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LIBERALIZING INDUSTRIAL RELATIONS IN SOUTHERN-EUROPE: TOWARDS THE END OF A COORDINATED AND EGALITARIAN MODEL*

by Silvio Bologna

The paper focuses on the changes that occurred to the architecture of industrial relations in Southern-European countries during the last decade. In particular, the bargaining systems of Italy, France, Spain, Greece and Portugal are compared, with particular attention to the legislative measures enacted under the influence of international institutions after the 2008 financial and sovereign debt crisis. The theoretical framework of reference is the literature on comparative politics as recently reviewed by Thelen. At the same time, the work takes into account the labour law dogmatic category of "inderogability", represented by the couple law-branch agreement, outcome of the Fordist class compromise. Recent trends of industrial relations show that such a binomial has been strongly eroded in front of the strengthening of company and plant agreements prerogatives. Therefore, by using a multidisciplinary approach, the paper concludes by arguing that the countries analysed are shifting from a highly regulated pattern to a common "neo-liberal" trajectory, with the asymmetry of power between labour and capital growing in favour of the latter.

Il presente lavoro analizza i cambiamenti nell'architettura delle relazioni industriali in Europa del Sud durante l'ultimo decennio. Al riguardo, vengono comparati i sistemi di contrattazione collettiva di Italia, Francia, Spagna, Grecia e Portogallo, con particolare attenzione ai provvedimenti legislativi emanati dietro influenza delle istituzioni internazionali dopo la crisi finanziaria e del debito sovrano del 2008. Il contesto teorico di riferimento è rappresentato dalla letteratura in materia di politica comparata, come di recente rivista da Thelen. Nel contempo, l'analisi è svolta alla luce della categoria giuslavoristica di "norma inderogabile", costituita dal binomio legge-contratto collettivo nazionale figlio dei *trente glorieuses*. Le tendenze osservate di recente nelle relazioni industriali mostrano come tale architettura sia stata fortemente erosa dal rafforzamento della capacità derogatoria degli accordi aziendali. Pertanto, attraverso l'uso di una comparazione multidisciplinare, l'articolo dimostra che le nazioni oggetto di studio stanno transitando da un contesto di elevata regolazione verso una comune traiettoria "neo-liberale", vista la crescente asimmetria di potere tra lavoro e capitale in favore del secondo.

1. Introduction

Over the past ten years the architecture of industrial relations in Southern-European countries has significantly changed: Italy, France, Portugal, Greece and Spain have registered

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an unprecedented shift of power in the regulation of the employment relationship from the industry-wide agreement towards plant and company level. Such a long-term trend, started in the 80s, has currently joined its peak through several legislative measures aimed at reforming labour market, in the meanwhile the financial and sovereign debt crisis and the subsequent economic turmoil erupted in all its potential.

The objective of the article is twofold: firstly to identify such a change within industrial relations as "neo-liberal" (Baccaro, Howell, 2011) or "neo-liberalist" (Carrieri, Treu, 2013), because – domestic technicalities apart – it has led to a decrease of institutional barriers to employers' discretion in the government of the employment relationship: in fact employers are more and more given exemptions to waive the rules set in labour law and industry-wide agreement. The second objective of this contribution is to explore the links between the process of liberalization and the related political dynamics aftermath of the economic crisis.

The liberalization thesis will be demonstrated by following a multidisciplinary approach: indeed the comparison will be undertaken in light of the debate on varieties of capitalism (VofC), as recently reviewed by Thelen, and in the meantime under a labour law perspective.

This article is organized as follows. Section 2 explains how comparative politics assumptions, i.e., the concept of coordinated market economy, can be matched with a comparative labour law frame. In our vision the erosion of coordinated industrial relations corresponds – *mutatis mutandis* – to the end of the favorability principle, labour law dogmatic category born under the social-democratic compromise of the Golden Era of capitalism. Politically and historically speaking, the gradual erosion both of the favorability principle and coordination is attributed to the New European Economic Governance (NEEG), born inside and outside the European Union legal framework. In this connection Section 3 sketches the links between the "tools" of the NEEG (European Central Bank letters, Troika Memoranda of Understandings and Euro Plus Pact) and the decentralization of collective dynamics. Section 4 describes the experiences of Italy, Spain and Greece: these countries are epitomized within the category of "total liberalization" for the width of the waive power attributed to company agreements, and for an unprecedented governmental unilateralism in the process of reform. Section 5 delineates Portugal and France as models of "controlled liberalization", because of a less pronounced decentralization of collective bargaining and a more cooperative aptitude of the government towards social partners, that are involved in the trajectory of change.

In the final section we draw the general conclusion that – despite the persistence of national differences in the architecture of collective bargaining – Southern-European countries cannot be considered anymore as synonymous of coordinated and egalitarian economies in the field of industrial relations, because company agreements play a pivotal role in the discipline of the employment relationship, once attributed to the "binomial" statutory law-industry-wide agreement. Therefore, they are following a one-size-fits all approach with a convergence towards a common neo-liberal direction.

2. Multidisciplinary comparison in southern-europe

2.1. Coordination versus liberalization: the role of politics and interests

As previously told, the approach followed in the comparison is interdisciplinary: recent

trends of collective bargaining in Southern Europe are studied under a perspective both political and legal.

Under the comparative politics perspective, the point of departure is the *summa divisio* among liberal market economies (LMEs) and coordinated market economies (CMEs), coined by VofC scholars (Hall, Soskice, 2001): whereas industrial relations in LMEs are characterized by decentralized and uncoordinated collective bargaining and based on exclusive and compulsory union representation of a bargaining unit, CMEs feature highly coordinated bargaining and strong social partnership between unions and employers associations. Paradigmatic cases of CMEs are Europe and Japan, in opposition to LMEs in the Anglo-Saxon world like the USA or the UK.

Such an approach has been criticized by welfare-state scholars (Streeck, 2012; Streeck, Thelen, 2005), because it does not attribute the proper space to meta-firm elements – essentially ideology and history – to explain the dynamics of industrial relations. In this connection, they argue that market pressures associated with globalization and deindustrialization over the past 20 years have led employers to ask governments for more flexibility and to relax market barriers.

Recently the debate between VofC and welfare-state scholars has been reframed by Thelen (2014): she makes use of traditional categories of VofC – for the purposes of the present work collective bargaining institutions – to demonstrate that Western economies can be encompassed under a common liberal perspective with the simultaneous end of the dichotomy between LMEs and CMEs. More precisely, a prominent VofC arrangement like industrial relations coordination is described under an historical and political root: indeed its main features are not statically presupposed as in VofC theory, but they are explained as an outcome of different coalitional plans and political dynamics. Such an empirical analysis brings Thelen to affirm that the process of liberalization may vary from country to country, depending on a specific social, political and market context: she argues that in some cases high levels of liberalization may coexist with new forms of solidarity, disentangling the traditional welfare-state relationship between coordinated and egalitarian capitalism.

By exploring empirically some Western economies (i.e., Sweden, Denmark and Germany) Thelen demonstrates that State support is crucial to maintain a certain solidarity in a neoliberal period, and that in the meanwhile employer coordination may be necessary but by no means sufficient to secure the survival of egalitarian capitalism (i.e., the cases of Italy and Spain as discussed in Section 4).

Our analysis, by using Thelen methodological approach, empirically reaches the conclusion that in Southern-European countries both the attacks to coordination and the increasing importance of lower bargaining levels have brought a decrease in solidarity, due to the lack of social coalition supporting labour and in front of international pressures towards decentralization. In other words, the comparison will show that the process of liberalization has threatened both the degree of coordination among the different levels of collective bargaining and the egalitarian and redistributive function of the industry-wide agreement.

2.2. Inderogability and solidarity

As mentioned above, the comparison is based not only on the degree of coordination among the institutional actors of the system and the political dyamics, but also on the labour law dogmatic category of inderogability. Indeed, after the end of the Second World

War in Euro-Mediterranean legal systems labour law was considered "unbreakable" by legal scholars and the jurisprudence: statutory law ruling the employment relationship could not be object of waivers *in pejus* but only *in melius* by collective autonomy, on the assumption that the worker was a citizen economically and socially under-protected (De Luca Tamajo, 1976; Lyon-Caen, 1973). With independence from the national translation of such a *Weltanschauung* (e.g., *norma inderogabile* in Italy, *principe de faveur* in France and *norma mínima* in Spain), its legal transposal was identical: statutory labour standards cannot be waived in a pejorative way by collective bargaining.

