000 (1997-2000) (e) Programme for Prosperity and Fairness(2000-2003) (f) Sustaining Progress (2003-2005) (g) Towards 2016. Ten-Year Framework Social Partnership Agreement 2006-2015 (2006-2016)
Italy	(h) Agreement of 23 th July 1993, (i) Pact for Employment 24 th September 1996, (j) Social Pact for Development and Employment 22 nd December 1998, (k) Pact for Italy 5 th July 2002, (l) Pact for Development, Employment and Competitiveness of 19 th June 2003.
The Netherlands	(m) Wassenaar Agreement (1982) (n) Dutch Flexibility and Security Act (Wet Flexibiliteit en Zekerheid)* (1996) - ("aims to establish a balance between employers 'need for flexibility and employees' need for employment security. This is done by a number of measures such as offering employees more security regarding their employment contract, but also by extending the possibilities for employers to conclude temporary employment contracts").

* Dutch Flexibility and Security Act: Hesselink 2009.

Source: Kichewko, Karolina, *“European Social Pacts Policy (The Netherlands, Ireland and Italy)”*, 97.

2.2.2. Dutch Social Pacts

The Netherlands overcame a difficult economic situation through social dialogue mechanisms. Thanks to the decrease in unemployment or the liquidation of a non-performing labour market, an era of prosperity has begun for Dutch people.

With respect to the scope of social pacts in the Netherlands, regulation of the labour market appears as their main focus. For instance, the Wassenaar Agreement, which was one of the first social pacts to be concluded in Europe, initiated the policy of wage restraint. Due to the increasing unemployment and massive lay-offs at the beginning of the 1980s, the core motivation of this agreement signed in 1982 was to sustain the growth of competitiveness as well as to create jobs in the Netherlands. Moreover, it contained wage moderation and reduction in working hours.⁶⁰ Therefore, as it was one of the very first social pacts in Europe, this case has a particular importance for our analysis. However, it should be underlined that in the early 1980s, the government first rejected negotiations, but later tried to resume cooperation.⁶¹

In 2013, social partners have agreed on a social pact to rebalance increased flexibilization during the crisis and security provisions. The main components of the social pact were to ensure collaboration between employees and employers for preventing unemployment by facilitating job mobility, to ensure equal treatment, to introduce compulsory procedures for termination of employment, to ameliorate the position of temporary employees and to help people with occupational disabilities find work.⁶²

⁶⁰ Kichewko, p. 91.

⁶¹ Hassel, p. 15.

⁶² Cremers, J., Bekker, S., & Dekker, R. (2017). The Dutch polder model: Resilience in times of crisis. In I. Guardiancich , & O. Molina (Eds.), *Talking through the crisis: social dialogue and industrial relations trends in selected EU countries*, Geneva: ILO. p.201.

To this end, Work and Security Act has been adopted in 2014. Due to the Act, the public employment agency (UWV) is entitled to examine dismissal procedures, redundancies on commercial and economic grounds and cases of long-term incapacity for work. The aim of the reform was to make redundancy processes fast and reduce the costs. This system was accompanied by transit allowances, which made it easier for redundant employees to find new jobs by using the allowance to fund training or outplacements. Secondly, the maximum number of consecutive contracts i.e. renewal of fixed term contracts was restricted to two consecutive contracts for duration of two years, with an interval of six months between contracts to restart the chain.⁶³ Finally, in 2015, the Work Capability Act merged and modified three separate Acts regulating social assistance claimants, young workers with disability and workers in sheltered employment.⁶⁴

2.2.3. Irish Social Pacts

To understand Irish social pact system, the Irish social and economic development should be examined. In the beginning of 1980s, Ireland was subject to an economic turbulence, which was characterised by high unemployment, excessive expenditure in the public sphere, low competitiveness, deep inflation and a grave area of emigration. These problems were too big to be handled only by the government and a wide social consensus was deeply needed to get the state out of crisis and to reconcile the claims declared by all social partners. Before 1986, the level of unemployment rose up to 18 per cent in Ireland although in reality it was considerably higher.⁶⁵

In addition to severe unemployment rates, people registered as unemployed were transformed into people who had a right for early retirement. As a result of the application of such measures a considerable majority of people renounced the idea to return to work again. As per the statistics of the analysed period, the growth of dismissal at work jumped from 91.000 in 1980 to the level of 226.000 in 1985. Alongside with the problems in the labour market, excessive expenditure in the public market gave rise to a serious increase in taxation. According to Paul Tansey, an expert on this matter, the marginal rates of tax for a single person earning average manufacturing wages rose from 39.5 percent in the 1980-81 period to 56.6 percent five years later.

In parallel, the recession provoked a high frequency of strikes. Even though current Irish industrial relations tend to be more cooperative, economy was shaken by large strikes in the mid-1970s and at the end of 1980s.

Following a brief summary of Irish situation, it is time to address the main question: How did Ireland manage to overcome these economic and social challenges? The answer to this question lies within the successful application of a social partnership approach to industrial relations.⁶⁶ Irish representatives of government as well as social partners (which included employers, employees and farmers during the initial period) were able to work in harmony, which helped create efficient social pact mechanisms. One can assume that the level of cooperation between government and social partners was so strong because Ireland maintains the Anglo-Saxon tradition, which changed its industrial relations.

This spirit of cooperation was materialised by the social pacts of 1987, which were concluded over a three-year period. However, it was realised that these social pacts were not able to cover all social and economic issues and the three-year period was not enough to accomplish the objectives set by these instruments. Hence, the current social partnership agreement in Ireland is a ten-year pact. Since the first years of the pact process, Irish social partners have been trying to solve problems arising from the crisis and therefore this change in the duration of social pacts is understandable. Irish social pacts have their roots in the wage agreements of 1970s.⁶⁷

⁶³ DCremers/Bekker/dekker, p. 202.

⁶⁴ Sheltered employment is a setting in which people with disabilities receive services and training to develop work-related skills and behaviours.

⁶⁵ Kichewko, p. 92.

⁶⁶ Kichewko, p. 93.

⁶⁷ Regan, p.123,124. Kichewko, p. 94.

The first Irish social partnership document was the Programme for National Recovery (1987-1990) and its main goal was to assure development through a more effective use of human capital and the economic and social resources of state. Furthermore, it covered issues such as European integration, globalisation, pay policy, taxation regulation, social equity, employment policy, labour legislation and competitiveness. This seven-section pact also promoted certain solutions and some definite measures on a wide range of matters such as the verification of the tax system, improvement of tax enforcement, facilitation of access to education for disadvantaged groups, pay increases, fight against informal economy, development of the states' industry etc.

Following the mid-1990s, the range of social pacts was gradually widened in an attempt to adjust the conditions to the situation of the country and they started to address the complex matters of the labour market such as training and education plus social areas etc. The Programme for Prosperity and Fairness (2000-2003) sets a good example for the character shift in social pacts. This programme included social issues listed as housing, public transport, rural development and social inclusion, adaptation to continuing changes via lifelong learning, childcare etc. In other words, the issues in this programme were in line with the primary objectives of a "welfare state". In conjunction with the diversification of issues, social dialogue mechanisms have begun to include a range of NGOs known as "the community and voluntary pillar."⁶⁸

Finally, the Ten-year Framework Social Partnership Agreement (also known as Towards 2016) was concluded in Ireland in 2006. This agreement illustrates the importance of social partnership as an essential element for the multidimensional states' development (for economic and social matters, including macroeconomic issues, economic development, children, people of working age, elderly people and people with disabilities). Social dimension of Towards 2016 was regulated under the Lifecycle Framework which focuses on the life cycles of an individual as an important social policy maker. On another note, the Pact sets certain principles on the modernisation of public sector showing the necessity for active participation of civil servants in the process of the cooperation and the necessity to modernise qualifications of the employees in the public sector.⁶⁹

To conclude, social pacts are also tools used by politicians to strengthen their political stance. For example, in order to develop a national 'economic and social plan' that was autonomous from the Department of Finance, the National Economic and Social Council, which is a tripartite agency sponsored by the Prime Minister's office, became central to the negotiating process. Even though the National Economic and Social Council have managed to strengthen the relations between the government and the industry for 25 long years until the intervention of Troika, social pacts were also used as a political tool for the Prime Minister's office to assert itself as the core executive of the state.⁷⁰

2.2.4. Italian Social Pacts

In Italy, the economic and social situation was severely damaged by the unprofitable economic position caused by the problems of the exchange rate, reduction of exports and the increase of imports as well as by the wave of political scandals about corruption. Hence, the Italian social dialogue system was shaped by the economic crisis and political chaos (action of clean hands). It should also be mentioned that Italian social pacts experience in 1980s might be identified as a pejorative effect in the dialogue matter, since there was a public conception that not only the state but also social partners were involved in the corruption scandals.

The first social pacts relating to wage, wage cost reduction and valorisation were signed on 23 January 1983 and on 14th February 1984 by the government and the leading trade unions. However, these agreements did not bring the expected social and economic results. On the other hand, in the 1990s, Italian people have initiated the most important agreements and features of the pact process focusing on one programme issue which appeared in a definite period.

⁶⁸ Kichewko, p. 94.

⁶⁹ Kichewko, p. 95.

⁷⁰ Regan, p. 119.

