

Recent trends of collective bargaining in Europe

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Legal reforms' background

- ▶ Severe economic and financial crisis
- ▶ Memoranda of Understanding
- ▶ Particularly: collective bargaining (alteration of the bargaining landscape in Europe)



Main goal: **internal devaluation**



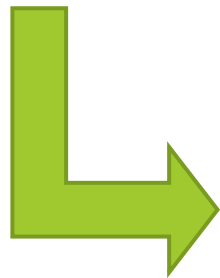
Main changes in collective bargaining's landscape

I – The relation between sources of labour law



Erosion of the principle of the most favourable source:

- Derogation in pejus from statute
- Derogation in pejus among collective agreements



Is this trend leading to the weakening of labour law?



(cont.)

II – Decentralisation of collective bargaining

- Increasing role of company level agreements
- Introduction of “opening-clauses”



(cont.)

III – New actors of collective bargaining

- Abolishment of trade union's monopoly (*e.g.* work councils)

IV – Maximum duration of the agreements

- Conversion of open-term agreements to fixed-term ones
- Decrease of terms



(cont.)

V – After-effects of the agreements

- Reduction of the agreement's survival (shorter terms)

VI – *Erga omnes* extension

- Important role in workers' protection
- Introduction of stricter criteria



(cont.)

E.g. Portugal:

- the extension must be required by its signing parties;
- to include all of the sector's enterprises in the scope of the extension, the employer's side must employ, at least, 50% of the sector's workforce OR the employer's association that entered into the extended agreement must be composed, at least in 30%, by SMEs.



Consequences:

Number of extensions:

2009: 103

2010: 113

2014: 13

2015: 29

Coverage:

2008: 2 million workers

2013: 200.000



(cont.)

VII – Legislative intervention in collective agreements' contentes

- Suspension and/or invalidation of agreements' provisions

- Judgement of the Portuguese Constitutional Court no. 602/2013 decided against only

some of these interventions.



Recognition of trends

- ▶ Decentralised, company level, bargaining agreements
- ▶ New bargaining actors (locally nominated, non-union representatives)
- ▶ Abandonment of the principle of favourability
- ▶ Weakening of freedom of association (see Case 2820, November 1-6, 2012, 365th Report of the Committee on Freedom of Association)



Conclusions

- ▶ Disputable role of EU's institutions (Memoranda of Understanding)
- ▶ Radical change of collective bargaining's essential principals
- ▶ Uncertain long-term effects of these measures
- ▶ Contraproductive effects of Troika's policies

- ▶ **Other solutions?**