Undoubtedly such a labour law feature was strictly related to a redistributive and egalitarian model of capitalism, as "draft" in the 1944 Declaration of Philadelphia and in the European constitutions born in the second after-war and following the social-democratic compromise (Supiot, 2010). Inderogability was aimed at ensuring the effectiveness of the fundamental constitutional principles of equality and solidarity, that otherwhise would not be effective in the dialectic labour-capital.

Labour law maintained its feature of unbreakable without any significant change until the mid of the 80s, when the post-war welfare state consensus broke down and the character of EU Member States became increasingly "deregulatory" based on neoliberal theory (Hepple, 2011; Cavallaro, 2012; Bordogna, 2012). Neo-liberalism contends that economic performance is based on the capacity of policy-makers to expose labour to market forces: in industrial relations scenery this means that if bargaining has to be practiced, it should be as close to market as possible and subsequently at the level of the individual company (Crouch, 2013).

Therefore, since the 80s a number of national systems gradually put in doubt the fundamental principles of worker-protective labour law: specially in the course of the 1990s and the 2000s they experimented "opening clauses" which allowed plant or company-level agreements to modify the terms of sectoral ones or even labour law (Deakin, 2013b). These are the cases, i.e., of the 1982 *lois Auroux* in France about working-time, the 1994 Spanish reform of Workers' Statute on wages and the Italian legislation on flexible work (1997), end-of-service allowance (1982) and deskilling aimed at averting redundacy (1991). Of course, the deregulation process tested until the mid-2000s can be qualified as moderated, because it did not concern the employment relationship as a whole, but only specific matters enumerated by the same law.

Suffice it to say, the present work argues that the different trajectories of liberalization discussed by Thelen under a comparative politics perspective correspond – *mutatis mutandis* – to the gradual erosion of the historical-dogmatic principle of favorability. What follow, then, are somewhat abbreviated accounts to describe the main features of this institutional change.

2.3. Southern-European countries as a cluster

This paper assumes that Euro-Mediterranean countries can no longer be considered examples of egalitarian and coordinated industrial relations because of the pronounced liberalization of their institutions: in this connection it analyses Italy, France, Spain, Greece and Portugal. In the VofC debate these case studies are a *sub-species* of CMEs, and they are defined as Mixed-Market Economies (MMEs) because large firms and organized labour lack of autonomous coordination (Molina, Rhodes, 2007): the reason can be found in trade union fragmentation along ideological lines, more antagonistic labour movement that impede social partners to independently achieve the regulation of the system, and a stronger role of

the State as mediator of interests ("State-centred configuration") (Pedersini, 2014). More precisely, since the beginning of the *trente glorieuses* (1945-1975) collective dynamics were highly conflictual and ideologically polarized in Italy and France. The same trend has been registered in Spain, Portugal and Greece since the 70s, under the new democratic course after the end of the right-wing dictatorships (Franco, Caetano and the regime of the colonels).

Moreover, these national experiences can be clustered because a certain trade unionism homogeneity: in fact, all of them present a high level of bargaining coverage and unionisation, with the sole exception of France with a slow rate of union membership at around 7,9%[1].

Economically speaking Euro-Mediterranean countries can be clustered, because until the 1990s they competed primarily on low cost: if costs rose through internal inflation, they used to devalue their national currency to recover competitiveness (Crouch, 2013). Such a strategy is not possible anymore because of the new EU "economic constitution": in front of a unique currency, a rigid monetary policy and the impossibility to devalue within national basis, the only way to recover international competitiveness lies in weakening the cost of labour by decreasing the institutional constraints to employers' discretion, the so-called "internal devaluation" (Cavallaro, 2012; Armingeon, Baccaro, 2012; Ribeiro, 2016).

All of them have been seriously damaged by the global crisis erupted in 2008, if compared with Nordic and Central Member States: after the financial bubble they have known a strong rise in unemployment (especially among young people) and public debt (Fundación 1º de mayo, 2014). In addition, mention must be made of the de-industrialization process in favour of services (in particular in Italy and France); the existence of informal welfare systems based on family solidarity and formal welfare system founded on the male breadwinner (with the sole exception of France).

Within this framework the paper analyses the reforms of collective bargaining architecture enacted during the last decade, with a particular emphasis on the relationships between the exogenous pressures (EU, *Troika*) and the legislative reforms.

Suffice it to say, the five countries have been epitomized in two macro-categories, total and controlled liberalization, depending on two basic parameters: the degree of resilience of traditional bargaining institutions to the exogenous pressures towards decentralization; and State role in sustaining the new liberal agenda and in particular its aptitude towards organized labour and social dialogue. The common trend – despite institutional and structural divergences (i.e., the consensus or less among the main social partners on the reforms, the eventual resort to law by decree by the government or the width of the deconstruction) – is represented by the shift of power from the sector agreement to the company/plant one. By virtues of the latest reforms employers are more and more given exemptions under certain circumstances from higher level collective agreements or even labour law (Baccaro, Howell, 2011).

3. The new European economic governance and its impact on Southern-European industrial relations

The turning point in the liberalization of industrial relations lies in the financial crisis that since its inception in 2008 is threatening all the euro-zone economies, and in particular

[1] J. Visser, *ICTWSS Data base version 4.0. Amsterdam: Amsterdam Institute for Advanced Labour Studies AIAS*, in www.uva-aias.net/208.

the States clustered in the Mediterranean paradigm (Koukiadaki, Távora, Martínez, 2016; Clauwaert, Schömann, 2012). Politically and historically speaking there is a clear evidence that all the reforms interesting such countries (except France) have been a direct consequence of the inputs coming from the New European Economic Governance (NEEG). The NEEG is the strategy recently born in aftermath of the crisis, under which EU Member States coordinate their economic policies: it is a set of measures born inside and outside the EU legal order, and – for the purposes of the present work – essentially represented by European Central Bank (ECB) letters, the Memoranda of Understandings (MoUs), the Euro-Plus Pact and the European Commission Staff-Working Documents.

The *leit-motiv* of the NEEG is the constant pressure for deregulation in labour market and decentralisation of collective bargaining in order to promote financial stability and economic recovery. On the basis that EU States' membership of the eurozone forbids currency devaluation, the unique way to restore competitiveness lies in an "internal devaluation" by dismantling most labour market regulation (Crouch, 2013; Deakin, Koukiadaki, 2013).

Of course in certain countries the NEEG influence has been merely political: i.e., in the cases of Italy and Spain the ECB addressed secret letters to their respective governments, wishing for deeply decentralizing collective bargaining as a counter-measure to the crisis in terms of wages adjustments. Just the same day, on 5th August 2011, the then Prime Ministers Berlusconi and Zapatero received from the ECB governor a strictly-confidential message in this connection. Only a few weeks later both countries approved statutory laws (respectively Acts 148/2011 and 7/2011) in line with ECB recommendations.

The *desiderata* on industrial relations are also contained in the Euro-Plus Pact (EPP), an international Treaty adopted by the European Council in March 2011. In a similar vein to ECB letters the EPP specifically encourages the individualistic path of industrial relations, by stating that Member States must «review the wage settings arrangements and, where necessary, the degree of centralization in the bargaining process, and the indexation mechanisms, while maintaining the autonomy of the social partners in the collective bargaining process»[2]. It must be pointed out that in both hypotheses – ECB letters and EPP – most is left to the Member States to decide and they less jeopardize labour law than it would first result (Barnard, 2012): in fact the EPP focuses primarily on areas that fall under national competence under Art. 153.5 TFEU (Deakin, 2013a).