The 1992 agreement related to wage and reduction of inflation was a mandatory step to realise the Italian dream about entering into the Euro Zone.⁷¹

As regards to the most significant social pact in Italian history, the Tripartite National Agreement of 23 July 1993 can be seen as “Italian social dialogue constitution”. This agreement identifies a reform of the Italian industry relations system based on four main objectives: income policy; restructuring bargaining procedures; modification of forms of workplace union representation; and policies on employment and measures to support the production system”. It has a supplement called the Pact for Employment concluded on 24 September 1996 in order to take measures to increase employment rate.⁷²

Towards the end of 1990s, Italy focused on the issues related to labour market and more specifically unemployment. Therefore, the agreement of 22 December 1998 addressed the employment issue. This instrument underlined the significance of cooperation between the government and social partners for the economic and social issues in policy decisions and the dispersion of the level of concentration (region, province and community level dialogue). It also suggested a two-tier system of bargaining (national and company level), a series of reforms in public administration and a reduction in the inflation rate as well in taxation. In 2002, Italian people signed a successive agreement that contains the new measures for the participation of social partners in the management of some aspects of the labour market.

In 2003, social partners decided to conclude another social pact but this time without the government. This non-governmental pact, also called as “innovative agreement”, was signed by the representatives of trade unions and employers’ associations without the representatives of government. In an attempt to influence political decisions, signatories of the Pact for Development, Employment and Competitiveness of 19 June 2003 demanded an increase of the state’s competitiveness, employment as well as development. It is no surprise that this agreement’s main area of focus was on research, training, South of Italy, infrastructure and the possibilities of influencing the government’s future economic policy.⁷³

2.2.5. Conclusion

Social dialogue can be described as a way to form an area of social consensus for the priorities of the country by ensuring interaction and information exchange between different interest groups. In this context social pacts policy can be understood as the materialisation of the social dialogue process in the form of an agreement. Therefore, it is also the implementation process of these economic and social issues in social reality. During this process, both social partners and the government should have an equal position, in which they are co-operators, who are responsible for public policy in these areas.

Since neither social dialogue nor social pact is a clearly defined phenomenon, they do not have one universally accepted definition for these issues, and they differ from country to country. Therefore, the main areas of focus and the content of social pacts also vary from country to country. For instance, in the Netherlands, there are social pacts that are mostly focused on labour market matters. However, in Ireland, social pacts regulate a wide range of economic and social issues, and not only economic issues, but also the records referring to issues related to children, people at working age, elderly people, people with disabilities, culture and sport.

Considering different models of the social pacts of each country explained above, it is nearly impossible to implement and enforce one European pattern for social pacts policy, which could indicate or define the actors, issues and period of validity of agreements. All countries have a margin of appreciation while defining the models and the parties of

⁷¹ Regan, p. 126, 128.

⁷² Kichewko, p. 95.

⁷³ Kichewko, p. 95.

these agreements. In the same vein, the level of institutionalisation of social pacts is different in various countries. For instance, in contrast with the fact that Dutch and Italian social pacts were not so deeply institutionalised, Irish social pacts have been used as a tool of creation for public policy since 1987 until the social system's collapse in 2009. To conclude, the concept of social pacts can be a permanent element in the industrial relations area, but it can also only be a temporary instrument in social dialogue at central level.

Finally, in Ireland and Italy, governments strategically used tripartite pacts with unions to enhance their autonomy and problem-solving capacities, as against the parliament. The need to legitimize industry relations reforms, in the context of the post-2008 euro crisis, has led to governments centralising the power. Thus, they prefer political partnerships over the quest of economic reforms with unions and employers. Unions were once considered privileged because they were key players to legitimize the economic reforms in turbulent parliaments. With the exception of public sector unions, this is no longer the case in Ireland and Italy.

2.3. Best Practices in Bipartite Social Dialogue

2.3.1. Belgium: Collective Agreements on Telework in the Banking Sector

In late 1998, two banks Bacob and Dexia signed collective agreements on telework, home-based work and working from satellite offices. After these two banks merged in 2002, the administration and trade union representatives worked for harmonization of the existing practices and organizational innovations. This process of acquisition caused the closure of a number of regional offices of both banks. Restructuring process was the starting point of a global strategy of e-working within Dexia.⁷⁴

Trade unions and the management decided to bargain over a new agreement for organizing the different forms of telework. Telework is defined as an alternative but in practice, it is a limited way of working. The trade unions involved were the Confederation of Christian Trade Unions, the General Confederation of Liberal Trade Unions of Belgium and the Belgian General Federation of Labour. In May 2004, social partners signed a collective agreement that guarantees similar working and wage conditions for e-workers and regular employees, in addition to financial compensation for teleworkers. Telework is proposed to selected employees who are entitled to refuse such a work arrangement.⁷⁵

In July 2002, a framework agreement has been signed by European social partners on telework that was planned to be applied in the companies in EU Member States and ensured equality among onsite employees and teleworkers. This example shows us that, sometimes before the EU framework agreement was transposed into national legislation, companies formalise telework policies just as Dexia bank in Belgium had done in 2004.

Beyond the fact that Dexia reached this formal agreement one year before the European framework agreement was transposed into Belgian law in July 2005, which has a restricting character since it has been bargained at national level and has force of law as collective agreement No. 85, this case is particularly interesting for two reasons. Firstly, it illustrates how a company has developed a telework policy in a formal way, unlike the 78% of companies in Belgium, which develop telework in an informal way – in other words, without any written or formal agreement. Secondly, it demonstrates how telework may contribute in generating and developing social dialogue and in turn contribute in the general strategy of a company that has been merged.

The collective agreement regulates the rights and duties of teleworkers and managers involved in e-working. It includes issues such as the time periods of availability, a description of the nature of work, and the need to discuss this arrangement frequently. As for the social dialogue on telework, it continues after the signing of the agreement: a telework commission was established with the aim of advising and managing telework and related issues, such as controlling teleworkers and the follow-up on the projects. This commission offers a proper platform for social

⁷⁴ Taskin, Laurent, Telework as an element of social dialogue at Dexia Bank Eurofound 2008, p. 1.

⁷⁵ Taskin, p. 1.

dialogue, where the mission, objectives and means are precisely defined. Within this commission, management and trade unions work together on concrete issues, after having bargained the general and strategic directions of the telework project.⁷⁶

2.3.2. Spain: Collective Agreement on Working and Employment Conditions in the Retail Sector

On 27 May 2017, social actors in Spanish retail sector finally managed to come up with an agreement on the working and employment conditions of approximately 260.000 employees.⁷⁷ This collective agreement, which contains various regulations on the working conditions of the chain stores and big distributors, will be in force until 2020. However, the agreement does not cover supermarket workers unless stated otherwise.

Negotiations for a new collective agreement began on 14 February 2017. In the beginning, it seemed very difficult to come to terms with social partners. For example, unions demanded a wage increase of 3%, a reduction of 28 hours in yearly working hours and a reduction in the number of Sundays and public holidays employees could be obliged to work. However, these demands were fiercely rejected by the employers' unions.

Before this agreement, the retail sector actors signed another collective agreement on 8 April 2013. The previous agreement was valid between 2013 and 2016 during a period of economic turbulence. Thus, it included some anti-crisis measures such as a wage freeze and working on Sundays and during holidays without extra pay in exchange for maintaining employment levels.⁷⁸ Since the retail sector has a crucial impact on the Spanish economy, it is possible to conclude that Spanish employers and employees are aware of the importance of collective agreements for improving economic conditions.

In comparison with the previous one, the new collective agreement offers many improvements for working and employment conditions. To begin with, it offers a 2.5% increase in wage levels for 2017, as well as a 1% annual fixed increase for 2018, 2019 and 2020. The agreement also covers both a seniority supplement as well as an additional payment for overtime. All these regulations imply a significant step forward in comparison to the crisis measures set forth in the previous era. It is also worth mentioning that based on the data provided by the Spanish Ministry of Employment, these wage conditions also show a critical progress to the wage terms negotiated in other collective agreements. In addition to salary increase, total annual working hours will also be diminished. Collective agreement provides 28 hours fewer than the annual working time previously agreed. Moreover, this agreement also addresses several positive changes for part-time workers and for working on Sundays and during public holidays.

Finally, in contrast with the previous agreement, the new collective agreement includes a number of social clauses in an effort to improve employees' work-life balance. For instance, the 2017 agreement introduces the right for workers to take unpaid leave for the care of seriously ill close relatives from 1 to 30 days per year without the risk of losing their jobs. Scope of the provisions related to occupational hazards is expanded and under the new agreement, employees will be able to collect their full-wage during the periods of chemotherapy, radiotherapy and dialysis treatments if these accidents and illness are accepted as a result of occupational hazard. By this way, it is possible to conclude that the social partners are helping the government implement social policy. Also, this example shows us how collective agreements are for an effective social dialogue mechanism.

On another note, the latest collective agreement does not contain any reference to a general framework agreement between the social partners, particularly to the third agreement on employment and collective bargaining signed on 15 June 2015 and established non-mandatory guidelines for collective agreements signed during 2015–2017.

According to a report published by Eurofound on 30 May 2017, this agreement will be a model for the other collective

⁷⁶ Taskin, p. 1.