The voluntarism of EPP stays in sharp contrast with the financial legal framework set by the ECB, the European Commission and the IMF (the so-called *Troika*) and aimed – *inter alia* – at reforming labour law: in 2010 a decision of the Representatives of the Governments of the Euro Area Member States created the European Financial Stability Facility (EFSF)[3] within the deeper context of fiscal measures to provide financial support to the States more threatened by the crisis. In short, such a mechanism is based on a bilateral agreement between the State asking financial credit and the *Troika*: the prerequisite to get access to the "financial rescue umbrella" is the State commitment to comply with several "structural labour market reform", also including the architecture of industrial relations. All the commitments are contained in a specific MoUs.

[2] Cf. https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/120296.pdf.

[3] See Decision of the Representatives of the Governments of the Euro Area Member States Meeting within the Council of the European Union, Council Document 9614/10 of 10 May 2010, in http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%209614%202010%20INIT.

It should be noted that MoUs implementing loans and credit lines offered under EFSF are not covered by EU law (Armstrong, 2013; Seifert, 2014): they are bilateral contracts ruled by international law, whose contractors are the State and the EFSF as a company under Luxembourg-law whose shareholders are the euro-zone Member States[4]. EU institutions (EC and ECB) are acting outside the EU legal order as negotiators and compliance monitors (de Streel, 2013; Balamoti, 2014). In 2010-2012 this experience was known by Greece and Portugal[5], whose systems of industrial relations were significantly company-tailored following the suggestions contained in the MoUs, as it will be later on discussed.

With independence of the instrument used at supra-national level (ECB letters, EPP, MoUs), the case studies will clearly demonstrate that the outcome achieved is always the same: a high decentralization of collective dynamics (Bordogna, Pedersini, 2015). As a matter of fact, if we apply Thelen approach (political dynamics and role of the State) the liberalization of Euro-Mediterranean industrial relations is the corollary of an "alliance" between the national governments and the new transnational economic order born in the aftermath of the crisis, with an aptitude that has been powerfully qualified as "frontal assault" to multi-employer bargaining (Margison, 2015). The exception that proves the rule is France, whose system of collective bargaining has been more resilient to exogenous pressures, being subject only to regular reminders of the European Commission.

A final question arises: can the discussed reforms be defined authentically democratic? In other words, is there still a space for social dialogue and State sovereignty for a traditionally domestic field like industrial relations?

4. The total liberalization

4.1. Italy: deregulation pure and simple

Since the mid-1990s the Italian system of industrial relations was highly coordinated and centralized (Pedersini, 2014). In compliance with the 1993 Trilateral Agreement – signed by government, employers' representatives and trade unions to face an emerging crisis – the main function of the company agreement was the settlement of the salary linked to company productiveness. Outside of wage matter, the second level bargaining could not be repetitive in terms of the national one and had a very marginal function (Del Conte, 2007)[6].

After such a period of cooperative industrial relations, it can be highlighted a weakening of tripartite social dialogue and an increase of ideological disputes among trade unions: in this climate the deconstruction of collective bargaining has ripened. The first openings to a significant decentralization are to be found in a couple of Cross-Sector Framework Agreements, respectively dating back to January 2009 and June 2011: under the 2009 rules only national industry-wide agreements would establish to devolve or less the power of rule-making to company contracts, to face with territorial crisis or to bolster economic

[4] It should be noted that in March 2012 the EFSF was replaced permanently by the European Stability Mechanism (ESM): the ESM is another intergovernmental treaty outside the EU legal order that is currently the main tool for financing new assistance programmes (i.e., in the case of Cyprus). See Treaty Establishing the European Stability Mechanism, in http://www.esm.europa.eu/about/legal-documents/ESM%20Treaty.htm.

[5] In summer 2011 Ireland as well received a "bail-out", that was accompanied by a MoUs. The Irish Republic does not form part of the present analysis, because it traditionally belongs to LMEs with UK, Cyprus and Malta.

[6] Other company contract functions, in compliance either with the law or the same trilateral agreement, were the management of company crisis, the functioning of canteens and career path of employees.

growth. Such an agreement represented a major break in Italian industrial relations, because the social partners lost their unity of action: in fact the biggest Italian trade union, the left wing CGIL, did not sign the pact opposing the erosion of sectoral mandate over wage negotiations (Margison, 2015).

In a similar vein, under the Framework Agreement of June 2011 all the parties agreed on a controlled decentralization (Biasi, 2014; Faioli, 2014): plant-level agreements may regulate matters that are delegated, totally or in part, by the national-level agreement. More precisely, for first time the social partners explicitly established opt-out clause, by which a company agreement can contain "provisions that modify or reduce the protections granted to workers by national-level agreements" on grounds of economic difficulties.

The total liberalization of the system was achieved only a few months later, with Article 8 Act 148/2011. The events that led to the enactment of Art. 8 are a clear example of the influence of the NEEG on national industrial relations: in the wake of the crisis the government made use of its legislative power, after receiving a ECB letter looking forward to «reform the wage bargaining system allowing firm-level agreements to tailor wages and working conditions to firms' specific needs and increasing their relevance with respect to other layers of negotiations»[7]. Moreover, public powers did not engage in tripartite negotiations with the social partners before such an unprecedented reform of industrial relations: for the first time in the Italian history a bill with significant implications for collective bargaining was passed without any previous social dialogue by following a *dirigiste* approach (Carrieri, Treu, 2013). Last but not least, the legislative measure went completely against social partners' will as expressed in the 2011 Interconfederal Agreement. The social partners tried to stem the application of the law: in September 2011 they added a marginal note to the cross-sector framework agreement, stating that they would not sign contracts in compliance with Art. 8[8].

Under Art. 8 labour law as a whole is subject to a wide range of waivers and for different and disparate purposes, particularly employment growth (Bavaro, 2014; Pizzoferrato, 2015; Treu, 2015): company agreements may deviate not only from industry-wide agreements, but also from the statutory provisions on all aspects of labour organisation and production. The unique matters excluded from the deconstruction are non-discrimination law and health and safety at work legislation. Therefore, with a simple company agreement for an employer it is possible to waive the provisions set by statutory law in connection with non-standard forms of work (fixed-term employment, temporary agency work and part-time), para-subordinate work and self-employment, working hours, the probationary period regime and the solidarity discipline in case of contracts and sub-contracts. The most controversial issue under Art. 8 is the possibility to derogate from the economic consequences of an unfair dismissal and to hiring procedures.

[7] For the full text of the letter see http://astrid-online.it/Dossier-d1/Italia----/Documenti/Trichet Draghi Corriere lettera 29 09 11.pdf.

[8] Notwithstanding this, several company agreements under Art. 8 have been signed. Unfortunately, there are no complete quantitative indicators available: indeed Act 99/2013 eliminated the obligation – originally considered by Law Decree 76/2013 – to deposit Art. 8 contracts in the territorial departments of the Ministry of Work. I.e., at Ilva plant in Paderno Dugnano an agreement under Art. 8 was signed, that derogated to the joint-liability regime in case of undertaking contracts. Another example is a contract in force in a textile company in Tessitura del Salento srl, that until 2016 do not recognize the production bonus provided by the industry-wide agreement and raises the probationary period to 6 months. For the second agreement see Dell'Atti, Caponetti (2014).

In compliance with Art. 8 there are only uncertain boundaries to such a huge derogation power: constitutional principles (of course it is a pleonasm), international labour law[9] and EU law. It will be really hard to single out the boundaries if we bear in mind that too many times the European Court of Justice has changed its interpretation of EU labour law (i.e., with regard to dir. 99/70/EC on fixed-term work).

This new legislative framework has attracted prompt criticism: according to a long line of scholarship in Art. 8 it is possible to envisage an attempt to organized labour and to the fundamental principles of solidarity and material equality as settled in Arts. 2 and 3 of the Italian Constitution (Garilli, 2012; Bavaro, 2012), that by implication introduces "firm feuds" in domestic labour law (Algostino, 2012).

In recent times the deconstruction of collective dynamics has been further on implemented with Legislative Decree 81/2015, emphatically called "Jobs Act" and aimed at reviewing employment regulations, in relation to fixed-term work and jobs equivalence: with a simple plant agreement fixed-term employees can exceed the legal threshold of the 20% of the entire workforce in a company. Paradoxically, a firm could have most of its employees (or the whole body) contracted with a precarious form of employment. Moreover, under 2015 reform company agreements can enlarge the range of hypotheses, in which it is possible to waive *in pejus* workers' jobs. In Legislative Decree 81/2015 it is possible to see indistinctly the most complete liberalization of industrial relations: in fact waivers to fixed-term work and jobs are not submitted as under Art. 8 to the pursuit of a number of objectives.

In terms of political dynamics, there is a common cutting edge among Art. 8 Act 148/2011 and Legislative Decree 81/2015: despite different governmental coalitions that supported the reforms (centre-right in 2011 and centre-left in 2015), both have decreased the legal constraints to employers' discretion in the government of a company. The uniform "neo-liberal" approach is also evident if we consider the governmental aptitude towards organized labour: in both cases unilateral state ruling has been the norm and social partners have been margined despite having reached an important agreement.

4.2. Spain: from controlled to total liberalization

After the transition to democracy and until the crisis outbreak the Spanish system of industrial relations was highly centralized, due to the interaction between State interventionism and autonomous regulation provided by the social partners (Molina, 2014; Gil y Gil, 2015): the hierarchy principle between collective agreements of different level was established both by the 1980 Workers' Statute and by 1997 Interconfederal Agreement on Collective Bargaining (AINC).

Spain experimented an unprecedented change in the architecture of industrial relations after the government led by the socialist Zapatero received a letter from the ECB, wishing for a strengthening of «firm-level agreements with a view to ensuring an effective decentralisation of wage negotiations»[10].

The government, after failing in coming to a compromise with the social partners, enacted the decree 7/2011 later converted into Act 7/2011, that deeply changed the role

[9] I.e., the UN Covenants on Social, Economic and Cultural Rights, ILO Conventions and Recommendations, or the European Social Charter.

[10] Cf. https://www.ecb.europa.eu/pub/pdf/other/2011-08-05-letter-from-trichet-and-fernandez-ordonez-to-zapatero.pdf.

of the company agreement: the *convenio de empresa* prevailed over higher level ones, if national or regional industry-wide contracts would make reference for the devolution of rule-making to firm-level contracts. Moreover, the priority of the plant agreement covered a wide range of subjects: remuneration, pay for overtime and shift work, working time and holiday, job classification, recruitment procedures and work-life balance.

In February 2012, immediately afterwards the elections of November 2011, the new right-wing government led by Rajoy intervened again in the architecture of collective bargaining: the decree 3/2012, later converted into Act 3/2012, established the imperative priority of the company agreement over the branch one within the same subjects considered by 2011 law. *Convenio de empresa* became the new "backbone" of the system, being impossible for higher-level agreements to set clauses about the prevalence over lower level ones (Suárez Corujo, 2014; Treu, 2015; Monereo Pérez, 2014).

Similarly to Italy, the government acted in a very authoritarian way: in fact the executive made use of the extraordinary legislative power by decree without taking into account social partners' will, as crystallized just some days before in the Second Cross-sector Agreement for Employment and Collective Bargaining 2012-2014 of January 2012[11]. There, trade unions and main employers' associations looked forward to a self-governed decentralization: only the branch agreement was entitled to specify both the rules of procedure for opting-out and the bargaining agents enabled to sign company and plant agreements ("negotiated flexibility"). From the point of view of the contents, the agreement contained the obligation by collective bargaining to clearly distinguish in the flexibility plans three basic areas of action: wages, working-time and jobs (Sala Franco, 2013).

Within this hostile climate to organized labour and social dialogue[12], the social partners were really recalcitrant to accomplish with the new Act: consequently, in the immediate proximity of Act 3/2012 approval, several industry-wide agreements re-proposed the architecture of collective bargaining shaped by Act 7/2011 and the Second Cross-sector framework Agreement[13]. At this juncture the governmental unilateralism was further on bolstered at judicial level: the General Department for Employment of the Ministry of Work appealed to the Labor Court the Vth Collective Agreement for Building and Cement Derivatives Sector[14], that established an imperative priority of the industry-wide agreement over any kind of different rule, settled either by the law or the social partners. The Court uphold Ministry of Work reasons, by stating that all the results of collective bargaining must abide by the law in compliance with the constitutional principle of law *primauté* over collective bargaining results[15]. In a similar vein, the Spanish Constitutional Court has considered Act 3/2012 in conformity with the fundamental right of collective bargaining set at Art. 37.1 of the Iberian bill of rights: more precisely, in the view of the *Tribunal*

[11] Cf. II *Acuerdo para el Empleo y la Negociación Colectiva 2012, 2013 y 2014.*

[12] Only in July 2014 government and social partners signed a memorandum of understanding for the renewal of social dialogue, but an evaluation on its incidence is premature. See *Acuerdo de Propuestas para la Negociación Tripartita para Fortalecer el crecimiento Económico y el empleo*, in http://www.cepyme.es/v0/files/almacen/files/documentos/Documento-Acuerdo-29-de-julio-2014DEFINITIVO.pdf.

[13] See, i.e., the I *Convenio Colectivo Estatal del personal de salas de fiesta, bailes y discotecas de España* (February 2012); the III *Convenio Colectivo Sectorial Estatal de Servicios Externos Auxiliares y Atención al Cliente en Empresas de Servicios Ferroviarios* (March 2012); the *Convenio Colectivo para empresas de harinas panificables y semolas 2011-2014*, and finally the *Convenio Colectivo Estatal de Jardinería*, that even rejected the rules contained in Act 7/2011.

[14] Cf. V *Convenio Colectivo de Sector de Derivados del Cemento* (February 2012).

[15] See Audiencia Nacional, 10 septiembre 2012, n. 134848/2012, in http://portaljuridico.lexnova.es/jurisprudencia/JURIDICO/144258/sentencia-an-95-2012-de-10-de-septiembre-negociacion-colectiva-prioridad-aplicativa-del-conveni.

Constitucional the legislator is fully entitled to determine the articulation of the system of industrial relations, due to the legal foundation of the same right to collective bargain. In addition, the Court justifies the decentralization process on the grounds of pursuing a specific social and economic policy by the public powers – in this case flexibility-oriented in order to protect productiveness and employment – as a corollary of the principle of sovereignty[16].

Without a doubt, the Iberian system of industrial relations joined its peak of "disorganization" by enhancing the *descuelgue*, that under Workers' Statute is the unilateral power of the employer to change working conditions: Act 3/2012 enables companies to opt out from collective agreements (multi-employer and company), if the corporation registers a drop in its revenues or sales for six consecutive months. Such a rule increases the quantitative and qualitative range of matters object of derogation: in fact, if in the past the *descuelgue* was restricted only to the amount of salaries, now it is extended to other employment relationship areas, such as working time, work organization and work-life balance.

4.3. Greece: total liberalization as a result of loans agreements

Since the foundation of the Third Hellenic Republic in 1974, after the end of the colonels' regime, Greek industrial relations were highly centralized. The peak of centralization was joined in 1990 when the Parliament passed Act 1876/1990[17]. Such a statutory law was the legal translation of a coordinated-market economy approach: in fact it was passed during the *Grosse Koalition* led by the right-wing Xenophon Zolotas by unanimous consensus among all the social partners and political parties (Yannakourou, Tsimpoukis, 2014). From the point of view of the contents, Act 1876/1990 tailored an industrial relations system essentially based on the favourability principle: in front of an enterprise covered by collective agreements of different levels, that one containing the most favourable clauses for the worker would prevail. Moreover, Act 1876/1990 explicitly forbade the signature of company agreements in entrepreneurial realities with less than 50 employees.

The first openings to liberalization are to be found in Act 3845/2010, when the Government asked for first time financial assistance to the *Troika* at the very beginning of the crisis. The decentralization of collective dynamics formed part of the adjustment programme established in the First MoUs[18]. More concretely – among the other anti-crisis measures – Act 3845/2010 provided that company or plant agreements could "deviate" from the higher ones. The wording "deviate" was clearly ambiguous and probably hid the strengthening of the trajectory of liberalization. However, it received a scarce application for a couple of reasons: firstly, social partners were recalcitrant to put in practice neo-liberal measures in a context of diffused and increasing inequalities; secondly, the rules of the law were left to be specified in coming presidential decrees never enacted.