⁷⁷ Ilsusi, Iñigo; Muñoz-Baroja Mikel, Spain: Milestone agreement in retail sector, p. 1.

⁷⁸ Ilsusi/Muñoz-Baroja, p. 1.

agreement to be negotiated in 2017 considering the number of employees it covers. This report also states that it is the first agreement reached between all representative trade unions:

- National Association of Large Distribution Companies (ANGED),
- Federation of Independent Trade Workers (Fetico),
- Federation of Trade Union Associations (Fasga),
- General Workers' Union (UGT) and
- Workers Commissions (CCOO).

Among these trade unions, ANGED, which represents some giant companies of retail sector such as El Corte Inglés, Carrefour, Eroski, Group Auchan-Alcampo, FNAC, C&A, Leroy Merlin and IKEA, plays an important role in the sector. Hence, ANGED was able to put pressure on other parties during the negotiation of the collective agreement. As per the Eurofound report, these companies employ approximately 2.1% of the total number of private sector employees in Spain and 11.7% of the total number of employees in the Spanish commerce sector.⁷⁹

To sum up, this first significant collective agreement signed in 2017 in Spain constitutes a very important turning point. It symbolizes the Spanish efforts to recover from previous economic crisis with the help of social dialogue mechanisms. Despite the lack of framework guidelines for social dialogue agreed between the main Spanish social partners, this agreement in retail sector is likely to set new employee-friendly standards for negotiations in other sectors.

2.3.3. France: Collective agreement on digital transformation in Telecommunication Sector

On 27 September 2016, telecommunications group Orange signed an agreement on the measures to be applied during its digital transformation. This constitutes the first agreement by one of the 40 companies registered at the Paris Stock Exchange entirely dedicated to digital transformation. The agreement aims to highlight the opportunities and the risks of digital transformation. It applies to the company's 96,000 French employees and, indirectly to every member of the group's total workforce of 154,000 people, who stand to benefit from good company practices developed in France. It sets sight on 'balanced position' between two contrasting approaches, which are unconditional adoption of digital transformation, and absolute denial of transformation.⁸⁰

The signatories stated that digitalization 'is going to shake up the way we work and our habits with regard to the organization of work, working practices and equipment and the workload, and it will have an impact on the protection of employment'. Orange perceives this process as a way of improving working conditions for employees. The agreement was signed by the group and by three trade unions – the French Democratic Confederation of Labour (CFDT), the General Confederation of Labour (CGT) and Workers Force (FO) – altogether representing 58.5% of the votes cast in the last workplace elections.

The signatories make it clear that they know digital transformation is a process and therefore state that the agreement, which will be in effect until 30 June 2019, must be 'completed and amended as and when there are any new developments'. Transformation also becomes a subject of social dialogue. A spokesperson for CFDT said: 'This is a fundamentally important provision, since at the moment, we can only measure the known impacts and the risks [...] in a field which is evolving very rapidly'. Thus, once a year, Orange group management will present its policy on digital matters to the central works council, the works council of the France group and the works councils of any subsidiaries which request them.

⁷⁹ Isusi/Muñoz-Baroja, p. 2.

⁸⁰ Turlan, p.1.

Additionally, social partners have agreed on the establishment of the National Council on Digital Transformations. This Council will consist of members of the management and three representatives for each union involved. This body will work on "potential medium-term and long-term aspects" and offer its expertise to the bodies representing the staff. It will also monitor productivity gains generated by digitalization. This was requested by CGT with the aim of channelling some of these gains into improving working conditions.

In accordance with the Agreement, every single employee will become a fully independent user of digital tools. To this end, training courses and necessary time will be given to each employee. In addition, self-diagnostic tests will be carried out on a voluntary basis and staff representatives will be provided with functional and understandable results.⁸¹

The agreement stipulates that 'respect for private life and the right to switch off are considered to be fundamental rights at Orange'. This means protecting employees from 'intrusive practices' (such as email, SMS, or instant messaging services) 'at any time of the day or night, over the weekend, during days off or during training courses' originating from managers, but also from their colleagues or themselves. In a previous agreement concluded on 5 March 2010, Orange's social partners explained that employees had no obligation to reply to such messages and recommended that employees make use of the 'send later' function.

In the new agreement new automatic mechanisms such as the stopping of servers has been set up. It protects employees from being exposed to psycho-social risks or facing a paradoxical situation. Orange advises staff not to use their email service or other communication tools during rest periods, or on days off. It says its management has a duty to set an example in its use of digital tools and 'must ensure that this right is respected', while employees must realise that their own use of the digital tools may be inappropriate and they must show respect for their colleagues in their use of digital technologies.

To prevent risks of digitalisation, employees may send personal reports on their digital use to the administration or a collective report may be submitted. These reports will be used to detect abusive use of digital tools. In addition, personnel who are responsible for health and safety at the workplace will be trained on the negative impacts of the usage of digital tools. Additionally, measures aimed at promoting the correct use of digital tools have been scheduled, such as an email-free day or pop-up windows that provide reminders about the basic rules, with questions such as: 'You are about to send an email at 11 p.m., couldn't you send it during normal working hours?'

Orange shows how an employer respects the private lives of workers with this Agreement. Abusive use of digital tools causes increased workload and reduction of rest periods, which can be harmful for the employees' health. Awareness of the harmful aspects of digitalisation also triggered a campaign in France for the "right to switch off". This campaign was initiated by the General Union of Engineers, Managers and Technicians-CGT (UGICT-CGT) in September 2014. Thanks to this campaign, Orange became the first French group to develop social dialogue on the subject of digitalization.⁸²

2.4. Territorial Social Dialogue

2.4.1. Concept and Mechanisms

The regression of national social dialogue and the political decentralisation fostered the development of territorial partnership dialogues (TPDs). In a country, where social dialogue at national level is inadequate, social dialogue at the regional level serves as a complementary mechanism to protect socio-economic balance. Therefore the regression of national social dialogue and the weakened centralised politics fostered the development of territorial partnership dialogues (TPDs) in Europe.

⁸¹ Turlan, p. 1.

⁸² Turlan, p. 2.

Territorial Partnership Dialogues bring together different actors in various configurations. It may take two particular forms:⁸³

- A relationship between trade unions and employers' organizations on a given territorial scale or
- A tripartite relationship between these two actors and representatives of public authorities, which vary depending on the country and the territory.

The development of territorial social dialogue can be explained by the following factors:

- European Union's promotion of the local partnerships, in particular within the framework of the Open Method of Coordination (OMC);
- Change in the organization of production, notably with the development of subcontractors' networks, which can hardly be regulated by classical business negotiations;
- Emergence of series of new problems concerning the development and validation of competences and the organization of mobility and professional and personal transitions linking to working life and family life;
- Pressures resulting from restructuring, which tend to become permanent and require the involvement of all stakeholders;
- Aspirations to achieve a more local democracy and the development of local bonds

The main instruments of the TPDs are the Territorial Employment Pacts (TEPs) which are contracted regional partnerships on social policy. According to a survey conducted by European Commission, local initiatives are the best way of creating jobs. To that extend, the Commission has provided technical assistance to some TEPs since 1997.⁸⁴

TEPs contribute in creating jobs by supporting local enterprises, initiating training programs to qualify employees, especially for the employment of disadvantaged persons (e.g. one of the TEPs in Hungary focuses on Roman employment), providing career orientation programs that aim to fight against young unemployment, developing local and community services and promoting equal opportunities for men and women. To this end, social partners develop employment strategies, prepare employment programs, establish network databases, carry out studies and surveys on the regional employment situation and organize meetings, seminars and workshops. The major goal of the TEPs is the regional employment strategies, which are based on the particular situation (i.e. employment capacity, business opportunities, unemployment rate, disadvantageous groups, employment rate etc.) of the region. TEPs keep social partners in permanent communication in the field of employment. TEPs assure the balance between demand and supply at the local labour market.⁸⁵

2.4.2. Best Practices in Territorial Social Dialogue

a. Austria

Austria is composed of nine provinces in each of which a TEP has been established. These pacts aim to implement objectives laid down in the National Action Plan for Employment and fulfill the European Employment Strategy. Partners of TEPs are Provincial Governments, Regional Labour Market Services, Federal Office of Social Affairs, Economic Chamber, Chamber of Labour, Federation of Trade Unions, Federation of Industry, Association of Municipalities, Provincial Chamber of Agriculture, Provincial School Board, gender mainstreaming experts, representatives of employees, representatives of employers, representatives of regional Non-Profit-Organizations and Regional

⁸³ Gazier, Bernard; Bruggeman, Frédéric; Tripartisme et Dialogue Social Territorial, Organisation Internationale du Travail 2017, p. 2.

⁸⁴ Gambaro, Gambaro, Ludovica, Partnerships for development: Studies on Territorial Employment Pacts in Italy, International Labour Organization (International Institute for Labour Studies, 2004, p. 22.

⁸⁵ Hungary Territorial Employment Pacts, p. 1.

Management Associations. Contracting partners vary in each TEP but include the Provincial Government, Labour Market Service, Federal Office of Social Affairs and social partners. Most partners establish their contracts for a period of one to three years.⁸⁶

It is accepted that the challenges that Austrian labour market faced such as the increased unemployment of certain groups or gender segregation in the labour market cannot be solved without collective actions, employment policies are not sufficient for solving these problems and educational and regional policies are needed. National Action Plans bring these policies together. TEPs contribute in the application of these policies at regional level by bringing social partners together, increasing effectiveness and efficiency in the use of resources, increasing support to disadvantaged groups, ensuring job security, generating new employment areas and obtaining funding for these objectives.

TEPs consider each region's local market problems and develop regional strategies against these similar problems. Therefore, TEPs use varied measures and instruments to address regional and local issues. In Austria TEPs provide positive results in terms of social dialogue between local partners. TEPs have increased the efficiency and effectiveness of the regional approach to active labour market policy, supporting the integration of unemployed persons into the labour market and raising employability.⁸⁷

b. Flanders, Belgium

Another example is Flanders, Belgium. A very different version of territorial social dialogue is developed in Flanders. Faced with the difficulties in motivating staff in companies from various sectors, laboratories have been set up for an innovative workplace organization to work with companies on work organization issues. This initiative of the companies was very strongly supported by the trade unions. Laboratories were set up by a coalition of universities, trade unions, companies and consultants (Flanders Synergy) and subsidized by the Flemish government. The sectors concerned are very diverse: construction, logistics, health, social economy, social services and agriculture⁸⁸. Each laboratory covers seven themes, each representing an area of influence of the managers. One of the themes was the study on new methods for companies to expand their opportunities to improve the quality of their organization (in terms of efficiency, flexibility, quality, innovation and sustainability), while also improving the quality of employment. Supervisors act as coaches and offer a dialogue platform to participants who have questions, both during and outside the sessions. Participants receive assignments in order to put theory into practice at their workplace. Unions say that these workshops have improved employees' relationships with employers. The success of this initiative encouraged companies to run their own laboratories without resorting to public funding. A series of complementary contributions have been observed in various sectors, such as websites presenting initiatives.⁸⁹

c. Italy

As unanimously recognised success stories, TEPs in Italy's Mezzogiorno area (the southern part of the country) should also be examined. In late 1990s Italy, 61 different pacts had been signed.⁹⁰ Among them, 10 TEPs located in Mezzogiorno area have benefited from the technical assistance and direct financial support of the EU Commission and became a part of a pilot project of 89 TEPs all over Europe.⁹¹ According to the European Commission, the implementation and the impact of the Italian TEPs were very successful.⁹²

86 Austria Territorial Employment Pacts, 1.

87 Austria Territorial Employment Pacts, 2.

88 Gazzier/Bruggeman, p. 38.

89 Gazzier/Bruggeman, p. 38.

90 Milio, Simona; Scrutinizing partnership: The weight of civil society in Italian Territorial Employment Pacts, Partnerships for development: Studies on Territorial Employment Pacts in Italy, 2004, p.7.

91 Gambaro, p. 21.

92 http://europa.eu.int/comm/regional_policy/innovation/innovating/pacts/pdf/sum_en.pdf, Last access September 2017

For a better understanding of the example of the Italy, it is important to state that during 1970s, the Central and the Northern parts of the country were industrialized while the South fell behind. Between 1974 and 1994, the State adopted a top-down economic policy which was called as “Intervento Straordinario” (Special Intervention Program) and created massive factories for petrochemicals and steelworks in collaboration with the private sector. However, these investments did not end the unemployment as expected. Due to the crisis in the public investment during early 1990s, Mezzogiorno area fell into economic recession. With the introduction of the TEPs, the South’s economic development policy shifted from a top-down policy towards a more participatory approach.

Consiglio Nazionale dell’Economia e del Lavoro (CNEL) (National Council for the Economy and Labour) played a key role in solving the South’s recession problem by implementing a local-oriented approach to development. CNEL provided an institutional link between the local partnerships and the central power and demonstrated the importance of planning in partnership. Then, CIPE (the Inter-Ministry Committee for Economic Planning) addressed the TEPs issue for the first time in 1995 to endorse the CNEL approach and defined the rules for TEPs and for allocating funds.⁹³

In Italy, TEPs have evolved in three steps:

- i. At the start-up phase, local factors combined and drafted the agreement to be submitted for approval. In most pacts, pacts were promoted by municipal authorities at first. These agreements involved other social partners immediately afterwards.
- ii. Following the setting up of the partnership, various projects were designed to address certain sectors and the ways to fund them were identified. TEPs covered manufacturing, small and medium enterprises, agriculture, tourism, environment, the labour market and the social and care sectors.
- iii. Finally, in 1999, a limited liability company was established with each agreement. These companies are called “Soggetto di Intermediazione Locale” (Local Intermediation Subject) (SIL). When SIL and an accredited bank approved a project, they channelled the funds to the project in question. Trade unions and small firm organizations did not participate in the SIL because they did not want to change their bylaws and to commit part of their funds to such an entity. In some cases, municipalities transformed the SIL into a formal agency for economic development in their jurisdictions, as in the case of the Sangro Aventino and Napoli Nord Est TEPs.

After ten Italian TEPs joined the European Commission’s pilot project on TEPs in May 1997, they had several changes.⁹⁴ These changes were as follows:

- i. The emphasis shifted from development to employment: thus the name changed into Territorial Employment Pacts.
- ii. Partnerships were invited to include actors from the third sector to tackle problems like social exclusion and environment-related issues. Not all the TEPs followed this recommendation.
- iii. The inclusion of environmental associations had different results depending on the case. In three cases, partnerships were not able to harmonise the different views, and the pacts met with the environmentalists’ loud opposition. In the case of the Oristano TEP, environmentalists took legal action against the construction of a golf course, causing long delays. Environmental associations mobilized against projects for a sky resort in the Matese area and for the construction of hotel facilities along the coast of Catania.
- iv. Since the EU guidelines changed the pacts’ procedural scheme, EU involvement influenced the TEPs’ method. The Commission set a new working plan. Thus, the partnership structure included an institutional co-ordinator, a technical co-ordinator, a secretarial board, and partners’ assembly. The institutional co-ordinator was always the mayor of the biggest municipality or the president of the province.

⁹³ Gambaro, p. 25-26.

⁹⁴ Gambaro, p. 28.

- v. The 200.000 ECU provision covered the co-ordination structure, which included a technical secretariat and a technical co-ordinator.

Commission's approach definitely encouraged a more objective analysis rather than simply the synthesis of represented interests. However, in some cases this objectiveness requirement created a rift between the political leadership and the technical co-ordinator.

There are four main actors in TEPs implemented in the South of Italy: local administrations, employers' organization, trade unions and the third sector. The strongest position belongs to the local administrations. Public policies are now designed through agreements. One can even claim that the increasing discretionary power of local administrations can progressively be seen in the form of the freedom of contract.⁹⁵

Employers' organizations are key actors for territorial pacts. Assindustria (provincial structure of the national industrial association Confindustria) and other business organizations committed to develop projects in tourism, agriculture, handicrafts, trade and the third sector. All three major trade union confederations (CGIL, CISI and UIL) participated in all the TEPs. First of all, trade union representatives helped disseminate information about the pacts' objectives and raise awareness. In Matese TEP, trade unions linked several firms in a single network. Also trade unions' experience of collective action was important during the implementation of the TEP bargaining approach when there was no strong leadership by local administrators.

The influence of trade unions on the TEPs' contents needs to be emphasized with regard to three aspects:⁹⁶

- The role of trade unions on investment decisions was limited to checking the overall consistency of the pact itself and the harmony between the pact and the territory. Trade unions made it clear that it is necessary to target the development of different sectors to the specific needs and characteristics of different areas.
- Trade unions were particularly sensitive to human resources. In particular, they insisted on including measures aimed at vocational training and this item was included in all the TEPs' plans, as recommended by the European Commission.
- Since only the firms that were implementing the projects financed by the pacts were bound by the labour market measures, TEPs do not include provisions regarding labour flexibility. However, area contracts signed between the trade unions and employers' organizations regulate industrial relations such as labour flexibility. On the other hand, all pacts were accompanied by protocol agreements about industrial relations. For example, in the Campania and Apulia pacts protocol agreements on the informal economy were included because the informal economy was a long-lasting problem for these regions.

Finally, the third sector was involved but they did not enjoy full recognition especially in the eyes of trade unions. Their participation was limited to assemblies and they generally did not get involved in the policy making process except for Church related organizations, those related to political parties and trade unions and social co-operatives. It should be underlined that the composition of the partnership affects their policy and hence, their expenditure. For example, the civil society in the Agro pact influenced the development plan as opposed to Napoli pact where civil society was absent. In the Agro pact the environmental protocol and the social protocol were drafted by the non-profit members of the partnership. However, civil society did not participate to the drafting of additional protocols in the Napoli pact.⁹⁷

⁹⁵ Gambaro, p. 32.

⁹⁶ Gambaro, p. 35.