[16] See *Tribunal Constitucional, Sentencia 119/2014, de 16 de julio de 2014*, in BOE *núm. 198, de 15 de agosto de 2014*; in a similar vein see *Tribunal Constitucional, Sentencia 8/2015, de 22 de enero de 2015*, in BOE *núm. 47, de 24 de febrero de 2015*. For a commentary to the 2014 Constitutional Court decision see Correa Carrasco (2014).

[17] The law was brought to the Greek Parliament following one year and a half of discussion among the social partners.

[18] On 3 May 2010 the Memorandum of Economic and Financial Policies, jointly with the Technical Memorandum of Understanding was agreed between the Greek Government and the *Troika*, in return for loans of 110 billion euros, which would be released to Greece in instalments. Moreover, the Memorandum indicated that all the structural changes should be completed by December 2010, in http://www.imf.org/external/pubs/ft/scr/2010/cr10111.pdf.

In the "Updated Memorandum" of August 2010 the lenders asked the Greek government to ensure «that firm level agreements take precedence over sectoral agreements which in turn take precedence over occupational agreements»[19]. In a similar vein, the second update of the Memorandum, dating November 2010, stated that «further measures will be taken to reform collective bargaining [...]». Just a few weeks later, the Parliament passed Act 3899/2010 introducing the "Special Operational Collective Agreement" (SOCA) for firms facing financial strains: such a contract was entitled to waive the amount of wages and other working conditions established in sector collective agreements, in order to retain employment and improve productivity and competitiveness. SOCA could not only by-pass the floor of rights set by the general national collective agreement.

In any case the SOCA was in a certain way linked to national collective bargaining, being possible for national unions to control the process of liberalization: indeed, it could be signed either by the firm's union or, in case such a union did not exist, by the local sectoral union or the national sectoral federation. The reform did not give the longed for outcomes: until October 2011 only eight SOCA were signed and officially submitted to the Ministry of Labour, providing for salary decreases of up to 20 per cent (Ioannou, 2012). The main reasons of its failure are to be found in the complexity of the proceedings and – as for Act 3845/2010 – in trade unions reluctance to win-win bargaining (Papadimitriou, 2013).

After the failure on trilateral negotiations among State, trade unions and employers' representative bodies on further decentralization of industrial relations – Act 4024/2011 was approved in the light of further international pressures[20] wishing for reforming the labour market in its entirety, both in the private and in public sector[21]. Similarly to Spain, the new law established the imperative priority of company agreements over branch ones, even if they contain pejorative rules. As a corollary the SOCA was abolished. By virtues of statutory law the pre-eminence of the employer bargaining will expire at the end of the Financial Adjustment Program (FAP) in December 2015[22]. Ultimately, Act 4024/2011 boosted collective bargaining at company level through the abolition of the rule set in 1990, that inhibited bargaining practice in firms with less than 50 workers.

In a comparative perspective, Greece seems to have followed Spanish and Italy trajectories at a first glance: in fact in all the countries there is a general priority of the lower-bargaining level, except some specific subjects, i.e. health and safety rules provided by the national level. Nevertheless Greek decentralization is deeper, because the shift towards the "periphery" has also involved the bargaining agents and the extension mechanism: under Act 4024/2011, a company agreement derogating *in pejus* can also be negotiated and subscribed by an "association of employees", representing at least 3/5 of the entire

[19] Cf. https://www.imf.org/external/np/loi/2010/grc/080610.pdf.

[20] The Commission pointed out in its July 2011 report that the SOCA did not achieve the expected results, due to several 'restrictions' of the law, in particular for the intervention of sectoral unions in the process.

[21] The neo-liberal ideological approach also captures the attention of the Greek public sector, even if it is beyond the present work. As an example, to comply with the MoUs Act 4024/2011 and Act 4093/2012 reduced lump sum benefits of the public servants by 34,27%. The reduction was applied retrospectively also to workers who had already submitted their applications before the laws were in force. On 10th March 2016 the Greek Supreme Administrative Court held that such a measure was constitutional by reference to the dire fiscal situation and in order to secure the survival of public funds. See Lampousaki (2016).

[22] According to the third MoUs signed in August 2015, the Greek government engaged itself not to modify collective bargaining legal framework, before completing the process of review of labour market institutions to be launched in October 2015. It is worthy of note the government's commitment according to which "*Changes to labour market policies should not involve a return to past policy settings*" (chapter 4, section 1 of the MoUs). See http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/pdf/01_mou_20150811_en.pdf.

working-force, if the company lacks of trade unions or if it employs less than 50 workers. The representativeness of the "association of persons" is highly controversial, especially in an economic context – like the Greek one – with a predominant presence (95%) of small and medium enterprises (Yannakourou, Tsimpoukis, 2014).

The dismantling of coordinated industrial relations has also interested the extension mechanism: Act 4024/2011 has sanctioned the suspension of the extension of sectoral and occupational collective agreement – for firms not covered by sectoral agreements – until the expiry of the FAP in December 2015. Also this reform was a corollary of the 2010 MoUs: the *Troika* invited the government to cancel "the provision that allows the Ministry of Labour to extend all sectoral agreements to those not represented in negotiations".

Finally, having regard to political dynamics, similarly to Italy and Spain the Government did not involve the social partners in preliminary negotiations: there was a paralysis of tripartite social dialogue and without prior debate in the Parliament and in the public opinion. Qualitatively speaking the liberal assault to democracy is bigger, if we bear in mind that the Parliament did not ratify the first loan agreement. Moreover, no account was taken of the compromise joined among social partners in anticipation of austerity measures related to the second loan agreement (Deakin, Koukiadaki, 2013).

5. The controlled liberalization

5.1. Portugal: reconciling social partners' will and international pressures

In our theoretical framework Portugal is an example of controlled liberalization: in fact, even if facing a huge economic crisis, the country has not known the same violent changes than Italy, Spain and Greece in the architecture of collective bargaining.

Historically speaking, after the 25th April revolution in 1974 and until 2012 Lusitanian industrial relations were based on branch and multi-employer bargaining. Company and plant agreements normally took place only in public corporations and in big private companies (Monteiro Fernandes, 2014). In this connection, the first key element goes back to the role of social partners, because labour law did not establish mandatory rules within the internal dynamics of collective autonomy. By the contrary the relationships between agreements of different level were freely negotiated between trade unions and employers' associations: there was a high level of voluntarism (Gonçalves da Silva, 2013) likewise in the Italian system before Art. 8 Act 148/2011.

Portuguese industrial relations have not been immune from the effects of austerity policies: in compliance with the MoUs signed in May 2011[23], Act 23/2012 opened for first time to decentralization by reforming the 2003 Labour Code. Indeed the new Art. 493.1 provides that sector agreements are entitled to enable company ones to waive the clauses contained in the formers having regard to a *numerus clausus* – even if wide – of subjects: geographical and functional mobility, working-time organization and wages. As a matter of fact the legislator merely put down in writing a praxis already followed by social partners (Leite, 2013). Limited waivers are to be jontly read with the 2012 rule prohibiting for a period of two years the conclusion through collective bargaining of more favourable

[23] *Portugal: memorandum of understanding on specific economic policy conditionality* (May 17, 2011), in http://ec.europa.eu/economy finance/eu-borrower/moul2011-05-18mou-portugal-en.pdf.

conditions. A major change to the Labour Code is to be found in Act 55/2014, that likewise the Spanish *descuelgue* has given shape to the possibility of suspending collective agreements in cases such as industrial or company crisis.

Another key-element, fostering the liberalization thesis, is the reform of extension mechanism (*portaria de extensão*): according to a couple of governmental resolutions[24] companies fulfil the requirements for the extension, if they jointly or individually represent at least half the workers in the branch, geographical area, professional category or type of company to which the extension refers.

In addition, similarly to Greece in Portugal the process of decentralization has interested the bargaining agents: the reform breaks with the functional link between national trade unions and their representative bodies inside each company as a general rule to sign an agreement. In fact under Act 23/2012[25] sectoral agreements can define conditions, under which workers' council can negotiate functional and geographical mobility, working time arrangements and remuneration. Moreover, the new version of Art. 491.3 stipulates that workers' councils may negotiate at plant level in firms with a minimum number of 150 employees (before the reform the threshold was 500) though this must be authorized by the trade unions.