⁹⁷ Milio, p. 13.

d. Aviles, Spain

The decline in traditional industries such as mining had negative economic, occupational, social and environmental impacts on citizens' lives and their neighbourhoods. Cities in Spain, which are specialized in mining or industrial sectors and rely on natural resources and unskilled labour, have gone through a similar process. Avilés in Spain sets a good example of such "shrinking cities". The concept of the "shrinking city" refers to the traumatic processes endured by old industrialized regions, which include the disappearance of centrally planned economies, with industries and companies in crisis unable to manage the rapid transition towards a market economy, the massive loss of employment and its acute effect on certain industrial, port and mining regions or cities.⁹⁸

Avilés is a medium-sized city in Asturias, the Spanish region which was heavily affected by the crisis of the state-owned iron and steel works since the 1970s. Following the industrialization in the 1950s (when the Spanish Government decided to build an integrated iron and steel plan in the city as a part of the public company ENSIDESA), Avilés quickly grew up as a city due to the massive influx of workers.⁹⁹ However, the crisis in the 1970s, together with the restricting policy of the Spanish Government in the following decade, led Avilés to de-industrialization. In addition to the latter, there are other reasons of the urban decline of Avilés such as the decline in competitiveness, disinvestment, increase in unemployment and other social problems, a trend towards depopulation and the proliferation of industrial wasteland, which increased the already existing environmental problems.

For more than 10 years, Avilés has been involved in a process of economic revitalization and urban regeneration. Avilés' recent progress therefore seems to fit the concept of the "resilient city", given its proven capacity to reverse the decline and re-establish positive growth rates. The progress was influenced by multiple factors with different characteristics and interests. The external factors were as follows:¹⁰⁰

- i. The city has benefited from sizeable European funds, roughly 400 million Euros, from FEDER and its participation in various initiatives and programmes (Urban, Equal, Interreg, IFOP).
- ii. The central government applied the diverse industrial policies since the restructuring plan of 1981 and these policies have had a direct effect on city-wide strategic sectors.
- iii. The Government of the Principality of Asturias is part of the networks formed to finance emblematic projects in recent years, such as the Niemeyer Cultural Centre or the Island of Innovation.
- iv. Five large transnational companies (Arcelor-Mittal, Asturiana de Zinc-Xstrata, Saint-Gobain, Alcoa-Inespal and Du Pont) decided to maintain and modernize their enterprises. Their decision is essential to the city's future, generating direct employment and with a widespread effect on the supply chain. Thus, the people decided to stay in the city, which led to the promotion of certain urban facilities and services.

However, local agents also played an important role to solve certain key local issues. Local government and the chamber of commerce or trade unions were well established local agents, but their functions were limited to encompass development projects during the last decade. In order to combat the decline, they worked in collaboration with more recently created stakeholders such as business associations, business innovation centres, tourism associations, technological centres and foundations.

In this context, although there is no official body in Avilés coordinating local government and social agents, a succession of local agreements has been signed in recent years to this end, within the framework of similar regional initiatives, e.g. "Avilés Avanza" Local Pact, part of the Agreement for Competitiveness, Employment and Wellbeing

⁹⁸ Sanchez-Moral, Simon; Mendez, Ricardo; Prada-Trigo José; Resurgent Cities: Local Strategies and Institutional Networks to Counteract Shrinkage in Avilés (Spain), *European Planning Studies*, 2015, p. 35.

⁹⁹ Sanchez-Moral, p. 37.

¹⁰⁰ Sanchez-Moral, p. 41-42.

in Asturias, 2008–2011. Headed by the City Council, the above agents have launched a series of strategies to achieve specific objectives: economic promotion and employment, creating a competitive city; promotion of innovation and culture, fostering an intelligent city; improving the quality of life and environment to achieve a more inhabitable city, and; reinforcing local systems to implement a “city with a project”.¹⁰¹

Each strategy has led to the implementation of numerous city revitalization initiatives. Among them, a business park, which has received a sizeable contribution from FEDER funds, has already generated more than 3000 jobs with an investment of over 104 million Euros. In addition to the strategies aimed at increasing competitiveness, local agents promoted innovation and culture projects and renovation of public infrastructure and services or restoration of city. In parallel with these efforts, the outdated 2000 Avilés Strategic Plan drawn up between 1992 and 1993 by the Avilés City Council was changed and a new Master Plan was accepted in 2007. The main concern of the new Master Plan was the modernization and diversification of the city’s industrial base, in addition to improving shopping, culture and tourism, quality of life and citizen participation.¹⁰²

To sum up, the example of Avilés shows that the relevant contribution of various local (mainly the Avilés City Council) and regional actors was able to generate a new institutional framework, agree on a future project for the city and undertake local development initiatives. However, during this revitalization process, the city faced some challenges such as the limited financial involvement of private stakeholders in the city’s revitalization process, continued presence of Arcelor Mittal’s coking batteries, technological developments which are hard to follow and the traditional characteristics of local businesses.¹⁰³

101 Sanchez-Moral, p. 42.

102 Sanchez-Moral, p. 45.

103 Sanchez-Moral, p. 49-50.



Chapter 3. Cross-Border Social Dialogue

3.1. European Level Sectoral Social Dialogue Committees

Cross border social dialogue is an important means of consultation, discussion and negotiation with social partners at European level. Two main components of cross border social dialogue in EU are European level Sectoral Social Dialogue Committees (SSDCs) and European Framework Agreements. These two instruments will be analysed under this section.

European Union has promoted cross border social dialogue since 1998 via European level Sectoral Social Dialogue Committees (SSDCs) established by Commission decision of 20 May 1998 – 98/500/EC. These committees are consulted by the Commission on EU level developments that have social implications. European Commission provides logistic and administrative support to the SSDCs, especially for the organization of their meetings.¹⁰⁴

In order to establish an SSDC, the social partner organizations must apply jointly to European Commission and fulfil three criteria, which are:¹⁰⁵

- representativeness at national level
- capacity to negotiate
- administrative capacity

According to the European Commission press release published on 23 July 2010, these Committees have produced more than 500 texts of different legal status, which have been implemented as EU legislation. These Committees contribute in improving social policies, industrial relations, welfare and working conditions in Europe. They will also contribute in the implementation of EU 2020 strategy framework.¹⁰⁶ Since the Commission consults with SSDCs not only on the EU policy initiatives related to the employment and social affairs, but also on broad policy orientations and strategies including the Lisbon Strategy, the Europe 2020 Strategy and the re-launch of the single market or financial market reform; they have direct influence on the EU decision-making process.¹⁰⁷

There is wide range of sectors (currently 43 sectors) that are represented through SSDCs. For example, agriculture sector, which is crucial for state economy was established in 1999. The members of the committee are European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT) on the employees' side and Employers' Group of Agricultural Organizations in the EC (COPA-COGECA) on the employers' side. Committee is currently focusing on the consequences of the CAP¹⁰⁸ for the future of employment, vocational training, the situation of seasonal workers, accident prevention, taking particular account of musculoskeletal disorders. Committee achieved so far a Resolution to draw up an AGRIPASS CV (2007), European agreement on the reduction of workers' exposure to the risk of work-related musculo-skeletal disorders in agriculture (2005), Joint Declaration on health and safety (2005) and European agreement on vocational training in agriculture (2002).

Considering the importance of agriculture in Turkey and problems of the sector such as child labour, number of occupational accidents and inadequacy of health and safety at work in the agricultural sector, implementing similar joint commitments in Turkey shall be useful for the sector.

Another example may be given for chemical industry. SSDC on chemical industry composed of IndustriAll European Trade Union on the employees' side and European Chemical Employers Group (ECEG) on the employers' side. The

¹⁰⁴ European Sectoral Social Dialogue Recent developments 2010, p. 8.

¹⁰⁵ For further information; http://europa.eu/rapid/press-release_MEMO-10-354_en.htm?locale=en

¹⁰⁶ http://europa.eu/rapid/press-release_MEMO-10-354_en.htm?locale=en

¹⁰⁷ European Sectoral Social Dialogue Recent developments 2010, p. 9.

¹⁰⁸ For further information on CAP reform, please see; https://ec.europa.eu/agriculture/sites/agriculture/files/policy-perspectives/policy-briefs/05_en.pdf

employers' and workers' organizations represented on this committee are currently focusing on competitiveness, research, development and innovation, occupational health and safety, sustainable employment and career development, lifelong training, contributing in industrial, energy and climate policies and putting the Committee's Roadmap for 2015-2020 into practice. Committee lately achieved Joint declaration on EU OSH Directives (2015), Common position on energy and climate policy ahead of the 21st Conference of the Parties (COP21) of the United Nations Framework Convention on Climate Change (2015), European Chemical Social Partners' Roadmap 2015-2020 (2015), Addendum to the 2011 European Framework Agreement on Competence Profiles for Process Operators and First Line Supervisors (2015).

Such committees may be useful especially for raising awareness on climate change and setting general standards for the protection of the environment.

3.2. European Framework Agreements

The other instrument of European cross-border social dialogue is European Framework Agreements (EFAs). These agreements contribute to social partnerships across national borders and yield entirely new forms of social regulation.¹⁰⁹ EFAs are signed by European Industry Federations (EIFs)¹¹⁰, European Works Councils (EWCs)¹¹¹ and/or national unions and central management. EFAs are limited to the European context and are applied in European industry.

There are several examples of European Framework Agreements. These agreements usually cover EU and EEA countries.

For example, Allianz SE signed an Agreement on guidelines concerning work related stress with SE Works Council on May 2011 for an indefinite period. The scope of application of the Agreement covers both EU and EEA countries and Switzerland. The objective of the Agreement is to make Allianz SE look after the safety of its employees at work and to ensure that their health is protected on a lasting basis. The aim of the Agreement is to raise awareness of both employers and employees on "work-related stress", so that any problem it may cause can be detected, avoided and reduced as early as possible. Article 3 of the Agreement defines stress as "a state, which is accompanied by physical, psychological or social complaints or dysfunctions and which results from individuals feeling unable to bridge a gap with the requirements or expectations placed on them". Pursuant to the Agreement, Allianz SE must carry out risk assessments in accordance with 89/391/EEC. Risk assessment will be renewed every two years. The measures to remove or reduce risks will be determined together with the employees and/or their representatives. Risk assessment shall include work content, work load, working speed, working hours, working environment and equipment, corporate culture and procedures, interpersonal relations at the workplace, function in the organization and career development. Appendix 2 of the Agreement stipulates that local safety representatives shall be informed in the event of changes in working guidelines or in the layout of the workplace which could cause stress; have the opportunity to discuss the subject of stress with the employees; be involved in the risk analysis; have access to relevant data in the HR Department; receive payment for work outside the framework of normal fulfilment of duty in order to be able to attend courses on the subject of stress in the workplace, and; carry out inspections of the workplace at least every three months in order to ensure that stress factors are under control. Agreement also establishes a local safety committee, which shall supervise the monitoring of the effectiveness of the guidelines and other measures to reduce stress. This committee is composed of employee representatives and members of the management. The local HR Department of the Company shall monitor and review the effectiveness of the measures taken and provide training for both employees and managers.¹¹²

¹⁰⁹ Papadakis, Konstantinos: Shaping Global Industrial Relations, The Impact of International Framework Agreements, 2011, p. 59.

¹¹⁰ European Industry Federations (EIFs) are trade union organizations operating at European sectoral level.

¹¹¹ Established by 94/45/EC, European Works Councils (EWCs) are the information and consultation bodies representing employees in multinational companies operating in European countries.

¹¹² For further information on the Agreement please see http://ec.europa.eu/employment_social/empl_portal/transnational_agreements/Allianz_StressGuidelines_EN.pdf

Another example may be given from Belgium. In 2010, Recticel Group and European Works Council agreed on a Code of Conduct for Temporary Workers. Central Management of Recticel Group undertakes to have this code of conduct abided by all of the employees who have a labour contract with a temporary agency and have been made available to Recticel n.v. and its affiliated companies located within the EEA countries. According to the Section 2 of the Code, Recticel will ensure that every temporary worker is entitled to healthy, safe and dignified working conditions, a limitation of the maximum working hours and daily and weekly periods of rest, as well as annual paid holidays. In addition, Recticel Group shall avoid unusually long usage (i.e. more than six months) of temporary workers, unless otherwise agreed in a collective agreement signed between Central Management or its local representatives and the local representatives. Moreover, for the duration of their employment, basic labour conditions (including wages, working hours, extra time and periods of rest, night work and holidays) will be the same as for direct hires, unless otherwise agreed in a collective agreement. Temporary workers will be informed about job openings, so as to give them the same opportunity to get a fixed position as the other employees of the company. Temporary workers will get access to company facilities or services such as canteens, childcare and transport facilities under the same conditions as other employees. Where the labour legislation does not stipulate equal wage treatment for temporary workers with directly hired employees, such company agreements may guarantee the equal wage for temporary workers.¹¹³

Another example of transnational agreements deals with gender equality between women and men. SCOR SE (CEO of the group and human resources director (HRD)) has signed a *“European Charter on professional equality between women and men”* with the employee representatives for the Common European Companies Committee (CEEC) in 2015.¹¹⁴ The employee representatives from France, Germany, Great Britain, Spain, Italy, Belgium, Netherlands, Ireland, Austria, Sweden and Switzerland have signed the Charter. The main objective of the Charter is to ensure professional equality between women and men in all SCOR Group offices in EU and Switzerland. The term professional equality includes equal treatment in recruitment, career development, access to the highest levels of responsibility, professional training, equal pay for equivalent training, experience, performance and skills and work / life balance.

Article 2 of the Charter regulates the gender equality during the recruitment process. To this aim, SCOR SE undertakes to systematically ensure that its external and internal job offers contain no discriminatory elements, and that this also applies to the wider recruitment process, including through external recruitment agencies. Furthermore, the Group undertakes to select women and men at an equivalent level of classification and remuneration in terms of their qualifications, experience, performance, skills and responsibilities, regardless of the nature of the employment contract of the people concerned. According to the Charter, discrimination includes discrimination based on sex, physical features, origin, family name, place of birth, place of residence, age, any disability, political or religious convictions, sexual orientations, union membership or activities. Charter emphasises that the actual or presumed pregnancy of the candidate shall not be taken into account in the SCOR group’s recruitment process and under no circumstances will the SCOR group seek any information regarding the pregnancy of a candidate.

Article 3 of the Charter ensures male and female equality in terms of career development. To this end, the negative impact of maternity/paternity on career development shall be eliminated. This will be ensured by systematic meetings between manager and the employee upon the employee’s return from maternity/parental leave. The manager will inform the employee on the latest developments that has happened in the employee’s absence in order to make the return as smoothly as possible and to avoid employee’s career trajectory.

Article 4 of the Charter regulates one of the biggest problems on women employment that is called as *“glass ceiling”*. To give higher responsibility positions to women employees, female network events will be scheduled to facilitate experience sharing and reflection on diversity conditions within the Group.

¹¹³ For further information on the Code of Conduct please see, http://ec.europa.eu/employment_social/empl_portal/transnational_agreements/Recticel_CodeConduct_EN.pdf

¹¹⁴ SCOR Group has strengthened its commitment on gender equality by signing *“Global” Charter on Professional Equality between Women and Men* on 7 November 2016.

Article 6 of the Charter guarantees the pay equity between men and women. To this end, the proposed payment shall be the same for women and men at the hiring process. In addition, any male or female employee has the right to benefit from a pay rise based on objective criteria. In accordance with this purpose, SCOR Group undertakes to implement a *transparent remuneration system*, and to verify the amount paid to men / women each year in order to ensure that there are no unjustified gaps for the same position, where candidates have similar educational backgrounds, experience, performance or length of service. In addition, the employer shall ensure that employee's actual remuneration shall not be badly impacted compared to other employees because of his/her parental/maternal leave.

The Charter provides for the diversity not only in the SCOR Group but also in the employee representative bodies and unions. For this purpose, according to Article 9 of the Charter, the employee representative bodies undertake to strive for diversity, notably during the changeover of the Common European Companies Committee members.

Considering the male dominated structure of the trade unions in Turkey, promoting gender balance in Trade Unions through framework agreements shall be considered an important and exemplary development.¹¹⁵

Lastly, the examples may be given from BMW and Siemens. BMW has signed "Joint Declaration on Human Rights and on Working Conditions in the BMW Group" with European Works Council and International Metalworkers Confederation in 2005. Similarly, Siemens AG has signed International Framework Agreement with the Central Works Council of Siemens AG, the IG Metall and the IndustriAll Global Union in 2012. Both Groups undertook to recognise freedom of association of employees, guarantee equal opportunities and equal treatment regardless of ethnic origin, skin colour, gender, religion, nationality, sexual orientation and political beliefs, prohibit child labour, forced and bonded labour, assure appropriate remuneration at least as specified in applicable national minimum wage legislation and comply with the respective national rules and agreements on maximum working hours, overtime hours and paid leave.¹¹⁶

3.3. Transnational Company Agreements

Transnational company agreements (TCAs) are 'new instruments for industrial relations that encourage the recognition of social partnership across national borders and yield entirely new forms of social regulation'.

They can be subdivided into International Framework Agreements (IFAs) and European Framework Agreements (EFAs).

International Framework Agreements (IFA), which are also called Global Framework Agreements (GFA), are agreements between multinational companies and a Global Union Federation (GUF) to establish "an ongoing relationship between the parties and ensure that the company respects the same standards in all the countries where it operates". Several GUFs have their own model framework agreements. The International Metalworkers' Federation (IMF), for example, has the IMF Model Framework Agreement.¹¹⁷

IFAs are global instruments with the main purpose of ensuring international labour standards are maintained in all of the target company's locations. Unlike EFAs, which contain more concrete and focused arrangements such as restructuring, data protection and HR management, all of the IFAs are based on ILO Core Labour Standards. Majority of IFAs refer to United Nations Conventions No. 87 on the freedom of association and No. 98 on the right to collective bargaining. A number of IFAs also refer to Convention No. 135 on the non-discrimination of labour representatives.

¹¹⁵ For further information on the Charter, please see ; http://ec.europa.eu/employment_social/empl_portal/transnational_agreements/SCOR_European%20Charter_EN.pdf

¹¹⁶ See, Telljohann/ da Costa/Müller/Rehfeldt/Zimmer, European and international framework agreements: Practical experiences and strategic approaches, Eurofound, 2009, p. 56.

¹¹⁷ For a detailed overview on decent work in multinational enterprises and ILO Declaration on Multinational Enterprises and Social Policy, see, Multinational enterprises, development, and decent work: report on the promotion and application of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy in Europe and Central Asia, Istanbul, Turkey, 2–5 October 2017, ILO, 2017.