Eventually, the 2012 reforms also intervened in the relationship between collective agreements and statutory law: firstly, the law was entitled to suspend for two years a certain number of clauses contained in collective agreements (i.e., the remuneration of extra time or complementary rest days, matters tipically decentralized); secondly, when those clauses would be again effective, the amounts contractually agreed would be automatically reduced to half unless there was a subsequent agreement by the parties confirming the original amounts. The Constitutional Court declared contrary to the 1976 bill of rights the aforesaid measures, by considering that the public powers violated the freedom of bargaining agents[26].

It should be noted that all the afore-said measures were in compliance with the MoUs signed in May 2011 between Portugal and the Troika. When compared to Greece, a difference stands out: the Government tried to involve the social partners in the establishment of a new collective labour law in compliance with the adjustment programme, and in March 2011 it engaged in tripartite negotiations and two general agreements on the reform of labour market were signed[27]. The executive only faced the important opposition of the biggest workers' organization, the lefty-wing General Confederation of Portuguese Workers (CGTP). Of course the aptitude of the social partners gave a strong support to the implementation of the reform, and contributed to an image of Portugal based on a certain social stability after the Troika intervention (González, Figuereido, 2014).

5.2. France: gradual and negotiated liberalization

In France the process of liberalization has gradually proceeded, and it wasn't unilaterally achieved: in fact it has taken more or less a decade (2004-2013) and the government has

[24] See *Resolução do Conselho de Ministros 90/2012* and *Resolução do Conselho de Ministros 43/2014.*

[25] See *Lei n. 23/2012 "Relaçoes entre fontes de regulaçao"*.

[26] See *Acórdão do Tribunal Constitucional n.º 602/2013, de 24 de outubro. D.R. n.º 206, Série I.* For further considerations see Gomes (2014).

[27] See *O Acordo Tripartito para a Competitividade e Emprego, de 22 de março de 2011* and *O Compromisso para a Competitividade e Emprego, de 18 de janeiro 2012.*

always involved the social partners in bilateral negotiations before the approval by the Parliament of the related legislative measures.

The system of industrial relations was highly centralized since Act 50/1950, that established the *principe de faveur* as criterion to solve the coexistence between agreements of different levels. The origins of the decentralization are to be found in 1982 *lois Auroux* on working time, after the arrival in parliament of a lefty-wing majority converted to market-friendly policies. The 90s saw further shifts towards decentralization (Baccaro, Howell, 2011).

Without a doubt the turning-point was represented by the 2004 reform of the Labour Code[28], when France was governed by a right-wing coalition. By virtues of the new rules, nowadays the company-agreement has a general priority over the branch one, excepted some specific subjects (minimum wage, the system of professional classification and mutual benefit insurance systems by funds collected for vocational training). With this regard it is important to bear in mind that the industry-wide agreement can explicitly forbid any kind of waivers by the company or plant bargaining (*clause de verrouillage*) keeping safe the self-governing of the system (Faioli, 2012). In a comparative perspective, unlike in Italy, Greece and Spain, company agreements do not have an imperative and automatic priority over branch ones[29].

From the point of view of the social dialogue the 2004 law has given binding force to social partners' will, after they engaged in bilateral negotiations: in fact, under the 1995 national agreement the branch level should grant more bargaining power to the company one. In addition, in 2001 the main employers' association (the *Medef*) and four unions agreed upon a common position, in which they invited the public powers to take legislative measures to deeply change the relationship among the different levels of collective bargaining (Mouret, 2007).

The process of decentralization was later on developed in 2008 in relation to working-time: under the new right-wing government the Parliament passed Act 789/2008 setting the hegemonic role of the *accord d'entrepris*e in the regulation of overtime hours. By this measure, the yearly amount (not more than 220 according to the law) is fixed by the company agreement, and only in default by the industry-wide one. Moreover, a company contract could provide that overtime hours will be compensated with extra-holidays. Inasmuch, the deregulation path is enhanced by the *forfait-jours* agreements: company or plant contracts (and only for lack the *accord de branche*) can provide for a maximum quantity of working-hours per year, without mentioning a preliminary distribution per day, week or month. It is also an exclusive prerogative of the agreement to specify the area of interested workers within a company. In any case the consent of the individual is requested as mandatory.

[28] The law is also known as *loi Fillon* from the name of the then Prime Minister.

[29] However, the thesis of controlled decentralization could be shortly rejected by legal scholars: in fact, at the time of writing, a bill proposal aimed at reforming the Labour Code has been brought before the *Assemblée Nationale* by the government. The proposal, based on the so-called *Rapport Combrexelles* and *Rapport Badinter*, clearly states that the *accord d'entreprise* always prevails over the branch one in the fields of: working time and rests, working conditions, wages, flexible and precarious forms of employment (e.g., part-time, job on call). In other words, the proposal exactly follows an opposite pattern than the 2004 approach: the industry-wide agreements is applicable only if the company one is lacking. For further considerations see Peskine (2015b), Masse-Dessen, Bélier (2015), Dockès (2016). The text of the bill proposal is available at http://www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2016/02/avant-projet_de_loi_visant_a_instituer_de_nouvelles_libertes_et_de_nouvelles_protections_pour_les_entreprises_et_les_actifs.pdf (last access 3rd March 2016).

Also the 2008 reform is an outcome of social negotiations ended a few months before with the signature of a common position (January 2008), that was subscribed by three employers' organizations and four of the five national representative unions.

The trajectory towards liberalization opened by *loi Auroux* has been completed by Act 504/2013, that has given legislative shape to the 2012 national agreement called "job preservation agreement"[30]. This time negotiations unrolled under the new socialist government after François Hollande became President of the Republic in 2012. Act 504/2013 followed the decentralizing pattern by introducing a couple of give-and-take negotiations, that may take place at company level and essentially aimed at preserving employment (Hege, Dufur, 2014; Margison, 2015): the *accord de mobilité interne* and the *accords de maintien dans l'emploi*. Under the former the employer is entitled to reduce remuneration (but never going down the minimum legal wage) and to extend working time, if the company is facing economic hardship, and at the same time he/she commits himself/herself not to resort to redundancy. In compliance with the latter, an employer may impose professional and geographic mobility of his/her employees to most competitive plants. If the employee does not agree to the transfer or he/she refuses the new working conditions, he/she can be dismissed for individual grounds (Peskine, 2015a).

Such an examination reveals that French liberalization of collective bargaining has gradually proceeded (what Thelen qualifies as an "institutional drift"): the popular explanation for these differences with the other case studies is rooted in corporatism theory. France has a long tradition of tripartitism and centralized consultation since the 1936 *Matignon Accords* on minimum wage and fifteen paid vacation days. This was institutionalized with the introduction of the "negotiated law" after the 2007 Labour Code reform (Pagnerre, 2014): under the new version of Art. 1 Labour Code any potential legislative measure on collective labor relations is subject to prior consultations both at national and cross-sector level with most representative trade unions and employers' associations, and it may entail the opening of a bargaining process.

The French way to liberalization is peculiar also for the resilience of the system to the international pressures as arising from the NEEG: indeed during the last decade France has been subject only to regular reminders by the European Commission and not to more invasive "tools" such the ECB letters or the MoUs. The latest EC report only foresees in the highly centralized wage system an obstacle to economic growth and also looks forward to easier prerequisites for the application of employment maintenance agreements (European Commission, 2015).

Ultimately, French deregulation of collective dynamics is also worthy of note in terms of legislative technique: as noted above, the 2004, 2008 and 2013 laws on company agreements prerogatives give shape to a punctual and precise casuistry of waivers either to the law or to the industry-wide agreement: legislation forbids the company agreement to waive *tout court* the rules set at the upper level and by the law unlike in Italy, Greece and Spain.