Most of the IFAs explicitly recognise the ILO conventions No. 29 and No. 105 on the abolition of forced labour, No. 100 and No. 111 on the prevention of discrimination in employment and equal pay for work of equal value, as well as No. 138 and No. 182 on the elimination of child labour. Some agreements go beyond the recognition of the ILO Core Labour Standards in also ensuring decent wages and working conditions as well as a safe and hygienic environment.¹¹⁸

Where no legal enforcement mechanisms exist at the global level, any enforcement of International Framework Agreement provisions is dependent on the proclivity of the management of companies to cooperate or on the capacity of trade unions to compel companies to resolve complaints. Even so, despite having low binding power, IFAs are useful in countries where labour legislation is insufficient and poorly enforced.¹¹⁹

118 For a detailed IFA example please see; International Framework Agreement between Siemens AG, the Central Works Council of Siemens AG, the IG Metall and the IndustriAll Global Union, http://ec.europa.eu/employment_social/empl_portal/transnational_agreements/Siemens_Global_EN.pdf

119 Telljohann/ da Costa/Müller/Rehfeldt/Zimmer, p. 21-24.



Chapter 4. Recommendations for Improving the Social Dialogue Mechanisms

4.1. Prerequisites for actors of social dialogue and their roles and responsibilities in a successful social dialogue

As we mentioned before, the term social dialogue includes all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers, workers and lately other civil society groups, on issues of common interest relating to economic and social policy. There are four fundamental prerequisites for the establishment of successful and sustainable social dialogue mechanisms:

1. Strong, independent and representative workers' and employers' organizations
2. Respect for the fundamental rights of freedom of association and collective bargaining
3. Political will and commitment to engage in social dialogue in good faith on the part of all the parties
4. Appropriate institutional support.

4.2. Overview of Comparative Study

Our study focused on the operation of the social dialogue institutions in the European Union countries during and after the 2008 crisis and gives meaningful results on the functions and value of the social dialogue institutions.

It is observed that the more the effectiveness and function of the social dialogue increase the shorter it takes to eliminate the impacts of the crisis, and that social dialogue mechanisms are generally effective in overcoming of the European Union from the crisis after 2013.

Political and economic conditions of each country affect the success of social dialogue significantly. The effectiveness of social dialogue institutions differentiates with their outlines in Northern European, Southern European and Eastern European countries. On the other hand, countries severely affected from the economic crisis may be distinguished from the countries that felt the crisis less. However, degree of crisis exposure and simple regional differentiation are not sufficient to explain the effectiveness of tripartite social dialogue and other dialogue mechanisms. Comparative study reveals that effectiveness of social dialogue shows difference in each country according to the level of institutionalization of dialogue mechanisms, dialogue tradition, the area given to tripartite and bipartite social dialogue mechanisms in determining national policies or political conditions the country is in during that period. For example, while tripartite social dialogue was successfully conducted in Northern countries in general during the period of the economic crisis and after, Finland and Ireland were quite exceptions to this. Slovenia is rather a successful example among the Eastern European countries generally considered as unsuccessful.

In countries such as Germany and France, social dialogue at all levels has played an important role from the beginning in overcoming the crisis successfully.

In our opinion, the most significant examples in terms of Turkey are Southern European countries as Spain and Italy, which were seriously affected by the crisis. In these countries which were seriously adversely affected from the economic crisis, heavy pressure of EU institutions and political instability resulted in tripartite social dialogue being ended by the political powers in the beginning. However, the success of bipartite social dialogue and efforts of social partners to revive tripartite dialogue in this tough period, and the fact that tripartite dialogue is becoming effective again in most of the subject countries or initiation of institutionalization of social dialogue in the Eastern European countries as a result of this effort are significant achievements.

It should be overemphasized that workers' and employers' organizations acting in concert underlies this success. In countries also experiencing economic and political instability crisis, social partners which have taken initiative to preserve democratic legitimacy have established tripartite social dialogue again with the perpetual effort they have displayed against unstable governments as well as paving the way for overcoming the economic and social

crises endangering the democratic system. The existence of social partners sharing political responsibility with the governments in establishing national policies is important in showing how tripartite dialogue institutions based on these powerful social partners can be a strong support for the governments in maintaining political stability and overcoming crises.

It is not a coincidence for countries such as Germany and France where governments and social partners collaborated intensely from the very beginning of the crisis to overcome the economic crisis almost without being affected.

Our comparative study has revealed that countries, which are the most successful in tripartite social dialogue, are the countries where social partners have a voice in adopting national policies and that the more power bipartite social dialogue has, the better tripartite social dialogue works. Source of the power of the bipartite social dialogue is in the intensity of collective bargaining in EU countries. Employees covered by collective bargaining are at the rates of 60% in EU average and 90% in France.

These high rates are achieved by the multi-layered collective bargaining practice starting from enterprise level to the regional, sectoral, inter-sectoral and finally national levels. Workers' and employers' organizations extend from multi-layered collective bargaining structure and base, including a significant part of the employees, to bipartite social dialogue reaching national level to tripartite social dialogue through social pacts.

At this point, we would like to draw attention once again to social pact practice, which has a long history in Western and Southern European countries. In Spain and many other countries, it is observed that social pact practice is a very effective method in preserving the cooperation between social partners and political power, providing a solution to solid problems specifically during times of crisis, mitigating impacts of crisis and overcoming the crisis.

Along with social pacts, which are results of tripartite social dialogue at national level, "territorial pact" practice gathering local governments, workers' and employers' organizations and other non-governmental organizations is important. It is observed especially in crisis periods that "territorial pacts" are applied as an effective method in almost all of the EU countries, in solving the problems primarily regarding employment, investment, environment and all other local problems.

Our comparative study shows that putting into practice crisis and reform programs with their social dialogue mechanisms completing each other from the bottom to top provides various advantages. Above all, determining crisis period policies through social dialogue increases legitimacy of measures taken against crisis before the society. Cooperation between social partners determined by democratic representation and the political power enables sharing political responsibility. Sense of governing together extending from bottom to top through representation mechanisms, reconciliation based on mutual trust and agreements at national levels mitigate the load of political power as well as helping it preserve its stability.

Other advantages of multi-layered social dialogue structure are mitigating the impacts of crisis, enabling flexible measures from local level to national level and facilitating solution finding. Thus, social dialogue processes have been very effective in overcoming the crisis in the EU.

Also, bipartite and tripartite social dialogue mechanisms replace laws being enacted by Parliaments, which is the classical method, with its ability to provide democratic pluralism and create flexible solutions or are adopted as a legislation method. As seen in various country models, social partners settle problems in working life by collective agreements by benefiting from extensive collective bargaining autonomy or social pacts prepared by tripartite dialogue. As seen in the France model, agreements reached by tripartite social dialogue are legislated by submitting them to legislative power.

In the EU, which has developed the sense of sharing responsibilities through democratic representation mechanisms, legislation processes of the Union on social policy are completely performed through social dialogue.

Accordingly, in the social and economic policy field, a soft but more flexible law making method based on reconciliation gradually takes place of the strict legislation making method through classical legislative bodies.

Focusing on the effectiveness of national social dialogue processes in the EU member states during and after the economic crisis of 2008, this study's main finding is that a well-functioning social dialogue process requires strong relations of trust between social partners, and to the extent relations of trust are preserved, they are highly instrumental for a country to recover from a serious economic crisis.

On this issue, particularly the bipartite social dialogue has key importance. A comparative analysis of national social dialogue processes reveals that the bipartite social dialogue constitutes the backbone of social dialogue almost in every EU Member State depending on the social dialogue at workplaces where democratic representation has started. Where appropriate conditions are ensured, the bipartite social dialogue provides flexible and effective results in coping with the crisis as well as help maintain or resume the tripartite social dialogue. In countries that have well-functioning bipartite social dialogue processes, the tripartite social dialogue is also functional; otherwise, it is observed that tripartite social dialogue processes are not effective and interrupted.

This work also reveals that the social dialogue is a process that starts at the workplace, expanding bottom up through democratic representation mechanisms; and that successful social dialogue processes start with democratic representation at workplace and culminate in agreements and pacts at national level.

It is also concluded that countries where workers have high levels of participation in organizational decision-making are also those countries where new technologies are embraced easily and which have high competitive advantage. It is not a coincidence that the countries which most successfully recovered from the crisis also had the workplace social dialogue mechanisms.

It is understood that framework agreements and social pacts are the most important instruments at national level that strengthens and maintains the relation of trust between social partners. Laying down binding, concrete and effective provisions, framework agreements and social pacts play key roles in formulating national social policies. Framework agreements that are concluded by the umbrella organizations of workers and employers and cover a certain sector or multiple sectors constitute the regular platform of discussion and agreement for bipartite social dialogue. Social pacts that cover the entire country with the participation of the political power are the concrete results of the tripartite social dialogue and effective social policy instruments.



Chapter 5. Conclusion

5.1. Main Findings of the Comparative Study

Social dialogue can be described as a way to form an area of social consensus for the priorities of the country by ensuring the interaction and the exchange of information between different interest groups. Throughout our study, we stated that primary objective of social dialogue mechanisms is establishing a trust relation between social partners and thereby social dialogue creates effective results to recover the country from a severe crisis environment. The construction of social dialogue progressively at workplace level, sectoral level, national level and then integration in the legislation process at Union level is considered as the technical method of preventing negative effects, which globalizing economy has created on working relations, as much as possible and in a balancing way.

The study revealed also that social dialogue is a process starting from the workplace and expanding from the bottom to the top by democratic representation mechanisms. In this respect, social dialogue at workplace, which is the first stage of Union social politics, may be considered as a technique of organizing working relations at the workplace. In countries where social dialogue has been institutionalized, participation of the employees in managerial decisions is admitted indisputably and stepping back from this is not considered at all. It is a proven fact that social dialogue process at workplaces has a contribution in preventing risks and developing management strategies on economic rationalization.

It is expressed specifically by the employers that participation of the employee representatives in managerial decision-making processes does not prevent an effective economy, and democracy at workplaces provides competitive advantage against enterprises applying authoritarian management. It is observed that managerial decisions, for which employee representatives participate in the preparation processes, are easily accepted by the employees, that specifically qualified labour force is able to identify with the enterprise and that this creates a significant competitive advantage. In fact, it is revealed in the studies performed that countries where employees' participation in decisions is high are also the countries where new technologies are easily accepted, and competitive power is very high.¹²⁰

Comparative studies show the crucial importance of employee and union representation as the basis of democratic structure of social dialogue mechanisms. Along with being the basic factor for social dialogue at workplaces, democratic representation becomes prominent as an effective factor for development of democracy in the union and strengthening of union activity.

A comparative examination of the national social dialogue processes reflects also the fact that bipartite social dialogue, depending on the social dialogue at workplaces where democratic representation starts, is the backbone of the social dialogue in almost every member of the EU. Further, we can argue that in countries, which are equipped with well-functioning bipartite mechanisms, tripartite social dialogues functions better. The fact that bipartite social dialogue affects large segments of the society imposes a duty and responsibility on workers' and employers' organizations. This duty is to develop trust between workers' and employers' organizations and, additionally, strengthen the consciousness and responsibility of these organizations to protect collective bargaining autonomy. The bipartite social dialogue mechanism that satisfies these conditions is not only able to produce flexible and effective solutions, but is also able to sustain or to restore national tripartite social dialogue on an equal position with the government as co-responsible actors for public policy in social areas.

¹²⁰ Hecquet, Mathieu, *Essai sur le dialogue social européen*, LGDJ Paris, 2007, p. 8; Daubler/Kittner/Klebe/Wedde, *Betriebsverfassungsgesetz*, 13. Auflage, Frankfurt am Main 2012, p.137-138.

5.2. Recommendations for Turkey

Since the earlier stages of Turkish Republic, bipartite or tripartite social dialogue has been adopted and social partners have taken part in management of many institutions, such as, Labour Assembly, Minimum Wage Determination Commission. Along with these institutions preserving their existence today, there are approximately fourth institutions established as tripartite and tripartite plus social dialogue mechanisms, primarily the Economic and Social Council, Tripartite Advisory Board and Labour Assembly.

On the national level, while the Tripartite Advisory Board and Labour Assembly where the workers' and employers' organizations exchange opinions with the Ministry of Family, Labour and Social Services performed relatively effectively, the Economic and Social Council was underachieving.

A similar situation exists in terms of bipartite social dialogue. A sufficient robust communication and dialogue could not have been established in general between the social partners since the first years of unionization till today in Turkey. However, it cannot be said that there has been no effort to develop dialogue between social partners. It is observed that employee and employer unions are creating projects together or confederations are carrying out activities with the Ministry of Family, Labour and Social Services at connected unions and member workplaces to develop the sense of social dialogue and methods. Although these efforts have rarely reached a conclusion, it is important for the social partners to feel the need for dialogue.

At the current situation and in light of the comparative study, we can make two main suggestions to strengthen the social dialogue capacity at all levels;

***Developing framework agreements practice in order to strengthen the trust relationship, which is the minimum condition of sustainable social dialogue mechanisms**

The first step for social partners in establishing a regular dialogue and agreement ground may be a framework agreement arranged by Article 2.b and Article No.33 of the Law No. 6356 on Trade Unions and Collective Bargaining Agreements. Framework agreement defined as an agreement made between the workers' trade unions and employers' organizations, which are members of workers' and employers' confederations at the level of branch of activity. The framework agreement may cover provisions regarding vocational training, health and safety at work, social responsibility and employment policies which affect members of workers' and employers' organizations. (Article. 33.3).

Accordingly, framework agreements are agreements conducted by social partners on a voluntary basis and they are not non-binding agreements which bring standards in line with the goals stated in the Law.

The framework agreements conducted between civil servants' confederations and employers' organisations in public sector in 1989. These agreements were signed by the relevant Minister who was responsible for coordination of collective agreements at public sector on behalf of government, and TÜRK-İŞ and HAK-İŞ which have been organised in public sector.

After signature of Protocol and Collective Agreements, collective agreements were signed between civil servants' trade unions and public employers' trade unions at workplace or company level. The last protocol covering the period 2018-2019 has been concluded with agreement on 3 July, 2017.

A framework agreement has not been practiced yet although it has been more than five years since the Law was put into effect. Making agreements starting from subjects, which everyone may agree on, such as health and safety at work, preventing child employment, promoting gender balance in trade unions and in management of companies shall be considered an important achievement in terms of bipartite social dialogue. Framework agreements, involving basic principles and action plans of the parties, will serve in establishing mutual trust relation between the social partners by strengthening dialogue base.

The Ministry of Family, Labour and Social Services has the position and tools which can provide significant support in establishing trust relation which is a prerequisite of social dialogue. In case the Ministry, which is a party to the national social dialogue, encourages social partners and becomes a partner itself of this type of agreements not only in public sector but also private sector, it may put a real social pact into life for the first time in our country. We have seen how social pacts, the solid results of tripartite social dialogue, may play an effective role in overcoming the crises in the European Union member states. We believe that if social pacts are put into practice also in our country by the effective support of the Ministry of Family, Labour and Social Services, we may also obtain positive political, social and economic results.

*** Improvement of democratic representation mechanisms as a prerequisite for social dialogue: Acceptance of the employees' rights to information and consultation and establishment of social dialogue institutions at the workplace**

The need for employee representation is stated in ILO Conventions, especially the Workers' Representatives Convention No. 135, to which Turkey is a party and existence of a representative selected by the employees or assigned by the union is laid down as a condition. However, in Turkey, the application of this Convention is limited to only the workplace union representatives assigned by the union. At workplaces where a union is not organized, participation of workers to management through assigned or elected representatives is voluntary.

Although elected employee representation and social dialogue at workplaces has been a discussion subject for a long time in Turkey, it has not been possible to put it into practice.

Whereas, Turkey has signed the provisions of Social Charter (Revised) arranging employee representation principles and right to information and consultation without making a reservation and transposed them into its national law. Accordingly, right to information and consultation is a fundamental right recognized by our national law having a constitutional assurance. Arrangement of this fundamental right by law is a task given to legislator by the Constitution.

Right to information and consultation of employees at workplace through representatives in the European Union law are regulated in many Directives. "The Framework Directive No. 2002/14 on the right to information and consultation" put into effect in 2002 is a general regulation on this subject.

In fact, employee representation at the workplace has been a settled application in the Western European countries before the European Union directives, even before the establishment of the European Union almost for a century. Social dialogue at the workplace has been shaped based on the history and culture of each country and just reviewing social dialogue at the workplace and suggesting a model for Turkey requires a separate and more comprehensive study.¹²¹

Here, we shall briefly mention the contribution of the development of social dialogue at workplace that shall be provided in Turkey in working relations and strengthening of social partners and settlement of employee- employer conflicts.

Turkey has approved Europe Social Charter (Revised) without making a reservation on aArticles 21 and 22, which regulates rights to information, consultation and participation. Accordingly, right to information and consultation which social dialogue at workplace shall be shaped on has taken its place in Turkish Law as a collective social right.

European Social Rights Committee, which is a judiciary body of the Charter, states that in the inspection of whether compliance with Article 21 of the Charter is provided at the minimum level, it has taken Framework Directive No. 2002/14 as the basis, and Framework Directive and other relevant directives are components and integral elements of Article 21 of the Charter. In this respect, Turkish legislators have taken relevant directives, primarily the Directive No. 2002/14, as the basis and undertaken the liability to regulate right to information and consultation in national law.

¹²¹ See Engin, E. Murat, İşgücünün Temsili ve İşyerinde Sosyal Diyalog, İstanbul 2012.

The most important benefit of social dialogue at the workplace for Turkey will be its contribution in the development of a settlement culture instead of conflicts in individual labour relations. Number of conflicts arising from labour and social security legislation, unreasonable work load of courts of first instance and the Supreme Court leaves not to say much. The only reason for the number of conflicts brought to jurisdiction being beyond comparison against countries such as Germany and France, which are the same in population size but higher in total employment than Turkey, is their developed social dialogue mechanisms and culture of solving problems at workplace.

Even if relevant directives are transposed into national law by goodwill and comprehensive structural reform, development of social dialogue shall not be easy in the beginning due to structural problems such as weak unionization and lack of social dialogue culture at workplaces. Anyhow, we still have the opinion that an environment may be created where benefits of social dialogue shall be recognized for the employers as well as the employees within the process, which shall start from a small number of enterprises. However, for adoption of social dialogue at workplaces by social partners and recognizing its benefits for industrial relations, effective support of the Ministry of Family, Labour and Social Services is required.

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