6. Conclusion

This paper has described the liberalization of Southern-European industrial relations in the light of comparative politics and labour law. Such a long-term trend, started at

[30] Negotiations ended in December 2012. The agreement was signed by the main employers' association, the *Medef*, and 3 of the 5 most representative union: CFDT, CFTC and CFE-CGC.

the beginning of the 80s, has joined its peak under the growing pressures of the new EU financial order in terms of power resource. As a matter of fact, the suggestions addressed to the countries discussed (with the important exception of France) by the EU institutions – ECB letters, EPP and MoUs – have acted as catalyst. Of course the width of the decentralisation has not been the same in the case studies: the comparative approach has led to divide the countries in two different ideal-typical trajectories of liberalization. The first one comprises Italy, Spain and Greece for a couple of reasons: company agreements can waive the upper bargaining level having regard to a large amount of subjects and have an imperative priority over the industry-wide level. The most liberalized system is the Italian one, because the company contract may derogate also statutory law as a whole except non-discrimination and health and safety rules.

A second cluster consists of Portugal and France: in Portugal company agreements are entitled to derogate a large amount of subjects but only if allowed by the upper bargaining level. In a similar way, on the other side of the Alps the main subjects of the employment relationship (minimum wage, job classification etc.) cannot be ruled *in pejus* by the company agreement, and there is a precise casuistry of derogation hypotheses, especially within working time and give and take negotiations.

Moreover, differences persist if we consider the political dynamics that have led to the process of deconstruction of collective bargaining: in fact in Italy, Greece and Spain the governments acted in a very authoritarian way, without consulting social partners and going against their will. Both Italian and Spanish executives went more far by reforming the architecture of industrial relations by legislative decree, on the basis of urgency and necessity presuppositions. By the contrary, in Portugal and France governmental aptitude was more cooperative and less hostile to organized labour: indeed they promoted tripartite negotiations and social dialogue to achieve a negotiated decentralization.

It is clear that there are "structural" differences among the systems analysed, that have been shortly epitomized. However the comparative analysis undertaken has shown that more importance should be given to the commonalities of the capitalistic countries discussed and their interdependent histories. Despite the multitude of legal details and the institutional divergences the empirical analysis has demonstrated that "Euro-Mediterranean" countries are converging towards the same pattern, conventionally defined as "neo-liberal" (Baccaro, Howell, 2011): the increasing empowerment of the company agreement has brought all the systems to a quasi-definitive end of the favourability principle and multi-employer bargaining, before well embedded in "Mediterranean" labour law. Their industrial relations, once linchpin of coordinated and redistributive capitalism, are converging towards the common ideal-typical trajectory of individualization.

By this way fundamental social rights are really threatened and bereft of all meaning in labour relations, if any company can potentially set its own rules on the main subjects of the employment relationship. Of course it is too early to empirically evaluate the reach of the reforms, because most of the statutory laws have been recently enacted (2011-2015). Surely they represent a good set of samples to argue considerations from a point of view both comparative and systematic, that might be summarized in the motto "*E Pluribus Unum*". With the risk of low social cohesion and individualization of organized labour, if jointly read with the lack of the previous generous social welfare policies.

References

ALGOSTINO A. (2012), *L'era dei feudi aziendali. Commenti intorno all'accordo su democrazia e rappresentanza del 28 giugno 2011 e all'art. 8 della manovra finanziaria-bis*, in http://www.dirittisocialiecittadinanza.org/.

ARMINGEON K., BACCARO L. (2012), *Political economy of the sovereign debt crisis: The limits of internal devaluation*, "Industrial Law Journal", 41, 3, pp. 254-75.

ARMSTRONG K. A. (2013), *The new governance of the EU fiscal discipline*, "European Law Review", 38, pp. 601-17.

BACCARO L., HOWELL C. (2011), A *common neoliberal trajectory: The transformation of industrial relations in advanced capitalism*, "Politics & Society", 39, pp. 521-63.

BALAMOTI E. (2014), *Evaluating the new rules of emu economic governance in times of crisis*, "European Labour Law Journal", 5, 1, pp. 95-109.

BARNARD C. (2012), *The financial crisis and the euro plus pact: A labour lawyers' perspective*, "Industrial Law Journal", 41, 1, pp. 98-114.

BAVARO V. (2012), *Azienda, contratto e sindacato*, Cacucci, Bari.

ID. (2014), *Contrattazione collettiva e produttività (A proposito di un'indagine casistica)*, "Economia & lavoro", XLVIII, 1, pp. 117-30.

BIASI M. (2014), *The effect of the global crisis on the labor market: Report on Italy*, "Comparative Labor Law & Policy Journal", 35, pp. 371-96.

BORDOGNA L. (2012), *La regolazione del lavoro nel capitalismo che cambia: fosche prospettive?*, "Stato e Mercato", 94, 1, pp. 15-28.

BORDOGNA L., PEDERSINI R. (2015), *What kind of europeanization? How EMU is changing national industrial relations in Europe*, "Giornale di diritto del lavoro e delle relazioni industriali", 146, 2, pp. 183-230.

CORREA CARRASCO M. (2014), *Los límites de la intervención legal en la configuración del modelo de la negociación colectiva (Consideraciones en torno a la STC de 16 de julio de 2014)*, "Relaciones laborales", 11, pp. 41-75.

CARRIERI M., TREU T. (2013), *Introduzione: le relazioni industriali italiane ed europee: innovazioni da completare e convergenze da affinare*, in Idd. (a cura di), *Verso nuove relazioni industriali*, il Mulino, Bologna, pp. 7-107.

CAVALLARO L. (2012), *A cosa serve l'articolo 18*, manifestolibri, Roma.

CLAUWAERT S., SCHÖMANN I. (2012), *The crisis and national labour law reforms. A mapping exercise*, "European Labour Law Journal", 3, 1, pp. 54-69.

CROUCH C. (1993), *Industrial relations and European state traditions*, Oxford University Press, Oxford.

ID. (2013), *Entrenching neo-liberalism: The current agenda of European social policy*, in N. Countouris, M. Freedland (eds.), *Resocialising Europe in a time of crisis*, Cambridge University Press, Cambridge, pp. 36-60.

DEAKIN S. (2013a), *Il Trattato di Lisbona, le sentenze Viking e Laval e la crisi finanziaria: in cerca di nuove basi per "l'economia sociale di mercato" europea*, "Rivista Giuridica del Lavoro e della Previdenza Sociale", LXIV, 4, pp. 683-714.

ID. (2013b), *Labour standards, social rights and the market: "Inderogability" reconsidered*, "Giornale di diritto del lavoro e delle relazioni industriali", 140, 4, pp. 549-63.

DEAKIN S., KOUKIADAKI A. (2013), *The sovereign debt crisis and the evolution of labour law in Europe*, in N. Countouris, M. Freedland (eds.), *Resocialising Europe in a time of crisis*, Cambridge University Press, Cambridge, pp. 163-88.

DEL CONTE M. (2007), *Decentralizing industrial relations and the role of labour unions and employee representatives*, in R. Blanpain (ed.), *Decentralizing industrial relations and the role of labour unions and employee representatives*, Kluwer Law International, The Netherlands, pp. 65-81.

DE LUCA TAMAJO R. (1976), *La norma inderogabile nel diritto del lavoro*, Jovene, Napoli.

DELL'ATTI P., CAPONETTI B. (2014), *Caso studio sul contratto di prossimità ex art. 8, legge 14 settembre 2011, n. 148*, "Economia & lavoro", 48, 1, pp. 65-74.

DOCKÈS E. (2016), *La Commission Badinter vaporise le droit du travail*, "Le Droit Ouvrier", 812, pp. 114-5.

EUROPEAN COMMISSION (2015), *Country report France 2015.Including an in-depth review on the prevention and correction of macroeconomic imbalances*, in http://ec.europa.eu/europe2020/pdf/csr2015/cr2015_france_en.pdf.

FAIOLI M. (2014), *Dissenso collettivo e razionalità individuali nelle relazioni industriali italiane. Il decentramento contrattuale nella prospettiva degli accordi interconfederali del 2011-14*, "Economia & lavoro", XVLIII, 1, pp. 7-22.

ID. (2012), *Oltre la continuità. La contrattazione collettiva decentrata nell'esperienza francese e tedesca*, "Rivista italiana di diritto del lavoro", 3, pp. 481-519.
FUNDACIÓN 1º DE MAYO (2014), *The new eu economic governance and its impact on the national collective bargaining systems*, Fundación 1º de Mayo, Madrid.
GARILLI A. (2012), *L'art. 8 della legge n. 148/2011 nel sistema delle relazioni sindacali*, "WP CSDLE Massimo D'Antona.IT", 139.
GIL Y GIL J. L. (2015), *Contrattazione collettiva decentrata e produttività nel settore della produzione di automobili in Spagna*, "Giornale di diritto del lavoro e delle relazioni industriali", 146, 2, pp. 295-313.
GOMES J. (2014), *Social rights in the crisis in the eurozone. Work rights in Portugal*, in C. Kilpatrick, B. De Witte (eds.), *Social rights in times of crisis in the Eurozone: The role of fundamental rights' challenges*, EUI Working Papers Law, 5, pp. 78-84.
GONÇALVES DA SILVA L. (2013), *Crise económica e contrataçao colectiva*, "Ab Instantia", 1, 2, pp. 75-85.
GONZALEZ P., FIGUEREIDO A. (2014), *Crisis, austerity and the European social model in Portugal*, "Economia & lavoro", 48, 2, pp. 49-69.
GREECE – MEMORANDUM OF UNDERSTANDING ON SPECIFIC ECONOMIC POLICY CONDITIONALITY – MOU (2010), May 2.
ID. (2012), March 9.
GREECE – MEMORANDUM OF UNDERSTANDING FOR A THREE-YEAR ESM PROGRAMME – MOU (2015), August 11.
HALL P. A., SOSKICE D. (2001), *An introduction to varieties of capitalism*, in P. A. Hall, D. Soskice (eds.), *Varieties of capitalism. The institutional foundations of comparative advantage*, Oxford University Press, Oxford, pp. 1-66.
HASSEL A. (2014) *Adjustments in the Eurozone: Varieties of capitalism and the crisis in Southern Europe*, "London School of Economics 'Europe in Question' Discussion Paper Series", 76, pp. 1-42.
HEGE H., DUFOUR C. (2014), *Decentralized collective bargaining in France*, "Economia & lavoro", XLVIII, 1, pp. 23-44.
HEPPLE B. (2011), *Factors influencing the making of labour law*, in G. Davidov, B. Langille (eds.), *The idea of labour law*, Oxford University Press, Oxford, pp. 30-42.
IOANNOU A. (2012), *Recasting Greek industrial relations: Internal devaluation in light of the economic crisis and European integration*, "The International Journal of Comparative Labour Law and Industrial Relations", 28, 2, pp. 199–222.
KOUKIADAKI A., TÁVORA I., MARTÍNEZ LUCIO M. (2016), *Joint regulation and labour market policy in Europe during the crisis: A seven-country comparison*, in Idd. (eds.), *Joint regulation and labour market policy in Europe during the crisis*, ETUI, Brussels, pp. 7-134.
LAMPOUSAKI S. (2016), *Greece: Court rules cut to civil servants' lump sum benefits is constitutional*, in http://www.eurofound.europa.eu/observatories/emcc-eurwork/articles/law-and-regulation/greece-court-rules-cut-to-civil-servants-lump-sum-benefits-is-constitutional.
LEITE G. (2013), *A reforma laboral em Portugal*, "Revista General de Derecho del Trabajo y de la Seguridad Social", 34, pp. 2-36.
LYON-CAEN G. (1973), *Négociation collective et législation d'ordre public*, "Droit Social", pp. 89-101.
MARGISON P. (2015), *Coordinated bargainin in Europe: From incremental corrosion to frontal assault*, "European Journal of Industrial Relations", 21, 2, pp. 97-114.
MASSE-DESSEN H., BELIER G. (2015), *Quelle architecture normative dans le rapport "Combrexelles?"*,"Revue de Droit du Travail", 11, pp. 653-8.
MOLINA O. (2014), *Beyond de-centralization: The erosion of collective bargaining in Spain during the Great Recession*, "Stato e Mercato", 102, 3, pp. 397-422.
MOLINA O., RHODES M. (2007), *The political economy of adjustment in mixed-market economies: A study of Spain and Italy*, in B. Hancké, M. Rhodes, M. Thatcher (eds.), *Beyond varieties of capitalism*, Oxford University Press, Oxford, pp. 223-52.
MONEREO PÉREZ J. L. (2014), *El derecho del trabajo y el legislador de la crisis económica. Técnica legislativa y política del derecho social*, "Revista General de Derecho del Trabajo y de la Seguridad Social", 38, pp. 20-96.
MONTEIRO FERNANDES A. (2014), *Direito do Trabalho*, Almedina, Coimbra.
MOURET J. (2007), *Collective relations in France: A multi-layered system in mutation*, in R. Blanpain (ed.), *Decentralizing industrial relations and the role of labour unions and employee representatives*, Kluwer Law International, The Netherlands, pp. 41-63.
PAGNERRE Y. (2014), *Social reforms to cope with the financial crisis in France*, "Comparative Labor Law & Policy Journal", 35, pp. 299-310.
PAPADIMITRIOU C. (2013), *The Greek labour law face to the crisis: A dangerous passage towards a new juridical nature*, "European Labour Law Network – Working Paper Series", 3.

PEDERSINI R. (2014), *European industrial relations between old and new trends*, "Stato e Mercato", 102, 3, pp. 341-68.
PESKINE E. (2015a), *Il contratto collettivo aziendale al centro del riordino del sistema delle fonti in Francia*, "Giornale di diritto del lavoro e delle relazioni industriali", 146, 2, pp. 315-30.
ID. (2015b), *Le droit du travail à la croisée des chemins*, "Semaine Sociale Lamy", pp. 1691-7.
PIZZOFERRATO A. (2015), *The economic crisis and labour law reform in Italy*, "The International Journal of Comparative Labour Law and Industrial Relations", 31, 2, pp. 187-206.
PORTUGAL – MEMORANDUM OF UNDERSTANDING ON SPECIFIC ECONOMIC POLICY CONDITIONALITY – MOU (2011), May 17.
REGINI M. (2014), *Models of capitalism and the crisis*, "Stato e Mercato", 100, 1, pp. 21-44.
RIBEIRO A. T. (2016), *Recent trends in collective bargaining in Europe*, "E-Journal of International and Comparative Labour Studies", 5, 1, pp. 1-21.
SALA FRANCO T. (2013), *La revisión del modelo legal de negociación colectiva*, in J. L. Monereo Pérez, M. N. Moreno Vida (eds.), *El Sistema de Negociación Colectiva en España*, Thomson Reuters Aranzadi, Cizur Menor, pp. 133-60.
SEIFERT A. (2014), *European economic governance and the labor laws of the EU member states*, "Comparative Labor Law and Policy Journal", 35, 3, pp. 311-29.
STREECK W. (2012), *E pluribus unum? Varieties and commonalities of capitalism*, "Max Planck Institute for the Study of Societies Discussion Paper", 10.
STREECK W., THELEN C. (2005), *Introduction: Institutional change in advanced political economies*, in Idd. (eds.), *Beyond continuity. Institutional change in advanced political economies*, Oxford University Press, Oxford, pp. 1-39.
STREEL DE A. (2013), *La gouvernance économique européenne réformée*, "Revue trimestrielle de droit européen", 3, pp. 455-81.
SUÁREZ CORUJO B. (2014), *Crisis and labour market in Spain*, "European Labour Law Journal", 5, 1, pp. 43-62.
SUPIOT A. (2010), *L'esprit de Philadelphie. La justice sociale face au marché total*, Seuil, Paris.
THELEN K. (2014), *Varieties of liberalization and the new politics of social solidarity*, Cambridge University Press, Cambridge.
TREU T. (2015), *Le riforme del lavoro: Spagna e Italia*, "Diritto delle relazioni industriali", 3, pp. 601-20.
YANNAKOUROU S., TSIMPOUKIS C. (2014), *Flexibility without security and deconstruction of collective bargaining: the new paradigm of labor law in Greece*, "Comparative Labor Law & Policy Journal", 35, p. 331-70.